

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

October 10, 2023 - 1:02 p.m.  
21 South Fruit Street  
Suite 10  
Concord, NH

RE: DE 23-081  
LIBERTY UTILITIES (GRANITE STATE  
ELECTRIC) CORP. d/b/a LIBERTY UTILITIES:  
Request for Approval of Revenue  
Decoupling Adjustment.  
*(Prehearing conference)*

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

Eric Wind, Esq./PUC Legal Advisor

Tracey Russo, Clerk

**APPEARANCES:** Reptg. Liberty Utilities (Granite State  
Electric) Corp. d/b/a Liberty Utilities:  
Michael J. Sheehan, Esq.

**Reptg. Residential Ratepayers:**  
Donald M. Kreis, Esq., Consumer Adv.  
Marc H. Vatter  
*Office of Consumer Advocate*

**Reptg. New Hampshire Dept. of Energy:**  
Paul B. Dexter, Esq.  
Alexandra K. Ladwig, Esq.  
*(Regulatory Support Division)*

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

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**P R O C E E D I N G**

CHAIRMAN GOLDNER: Okay. We're here this afternoon for a prehearing conference in DE 23-081, in which the Commission docketed Liberty Utilities (Granite State Electric) Corp.'s Revenue Decoupling Adjustment Factor filing for Decoupling Year 2, which ran from July 1st, 2022, through June 30th, 2023.

First, let's take appearances, beginning with the Company.

MR. SHEEHAN: Good afternoon, Commissioners. Mike Sheehan, for Liberty Utilities (Granite State Electric) Corp.

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

MR. DEXTER: Good afternoon. Paul Dexter and Alexandra Ladwig, appearing on behalf of the Department of Energy.

CHAIRMAN GOLDNER: Okay. Very good. And will the OCA be making an appearance today?

MR. VATTER: I have -- I mean, I'm here.

*[Laughter.]*

CHAIRMAN GOLDNER: We'll count it as an

1 appearance. Thank you.

2 Okay. Are there any preliminary  
3 matters to address, before we hear and discuss  
4 preliminary positions?

5 *[No verbal response.]*

6 CHAIRMAN GOLDNER: Probably not. Okay.

7 So, turning to Liberty's filing, we'll  
8 now hear preliminary positions, and the  
9 Commissioners may have some follow-up questions.  
10 The DOE has already filed a preliminary position  
11 statement that highlights a number of issues that  
12 are of interest to the Commission related to  
13 pending issues in Liberty's rate case, Docket DE  
14 23-039, regarding whether Liberty should be  
15 collecting an RDAF while temporary rates are in  
16 effect.

17 Regardless of how we resolve the issue  
18 in that case, we do still think Liberty was  
19 required to make this filing under the current  
20 tariff, and that review of the aggregate  
21 decoupling adjustment amount should occur.

22 So, let's start with Liberty.

23 MR. SHEEHAN: Thank you.

24 In our view, this docket is simple.

1       It's simply taking the tariff language, which has  
2       all the definitions, and has the formula to  
3       apply, do the math, and out comes the number.  
4       And that's the number that we put in our filing  
5       that is the shortfall of the decoupling. And,  
6       using very round numbers, because I always forget  
7       the specifics, the overall number is \$3 million  
8       plus. We are capped by the decoupling tariff at  
9       3 percent. So, the ask is to recover a million  
10      dollars going forward for Decoupling Year 2, and  
11      that's deferring the two plus million dollars of  
12      the whole amount, which also includes a small  
13      deferral from last year.

14               Of the questions raised by DOE that  
15      apply just to this filing, as I understand them,  
16      one is concerns over the equivalent bill math.  
17      The response to that is equivalent bill -- the  
18      numbers that came out of that equivalent bill  
19      process have always varied widely for a bunch of  
20      reasons that are inherent in that process.

21               We have been using equivalent bill  
22      since before Liberty was purchased by Liberty.  
23      It's a well known, accurate way of counting  
24      customers. Confusing maybe, but a well known and

1 accurate way of counting customers. Nothing has  
2 changed. We use it for all purposes, not just  
3 decoupling.

