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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

June 4, 2024 - 9:04 a.m.
21 South Fruit Street
Suite 10
Concord, NH

RE: **DG 23-067**
LIBERTY UTILITIES (ENERGYNORTH NATURAL
GAS) CORP. d/b/a LIBERTY UTILITIES:
Request for Change in Distribution
Rates. (*Status conference*)

PRESENT: Chairman Daniel C. Goldner, *Presiding*
Commissioner Pradip K. Chattopadhyay
Commissioner Carleton B. Simpson

Alexander Speidel, Esq./*PUC Legal Advisor*

Doreen Borden, Clerk

APPEARANCES: **Reptg. Liberty Utilities (EnergyNorth**
Natural Gas) Corp. d/b/a Liberty
Utilities:
Michael J. Sheehan, Esq.
Jessica Buno Ralston, Esq. (*Keegan...*)

Reptg. Residential Ratepayers:
Michael Crouse, Esq.
Marc H. Vatter, Dir. of Econ./Finance
Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:
Paul B. Dexter, Esq.
Molly M. Lynch, Esq.
Mary E. Schwarzer, Esq.
(*Regulatory Support Division*)

Court Reporter: Steven E. Patnaude, LCR No. 52

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REQUEST TO LIBERTY UTILITIES BY CHAIRMAN GOLDNER TO FILE IN DG 23-067 AND DE 23-039 RELATIVE TO THE SHAREHOLDER COST ISSUE REGARDING AUDITS 23

P R O C E E D I N G

1
2 CHAIRMAN GOLDNER: Okay. Good morning.
3 I'm Chairman Goldner. I'm joined today with
4 Commissioner Simpson and Commissioner
5 Chattopadhyay. This is the status conference for
6 the Liberty-Gas rate case, Docket Number 23-067,
7 scheduled for today's proceeding in the
8 Commission's procedural order dated May 7th,
9 2024.

10 At the outset, this will be a
11 Commission-directed status conference given
12 developments in the Liberty's Electric rate case,
13 Docket Number DE 23-039, following the
14 Commission's issuance of Order Number 27,000 on
15 April 30th, 2024. Since April 30th, the
16 Commission has learned, in the Electric rate
17 case, that the New Hampshire Department of Energy
18 expects it will take until January 2026 for the
19 DOE-directed audit work approved by Order 27,000
20 to be completed.

21 This is relevant in this instant Gas
22 docket because (1) the same relief was requested
23 for the Gas case as for the Electric case, in
24 that the same DOE letter was filed in both

1 docket on April 18th, 2024; and (2) no update
2 filing has been made by the DOE or the Company in
3 this Gas docket after the DOE reveal of the
4 Electric audit schedule in the DOE letter filed
5 on May 20th, 2024, in Docket 23-039.

6 Furthermore, the stay in this Gas rate
7 case expires on June 7th. And the twelve-month
8 processing period, pursuant to RSA 378:6, I(a),
9 will expire on July 26th, 2024, as noted in the
10 Commission's Commencement of Adjudicative
11 Proceeding Order, Number 26,877, issued on
12 August 25th, 2023, in this case.

13 After we take simple appearances from
14 the parties, we'll probe these issues in
15 preparation for the next phases of this
16 proceeding.

17 We'll now take simple appearances,
18 beginning with the Company.

19 MS. RALSTON: Jessica Ralston, from the
20 law firm Keegan Werlin, on behalf of Liberty
21 Utilities. Joined by Michael Sheehan, in-house
22 counsel for the Company.

23 CHAIRMAN GOLDNER: Very good. The
24 Office of the Consumer Advocate?

1 MR. CROUSE: Good morning,
2 Commissioners. My name is Michael Crouse, Staff
3 Attorney for the OCA, representing residential
4 customers in this matter. Joining me today is
5 our Director of Economics and Finance, Marc
6 Vatter.

7 CHAIRMAN GOLDNER: Very good. And the
8 New Hampshire Department of Energy?

9 MR. DEXTER: Good morning, Mr.
10 Chairman. Paul Dexter, joined by co-counsels
11 Molly Lynch and Mary Schwarzer, appearing on
12 behalf of the Department of Energy.

13 CHAIRMAN GOLDNER: Very good. Okay.
14 Thank you.

15 The Commission will now address some
16 questions to the Department of Energy, the moving
17 party for the Audit Report-related relief
18 requested in the April 18th DOE letter.

19 So, we'll begin, Attorney Dexter, with
20 a question, does the DOE have the expectation
21 that the DOE-led audit process, of the type
22 approved in Order 27,000 for the Electric case,
23 would require until January 2026 for the Gas rate
24 case?

