

**BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-039

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty

Request for Change in Distribution Rates

**New Hampshire Department of Energy
Motion To Compel Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty to Respond to
Data Requests DOE 4-14 and DOE 4-16**

Pursuant to New Hampshire Code Admin. Rules Puc 203.09(i) and Puc 201.05, the New Hampshire Department of Energy (“DOE” or “Department”) hereby moves the Commission to compel Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (“Liberty” or “Company”) to respond to two data requests submitted to it by the Department in accordance with the procedural schedule for this proceeding. The Department requests the Commission waive the 15 business day deadline for Motions to Compel under Puc 203.09(i)(2) and find that a waiver would serve the public interest and not disrupt the orderly and efficient resolution of matters before the Commission. The Department requests the Commission order Liberty to produce the responses as soon as possible, but no later than Friday, September 8, 2023.

In support of this Motion, the Department states as follows:

1. On July 12, 2023, the Parties to the above-captioned docket (“Parties”) submitted a joint proposed procedural schedule to the Commission.¹ The proposed schedule was assented to by all Parties.

¹ Docket No. DE 23-039, Tab 44.

2. The Commission approved the Parties' proposed schedule in a Procedural Order dated July 24, 2023.²
3. In the procedural schedule approved by the Commission, the Parties agreed that responses to data requests would be due 10 business days from the issuance of the requests, unless otherwise specified in the schedule.
4. On July 12, 2023, the DOE submitted DOE Data Requests 3-1 through 3-8 ("Set 3") to the Company.
5. Pursuant to the procedural schedule, Set 3 data responses were due by July 26, 2023.
6. On Wednesday, July 26, 2023, the date that the Set 3 responses were due, the Company filed responses to DOE 3-2 through 3-8 but notified the DOE via email that the response to DOE 3-1 would be delayed a couple of days, and that the Company hoped to have it submitted by the end of that week, which would have been Friday, July 28, 2023.
7. On Monday, July 31, 2023, the Company still had not submitted the response to DOE 3-1 and stated via email that they would file it by Friday, August 4, 2023.
8. On Tuesday, August 1, 2023, the DOE reached out to the Company via email and asked if the Company planned on filing a request for an extension to the data response filing deadline in the Commission-approved procedural schedule, in anticipation of the late-filed data response.
9. The Company did not respond to the DOE's August 1, 2023, email.
10. The Department again asked the Company during a subsequent discussion whether it planned on filing a request for an extension to the data response filing deadline in the procedural schedule, and the Company indicated that it did not intend to do so.

² Docket No. DE 23-039, Tab 49.

11. The Company subsequently filed the response to DOE 3-1 on August 4, 2023, 7 business days after the Set 3 responses were due.
12. On July 21, 2023, the DOE submitted DOE Data Requests 4-1 through 4-57 (“Set 4”) to the Company.
13. Pursuant to the procedural schedule, Set 4 data responses were due by August 4, 2023.
14. The DOE received partial responses from the Company to Set 4 by the due date on August 4, 2023. The August 4, 2023, filing informed the Parties that 12 of the 57 DOE Set 4 data responses were not included and would be filed when available. The filing did not give an estimated timeline for when these responses would be made available.
15. The Parties held a Technical Session on August 16, 2023. As of the Technical Session, the Company still had not filed the 12 remaining Set 4 data responses.
16. The Parties asked at the August 16, 2023, Technical Session, when the remaining 12 data responses would be filed. The Company stated that they would file all remaining Set 4 responses that day, August 16, 2023, except for DOE 4-14 and 4-16.
17. As stated, the Company filed 10 of the remaining 12 DOE Set 4 data responses on August 16, 2023. These responses included DOE 4-15, 4-19, 4-22, 4-25, 4-38, 4-45, 4-46, 4-51, 4-53, and 4-54.
18. In the August 16, 2023, filing, the Company again stated that the responses to DOE 4-14 and 4-16 would be filed as soon as they were available, but did not give an estimated filing date.
19. As of today’s date, August 31, 2023, the DOE still has not received data responses to either of the last 2 outstanding DOE Set 4 data requests, DOE 4-14 and DOE 4-16.
20. It has now been 19 business days since Set 4 responses were due.

21. The Department reached out to the Company via email on Friday, August 25, 2023 to ask about the status of DOE 4-14 and 4-16, which had still not been received as of that date.
22. As of today's date, the Department has not received a response to the August 25, 2023 email, and has not received the responses to DOE 4-14 or 4-16.
23. DOE 4-14 and 4-16 both request payroll information, which is an important Operations and Maintenance expense item in revenue requirement calculations.
24. Specifically, DOE 4-14 reads as follows:

Labor Costs. Reference DOE 1-1.2 Tabs RR-3.5

- a) *Please provide the payroll by month for the historical test year 2022.*
- b) *Please provide the actual payroll by month for year-to-date 2023.*

25. DOE 4-16 reads as follows:

Labor Costs. Please provide the following monthly labor data for the test year, for the three years immediately preceding the test year, and since the end of the test year, showing annual totals. Also, please provide new monthly data as it becomes available through the course of this proceeding.

