

**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**

**Conditional Order Granting Company's Motion for Additional Process and Stay,  
Deferring Final Ruling on Motion to Dismiss, and Conditionally Approving  
Company's Proposed Interim Procedural Schedule with Modifications**

**O R D E R N O. 26,952**

**February 22, 2024**

This order approves Liberty's motion of February 5, 2024 regarding proposed next steps for this proceeding, with certain modifications. The Commission makes this ruling with the proviso that Liberty meet the condition precedent that Liberty waive the 12-month processing deadline for this proceeding, not later than February 27, 2024. The Commission also defers its ruling on the New Hampshire Department of Energy's motion to dismiss Liberty's petition pending the outcomes of the additional process approved in this Order. The stay conditionally fixed by the Commission in this proceeding shall expire on April 15, 2024.

**I. LIBERTY'S MOTION AND POSITIONS**

On February 5, 2024, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty or the Company) filed a "Motion to Extend Stay of Proceeding" in this instant Docket No. DE 23-039 (Liberty Motion). In the Liberty Motion, the Company requested that the Commission approve an extension of the stay in this proceeding, initially established by the Commission in response to the New Hampshire Department of Energy (DOE) motion to dismiss the Company's rate case, until March 15, 2024. The purpose of this extension would be to accommodate the production of an expert consulting report by PricewaterhouseCoopers International Limited (PwC).

Liberty Motion at 5. Liberty stated that PwC would perform the following tasks: (1) an assessment of 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, as an expert in the SAP computer system adopted by the Company in 2022; (2) examining the reconciliations between (i) the Company's 2022 general ledger; (ii) the Company's FERC Form 1 for 2022; and (iii) the Company's revenue requirement schedules submitted in this proceeding, inclusive of adjustments identified during this proceeding. Liberty stated that "[t]he 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." Liberty Motion at 5.

Liberty further proposed a procedural schedule for the Commission's consideration to be implemented after the March 6, 2024 expected receipt date of the PwC report, wherein: the Company-requested stay would expire on March 15, 2024; discovery would be issued by the parties to Liberty regarding the PwC report; Liberty would propound discovery upon the other parties; Liberty would submit its rebuttal testimony and updated revenue requirement for the rate-case-in-chief; and settlement discussions, and potentially, a Commission hearing, would be held during the week of April 22, 2024 to address the PwC report; and, during the week of April 29, 2024, a prehearing conference to provide the Commission an update on the status of settlement discussions and/or issues for litigation and to determine dates for hearings on the merits. Liberty Motion at 5-7. (Liberty did indicate that the proposed procedural schedule was "provided for illustrative purposes," with a formal proposal to be developed by the Company in consultation with the other parties prior to the expiration of the stay period). At an earlier stage in this proceeding, at the January 4,

2024 Commission hearing on the DOE's motion to dismiss, the Company indicated that it was prepared to extend a waiver of the twelve-month review period deadline under RSA 378:6, I(a), *i.e.*, May 5, 2024, as established by Commission Order No. 26,829 (May 26, 2023), with a waiver of rate recoupment during the extension period. See Transcript of January 4, 2024 Public Hearing at 93-94.

The Liberty Motion stated that the Company's proposal to extend the stay of this proceeding, and the production of the PwC report, would directly address the issues raised by the DOE in its motion to dismiss, and supporting testimony, regarding the Company's 2022 test year financial data, and allow the rate proceeding to "move forward without sacrificing the efforts undertaken by all parties to-date," and "...result in a more efficient proceeding going forward because it is expected to narrow the issues for settlement and/or litigation during hearings." Liberty Motion at 7.

In response, on February 13, 2024, the DOE filed an objection to the Liberty Motion (DOE Objection). The DOE Objection outlined several arguments as to why the Commission should deny the Company's requested relief. The DOE Objection alleged that Liberty's Motion did not meet the "undue hardship or inconvenience" standard for extensions of time; would unduly delay this rate proceeding, without any benefit for the Commission's review in that "...the closed 2022 financial information contains sufficient errors that it cannot be reasonably relied on for setting rates...", such as data regarding billing determinants that, the DOE argued, does not implicate the expected scope of the PwC report; would not address the need for an IT audit of the Company at large; and the DOE's argued necessity of using 2023, 2024, or some other test year for the Company, rather than 2022; among other arguments. The DOE also reiterated its request that the Commission approve the outstanding DOE motion to dismiss, in conjunction with its request that the Commission deny the Liberty Motion.

On February 15, 2024, the Company filed a pleading styled as a "Motion for Leave to Respond the Objection of the Department of Energy to Motion to Extend Stay of Proceeding," which included substantive arguments against the positions taken by the DOE in the DOE Objection. No other party made filings in response to the Liberty Motion or the DOE Objection.

## **II. COMMISSION ANALYSIS**

On February 6, 2024, the Commission, sua sponte, issued a procedural order extending the stay in this proceeding until February 29, 2024. Having reviewed the Liberty Motion and the DOE Objection, we believe that a conditional approval of the relief sought by the Company, with some modifications, is just and reasonable, in the public interest, and in the interests of administrative efficiency, for the reasons, and along the delineations, provided below.

