

**STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

Docket No. DG 23-076

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty
Winter 2023-2024 and Summer 2024 Cost of Gas and LDAC Filing
DOE Response to the Company's Updated Filing Dated October 23, 2023 (COG Supply)

Technical Statement of Consumer Services Director Amanda O. Noonan

Regarding the Utility's FPO Program and Changed Winter Rates

Department of Energy, Division of Regulatory Support

October 26, 2023

I. Background

A hearing was held in this docket on October 19, 2023. *See Commencement of Adjudicative Proceeding and Notice of Hearing* (Sept. 19, 2023). At that time, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty ("Liberty" "Liberty-ENNE" or "the Company"), identified a newly discovered \$6 million dollar accounting error, requiring, among other changes, a \$12.2 million adjustment to Winter rates. The correction associated with the accounting error was anticipated to result in a substantial reduction in the Winter 2022/2023 over collection as initially identified in the September 1, 2023 filing. This adjustment required the Company to propose new Cost of Gas ("COG") rates.

The Company's updated filing reduces the Winter 2022-2023 over collection of (\$8,577,690) contained in the Company's initial September 1, 2023 filing s to an updated Winter 2022-2023 under collection of \$3,674,198. See DOE Supplemental Technical Statement of Deen & Alam (filed October 26, 2023) at 4. The updated filing increases the proposed non-FPO residential R3 rate from an initial \$0.6175 per therm to an updated proposed rate of \$0.7563 per therm, and the FPO residential R3 rate from an initial \$0.6375 per therm to a proposed rate of \$0.7763 per therm. *See id.* at 2; Attachment 1 (Liberty Response to DOE 2-10, including initial FPO Letter); Attachment 2 (Liberty's draft letter, to address changed rates, with Department comments)¹

At hearing, the Commission accepted the parties' proposal that the Company make an updated filing on October 23, 2023, inclusive of a supplemental fixed price option (FPO) process. The New Hampshire Department of Energy the "Department") agreed to review and submit a supplemental technical statement(s) on the Company's updated filing and related materials on or before October 26, 2023. This technical statement details the Department's

¹ Liberty provided its draft letter, "Attachment 2," on October 24, 2023 as the following file "FPO_Letter_2023_OPT_OUT_EB_2(mjs). The Company does not appear to have provided the draft letter to the Commission.

concerns regarding the impact of Liberty's error on the FPO Process, recommendations to address those concerns, and proposed edits to the FPO letter provided to the Department by Liberty on October 24, 2023.

II. The FPO Program

Liberty-ENNE's fixed price option (FPO) Program allows residential customers to "lock in" a price per therm for the Gas Supply Charge portion of the customer's bill from November 1 through April 30. In general, the FPO rate is \$0.02 higher than the Non-FPO Residential rate as proposed by Liberty-ENNE in the Company's September cost of gas filing. The \$0.02 difference is not explicitly required by tariff, although the FPO program is. See Attachment 1, (citing Liberty-ENNE's Tariff No. 11, Section 17 (Q)).

FPO enrollment opened on or about October 1, 2023 and was originally scheduled to close on October 26, 2023. See Attachment 1 (Sample customer letter attached). Last year, as of October 22, 2022, approximately 9,675 residential customers, "or roughly 12% of ENNE customers", had enrolled in the *Liberty-ENNE* FPO Program. See Dkt. No. DG 22-045, Exhibit 11 (Liberty's Response to DOE TS 1-3). The Company has not identified estimated enrollment this year.

As described above, because of an error that Liberty identified during the ENNE October 19, 2023 cost of gas hearing, the FPO customer letters identified a per therm cost for FPO customers of \$0.6375 that is no longer accurate. See Attachment 1 (Sample customer letter attached). Instead, Liberty has proposed an updated FPO per therm cost of \$0.7763, which is \$1.1388 higher than the price customers accepted when choosing to enroll in the FPO Program. This is a significant increase and requires remedial efforts on the Company's part.

III. Liberty's Proposed Solution

At the October 19, 2023 hearing, Liberty proposed that it mail letters to those customers who have enrolled in the Winter 2022-2023 FPO Program and provide an opportunity to disenroll. Liberty agreed to share a copy of its letter with the Department to allow for comment on the draft. The draft was provided on October 24, 2023.

The Company proposed taking steps similar to the steps taken last winter in DG 22-045 when FPO rates changed in response to an unanticipated volatile market due, in part, to the war in Ukraine. Last October, the Company "estimate[d] at least three weeks to re-mail the customers plus at least five to seven days to allow customers to enroll or de-enroll." See Dkt. No. DG 22-045, Exhibit 11 (Liberty's Response to DOE TS 1-3).