1 MR. DEXTER: Well, yes, I think it
2 would actually require a little bit more time,
3 because the schedules are a little bit staggered.
4 But we don't see any reason -- we don't see any
5 reason why, if we were to go down the same path
6 for the Gas case that we've started on the
7 Electric case, that the timeframes would be
8 significantly different.

9 CHAIRMAN GOLDNER: Okay. And, relative
10 to complexity, you know, are the billing
11 determinants, O&M tracking, overall general
12 ledger accounting issues conceptually or
13 operationally simpler in the Gas rate case than
14 the Electric case, or would you say that they're
15 the same or --

16 MR. DEXTER: I think the Gas rate case
17 is simpler, in that it has a single revenue
18 requirement, it doesn't have a multiyear rate
19 plan. But that really wasn't part of the scope
20 of the audit at all. The audit is based on the
21 test year, essentially, and the SAP conversion.

22 So, I don't see that the Gas case is
23 any simpler or more complex than the Electric
24 case, in terms of what would be looked at in an

1 audit.

2 CHAIRMAN GOLDNER: Okay. Thank you.
3 Can you discuss the administrative process to
4 enable the DOE to retain the needed experts, and
5 if that process could be expedited? I'm thinking
6 about both the Electric case and the Gas case.

7 So, maybe just walk the -- for the
8 record, walk everyone please through the process
9 of obtaining the schedule, and how long things
10 take. And, then, if any comments on perhaps
11 expediting the process.

12 MR. DEXTER: Yes. I just want to take
13 a minute to find some notes I had made on this.

14 *[Short pause.]*

15 CHAIRMAN GOLDNER: And just as a
16 reference, Attorney Dexter, while you're looking,
17 we're just trying to understand why, in sort of a
18 conventional rate case, it would be, you know,
19 eight, nine, ten months, and the audit would be
20 available, and here it's actually longer. So, we
21 were trying to understand the timing.

22 MR. DEXTER: Yes. Thanks. And I was
23 just looking for a sheet that I had put together
24 that sort of broke down in a little bit more

1 detail, you know, what was provided to you
2 earlier in the case.

3 We had seven months allocated for
4 securing the audit, and that broke down into
5 several different steps. One would be drafting
6 and issuing the RFP. We had allowed two months
7 for bidders to respond, this is rough terms, one
8 month for bids to be scored, one month for
9 contract preparation and finalization, and then
10 an additional month for the approval of the
11 Governor's [sic] and Council, with the
12 understanding that, you know, we don't control
13 those dates, and those dates -- meeting days
14 haven't been set that far out into the future.

15 And, so, when we added all that up,
16 that took us from -- we put this schedule
17 together, well, the Commission's order was issued
18 April 30th, and that totaled seven months, until
19 December 1st. So, that's what it was broken down
20 into.

21 And, yes, we did try to look at this
22 schedule to see where we could expedite it. But,
23 even if you were to save a week here and there,
24 that was the conclusion that we came to.

1 CHAIRMAN GOLDNER: So, just using a
2 real-life example, in the Eversource rate case,
3 which is I think will be filed any day now, we
4 have the twelve-month statutory, you know, time
5 limit. The Department will, maybe even a month
6 ago, embarked on the audit process, and getting
7 everything ready for that. Why are you able to
8 do all that in the Eversource rate case, for
9 example, in a twelve- or thirteen-month period,
10 but here it takes, you know, seven months plus,
11 you know, roughly another year?

12 MR. DEXTER: Well, in a typical rate
13 case, the Department looks for outside help in a
14 number of areas. Cost of capital being one that
15 I think is almost always contracted out, at least
16 since the seven or eight years I've been working
17 here.

18 We have looked for help in the revenue
19 requirements calculation, modeling and
20 calculation, again, in I think virtually every
21 gas and electric rate case that I've been
22 involved in since I got here.

23 And we have almost always, in electric
24 cases, looked for help with things like rate

1 design and analyzing marginal and embedded cost
2 studies.

3 And, so, when a rate case notice of
4 intent, or even a preliminary indication comes
5 along, we are prepared for those types of, you
6 know, for securing contractors for those types of
7 services. And we have a pretty good history of
8 doing that. And I don't want to say a "good
9 history", what I'm trying to say is we have a lot
10 of experience with that. So, we have some
11 standard, you know, documents that we're working
12 with.

13 That's not at all the case in this
14 situation. We are not preparing to secure an
15 outside auditor for the Eversource rate case, nor
16 did we intend to secure an outside auditor for
17 either of the Liberty-Electric [sic] rate cases.
18 In fact, the way audits are handled from the
19 Department of Energy is with our internal Audit
20 Department.

