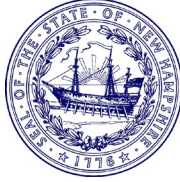


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December 5, 2023

Daniel C. Goldner, Chairman
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301

Re: 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 request to "Carve-Out" for Adjudication and to Deem RDAF Decoupling Year 5 An Interim Rate Subject to Discovery and Hearing After January 17, 2024.*

Dear Chairman Goldner:

The New Hampshire Department of Energy anticipated filing a Technical Statement regarding *all* aspects of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty's Local Distribution Adjustment Clause (LDAC) on or before December 5, 2023. *See Commencement of Adjudicative Proceeding and Notice of Hearing* (Sept. 19, 2023) (hereinafter "*Notice*") at 5 (requiring Department to file a statement consistent with the parties' default schedule in Docket No. DG 23-027); *Liberty Cover Letter*, this docket, (August 21, 2023). However, DOE reasonably assumed that Liberty would have provide all necessary discovery in advance of December 5 and that questions surrounding Liberty's calculation of its revenue decoupling adjustment factor (RDAF) in decoupling year (hereinafter "*DY*")³ and *DY*⁴ would have been analyzed, presented, and adjudicated already in Docket No. DG 22-045. Analysis regarding *DY*⁴ and *DY*³ has been delayed in Docket No. DG 22-045 due to Liberty's delay in providing discovery responses. *See* Dkt. No. DG 22-045, *Procedural Order Re. Request to Postpone Hearing and for Other Relief* (Dec 4, 2023); *Procedural Order Re; Continuation of Hearing and Record Requests* (Sept. 1, 2023).

As per the Company's 2023-2024 LDAC filing, the Company estimates that *DY*⁵ RDAF represents an under collection of approximately \$5.4 million. *See* Liberty's Testimony of Culbertson and Yusuf (August 21, 2023) at Bates 009-010 (estimating RDAF under collection for *DY*⁴ and *DY*⁵ collectively as \$9,175,597, of which *DY*⁴ is \$3,733,697 and the remaining, \$5,441,900 is for *DY*⁵).

Given the delay in the resolution of Docket No. DG 22-045 (*DY*⁴, *DY*³), the New Hampshire Department of Energy ("DOE" or "Department") respectfully requests that analysis and review of Liberty's calculation of the RDAF for *DY*⁵ be carved out for adjudication and deemed *interim* and subject to further discovery and a separate hearing in this docket. That is, the Department seeks procedural relief wherein it supports the

collection of \$5.4 million for RDAF in DY5 on an *interim* basis. This procedural relief will allow DOE to analyze and understand DY4 and DY3 in Docket No. DG 22-045 and to apply that understanding to the Company's request for DY5 in Docket No. DG 23-076 in the future. The estimated RDAF under-collection of \$5.4 million in DY5 is a significant figure. Carving DY5 (i.e., \$5.4 million) out for further review of the LDAC hearing and making the RDAF rates interim, subject to further discovery and a separate hearing, will also allow DOE to benefit from the Commission's order in Docket No. DG 22-045, when issued.

Inasmuch as Liberty's Tariff No. 11 applies to both DY4 and DY5, it will also be administratively efficient to determine whether Liberty's RDAF calculations in DY4 and DY3 were reasonable first. Moreover, DOE only has the benefit of a consultant for Docket No. DG 22-041 and DG 22-045. DOE prefers to leverage the significant time and effort invested in Docket No. 22-045 by carving DY5 out of the current LDAC February 2024-January 2025 review. *See DG 22-045 DOE Motion in Support of Liberty's proposal to Carve Out* (September 21, 2022).

Unlike DOE's position for DY4 and DY3 however, DOE does not propose to omit the RDAF figures from the LDAC rates that Liberty proposes to make effective February 1, 2024. So long as the Commission explicitly finds that Liberty's RDAF under-collection is approved on an *interim* basis, subject to review and hearing *after* the bulk of the LDAC rate for effect February 1, 2024 is reviewed at hearing on January 17, 2024, then DOE will have preserved a right to review. *See Notice at 5* (setting January 17 date).

In addition, this approach (making RDAF rate for DY5 components interim rate elements) is consistent with an agreement DOE recently reached with Northern Utilities Inc. in Docket No. DG 23-086 (Northern's *Petition for Approval of Revenue Decoupling Adjustment Factor*). Finally, such an arrangement will minimize the updated filing Liberty would otherwise be required to do in Docket DG 23-076. This will benefit all parties. *See Dkt. No. DG 23-086; DOE's Assented-To Motion to Make RDAF Rates Contingent and Enlarge Time for Investigation . . . Subject to Final Hearing* (Oct 10, 2023); *Procedural Order Re: Company, OCA and DOE Motions and Cancelling Oct 23 Hearing* (Oct. 13, 2023).

This morning, DOE asked Liberty and the Office of the Consumer Advocate (OCA) whether they assented to the procedural relief requested in this letter. The OCA objects to the relief requested. As of 2 p.m. DOE does not know if Liberty assents or objects, or takes no position on the relief requested.

In sum, if the Commission grants the procedural relief requested in this docket, Docket DG 23-076, DOE will: have gained the benefit of DY4 and DY3 analysis and the Commission's final order in Docket No. DG 22-045, be acting consistent with relief in Northern's Docket No. DG 23-076, and avoid significant hours involved in reviewing any updated filing Liberty would be required to provide if DY5 were carved out.

Consistent with the Commission's current practices, this letter is being filed only in electronic form.

Sincerely,
/s/ Mary E. Schwarzer
Mary E. Schwarzer, Esq.
Hearings Examiner

cc: Service List (Electronically)

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