4 What I see, from my perspective, is  
5 folks stopped looking at that over the years,  
6 because it was the norm. And, now we have new  
7 eyes at DOE looking at it and trying to  
8 understand it, which is totally fair. But the  
9 net result of that, and that's both here and in  
10 the gas decoupling, the net result of that will  
11 be that that's what the equivalent bill  
12 calculation is, it's a somewhat counterintuitive  
13 process. But, at the end, over the twelve-month  
14 period, it gives an accurate count of customers.

15 So, that was one topic they raised.  
16 And, again, that's totally fair for discovery.  
17 And we'll work through the -- hopefully, educate  
18 them to get them to a point of acceptance.

19 The second one related to that is the  
20 DOE has pointed to numbers in -- equivalent bill  
21 numbers in this filing that differ from what's in  
22 the rate case. And, again, that's a perfect  
23 topic for discovery. They will ask the question,  
24 we'll answer it, and, hopefully, we'll work

1 through that.

2 The other issues raised in the DOE  
3 statement I'll put aside for just a second. So,  
4 in this case, we're asking for recovery of the  
5 roughly million dollars, deferral of the balance.  
6 And one of the requests DOE made was to suspend  
7 that collection pending the other issues. And  
8 I'd just like to plant that that's a very bad  
9 idea in our view.

10 The amount owed from last year was a  
11 million four; we've collected some of it. The  
12 amount owed this year is a million. There's two  
13 or three million being deferred. If you stop --  
14 if you start suspending collection, those numbers  
15 will all just get bigger. It just makes no sense  
16 to do that as a "Wait a minute, the numbers may  
17 not be perfect, we should do nothing." Again,  
18 these are reconciling. So, if it turns out our  
19 million that you approve in this docket is off,  
20 we fix it. So, the request to suspend we think  
21 is not a wise route to take.

22 Now, moving to the issues that are  
23 outside of this docket. The temporary rate  
24 issue, there was never an intent by the Company

1 to cease collecting the RDAF. Again, it doesn't  
2 make sense to. The RDAF approved a year ago was  
3 approved, was in rates. That is for revenues  
4 that were short for the '21/'22 year. It doesn't  
5 play a role in temporary rates from now going  
6 forward. So, to -- and, again, it's not part of  
7 distribution. Well, if it is part of  
8 distribution rates, it's old distribution rates,  
9 if you will. It's the RDAF. It's in a LDAC kind  
10 of component. So, again, stopping collection of  
11 that pending temporary rates would just add to  
12 the uncollected amounts to some degree.

13 To the extent that there was a zero in  
14 the RDAF when we provided some of our filings, it  
15 was just to show what the temp. rate change would  
16 have on distribution rates. Just like commodity  
17 rates, those aren't part of the temporary rate  
18 calculation, and the Systems Benefit Charge is  
19 not part of that calculation. So, again, it  
20 seems to be a side issue that shouldn't  
21 complicate this docket.

22 And the last, if I have the  
23 recollection correct, was the tariff issues  
24 coming out of several dockets that have been



1           ongoing. We think we provided the Commission  
2           with what it needed in early September. DOE  
3           filed a response. I think it's in your folks'  
4           hands to decide whether it's got to the point  
5           where it's good, or whether further changes need  
6           to be made. But, again, it doesn't -- it  
7           shouldn't affect this docket, in our view.

8                        So, I think I've hit the points that  
9           were on the table. But if you have any  
10          questions?

11                      CHAIRMAN GOLDNER: Thank you. No, I  
12          think none so far.

13                      Attorney Dexter.

14                      MR. DEXTER: Yes. Thank you, Mr.  
15          Chairman.

16                      So, you know, we spend a lot of time on  
17          our side of the building trying to create a  
18          record that's simple, to simplify things for the  
19          Department. And, in this case, this is not  
20          simple, and we've pointed out a lot of things  
21          that are complicated. We're not doing that to  
22          complicate things, but we're trying to point out  
23          issues that we believe need to be resolved before  
24          any further RDAF charges are approved and

1 collected by Liberty-Electric.

2 And I tried to highlight those in the  
3 October 3rd letter, we tried to highlight those  
4 in the October 3rd letter. And we broke them  
5 down to procedural and substantive issues. And  
6 the procedural issues have two components, as I  
7 outlined -- as we outlined in the letter.