21 And, again, in virtually every rate
22 case that I'm aware of, certainly the gas and
23 electric ones, since I've been working at the
24 Department and the Commission, the internal Audit

1 Department of the Department of Energy, formerly
2 the Commission Staff, conducts an in-depth audit,
3 which is what happened in this case. The
4 difference is that, in this case, it resulted in
5 the Department filing the Motion to Dismiss,
6 based on the results of that audit that's already
7 been done.

8 So, I'm not sure I'm answering your
9 question. I don't want to get too far into the
10 Eversource rate case, but we are in the process
11 of securing the typical contractors that we do
12 for the Eversource rate case. And auditing the
13 test year is not something that we're in the
14 process of looking for outside help with in that
15 case.

16 CHAIRMAN GOLDNER: Thank you. That's
17 helpful.

18 Does the DOE have the same position
19 regarding Liberty's shareholder financial
20 responsibility for the DOE-led audit process in
21 the Gas case, in this Gas case context, the same
22 position that the Department took in the Electric
23 case?

24 MR. DEXTER: Yes. And, in retrospect,

1 clearly that should have been included in my
2 April 18th letter, maybe it was assumed. But, in
3 looking at the order that came out in the
4 Electric case, it occurred to us that it was not
5 stated who would have paid for that audit. So,
6 we filed a Motion for Clarification, asking the
7 Commission to clarify that this audit would be
8 borne by shareholders.

9 And, yes, that, if the Commission were
10 to go down this road in the Gas case, that would
11 be our recommendation.

12 CHAIRMAN GOLDNER: Okay. And can you
13 just discuss for the record why you view the
14 DOE-led audit process is a shareholder cost?

15 MR. DEXTER: Yes. Yes. So, as I said,
16 the Department has done its typical due diligence
17 in both cases with respect to auditing. And we
18 have used our internal Audit Department to do an
19 audit. And, in these instances, it resulted in
20 Motions to Dismiss, rather than a simple -- I
21 won't say "simple", but a typical audit report,
22 with some issues that are handled back and forth
23 by the parties. And, for the reasons that I went
24 into in great detail back in March, we weren't --

1 didn't feel that was the appropriate case based
2 on the audit that we had done.

3 The work that is being directed by
4 the Commission in the Electric case, in Order
5 2,700 [27,000?], is to account for the fact or is
6 caused by the fact that the documents that we
7 received at the beginning of the rate case, in
8 the Electric side and in the Gas side, put us in
9 a position where we could not go forward with the
10 case, and instead we filed the Motion to Dismiss.

11 So, we believe those costs were caused,
12 if you will, by the Company's bookkeeping
13 situation in the test year. And I think we've
14 determined that that was tied directly to the SAP
15 conversion that occurred during the test year.

16 And, so, we believe that this is not
17 something that is providing any benefit to
18 ratepayers. It's a situation that was brought to
19 us by Liberty Utilities. And this is, I guess,
20 an attempt to, you know, to fix the test year, so
21 that rates can be set on it. You know, it's
22 correcting actions, and a situation that we're
23 put in, you know, because of Liberty Utilities,
24 not their customers.

1 So, we feel very strongly that Liberty
2 shareholders, as they offered to pay for their
3 PwC report, they should be required to pay for
4 the report that the Commission ordered.

5 And I will say, Commissioner, I'm happy
6 to make the parallels between the two cases, but
7 I'm very uncomfortable talking about the Electric
8 case. There are five or six other parties in the
9 Electric case that would have no reason to expect
10 a need to be here today, and to expect that their
11 case would be discussed. And I understand that
12 there's parallels, and I'm fine with that. But I
13 don't want to answer questions about, you know,
14 where the Department stands in the Electric case
15 or things like that.

16 CHAIRMAN GOLDNER: Okay. Would the DOE
17 support the Company filing with the Commission a
18 waiver of the twelve-month processing period by
19 the -- pardon me -- by the close of business
20 tomorrow, June 5th?

21 MR. DEXTER: Yes.

22 CHAIRMAN GOLDNER: Thank you.

23 Okay. I'll turn to my fellow
24 Commissioners to see if there's any additional

1 questions for the Department, before I turn to
2 the Company?

