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December 21, 2023

Michael J. Sheehan, Esq.
Director, Legal Services
Liberty
116 North Main Street
Concord, New Hampshire 03301

via e-mail to: michael.sheehan@libertyutilities.com

Re: PUC Docket No. DE 23-039
Liberty Utilities (Granite State Electric) Corp.
Request for Change in Distribution Rates
Objections to Data Requests

Dear Mr. Sheehan:

The Office of the Consumer Advocate (“OCA”) is in receipt of your Set 2 data requests in connection with the above-referenced proceeding at the Public Utilities Commission. Pursuant to N.H. Code Admin. Rules Puc 203.09(e), the OCA hereby objects to certain of these 108 data requests as follows:

Testimony of Courtney Lane

2-1(b) – This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-5(b) – This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty (as to how the PUC reviews utility capital expenditures), to engage in speculation (about how other parties review such expenditures), or to provide privileged information (about how the OCA reviews such expenditures, to the extent this has not already been explained in our pre-filed testimony and pleadings).

2-7 – This data request unreasonably seeks an analysis of utility filings and regulatory orders in other jurisdictions that Liberty can obtain and review on its own.

2-11 – This data request unreasonably seeks to require the OCA to conduct legal and statistical research on behalf of Liberty.

2-14 – This data request is argumentative and seeks information about a document, already in the possession of Liberty, that the Company is capable of reviewing and analyzing without the assistance of the OCA.

2-16 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-21 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-22(c) and (d) -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-27(a) -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-27(e) and (f) – This data request is an unreasonable attempt to use the discovery process to engage in settlement negotiations, as to which subset of the OCA’s recommendations for performance-based ratemaking (“PBR”) the OCA would deem acceptable as a “cohesive” PBR framework.

2-32 – This data request is argumentative and seeks information already in the possession of Liberty.

2-33 (a), (b), (c), and (g) – This data request is argumentative and seeks information already in the possession of Liberty.

2-34 (a), (b), (d), (f), and (g) – This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-35(d) and (e) – To the extent this data requests seeks an opinion as to whether the Commission is required to authorize step increases at the conclusion of rate cases, and to identify instances where the Commission has rejected a proposed step increase, the data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-37 – This data request unreasonably seeks to require the OCA to engage in speculation and/or to conduct legal research on behalf of Liberty and/or to provide information already in the possession of Liberty.

2-38 – To the extent this data request seeks a definition of a “pilot” for purposes of PUC proceedings, the data request unreasonably seeks to require the OCA to conduct legal research and/or to express a legal opinion.

2-39 – This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty and/or to require the OCA to express a legal opinion.

2-40 (b), (c), (d), and (f) -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty and/or to require the OCA to express a legal opinion.

2-41(c) -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty and/or to require the OCA to express a legal opinion.

2-42 -- To the extent this data request seeks information proceedings other than the instant case, the data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-43 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-44 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty, to disclose privileged information, to engage in speculation, and/or to require the OCA to express a legal opinion.

2-47 -- To the extent this data request seeks an opinion about the Company's motivations in taking certain steps, the data request unreasonably seeks to require the OCA to engage in speculation.

2-49 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-51 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-52 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-53(b) -- This data request unreasonably seeks to require the OCA to express a legal opinion.

2-64 -- This data request unreasonably seeks to require the OCA to engage in speculation and/or to conduct research and analysis the Company is capable of performing on its own.

2-65 -- To the extent this data request seeks "the basis for the indices for this jurisdiction," the data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

Testimony of John Defever

2-70 – To the extent this data request seeks information about “industry participants” other than Liberty, the data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-71 – This data request is over-broad and seeks to require the witness to express opinions about matters that are beyond the scope of his testimony.

2-72 – This data request seeks to require the witness to express opinions about matters that are beyond the scope of his testimony.

2-73 – This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-74 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-75 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-79 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty and/or seeks information already in the possession of Liberty.

Testimony of Marc Vatter

2-81 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

Testimony of Aaron Rothschild

2-83 -- This data request is overbroad, vexatiously interposed for the purpose of causing annoyance and inconvenience, and unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

2-86 – To the extent this data request seeks “all academic support” for an assertion in Mr. Rothschild’s testimony, the data request is overbroad, interposed for the purpose of causing annoyance and inconvenience, and unreasonably seeks to require the OCA to conduct academic research on behalf of Liberty.

2-99 -- This data request unreasonably seeks to require the OCA to conduct legal research on behalf of Liberty.

Please note that the objections interposed above is not necessarily an exhaustive list; we reserve the right to interpose additional timely objections based on our experts’ further review of the Company’s requests.

In addition to interposing the specific objections set forth above, the OCA wishes to make clear that it does not intend to comply with the January 9 response deadline referenced in your cover letter. As you know, the Department of Energy has moved to dismiss this proceeding and has filed a separate motion seeking a stay pending the resolution of the dismissal request. The Commission has scheduled oral argument on these motions for January 4, 2024. In objecting to the motion for a stay, Liberty represented to the Commission that a stay was unnecessary because only the Company would be prejudiced by the Commission allowing the procedural schedule to remain in effect over the near term. Our receipt of 108 data requests, with a response deadline of January 9, belies this claim.

All but one of the OCA witnesses to whom Liberty has specifically directed data requests are outside consultants paid on an hourly basis via assessments that are ordinarily recovered from ratepayers. This cannot be a lawful outcome in connection with a rate case subject to dismissal in light of the utility's failure to maintain books and records that are reliable. In these circumstances, I decline to direct my witnesses to perform additional work for the OCA until the pending motions are heard and addressed.

The Office of the Consumer Advocate regrets the negative turn this proceeding has recently taken, as evidenced by the vexatious set of data requests we received from your company yesterday. We stand prepared to cooperate with Liberty, and the other parties to this proceeding, in bringing this docket to an appropriate conclusion.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Donald M. Kreis', written in a cursive style.

Donald M. Kreis
Consumer Advocate

cc: Discovery Service List, via e-mail
Clerk, Public Utilities Commission