8 The first one has to do with what  
9 happened when the Commission approved the  
10 temporary rates. It's our understanding, we  
11 think the record is pretty clear on this, that  
12 Liberty presented information for approval for  
13 the temporary rates on June 26th, 2023, in DE  
14 23-039. And there was a schedule showing that  
15 the effect of the temporary rate increase for a  
16 residential customer was going to be 1.48  
17 percent. In the very schedule that led to the  
18 1.48 percent, it showed the RDAF decreasing from  
19 0.281 cents, basically three-tenths of a cent, to  
20 zero. Those figures were taken from that filing,  
21 understandably, and embedded into Order Number  
22 28,855, which was issued on June 30th, 2023, at  
23 Page 3. And it shows those same rates and the  
24 same impacts.

1           So, it's not really important what  
2       Liberty thought was in the Temporary Rate  
3       Settlement. What's important is what the  
4       Department [sic] approved. And it's our position  
5       that they approved a 1.4 percent rate increase,  
6       with the RDAF going from 0.281 cents to zero.  
7       And that's our position. And we've raised that,  
8       and we believe that that issue needs to be  
9       resolved before this case goes forward, so we  
10      know whether we're dealing with an RDAF at zero  
11      or we're dealing with an RDAF at 0.00281. So,  
12      that's the issue that came out of the rate case.

13           The second bunch of issues that we  
14      raised in our October 3rd letter have to deal  
15      with what's gone on in 22-035, which is the case  
16      involving Liberty's step adjustments. The reason  
17      those are important is because each step  
18      adjustment change results in a revenue  
19      requirement, which then gets translated into  
20      revenue per customer targets, which are necessary  
21      for reviewing the decoupling mechanism at issue  
22      in this case, because what we look at is actual  
23      revenue per customer and compare it to the  
24      targets. So, the targets have to be clear. And

1       it's our position that the targets are not clear,  
2       because of outstanding issues that are -- because  
3       of outstanding issues from DE 22-035.

4               We raised those issues on July 4th --  
5       I'm sorry, on August 1st, 2023, in the step  
6       adjustment case, 22-035. The Company responded  
7       with a filing on September 1st, I believe,  
8       talking about the outstanding issues, and we  
9       replied to that on September 18th. And, as far  
10      as we know, those issues have not been addressed  
11      by the Commission. So, while those issues are  
12      still outstanding, we don't believe it's  
13      appropriate for the Commission to approve any  
14      further -- any further RDAF changes.

15             With respect to the case at hand, the  
16      substantive issues that we pointed out in our  
17      October 3rd letter, we essentially agree with  
18      Attorney Sheehan that this is a mathematical  
19      case. We, on a preliminary basis, had  
20      highlighted some questions that we will explore  
21      through discovery, and we appreciate the  
22      Company's statement that they will respond to  
23      discovery on those questions concerning what seem  
24      to us to be some significant swings in equivalent

1 bills for a very large-use customer class. And  
2 we've learned, in decoupling, that changes in the  
3 number of customers in large classes, because  
4 we're dealing with a revenue per customer  
5 calculation, can have significant impacts on the  
6 ultimate revenue decoupling request that comes  
7 out of the mathematics.

8 And, so, when we see, you know, a rate  
9 class varying from 104 customers to 183  
10 customers, I think it was, within the span of a  
11 few months, that raises questions. We understand  
12 equivalent bills have been around for a long  
13 time. Attorney Sheehan referred to it as  
14 "counterintuitive". I'm not sure that we  
15 understand how the equivalent bill calculation  
16 works. But, just because it's been around a long  
17 time, the result has to be reasonable. And we  
18 can't imagine how one customer class could have a  
19 swing, you know, to that great degree.

20 Secondly, Attorney Sheehan mentioned  
21 that we've been doing calculations like this on a  
22 monthly basis, and that month after month the  
23 variation smooth themselves out, and at the end  
24 of the year you have a representative level of

1 revenues and customer counts. I'm paraphrasing,  
2 but I think that's essentially what Attorney  
3 Sheehan was getting at.

4 One of the issues we want to explore in  
5 this case is whether or not we have created a  
6 situation where, instead of letting those monthly  
7 fluctuations zero themselves out over time, if  
8 we've sort of undermined that concept by  
9 calculating the revenue decoupling adjustment on  
10 a monthly basis. We understand the calculation  
11 is done each month. And we understand that,  
12 within the actual revenue recorded each month, a  
13 substantial part of that is unbilled revenue,  
14 which is, in fact, based on an estimate.