3 *[Cmsr. Simpson indicating in the*
4 *negative.]*

5 CMSR. CHATTOPADHYAY: I don't.

6 CHAIRMAN GOLDNER: Okay.

7 Okay. So, we'll turn now to the
8 Company.

9 We note that the Company assented to
10 the DOE proposed procedural schedule in DE
11 23-039, which incorporated the DOE-led audit
12 element, with a report coming out in January
13 2026. Is it fair to say, in light of what the
14 DOE has shared with us today, that the Company
15 would have the same point of view regarding the
16 process for this Gas case?

17 MS. RALSTON: Yes.

18 CHAIRMAN GOLDNER: Thank you. Second
19 question is, can the Company file a written
20 waiver for the twelve-month processing timeframe
21 under RSA 378:6 by the close of business
22 tomorrow, June 5th?

23 MS. RALSTON: We could. But we were
24 just looking back, and we think we've already

1 filed the waiver on March 8th.

2 CHAIRMAN GOLDNER: Okay. I'll --
3 Attorney Speidel will look into that. Can you
4 perhaps provide us some more information on that
5 filing?

6 MS. RALSTON: Sure. I'm looking at the
7 Commission's docket online. And, if you look at
8 March 8th of this year, --

9 CMSR. SIMPSON: Tab 70.

10 MS. RALSTON: Number 70. And, like I
11 said, we would be happy to file something again
12 tomorrow, if there's something additional the
13 Commission needs. I just didn't want to
14 duplicate.

15 CHAIRMAN GOLDNER: It looks like, I'll
16 turn to Commissioner Simpson and Commissioner
17 Chattopadhyay, it looks like it is filed.
18 Attorney Speidel, do you see it?

19 MR. SPEIDEL: Yes, I see the document.
20 *[Chairman Goldner and Atty. Speidel*
21 *conferring.]*

22 CHAIRMAN GOLDNER: Yes. Attorney
23 Speidel suggests if you, because that was filed
24 before a lot of the litigation, so, if you could

1 refile it tomorrow, that would be helpful, just
2 so that everyone knows that this is fresh.

3 MS. RALSTON: Of course. We'd be happy
4 to.

5 MR. SPEIDEL: Thank you.

6 CHAIRMAN GOLDNER: Thank you.

7 Okay. And, then, the final question I
8 have, at least for the Company, is, in DE 23-039,
9 we haven't seen any Company response to the DOE
10 and OCA positions on shareholder responsibility
11 come within the tenth day. Can the Company share
12 its perspective on these matters in this Gas
13 context?

14 MS. RALSTON: You're referring to the
15 costs for the audits?

16 CHAIRMAN GOLDNER: Yes.

17 MS. RALSTON: So, I think the Company
18 didn't file a response, we don't object. We were
19 just waiting for direction from the Commission.
20 And I think we would take the same position here.

21 CHAIRMAN GOLDNER: So, just to repeat
22 back, to make sure I understand. You're saying
23 the Company does not object to the DOE-led audit
24 costs being a shareholder responsibility?

1 MS. RALSTON: That's correct.

2 CHAIRMAN GOLDNER: Okay. Thank you.

3 Okay. Any further questions for the
4 Company?

5 CMSR. SIMPSON: So, I'm encouraged by
6 what I've heard with the Company accepting
7 financial responsibility for the audit. I'm
8 encouraged, too, there was no motion for
9 rehearing on this process.

10 We're clearly motivated. We want to
11 ensure that the Company can operate as it needs
12 to, that the IT systems are functioning as they
13 should, and do this in a collaborative means
14 through the OCA, DOE, the Company, and PUC. So,
15 I just am encouraged by the direction that we're
16 heading. I think that's very good. And I'm sure
17 that the Company is feeling, you know, tremendous
18 pressure in many ways.

19 So, you know, I think this is the right
20 process to follow. I'm encouraged by what I'm
21 hearing today, what I've heard from the
22 Department. Clearly, you've taken a leadership
23 role, and I'm grateful for that.

24 So, I just wanted to say that, put that

1 on the record, that I think this is going to be a
2 fruitful process, and that it will be -- it will
3 lead to the healthiest outcome for customers, for
4 the Company, and for all of the partners in state
5 government as well.

6 That's really all I wanted to say.

7 CHAIRMAN GOLDNER: Any further
8 questions or comments for the Company,
9 Commissioner Chattopadhyay?

10 CMSR. CHATTOPADHYAY: I know this
11 doesn't directly involve what we are talking
12 about, but I'll just let you know what I'm
13 already thinking about. What does this mean for
14 the test year, eventually? What test year?

15 So, that's just a question that I have.
16 Thank you.

17 CHAIRMAN GOLDNER: Okay. I'm going to
18 turn to a question for the OCA, then we'll just
19 take a quick break, and then we'll wrap up after
20 the break.

