

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 24-073

OFFICE OF THE CONSUMER ADVOCATE

Petition to Initiate Investigation

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On May 10, 2024, the Office of the Consumer Advocate (OCA) filed a petition requesting that the Commission open an investigation into whether Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty or the Company) is in compliance with its current vegetation management obligations. All docket filings, other than any information subject to confidential treatment, are available on the Commission's website at www.puc.nh.gov/regulatory/Docketbk/2024/24-073.html.

I. BACKGROUND AND PROCEDURAL HISTORY

In Docket No. DE 19-064, the Commission approved a settlement agreement (Settlement Agreement) which, among other things, provided in Section II, G.2. that

Under the VMP, the Company shall maintain a four-year cycle for tree trimming and vegetation management and shall continue with the filings and reporting requirements currently in place. The base rate increase agreed to in this Agreement includes an increase in the VMP spending to \$2,200,000 for 2020, which shall continue until changed in a future base rate case. The Company shall not recover any VMP expenses that exceed 10% of that amount, or in excess of \$2,420,000, through the annual reconciliation filing, or otherwise. The VMP spending shall be reconciled each year, with any under spending carried into the next program year or returned to customers, as determined by the Commission.

See Liberty Utils., Order No. 26,376, at 9, 13-14 (June 30, 2020) (approving Settlement Agreement). The Settlement Agreement was signed by Liberty, the OCA, the City of Lebanon, and Clean Energy New Hampshire, as well as former Commission staff.

The OCA averred in its petition that Liberty is not complying with its vegetation management obligations under the Settlement Agreement and New Hampshire Code of Administrative Rules, Puc 307.10. In support of its petition, the OCA cited testimony and filings submitted in other dockets. The OCA requested that the Commission, pursuant to its authority under RSA 374:7, initiate an investigation into Liberty's compliance with its vegetation management obligations in this docket rather than in Docket No. DE 23-039, Liberty's current rate case, because the OCA maintained that the New Hampshire Department of Energy's (DOE) pending motion to dismiss¹ makes review of Liberty's vegetation management activities in Docket No. DE 23-039 uncertain.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether RSA 365:1 applies in this instance, so that the OCA's petition should have been filed with the DOE; whether an investigation by the Commission under RSA 374:7 into Liberty's compliance with its vegetation management obligations is warranted; if so, whether the Commission should undertake an investigation in this docket or in Docket No. DE 23-039 into Liberty's compliance with its vegetation management obligations; or, if an investigation is warranted, whether it should be undertaken by the DOE, as concurrently authorized by RSA 374:7, with the DOE to file a petition with the Commission, pursuant to the DOE's enforcement authority under RSA chapter 12-P, if it deems further orders by the Commission necessary. Accordingly, an adjudicative proceeding will be convened to address these issues.

¹ The Commission ruled that the DOE's motion to dismiss filed on April 28, 2023 in Docket No. DE 23-039 was moot. *See* Procedural Order dated May 2, 2023. The Commission has deferred ruling on the DOE's motion to dismiss filed on December 13, 2023, *see* Order No. 27,000, at 8 (April 30, 2024), and stayed Docket No. DE 23-039 until July 31, 2024, *see* Procedural Order dated May 23, 2024.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 365:1, RSA 374:7, RSA chapter 12-P, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the City of Lebanon and Clean Energy New Hampshire shall be added to the service list for this docket for notice purposes, but will be required to file petitions to intervene to become parties to this docket; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on August 27, 2024, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that the New Hampshire Department of Energy shall file its position regarding the OCA's petition, including the reasons for this position and whether RSA 365:1 applies, on or before August 13, 2024; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, the OCA shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to the OCA and any other parties on the service list, on or before July 22, 2024. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before August 1, 2024; and it is

FURTHER ORDERED, that the parties may submit a stipulation containing a discovery schedule, statement of any additional issues not identified in this order of notice, and at least three dates on which they would be available for a final hearing in this matter, including how much time will be required, with a request that the prehearing conference and technical session be cancelled, on or before August 20, 2024. The Commission may cancel the prehearing conference and technical session upon approval of such a stipulation; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, the OCA shall notify all entities and individuals desiring to be heard at this hearing by


publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before June 28, 2024. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this eighteenth day of June, 2024.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket#: 24-073

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