

STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION

Docket DE 23-039

LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP. D/B/A LIBERTY

Request for Change in Distribution Rates

Motion to Extend Stay of Proceeding

Pursuant to N.H. Code Admin. Rules Puc 203.07, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (“Liberty” or the “Company”) hereby moves the New Hampshire Public Utilities Commission (“Commission”) to extend the current stay of this proceeding, including issuance of a decision on the New Hampshire Department of Energy’s (“DOE”) Motion to Dismiss Rate Filing (the “Motion to Dismiss”), until March 15 or such other date as determined by the Commission so that the Company can complete a third party review of its accounting records in order to provide assurance to the Commission and parties in this case.

The Company has met with the DOE regarding its proposal to extend the stay of this proceeding and submit a third-party report. DOE did not take a position regarding these proposals but instead indicated that it will review and respond to this Motion.

As detailed below, the Company is proposing the extend the current stay of this proceeding to allow the Company time to file an expert consulting report in response to certain issues raised by the DOE with respect to the Company’s accounting records for the 2022 test year relied on in this proceeding. The Company has engaged PwC¹ to perform a review that will assess the overall

¹ The Company is aware that there are concerns with the Company retaining the third-party consultant that were raised during the hearings on the Motion to Dismiss (2024 Jan. 23 Tr. at 130). However, as the Company explained during the hearings (and was confirmed by the Department of Energy) there are timing constraints that preclude retention of a third-party by the DOE (see id. at 101). It is true that the Company has worked with PwC on

reliability of the data used for the Company's filing in this proceeding and the Company's basis for asserting such data is reliable. PwC has indicated that this review could be completed by March 1, 2024. Accordingly, the Company will submit the resulting expert consulting report on or about March 6, 2024. Following filing of the expert consulting report, the Company will make PwC available for questions from the Commission and/or parties to this proceeding.

As detailed below, there is good reason to allow an extension of the stay and filing of the PwC expert consulting report to aid the Commission's consideration of the Motion to Dismiss. In addition to aiding the Commission's consideration of the Motion to Dismiss, the expert consulting report is expected to narrow the issues for settlement or hearing in this matter (if the Motion to Dismiss is denied).

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

1. On May 5, 2023, Liberty filed its petition requesting a change in distribution rates (the "Petition") together with supporting testimony and attachments. The Company's Petition included a request to implement temporary rates effective July 1, 2023. On May 26, 2023, the Commission issued Order No. 26,829 suspending the Company's proposed tariffs for a period not to exceed 12 months and scheduling a hearing on Liberty's request for temporary rates for June 21, 2023.
2. On June 30, 2023, the Commission issued Order No. 26,855 determining temporary rates for effect July 1, 2023. On July 24, 2023, the Commission issued a Procedural Order setting a procedural schedule for this docket based on an assented to procedural schedule filed by DOE on July 12, 2023. In accordance with the procedural schedule,

other matters; however, this should not serve as a basis for concluding that PwC cannot perform an independent review. Sean Riley, a Partner at PwC, will be personally signing the expert consulting report. Mr. Riley is a Certified Public Accountant and therefore is subject to professional and ethical standards (e.g., the Association of International Certified Professional Accountants Code of Professional Conduct).

the parties to this proceeding engaged in a robust discovery process and participated in five days of technical sessions.

3. Simultaneously, the DOE Audit Division conducted an investigation that resulted in a final audit report. The final audit report was issued on October 25, 2023.
4. In response to a request from the DOE, the Company submitted an updated revenue requirement to the parties to this proceeding on November 27, 2023.² This updated revenue requirement reflected adjustments identified during discovery and the audit investigation.
5. On December 13, 2023, intervenors and the DOE filed initial testimony.
6. Also on December 13, 2023, the DOE filed two motions: (a) Expedited Motion to Stay Proceeding, and (b) the Motion to Dismiss. The DOE's Motion to Dismiss Rate filing argued that the Company's filing in this proceeding must be dismissed because the 2022 financial information on which the rate filing is based cannot be reasonably relied on. In support of this assertion, the DOE's Motion to Dismiss largely relies on the Audit Division's final audit report findings.
7. The Company filed its objections to the motions to stay and dismiss on December 14 and December 26, 2023, respectively. As detailed in the Company's Objection to the Motion to Dismiss ("Objection"), the Company converted its financial accounting system during the 2022 test year (Objection at 4-6). This system conversion resulted in the need to perform a series of adjustments during the preparation of its FERC Form 1 and revenue requirement schedules. These adjustments were necessary to support its