Pursuant to RSA 541-A:31 and N.H. Code Admin. Rules Puc 203.13 and 203.15, the Commission has the authority to direct the timing and process of an adjudicatory proceeding. That authority includes the power to stay or suspend activity in an adjudication when doing so would promote the efficient resolutions of issues before the Commission. *See, e.g., Residents of Colonial Drive, Moultonborough*, Order No. 26,841 (June 8, 2023) at 7; *see also Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty*, Order No. 26,924 (December 29, 2023) at 3. Pursuant to RSA 365:28, "[a]t any time after the making and entry thereof, the [C]ommission may, after notice and hearing, alter, suspend, annul, set aside, or otherwise modify any order made by it. This hearing shall not be required when any prior order made by the [C]ommission was made under a provision of law that did not require a hearing and a hearing was, in fact, not held." RSA 365:28; *see also* Order No. 26,924 at 3.

In these circumstances, we find it appropriate to revisit the terms of our February 6, 2024 procedural order extending the stay in this proceeding until February 29, 2024, and the terms of our previous procedural orders, *passim*, establishing the features of the procedural schedule for this matter. Our rulings in these procedural orders were based on our ministerial authority over the procedural schedule in adjudicated matters, and thus did not require a public hearing, making our amendments delineated in this Order appropriate under RSA 365:28.

The Commission believes that the PwC report process proposed by the Company offers the potential for significant value to the Commission, and the other parties, in assessing the DOE motion to dismiss, and the rate-case-in-chief. The Company has presented PwC as an expert in SAP implementation and in enterprise-level accounting issues associated with such conversion efforts. Given the broad gulf between the assertions made by the DOE and those of the Company in terms of the implications of the accounting problems faced by the Company for the 2022 test year, additional expert perspective could be of great value. However, the Commission does not intend this effort to serve as any substitute for a potential future enterprise-wide IT, or general business, audit for the Company to be ordered by the Commission in future. Furthermore, the Commission finds that an expansion of the scope of the PwC report to include the 2023 calendar year in addition to the 2022 calendar year for the Company's accounting, under the same scope guidelines provided in the Liberty Motion, would be necessary, in light of the DOE's concerns that the 2022 data has problems beyond those of the PwC report scoping.

Time is also of the essence. The Commission expects that this expanded scope for the PwC report would require an additional month for preparation. Also, the twelve-month timeline for this proceeding expires on May 5, 2024, barring a Company

waiver, such as that anticipated by the Company at the January 4, 2024 hearing on the DOE motion to dismiss. Therefore, the Commission establishes the condition precedent for this Order that Liberty shall file a waiver of the twelve-month deadline of RSA 378:6, I(a) with the Commission no later than the close of Commission business on February 27, 2024. If this condition precedent is met, the Commission shall extend the stay in this proceeding until April 15, 2024, as just and reasonable, in the public interest, and in the interest of administrative efficiency. The deadline for the Company's filing of the PwC report, which shall include an analysis of both 2022 and 2023 data points, shall be April 8, 2024. The deadline for the Company, with the assent of the parties, to file a procedural schedule proposal for the next phase of this proceeding shall be April 11, 2024. If such a procedural schedule proposal is not timely made, the Commission reserves the prerogative of issuing a procedural schedule Order sua sponte.

If the condition precedent for the stay (the Company waiver of the twelve-month deadline) is met, the Commission hereby CANCELS all previously-scheduled procedural schedule features, including hearings, currently scheduled before April 15, 2024, pending the filing of the PwC report. Based on the rulings presented in this Order, the Company's request for leave to respond to the DOE Objection through its February 15, 2023 motion is hereby rendered moot. The Commission also hereby DEFERS its ruling on the DOE's motion to dismiss pending the expiration of the conditional stay.

**Based upon the foregoing, it is hereby**

**ORDERED**, that subject to the condition precedent that Liberty shall file a waiver of the twelve-month processing deadline of RSA 378:6, I(a) (May 5, 2024) for this proceeding not later than February 27, 2024; it is


**FURTHER ORDERED**, that the stay in this proceeding shall be extended until April 15, 2024; and it is

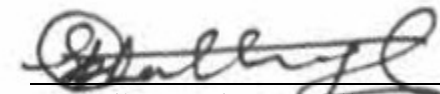
**FURTHER ORDERED**, that Liberty shall file the PwC report as specified in the Liberty Motion, with the additional proviso that this report shall embrace data and analysis for the full calendar year 2023, not later than April 8, 2024; and it is

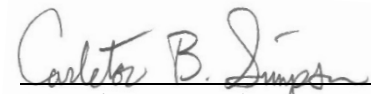
**FURTHER ORDERED**, that Liberty shall file a procedural schedule proposal for the next phase of this proceeding with the assent of the other parties in this proceeding not later than April 11, 2024; and it is

**FURTHER ORDERED**, all procedural schedule features for this proceeding, including hearings, prior to April 15, 2024 are hereby CANCELLED.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of February, 2024.

  
Daniel C. Goldner  
Chairman

  
Pradip K. Chattopadhyay  
Commissioner

  
Carleton B. Simpson  
Commissioner

# Service List - Docket Related

Docket# : 23-039

Printed: 2/22/2024

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