15 Now, most ratemaking proceedings take  
16 revenue figures over a 12-month period, and those  
17 estimates reverse themselves. But what we have  
18 here is a calculation that actually takes those  
19 monthly numbers, and then goes and sets, you  
20 know, then calculates a revenue decoupling  
21 amount, which then goes right into the factor,  
22 without a chance for those accruals to reverse  
23 themselves.

24 So, we're not going to propose a change

1 to the decoupling mechanism in this docket,  
2 because this is an implementation docket. But we  
3 believe that's an appropriate area of inquiry, so  
4 that can inform any changes that we propose in  
5 the ongoing rate case where the decoupling  
6 mechanism is at issue. So, that's what's behind  
7 the questions on the customer fluctuations, not  
8 something we intend to explore in this case.

9 We believe we can do that within the  
10 schedule that the Commission has laid out with  
11 the hearing on November 8th, around the decision  
12 coming presumably before -- for effect  
13 December 1st. We've been working on a schedule,  
14 which we will share with the Company and the  
15 Consumer Advocate by the end of today or  
16 tomorrow. Hopefully, we can reach agreement on a  
17 short discovery, a short schedule that includes  
18 discovery and an opportunity for the Department  
19 to put in a position statement or testimony or a  
20 tech statement, whatever form it ends up taking,  
21 still trying to do that in time for the  
22 November 8th hearing.

23 But, certainly, back to what I started  
24 with, we believe that the outstanding questions

1       in the temporary rate case, and the step  
2       adjustment case, 22-035, need to be resolved  
3       before any further decoupling collections take  
4       place as a result of this docket.

5               CHAIRMAN GOLDNER: Thank you, Attorney  
6       Dexter.

7               And, Attorney Kreis, we entered an  
8       appearance for you as you were scrambling there  
9       to join. And we're ready for your opening  
10      statement.

11              MR. KREIS: Thank you, Mr. Chairman.  
12      And allow me to prostrate myself apologetically.  
13      I thought this hearing started at 1:30, to be  
14      perfectly frank, otherwise I would have been on  
15      time, because "punctuality" is ordinarily my  
16      middle name. And, so, I'm embarrassed. So,  
17      thank you for indulging me.

18              I have read the October 3rd letter from  
19      the Department of Energy. And I listened to most  
20      of what Attorney Dexter just said. And I want to  
21      compliment him and his team for what I think is  
22      some pretty cogent analysis of the situation that  
23      this docket presents. And I have no reason to  
24      disagree with any of the analysis that the



1 Department has conducted preliminarily. And,  
2 like the Department, I'm eager to participate in  
3 this docket and work through some of these  
4 issues, so that we really understand what's  
5 happening here fully.

6 I do want to say, on the general  
7 question of decoupling, and we don't have to go  
8 too far down that road, because, as Mr. Dexter  
9 just mentioned, that question, the question of  
10 the future of decoupling, is really properly  
11 addressed in the pending rate case.

12 But I do want to say that the concerns  
13 that Mr. Dexter lays out are fundamental to the  
14 existence of a decoupling mechanism. The monthly  
15 adjustments were supposed to be helpful to both  
16 consumers and to ratepayers. And, if they  
17 haven't been, then, again, that's a question to  
18 take up in the rate case.

19 To the extent the Department thinks  
20 that discovery in this docket would be in aid of  
21 that, I have no problem with anybody doing that.  
22 You know, we're all ultimately trying to achieve  
23 the same thing, which is just and reasonable  
24 rates.

1 I do want to say, though, as the person  
2 who, and I think this is well known to everybody,  
3 as the person who heads the office that was the  
4 leading champion of adopting decoupling, I  
5 understand that the whole concept is now under  
6 review by essentially everybody. And I'd like to  
7 make sure everybody knows that I am not going to  
8 cheerfully suffer regressing back to the LRAM  
9 mechanism, the Lost Revenue Adjustment Mechanism.  
10 If decoupling is done in, then the answer is to  
11 replace it probably with nothing, other than  
12 resetting utility revenue requirements via rate  
13 cases.