IV. Department's Analysis

In the opinion of the Department, five to seven days is too short a period to allow customers a meaningful opportunity to receive the letter and disenroll. The Department

recommends a minimum of three weeks from the email or postmarked date for customers to respond. Liberty's mailing should also include a return envelope. The original FPO mailing included a return envelope, and customers should be accorded the same ease of response when disenrolling as was provided for enrollment. The Department has made further suggestions to the letter and asks the Company to verify that the Company's web address is correct. See Attachment 2 (Department's review of Liberty's letter in "track changes").

In the opinion of the Department, Liberty's intent to mail customers currently enrolled in the FPO program is a good start; however, it is insufficient. Particularly in light of issues that the Company has experienced with its new billing system, the Department is concerned that the Company may not be able to identify all FPO enrollees. Accordingly, the Department proposes that: i) the Company makes the second FPO Letter (Attachment 2) **readily** available on Liberty's website; and ii) Liberty agrees to allow a customer who did not receive the second FPO letter (Attachment 2) to opt-out once the date to do so has passed. In the Department's opinion, for those customers who do not receive the second FP letter, Liberty should also credit the customer for the potential difference between the Non-FPO rate and the FPO rate for one billing cycle if a higher FPO price on the bill, i.e., higher than the initial \$0.6375 per therm price, is what alerts the customer to the change. The Department believes December 31, 2023 would be a reasonable date to end any FPO opt-out for customers who did not receive the second mailing.

There will be additional expenses associated with the second FPO mailing, including but not limited to printing and mailing letters to approximately 9,000 customers, enclosing a return envelope, postage, and associated staff time. It is the Department's view that additional costs due to Company error ought not be passed to the ratepayers.

At hearing, the Commission indicated that it is interested in opening a separate docket to investigate whether Liberty's FPO program should be eliminated. Without expressing an opinion at this time, the Department would participate in such a docket.

Finally, at hearing, the Commission asked the Department to comment on whether, in light of the last-minute rate increase, Liberty's 2023-2024 FPO program should be eliminated. The Department has considered a range of factors:

- While FPO customers may spend more than Non-FPO customers, this is not always the case. See Dkt. No. DG 21-130, Exhibit 11. Liberty's Response to DOE TS 1-3). Moreover, consumer choice has value.
- Liberty's tariff requires it to offer an FPO program. See Tariff No. 11, Section 17(Q).
- Liberty customers have already enrolled in the 2023-2024 FPO program, with enrollment—as originally planned – closing today, October 26, 2023.

Based upon the above, the Department does not support eliminating Liberty's 2023-2024 FPO program due to Company error.

V. DOE Recommendations

As discussed above, the Department recommends that:

1. The Commission continue Liberty's 2023-2024 FPO program using the updated rates provided by Liberty in its updated filing (dated October 23, 2023);
2. The Commission direct Liberty to accept the edits provided in Attachment 2, including but not limited to giving customers email and postal service options to disenroll, three weeks in which to make that decision, and an enclosed mailing envelope;
3. The Commission direct that costs associated with the second FPO mailing, including but not limited to printing the letters, postage, and associated Staff time, shall not be passed to ratepayers;
4. The Commission direct the Company to make Attachment 2 **readily** available on the Company website;
5. The Commission direct the Company to permit customers who do not receive Attachment 2 to disenroll after the deadline and credit customers the difference between the Non-FPO rate and potentially higher FPO rate as described above;

Please also see the Department's Supplemental Technical Statement of Arif and Alam (filed October 26, 2023) addressing updated rates, bill impacts, and over/under collection issues related to Liberty's error.

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty

DG 23-076

Winter 2023/2024 Cost of Gas and Summer 2024 Cost of Gas

Department of Energy Data Requests - Set 2 (COG)

Date Request Received: 9/22/23
 Request No: DOE 2-10 (COG)

Date of Response: 10/3/23
 Respondent: James King

REQUEST:

References: Liberty’s response to DOE DR 1-11, including DOE 1-11 Zip; Dkt. No. DG 21-130 Testimony of Simek and Gilbertson (FPO gas is \$0.0200 higher per therm than the initial proposed COG rate.)

The Fixed-Price Offer letter that Liberty has indicated it will send to residential customers on or about October 1, 2023 states that “the 2022-2023 FPO Gas Supply Charge that was submitted to the New Hampshire Public Utilities Commission is \$1.7535 per therm (\$0.9644 per therm for customers on Fuel Assistance).” Liberty further states “These rates are not guaranteed until we receive a decision from the NHPUC. A decision is expected prior to November 1. Visit www.libertyenergyandwater.com after November 1st to see the final approved rate.” Liberty’s draft letter also says customers must respond “on or before October 24, 2022 (sic 2023).”

