

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-039

LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP. d/b/a LIBERTY

Request for Change in Distribution Rates

Order Rejecting Filing and Dismissing Motion

ORDER NO. 26,814

May 2, 2023

In this order, the Commission rejects Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty's (Liberty) April 28, 2023 full rate case filing in this docket because it is incomplete. Although substantively granting similar relief to that requested by the Department of Energy in its April 28, 2023 motion, the Commission also dismisses that motion as moot based on the rejection of Liberty's filing. This docket remains open to receive Liberty's rate case filing within the 30-day window prescribed by N.H. Admin. R., Puc 1604.05.

I. PROCEDURAL HISTORY AND BACKGROUND

On March 29, 2023 Liberty filed a Notice of Intent to File Rate Schedules pursuant to Puc 1604.05. In response to this filing, the Commission established the above-captioned docket to receive Liberty's full rate case filing. Pursuant to Puc 1604.05, this filing may be made not sooner than 30 days nor later than 60 days from the filing of Liberty's Notice of Intent to File Rate Schedules.

Between Friday April 28, 2023 and Monday May 1, 2023, the following filings were received by the Commission related to this matter:

1. The Department of Energy (DOE) Filed a "Motion to Dismiss Rate Filing Without Prejudice to Re-File after a FERC Form 1 for 2022 is Submitted" (Motion). This Motion seeks dismissal of Liberty's full rate case filing upon

filing, without prejudice. The Motion is premised on Liberty not having filed a 2022 annual report with the Federal Energy Regulatory Commission (FERC): FERC Form 1.

2. Liberty filed its full rate case filing.
3. The Office of the Consumer Advocate file a position statement, joining the DOE's Motion.
4. Liberty filed an objection to the DOE's Motion. Liberty argued that the DOE's Motion should be dismissed or denied as moot. Liberty acknowledged that although it has not filed its FERC Form 1, that it intends to file FERC Form 1 on or about May 5, 2023.
5. Liberty also filed a new notice of intent to file rate schedules, requesting a new docket "solely to address the unlikely outcome in Docket No. DE 23-039 in which the Commission dismisses the rate filing in that docket with prejudice."

The filings referenced above, and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-039.html>.

II. COMMISSION ANALYSIS

The Commission has performed an expedited review of Liberty's April 28, 2023, filings, specifically examining references to Liberty's 2022 FERC Form 1. In its "Full Rate Case Filing Requirements Pursuant to Puc 1604.01(a)" document, Liberty provided the Commission with filings that must accompany its rate case by Commission rule. In response to requirements Puc 1604.01(a)(19) – (21), which relate to various balance sheets, income statements, and sales volumes for the previous two years, Liberty provided identical responses: "The Company refers the NHPUC to the

Company's previously filed FERC Financial Reports on FERC Forms No. 1 (Annual Report of Major Electric Utilities) and 3-Q (Quarterly Financial Report).” See Full Rate Case Filing Requirements Pursuant to Puc 1604.01(a) at pages I-175 – I-177.

We find that incorporating by reference a document not yet in existence does not comply with the rules requiring information be filed with the Commission as part of a full rate case. Although Liberty is correct that FERC Form 1 is not a filing requirement, using FERC Form 1 to satisfy a filing requirement makes its existence a requirement. Liberty's full rate case filing is therefore incomplete due to the omission of 2022 FERC forms responsive to Puc 1604.01(a)(19) – (21). Liberty's full rate case filing is therefore rejected as an incomplete filing. Although this action effectively grants the relief requested by the DOE, the action of rejecting the filing as incomplete is distinguished from dismissal, and the DOE's Motion is DENIED as MOOT.

To be clear, the effect of this order is to reject Liberty's full rate case filing only, resulting in the above captioned docket remaining open to receive a full rate case filing from Liberty any time during the 30-day window that began on April 28, 2023, pursuant to Puc 1604.05. Whereas this determination is made based on an expedited review of Liberty's filing for references to FERC Form 1 only, this order does not make any determination as to the completeness of the remainder of Liberty's April 28, 2023 full rate case filing and should not be construed as a determination that Liberty's April 28, 2023 full rate case filing was complete but for FERC Form 1.

Whereas we do not, as Liberty must have contemplated, dismiss or otherwise close this docket with prejudice, we also reject Liberty's new notice of intent to file rate schedules. If Liberty still seeks to file a new notice of intent, it should first withdraw its current notice of intent in the above-captioned docket.

Based upon the foregoing, it is hereby

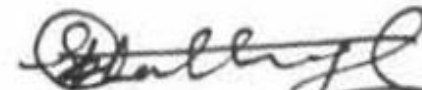
ORDERED, that Liberty's April 28, 2023 full rate case filing is REJECTED as INCOMPLETE as discussed herein; and it is


FURTHER ORDERED, that Liberty's May 1, 2023 notice of intent to file rate schedules is rejected as discussed herein; and it is;

FURTHER ORDERED, that the DOE's Motion is DENIED as MOOT.

By order of the Public Utilities Commission of New Hampshire this second day of May, 2023.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 23-039

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Email Addresses

ClerksOffice@puc.nh.gov
Iftikhar.Abbasi@libertyutilities.com
Dmitry.Balashov@libertyutilities.com
Scott.T.Balise@energy.nh.gov
mbartos@ceadvisors.com
Ann.Bulkley@brattle.com
scrimmins@ceadvisors.com
Michael.J.Crouse@oca.nh.gov
ddane@ceadvisors.com
Energy-Litigation@energy.nh.gov
paul.b.dexter@energy.nh.gov
jay.e.dudley@energy.nh.gov
Stephen.R.Eckberg@energy.nh.gov
thomas.c.frantz@energy.nh.gov
pgoschke@ceadvisors.com
Heather.Green@libertyutilities.com
Kristin.Jardin@libertyutilities.com
maureen.karpf@libertyutilities.com
alexandra.k.ladwig@energy.nh.gov
Long.Lam@brattle.com
heidi.w.lemay@energy.nh.gov
Robin.McAlester@libertyutilities.com
Erica.Menard@libertyutilities.com
elizabeth.r.nixon@energy.nh.gov
amanda.o.noonan@energy.nh.gov
ocalitigation@oca.nh.gov
Lauren.Preston@libertyutilities.com
Mary.Purvis@libertyutilities.com
jralston@keeganwerlin.com
brimal@ceadvisors.com
Todd.Schavrien@libertyutilities.com
Jill.Schwartz@libertyutilities.com
michael.sheehan@libertyutilities.com
shreeansh.agrawal@brattle.com
karen.sinville@libertyutilities.com
jspanos@gfnet.com
anthony.strabone@libertyutilities.com
heather.tebbetts@libertyutilities.com

gtherrien@ceadvisors.com
Greg.Tillman@libertyutilities.com
mark.p.toscano@energy.nh.gov
jacqueline.m.trottier@energy.nh.gov
Gregory.Waller@libertyutilities.com
todd.wiley@libertyutilities.com
Matthew.C.Young@energy.nh.gov
Adam.Yusuf@Libertyutilities.com
bill.zarakas@brattle.com