21 So, we note that the OCA filed comments
22 on the DOE audit issues and Company assented-to
23 DOE scheduling proposal in the Electric case, in
24 the OCA's 23-039 position statement filed on

1 May 17th.

2 Does the OCA have any viewpoints it
3 would like to share regarding this situation in
4 the Gas rate case?

5 MR. CROUSE: Thank you for the
6 opportunity to comment.

7 I would adopt the position of Donald
8 Kreis, the Consumer Advocate, in the Electric
9 case, as is here in the Gas case. We certainly
10 agree that the proposed procedural schedule
11 presented by the Department is reasonable, we
12 understand how they got there.

13 But I agree with Donald Kreis that we
14 are sort of entering into the realm of I'll say
15 "uncharted waters", with the rate case taking
16 26 months, and the statutory period of twelve
17 months being waived.

18 So, if there's an opportunity to
19 expedite that or figure out a means to making
20 this process more efficient, the OCA is open to
21 that.

22 CHAIRMAN GOLDNER: But the OCA is
23 otherwise in support of the process as proposed
24 by the Department and the Company, in terms of

1 the timeline and procedural schedule and so
2 forth?

3 MR. CROUSE: Well, I know Donald Kreis
4 said that he couldn't concur with the procedural
5 schedule itself. And I think that's our -- our
6 current position is that we understand how it was
7 reached, but will not be in support.

8 CHAIRMAN GOLDNER: Okay. And can you
9 share the reason that the OCA does not support
10 the current schedule?

11 MR. CROUSE: Yes. For many of the
12 similar reasons that was filed in that position
13 statement, it's just unclear to us that this is
14 really what the Legislature had in mind for how
15 this process would work. And, in my view, it's
16 uncertain if the statute can be waived in and of
17 itself for that twelve months.

18 So, I understand that we're going into
19 uncharted waters. And, to the extent that the
20 Commission were to go forward with the proposed
21 procedural schedule, the OCA is happy to continue
22 participating.

23 But the OCA is currently looking into
24 what is the permissible -- or, the best way to

1 move forward, how to make things more efficient.

2 Thank you.

3 CHAIRMAN GOLDNER: And I just want to
4 make sure I understand the objection. So, it's
5 the length of the extension beyond twelve months?
6 If it was one or two or three months, the OCA
7 would be supportive. But, given the length of
8 the delay, that's the OCA's concern, and I
9 believe it has to do with the temporary rates?

10 MR. CROUSE: Yes. As the Consumer
11 Advocate stated in his position statement on the
12 Electric side, some of the concerns is how those
13 permanent rates get reconciled back to July 1st
14 of 2023, or October, or whenever we decide the
15 actual effective date is, based off of, you know,
16 everything that we've discussed up to this point.

17 CHAIRMAN GOLDNER: Okay. Okay, thank
18 you. The Commission will take a brief break.
19 We'll return at 9:40, and wrap things up today.
20 Off the record.

21 *(Recess taken at 9:30 a.m., and the*
22 *status conference reconvened at*
23 *9:46 a.m.)*

24 CHAIRMAN GOLDNER: Okay. So, just a

1 request for the Company.

2 If the Company can file, in both
3 dockets, relative to the shareholder cost issue,
4 that would be very helpful for the Commission.

5 And I'll just ask, how long would it
6 take to file such -- make such a filing?

7 MS. RALSTON: You're asking for a
8 letter confirming that we agree to bear those
9 costs, we can do that by close of business
10 tomorrow.

11 CHAIRMAN GOLDNER: Perfect. Thank you.
12 Thank you. And, then, just a reminder to refile
13 that written waiver for the twelve-month period
14 tomorrow as well. Is that okay?

15 MS. RALSTON: Yes.

16 CHAIRMAN GOLDNER: Okay. Thank you.

17 MS. RALSTON: Yes, we anticipate doing
18 that today.

19 CHAIRMAN GOLDNER: Thank you. Okay.
20 Great.

21 So, I'll just ask if there's any other
22 matters requiring our attention today?

23 MR. DEXTER: Nothing from the
24 Department.

1 MR. CROUSE: Nothing from the OCA.

2 CHAIRMAN GOLDNER: Anything from the
3 Company?

4 MS. RALSTON: Sorry. No, nothing from
5 the Company.

6 CHAIRMAN GOLDNER: Thank you.

7 Okay. The Commission will issue
8 further guidance via order after the filings from
9 the Company are received.

10 And this status conference is
11 adjourned. Thank you.

12 ***(Whereupon the status conference was***
13 ***adjourned at 9:48 a.m.)***

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