It appears that Liberty will require customers who wish to accept the Fixed Price Offer Rate (FPO) rate, to make a final decision before the rate is known. In the past the FPO rate was described as a specific amount higher than the non-FPO rate as approved on November 1. How does Liberty’s current (draft) letter give customers an informed choice or meet tariff requirements for EnergyNorth and Liberty-Keene? *See* Tarif No. 10, FPO is \$0.02 cents higher per therm than non-FPO gas.

It further appears that Liberty has provided last year’s FPO letter. Please provide the letter Liberty expects to send to customers regarding the FPO offer for the Winter 2-023-2024 season.

RESPONSE:

At the time of the response to DOE 1-11 the Winter 2023–2024 FPO letters were not yet available. Please see Attachment 23-076 DOE 2-10 for the Winter 2023–2024 FPO letters. Both the EnergyNorth and Liberty-Keene letters specify that applications to the program are to be returned to the Company on or before October 26, 2023. Furthermore, while not specifically required by Liberty’s Tariff No. 11, each letter does reflect that the FPO rate is \$0.02 higher than the non-FPO rate:

“Fixed Price Option Program. Fixed Price Option Program. An alternative to the traditional Winter Period cost of gas pricing mechanism may be elected by a residential customer (rates R-1, R-3, R-4, R-5, or R-6) pursuant to the Company’s Fixed Price Option Program (the “Program”). The Company may offer up to 50% of its weather normalized firm sales for the prior Winter Period under the Program. The cost of gas rate offered under the Program will remain fixed for all Winter Period deliveries commencing November 1 and ending April 30. The Company shall submit to the New Hampshire Public Utilities Commission on or before September 1 of each year a copy of the fixed price option computation. Once elected, customers must remain on the Program for the duration of the Winter Period, unless service is terminated. There are no maximum or minimum usage levels. No sign up fees apply”

Section 17 (Q) of NHPUC No. 11. Nevertheless, Liberty appreciates Staff’s concerns about how the case schedule in the instant proceeding causes the FPO letters to be sent to customers with unapproved FPO rates and would be willing to work with DOE on how to improve FPO, including the case schedule for future filings and letters, before the 2024 filing for Winter 2024–2025.



Liberty Energy and Water

September 25, 2023

Fixed Price Option (FPO)	
Account Number	200000066833
Service Address	756 ABITA SPRINGS CONCORD NH US 03301-0221

Dear Mathew J RSHOWKEEN TEST Do not use:

Each fall, Liberty offers you the opportunity to “lock in” the price per therm for the Gas Supply Charge portion of your bills, from November 1 through April 30. If you are enrolled in this program, you will pay one fixed price per therm for the Gas Supply Charge portion of your bill during this period, even if the price of gas changes during the heating season.

Applications for the program must be returned on or before October 26, 2023. Energy prices including gas prices remain volatile as in years past and Liberty expects many customers will consider the Fixed Price Option (FPO) program. If you have multiple accounts, please return one form for each service address and account number. This program is available to customers who are billed on Budget Billing as well as those who are billed on a regular billing schedule.

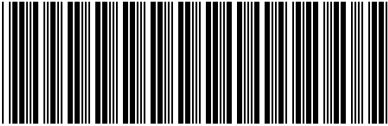
Does the FPO represent the entire amount on my monthly gas bill?

No. Your monthly gas bill has two main components: (1) a Gas Delivery Charge and (2) a Gas Supply Charge. The FPO is for the Gas Supply Charge. (The largest portion of your bill)

What is the “Fixed Price” for the 2023 heating season?

The **2023** FPO Gas Supply Charge that was submitted to the New Hampshire Public Utility Commission for approval is **\$0.6375** per therm (**\$0.3506** per therm for customers on Low Income Rate). Approval of the rate is expected prior to November 1.

Pay online at LibertyEnergyandWater.com, or return this portion with your payment. Please include your account number on your check and make payable to Liberty Utilities.



Account Number:	200000066833
Service Address:	756 ABITA SPRINGS



YES, please sign me up to participate in the Fixed Price Option (FPO). This program locks in the Gas Supply Charge price listed above for the heating season beginning November 01, 2023 and ending April 30, 2024

If you would like to receive confirmation that you have been successfully enrolled in the FPO, please provide us with your email address: _____

Signature: _____

Date: _____

REMIT TO:
 Liberty
 PO Box 1380
 Londonderry, NH 03053



What will my Gas Supply Charge price be this winter if I don't enroll in the FPO?

