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November 3, 2023

New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

via e-mail to ClerksOffice@puc.nh.gov

Re: Docket No. DE 23-081
Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty
Request for Approval of Revenue Decoupling Adjustment

To the Commission:

Please treat this letter as the response of the Office of the Consumer Advocate (“OCA”) to the Procedural Order entered by the Commission on November 2, 2023 in the above-referenced proceeding. The Procedural Order offered the OCA an opportunity to respond by the close of business today to the dispute over scheduling issues that has arisen between the subject utility and the Department of Energy.

I would like to take this opportunity to apologize to the Commission for not previously taking a position on the request of the Department, filed via letter on November 1, 2023, to postpone the hearing presently scheduled in this docket for November 8, 2023. We agree with the Department that a postponement is in the public interest, for substantially the same reasons stated in the Department’s letter.

The subject utility’s objection to the Department’s request, filed via letter of November 2, 2023 (tab 17), is not persuasive. In our judgment, the utility has unfairly accused the Department of “slow-walking” the proceeding via “[s]ix weeks of no action in a docket with a Commission-approved and tariff-enshrined effective date of November 1.” In reality, most of that “no action” period is accounted for by the 24 days that elapsed between the utility’s initial filing of September 1, 2023 (tab 1) and the issuance by the Commission of its Order (tab 4) formally commencing the proceeding and scheduling a prehearing conference, which did not take place until October 10, 2023. The alleged “slow-walk” of the Department ended two days later with the issuance of data requests, as noted in the utility’s objection.

It appears to be the position of the subject utility that the Department (and presumably also the OCA) must immediately leap into action, rather than await the formal commencement of contested administrative proceedings, in circumstances where the utility (which controls the

timing of filings such as the one that initiated this docket) has arguably not allowed the Commission, the Department, or the OCA with sufficient time to complete their work necessary to resolve the case prior to the utility's desired effective date for proposed rate adjustments such as the revenue decoupling adjustment at issue here. It would be an understatement to say that revenue decoupling, in particular, has proven to be challenging in New Hampshire for utilities, regulators, and ratepayer advocates alike.

The tone of the utility's letter is not helpful. The Gettysburg Address is enshrined at the Lincoln Memorial in Washington; a tariff merely states the terms and conditions of a utility's service to customers and is a document that has the force and effect of law by virtue of its regulatory approval, which means the Commission also has the right to impose tariff changes. The Department does not "slow walk" a proceeding when it is simply following the Commission's procedural rules and the Administrative Procedure Act. To the extent that the currently applicable procedural requirements are inadequate to allow a utility to secure what it considers adequate relief from the Commission on a timely basis, neither the Department nor the OCA is responsible.

Since the Commission specifically invited our response to this situation, I will state here what I had previously opted not to say about situations like this. They are becoming altogether too commonplace. By "situations like this" I mean an apparent inability of the Department and at least some utilities to collaborate effectively and exchange information efficiently. The result, from the perspective of our small organization, is what seems to be a constant barrage of requests to reschedule and postpone scheduled events and deadlines in dockets. In a busy time of year such as this, it often seems I am spending a substantial portion of my work day dealing with urgent requests from the Department that the OCA state a position about yet another scheduling change. We would vastly prefer an orderly process in which the Commission approves agreed-to procedural schedules and everyone sticks to those schedules except in the most exigent of circumstances.

To a significant degree, we are at the mercy of others when it comes to participating in many PUC proceedings where our involvement is necessary -- particularly proceedings related to the various rate adjustment mechanisms that require reconciliations rather than rate cases. The OCA currently has only one analyst on its payroll and he is an economist rather than a financial expert. We also have various consultants under contract but I cannot, in good faith, ask the Executive Council and the Joint Fiscal Committee of the General Court to authorize me to pay non-employees to duplicate the sort of gumshoe number-crunching that the Regulatory Support Division of the Department is in business to conduct, at least in what are supposed to be routine cases. In other words, I save the OCA's outside firepower for rate cases and other major proceedings.

The Commission, the Department, the OCA, and perhaps even the utilities confront resource challenges that are especially apparent during the final month of every calendar year when there is always a crunch of regulatory business. Yet it is necessary for everyone involved to work together to assure reliable utility service provided to customers at just and reasonable rates. To a significant degree, the scheduling problem that has arisen in this docket is emblematic of certain larger problems that we would like to do our part to address. We are eager to collaborate at the

macro level; at the micro level we support the Department's request for postponement of the November 8, 2023 hearing.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DKreis', with a stylized, wavy line extending from the end.

Donald M. Kreis
Consumer Advocate

cc: Service List, via e-mail