² The November 27, 2023, updated revenue requirement was initially provided to the discovery service list for this proceeding but was later entered into the record as Exhibit 6.

- Petition but also led to variances between the 2022 general ledger, FERC Form 1, and revenue requirement schedules (id.).
8. The Commission issued a procedural order on December 15, 2023, scheduling a hearing for January 4, 2024, to hear arguments on the DOE's Motion to Dismiss. The Commission issued Order No. 26,924 on December 29, 2023, staying the proceeding until January 31, 2024.
 9. The January 4, 2024, hearing consisted of legal arguments from the DOE, Office of the Consumer Advocate ("OCA"), and the Company. During the course of the hearing, the Company proposed to retain a third-party (at the Company's expense) to perform an assessment of the Company's financial data including review of the variances between the 2022 general ledger, FERC Form 1, and revenue requirements. In addition, the Company agreed to hold harmless the impact on customers by foregoing recoupment during this stay period.
 10. The January 4, 2024, hearing was continued on January 23, 2024. At the conclusion of the January 23, 2024, hearing the Commission continued the stay of this proceeding until February 16, 2024. See January 25, 2024, Procedural Order.
 11. The January 23, 2024, hearing included testimony from witnesses appearing on behalf of DOE and the Company. During the hearing, the Commission noted that it faces a difficult task based on the vastly different positions of the DOE and the Company (see, e.g., 2024 Jan. 23 Tr. at 267-268).³ The Company understands this concern and

³ The OCA supports the Motion to Dismiss; the OCA filed its response to the Motion to Dismiss on December 26, 2023, and confirmed its support for dismissal of the proceeding during the January 4 and January 23, 2024, hearings. The basis for the OCA's position is the DOE's Audit Division's investigation including the Final Audit Report.

recognizes the difficult task that is before the Commission in light of the parties' opposing views.

12. The Company recognizes that this system conversion resulted in a longer than typical audit investigation and that as a result, the Audit Division was unable to perform certain tasks that it would otherwise perform (see, e.g., Exhibit 8, at Bates 000149).
13. To assist the Commission's decision making and respond to the issues raised by the DOE in the Motion to Dismiss and the Audit Division's final audit report, the Company has retained PwC⁴ to perform the following tasks: (a) assess the overall reliability of the data used to support the Company's rate filing and the Company's basis for asserting that such data is reliable; (b) examine the reconciliations between (i) the Company's 2022 general ledger; (ii) the Company's FERC Form 1; and (iii) the Company's revenue requirement schedules submitted in this proceeding, inclusive of adjustments identified during this proceeding. The objective of this review will be to determine whether the Company's 2022 test year financial data can be relied on for purposes of setting rates. At the conclusion of PwC's review, PwC will issue an expert consulting report that will be filed with the Commission.
14. An expert consulting report is subject to a set of guidelines that govern how the investigation is conducted and how the report is prepared. These guidelines will allow

⁴ The Company determined that it was appropriate to move forward with the retention of PwC pending the Commission's decision on the Motion to Dismiss because it understands that it is important to resolve this issue on an expedited basis. Further, during the course of the hearings on the Motion to Dismiss, the DOE and OCA rejected the Company's proposal to retain a third-party and therefore the Company does not anticipate engagement from these parties as part of the third-party review process that would benefit from waiting for a determination on the Motion to Dismiss. The Company has, however, continued to perform outreach to DOE in order to keep DOE apprised of the actions it is undertaking and in an effort to reach consensus whenever possible.