- a. *Number of actual employees broken down by type (e.g., salaried, hourly, union, non-union, temporary)*
- b. *Number of authorized employees broken down by type (e.g., salaried, hourly, union, non-union, temporary)*
- c. *Regular payroll broken down by categories expensed, capitalized, and other*

d. Overtime payroll broken down by categories expensed, capitalized, and other

e. Temporary payroll broken down by categories expensed, capitalized, and other

f. Other payroll (specify)

26. Based on past experience in prior rate cases, this data has been readily available.
27. It has now been 29 business days since the DOE requested this information, and 19 business days since the date the Company was supposed to provide this information.
28. The Department asks the Commission order Liberty to produce these responses as soon as possible, as the sooner this information is available, the sooner the Department can use it in its review. The Department ultimately requests the Friday, September 8, 2023, date as the latest possible filing date, to ensure there is a set deadline. The longer the Department has to wait without requested information, the more disadvantaged the Department becomes in its review.
29. The final set of intervenor round two of rolling discovery data requests to the Company are due October 5, 2023, which is 24 business days from today's date. The only other opportunity for intervenors to submit data requests is following Technical Sessions on October 25 and 26, 2023, with responses not due until November 14, 2023. As intervenor testimony is due December 13, 2023, the second round of rolling discovery is crucial to allow time for Parties to conduct a meaningful review of the Company's rate case filing.
30. The DOE and its consultant are unable to formulate any necessary follow up data requests based on the information requested in DOE 4-14 and 4-16 until that information is received.
31. Without the information requested in DOE 4-14 and 4-16, the DOE is unable to fully review whether the Company's rate case filing is just and reasonable under the standards of RSA 378:27 and 28.

32. Pursuant to Puc 203.09(i)(4), the DOE certifies that it has made a good-faith effort to resolve these discovery issues informally through Technical Session discussions and email.
33. The Department acknowledges that pursuant to Puc 203.09(i)(2), motions to compel responses to data requests must be made within 15 business days of either receiving the applicable response or objections, or the deadline for providing the response, whichever is sooner.
34. While it has now been 19 business days since responses to DOE 4-14 and 4-16 were due, the DOE requests that the Commission waive the 15 business day requirement of Puc 203.09(i)(2) in this instance, pursuant to Puc 201.05, and consider this Motion as if it had been timely filed under Puc 203.09(i)(2).
35. The Department notes again that it attempted to resolve the discovery issues informally, through asking about the status of the responses at the August 16, 2023, Technical Session and again reaching out to inquire about the status through email on August 25, 2023. As referenced earlier, after the Company had been late in filing an earlier data response, the Department asked the Company through email on August 1, 2023, whether the Company would be filing a request for an extension to the Commission-approved procedural schedule. The Company did not respond to the email, although indicated when asked in a subsequent discussion that it did not intend to do so. The Company has not filed requests to extend the data request response deadlines under the procedural schedule, despite missing filing deadlines on multiple sets of data requests.
36. A waiver in this instance of the 15 business day motion to compel deadline will not disrupt the orderly and efficient resolution of matters before the commission. If data responses are not received from the Company or keep getting filed after the deadlines, the DOE and other intervenors may have to consider asking to extend the procedural schedule and allow the DOE

and intervenors more time to file testimony, in order to give the DOE and other intervenors sufficient time to consider the information received in data responses while preparing their testimony. If the Commission were to grant a waiver in this instance and consider and potentially grant this Motion to Compel, it would help the DOE's timely and sufficient review of Liberty's filings and requests in this case, which may actually benefit, rather than disrupt, the orderly and efficient resolution of this docket.

37. Finally, a waiver in this instance would serve the public interest. If this Motion to Compel is considered by the Commission and granted, it could allow the Department to receive information necessary to complete its review of Liberty's rate case filing and consider whether Liberty's request for an increase in distribution rates is just and reasonable pursuant to RSA 378:27 and 28.

WHEREFORE, the Department respectfully requests that the Commission:

- 1) Waive the 15-business day filing requirement of Puc 203.09(i)(2) and consider this Motion as if it were timely filed under the rule; and
- 2) Order Liberty to provide the information requested in DOE 4-14 and DOE 4-16 as soon as possible, but no later than Friday, September 8, 2023.

Respectfully submitted,

New Hampshire Department of Energy

By its Attorney,

/s/ Alexandra K. Ladwig

Alexandra K. Ladwig
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Department of Energy

Date: August 31, 2023