14 That's all I have to say at this time,  
15 beyond reiterating my apology.

16 CHAIRMAN GOLDNER: Thank you, Attorney  
17 Kreis.

18 I think what we can do at this point,  
19 having received the preliminary statements from  
20 the parties, is just take a brief recess so the  
21 Commissioners can confer, very brief. And we'll  
22 return at 1:30.

23 *(Recess taken at 1:23 p.m., and the*  
24 *prehearing conference resumed at*

1 1:32 p.m.)

2 CHAIRMAN GOLDNER: Okay. From the  
3 Commission's standpoint, we don't have much to  
4 add, other than to set a deadline for the  
5 procedural schedule. Sounds like everyone is in  
6 synch to get everything taken care of by  
7 November 8th. And, so, that's appreciated.

8 Would, Attorney Dexter, would you have  
9 a -- would you think the end of the week would be  
10 a sensible time to publish a procedural schedule?

11 MR. DEXTER: Yes. Yes, we're going to  
12 run it by the parties today. And, hopefully, we  
13 can file it by the end of the week, if not  
14 before.

15 CHAIRMAN GOLDNER: Thank you. And we  
16 also appreciate, when you said earlier, relative  
17 to filing something with the Commission from the  
18 DOE, you know, prior to the hearing, those are  
19 very, very helpful to us. Would you think maybe  
20 three business days would be a sufficient time,  
21 based on what you know today?

22 MR. DEXTER: Before the hearing?

23 CHAIRMAN GOLDNER: Before the hearing.

24 MR. DEXTER: Yes. That would be fine.

1                   CHAIRMAN GOLDNER:   Okay.   Thank you.  
2                   Thank you.   It's tight on everyone.   So, I think  
3                   we'll cut that to three days.

4                   Very good.   Is there anything else  
5                   anyone wishes to add to this PHC?

6                   MR. SHEEHAN:   We had a brief chat about  
7                   a schedule, and Mr. Dexter did not commit to  
8                   anything.   But the hearing is the 8th, which is a  
9                   Wednesday.   If "three business days" makes  
10                  Monday, that we would ask for a little more time,  
11                  so at least roll into the week before, which  
12                  would be the 2nd or 3rd.

13                  CHAIRMAN GOLDNER:   I might count wrong,  
14                  but I would have counted that as, like, Friday,  
15                  or so.

16                  MR. SHEEHAN:   Okay.   That's what I --

17                  CHAIRMAN GOLDNER:   Yes.   File it by  
18                  Friday would be fine, we'd have the weekend to  
19                  read it, if that would be okay.

20                  MR. DEXTER:   What date?

21                  MR. KREIS:   Mr. Chairman?

22                  CHAIRMAN GOLDNER:   Yes.

23                  MR. KREIS:   Might I ask whether it  
24                  would be okay if the OCA also file something when

1       the Department does? I don't know for sure, or  
2       whether we actually want to do that. But, now  
3       that we have some analytical capability on our  
4       team, that at least is a theoretical possibility  
5       for us.

6               CHAIRMAN GOLDNER: Absolutely. And it  
7       would be appreciated if the OCA was able to file  
8       something. And it's helpful for us to have a few  
9       days, if even the weekend, to be able to review  
10      documents. Because we're pretty booked up, as  
11      everyone in the room is, because we all share  
12      many of the same dockets, and the DOE shares 100  
13      percent of the same dockets. So, it's pretty  
14      packed for the next few weeks.

15              That sounds goods. So, I'll just  
16      repeat that back. So, November 3rd for a filing  
17      from the DOE and OCA, if that works for the OCA.  
18      The hearing on the 8th. And, then, a procedural  
19      schedule by the end of this week, which would be  
20      October 13th.

21              Fair enough?

22              *[Multiple parties indicating in the*  
23              *affirmative.]*

24              CHAIRMAN GOLDNER: Okay. Anything else

1           that we should discuss today?

2                   MR. DEXTER:   Nothing from the  
3           Department.

4                   CHAIRMAN GOLDNER:   Okay.

5                   MR. SHEEHAN:   No.

6                   CHAIRMAN GOLDNER:   All good.   Okay.  
7           Well, thank you very much, a very efficient  
8           hearing today.   And good afternoon.   We are  
9           adjourned.

10                           *(Whereupon the prehearing conference*  
11                           *was adjourned at 1:34 p.m., and a*  
12                           *technical session was held*  
13                           *thereafter.)*

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