PwC to provide testimony to the Commission in response to questions from the Commission and other parties (e.g., DOE and OCA).

15. Following receipt of the PwC expert consulting report, the Company requests that the Commission set a procedural schedule for the remainder of this proceeding.

16. At the time that the Commission commenced the stay of this proceeding, the next procedural milestone was the deadline for intervenors to respond to data requests issued by the Company. If the parties determine that issuing additional discovery would assist with their review of the expert consulting report from PwC, the Company proposes that such an opportunity be included in the procedural schedule issued following this extension of the stay and that such additional data requests could be incorporated into the schedule during the time that intervenors respond to the discovery already issued by the Company. For example, if the proceeding resumes on March 18 following the Commission's receipt of the expert consulting report the schedule could move forward as follows:⁵

- a. March 6, 2024: PwC Expert Consulting Report filing;
- b. March 15, 2024: expiration of the stay of the proceeding;
- c. March 22, 2024: Deadline to issue discovery to the Company regarding PwC Report;
- d. April 1, 2024: Deadline for intervenors to respond to data requests from Liberty;
- e. April 5, 2024: Deadline for the Company to respond to data requests;
- f. April 8, 2024: Deadline for Company rebuttal testimony and updated revenue requirement;⁶
- g. Week of April 22, 2024: settlement discussions and/or hearing regarding PwC expert consulting report; and

⁵ This proposed procedural schedule is provided for illustrative purposes. If this Motion is granted, the Company will work with parties to develop a formal proposal to be submitted to the Commission prior to expiration of the stay period.

⁶ The Company's updated revenue requirement would include the adjustment identified in December 2023 and any further adjustments identified during the third-party review by PwC (if any are identified).

- h. Week of April 29, 2024: prehearing conference to provide an update on the status of settlement discussions and/or issues for litigation and determine dates for hearings.⁷

17. Due to the timing of the Motion to Dismiss, the parties to this proceeding had already expended significant efforts to develop the record on a range of important issues (e.g., rate design, performance-based ratemaking, etc.). Granting the Motion to Dismiss without allowing for the proposed third-party review would render those efforts moot.

18. The Company's proposal to extend the stay of this proceeding for approximately one month will directly address the issues raised by the DOE regarding the Company's test year financial data and allow the proceeding to move forward without sacrificing the efforts undertaken by all parties to-date. Further, this third-party review will result in a more efficient proceeding going forward because it is expected to narrow the issues for settlement and/or litigation during hearings.

19. Based on the foregoing, the Company respectfully requests an extension of the stay of this proceeding until March 15, 2024 to allow the Company to submit the expert consulting report from PwC. The Company confirms that engagement of PwC is an expense that will be borne by the Company (not customers) and that the Company will forego recoupment during this extended stay period.

WHEREFORE, Liberty respectfully requests that this Commission:

- A. Grant, Liberty's Motion;

⁷ Hearings in this proceeding were originally scheduled to commence on February 13, 2024, with dates spaced out through May 2024. Prior to the prehearing conference the Company would work with the other parties to propose new hearing dates for the Commission's consideration.

- B. Stay this proceeding, including issuance of a decision in response to the DOE Motion to Dismiss Rate Filing, until March 15, 2024, to allow the Company to file an expert consulting report; and
- C. Grant such further relief as it deems appropriate.

Respectfully submitted,

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

By its Attorneys,



Date: February 5, 2024

By: _____

Michael J. Sheehan, Esq. #6590
114 North Main Street
Concord, NH 03301
(603) 425-8085
Michael.Sheehan@libertyutilites.com

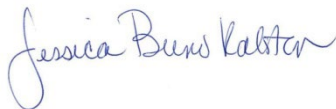


By: _____

Jessica Buno Ralston, Esq.
Keegan Werlin LLP
99 High Street, Suite 2900
Boston, MA 02110
(617) 951-1400
jralston@keeganwerlin.com

Certificate of Service

I hereby certify that on February 5, 2024, a copy of this Motion to Stay Proceeding has been forwarded to the service list for docket DE 23-039.



Jessica Buno Ralston