As of today's date, we estimate that the Gas Supply Charge price for the winter will be approximately **\$0.6175** per therm (**\$0.3396** per therm for customers on Low Income Rate). This non-guaranteed price may increase if the market price of gas increases during the winter or decrease if the market price of gas decreases. Price fluctuations are market-driven, and it is difficult for Liberty to predict what those market conditions or prices will be.

Are there any fees to sign up or minimum or maximum usage requirements?

No. There are no sign-up fees or minimum or maximum usage levels. However, the program is non-transferable, and customers must remain on the program through April 30, 2024. If you move to a new location, the FPO rate will apply at your new location through April 30, 2024.

How do I sign up?

Fill out the attached coupon and return it in the enclosed envelope on or before October 26, 2023. You will be notified whether or not you are enrolled in the FPO. Enrollment acceptance is based on a timely response.

Sincerely,
Liberty



Phone
800-833-4200



Online
www.LibertyEnergyandWater.com



{DATE}

{Name}
 {Mailing_Address}
 {City}, {State} {Zip_Code}

Fixed Price Option Rate Increase
 Service Address:
 {Full_Service_Address}
 Account:
 {#}

Dear {Name}:

You recently enrolled in our Fixed Price Option ~~or FPO~~ program, which “locks in” the price per therm for the Gas Supply portion of your winter natural gas bills. **The 2023–2024 Fixed Price Option rate has changed from what we originally filed with our regulators.**

What is the revised “Fixed Price” for the 2023–2024 heating season?

The ~~proposed~~ revised 2023–2024 FPO Gas Supply Charge filed with ~~and approved by~~ the New Hampshire Public Utilities Commission is **\$0.7763** per therm (initial filed rate of \$0.6375). The FPO Gas Supply Charge for customers ~~who are enrolled in the gas assistance program on Fuel Assistance~~ is **\$0.4270** per therm (initial filed rate of \$0.3506). These rates are effective as of November 1, 2023.

Commented [NA1]: The rate is lower because of the Gas Assistance Program not because of the Fuel Assistance Program.

Can I opt out of the Fixed Price Option given the increase in the rate?

Yes. Because the ~~proposed~~ rate has changed ~~significantly from the rate provided to you when~~ ~~since~~ you elected to enroll, as a one-time courtesy, we will allow you to unenroll if you would like. Please note if you choose to unenroll: in the FPO rate, the Gas Supply Charge portion of your bill will vary throughout the heating season. If you unenroll from the FPO rate, you cannot sign up again for the 2023–2024 winter period.

What will my Gas Supply Charge be this winter if I unenroll in the FPO?

The November Gas Supply Charge was approved at **\$0.7563** per therm (initial filed rate of \$0.6175) and **\$0.4160** per therm for customers on ~~Fuel-Gas~~ Assistance (initial filed rate of \$0.3396). This rate can change monthly and may increase or decrease based on market pricing.

What if I already received a bill with the Fixed Price rate?

If you have already been billed on the FPO rate, you will receive a revised bill after you unenroll. If you have already paid your bill, we will adjust your next bill to correct any discrepancies.

Do I need to re-enroll if I want to remain on the FPO rate?

No. If you would like to remain on the FPO rate, no further action is necessary.

How do I unenroll?

If you would like to unenroll in the fixed price option, ~~you may:~~

1. ~~Email us at XXXXXXXXXX on or before November 22, 2023. Please provide your name, service address and account number as shown above in your email and indicate your desire to unenroll.~~

Commented [NA2]: Customers should be provided with a minimum of three weeks from the email or postmarked date to respond.

2. ~~Fill out the attached coupon and return it to us in the enclosed envelope to the address below in the enclosed envelope on or before November 22, 2023.~~ If you have multiple accounts, please return one form for each account you would like to unenroll.

Commented [NA3]: Customers should be provided with a minimum of three weeks from the email or postmarked date to respond.

Sincerely,
 Liberty

Please cut on the dotted line and return this coupon in the envelope provided.

 {Name}
 {Service_Address}

YES, please remove me from participating in the Fixed Price Option (FPO). This program locks in the Gas Supply Charge price listed above from November 1, 2023 to April 30, 2024.

If you would like to receive confirmation that you have been successfully unenrolled in the FPO, please provide us with your email address: _____

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PO Box 1380, Londonderry, NH 03053–1380
www.libertyenergyandwater.com



Signature: _____ Date: _____

Commented [N44]: Is this is correct web address for Liberty?
Should it be www.LibertyUtilities.com That's the address that
appears in the browser address when searching for Liberty.

PO Box 1380, Londonderry, NH 03053-1380
www.libertyenergyandwater.com

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