

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 20-105**

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.**

**Petition for Permanent and Temporary Rates**

**Order Approving Temporary Rates**

**ORDER NO. 26,412**

**September 30, 2020**

**APPEARANCES:** Michael J. Sheehan, Esq., on behalf of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities; the Office of the Consumer Advocate by D. Maurice Kreis, Esq., on behalf of residential ratepayers; and Paul B. Dexter, Esq., and Lynn Fabrizio, Esq., on behalf of Commission Staff.

In this order, the Commission sets temporary rates at existing rate levels for Liberty Utilities (EnergyNorth Natural Gas) Corp., effective October 1, 2020, which will remain in place until the end of the Company's permanent rate case. Customers will see no changes to rates as a result of this decision, but the permanent rates ultimately approved in this case will be reconciled back to the date of the temporary rates, pursuant to RSA 378:29.

**I. PROCEDURAL HISTORY**

On July 31, 2020, Liberty Utilities (EnergyNorth Natural Gas) Corp. (Liberty or the Company) filed a Petition for Permanent and Temporary Rates (Petition). The Petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2020/20-105.html>.

Liberty serves approximately 97,000 natural gas customers in southern and central New Hampshire, Berlin, and in the city of Keene where it serves approximately 1,300 additional

customers using propane air and compressed natural gas. Liberty's Petition requested that the Commission grant: (1) a permanent increase in Liberty's distribution rates effective with service rendered on or after September 1, 2020, designed to yield an increase of \$13,497,250 in annual revenue; (2) temporary rates effective with service rendered on or after October 1, 2020, designed to yield an increase of \$6,500,000 in annual revenue pending the Commission's final determination on the Company's request for a permanent rate increase; and (3) a step adjustment in rates designed to yield an increase of \$5,680,641 in annual revenue to recover costs associated with approximately \$38 million of capital expenditures projected to be made during 2020, to be effective no earlier than August 1, 2021.

Liberty's filing included direct testimony and exhibits in support of the proposed rates, and related supplemental information, including a proposed tariff, in accordance with the New Hampshire Code of Administrative Rules, Part Puc1600. Pursuant to RSA 378:27, Liberty requested temporary rates to be effective with services rendered on and after October 1, 2020, until the Commission decides the permanent rate case.

By letter dated July 8, 2020, the Office of the Consumer Advocate (OCA) indicated that it would be participating in the proceeding. Staff, the OCA, and the Company met in several technical sessions. The Commission held a hearing on temporary rates on September 16. At the hearing, Liberty amended its request regarding temporary rates, requesting instead that temporary rates be set at current rates. Liberty also requested that the Commission approve a revenue requirement for temporary rates of \$92,890,325. Liberty proposed to achieve that revenue by continuing to bill its current rates and adjusting its revenue per customer targets in the decoupling adjustments that are made pursuant to *Liberty Utilities (EnergyNorth Natural Gas) Corp.*, Order No. 26,035 (June 30, 2017). At the hearing, both Staff and OCA supported

that approach. All parties stated that the temporary rates and the revenue per customer targets would be adjusted when the permanent rates are established in this case and any differences would be reconciled back to October 1, 2020.

## **II. POSITIONS**

### **A. Liberty**

Liberty stated that for the year ending December 31, 2019, the Company's overall earned rate of return was 4.71 percent, which is less than the weighted average cost of capital of 7.47 percent recommended by its witness. Liberty stated that, unless rate relief is granted, the Company will not earn a reasonable return on the cost of its property that is used and useful in its service to the public.

Liberty asserted that it is currently not earning its allowed rate of return, but acknowledged that test year decoupling revenues were excluded from the calculation that led to that conclusion. Liberty agreed that its earnings improved when the decoupling revenues were reflected in the calculation. Hearing Exhibit (Exh.) 5. Liberty stated that the current revenue per customer targets used in the Company's decoupling adjustments were causing large refunds to customers through the decoupling mechanism approved in Liberty's last rate case. Therefore, Liberty proposes to adjust those targets effective October 1 to reflect updated (test year) revenues and customer counts. Effectively, Liberty's books would reflect smaller over-collections and an increased overall rate of return without increasing rates during the Commission's review of the proposed permanent rates. Liberty stated that updated revenue per customer decoupling targets will be set in the permanent rate phase and any differences between the final targets and the temporary targets would be reconciled.

Liberty also noted that the Company's original temporary rate proposal did not correctly account for the impact of the Residential Low Income Assistance Program (RLIAP). Correcting this impact also increased Liberty's earned rate of return and therefore reduced Liberty's need to temporarily increase rates. Exh. 5.

In summary, Liberty asked that the Commission approve temporary rates at current rates, a temporary revenue requirement of \$92,890,325 (which includes test year decoupling revenue and correctly reflects RLIAP) and revenue per customer targets for decoupling as set forth on Exhibit 6.

### **B. OCA**

OCA supported setting temporary rates at current levels, setting a revenue requirement for temporary rates at \$92,890,325, and using revenue per customer targets on Exhibit 6 for decoupling calculations during the pendency of this proceeding. OCA also supported developing written protocols for Liberty and other utilities concerning how test year decoupling adjustments should be taken into account when setting temporary and permanent rates.

### **C. Staff**

Staff supported setting temporary rates at current levels, setting a revenue requirement for temporary rates at \$92,890,325, and using revenue per customer targets on Exhibit 6 for decoupling calculations during the pendency of this proceeding.

## **III. COMMISSION ANALYSIS**

RSA 378:27 requires the Commission to set temporary rates at a reasonable level, "sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission, unless there appears to be reasonable ground for questioning the

figures in such reports.” The New Hampshire Supreme Court has ruled that the standard for approval of temporary rates “is ‘less stringent’ than the standard for permanent rates, in that temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Appeal of the Office of Consumer Advocate*, 134 NH 651, 660 (1991).

According to Liberty, the Company’s earned return on rate base for the test year ended December 31, 2019, was 4.71 percent. That is lower than the return of 7.47 percent recommended by its witness and also lower than its authorized return on rate base of 6.80 percent (calculated using the authorized return on equity of 9.30 percent). *Liberty Utilities (EnergyNorth Natural Gas) Corp.*, Order No. 26,122 (April 27, 2018) at 54, Appendix 1, p. 4. Liberty stated that a temporary rate increase of \$9,837,964 would increase its return on rate base to 6.8 percent, using adjusted test year numbers. Exh.1 at II-017. Liberty, however, limited its temporary rate increase request to \$6,500,000. *Id.* at II-009. Assuming a \$6,500,000 temporary rate increase, Liberty’s earned return on rate base using test year numbers, adjusted, would be 5.87 percent.

Liberty’s exhibits showed that these earnings calculations exclude test year decoupling adjustments. Further, Liberty stated that its original petition did not properly account for the increased revenue it receives from other rate classes to cover the RLIAP discount it offers to low income distribution customers. When those items are reflected, Liberty’s actual return is higher. *Compare* Exh. 5 at 3 showing an earned return using test year numbers, adjusted, of 6.24 percent with 4.79 percent as originally reported on Exh. 1 at II-017. A return of 6.24 percent is higher than the 5.87 percent that would have been achieved under Liberty’s original temporary rate request of \$6,500,000.

Liberty stated that its earned return can increase without increasing rates if its revenue per customer targets are updated to reflect test year customer counts and costs. Liberty suggested that updating those targets will reduce the refunds it has been returning through its decoupling mechanism, thus increasing earnings.

We find that setting temporary rates at current rates effective October 1, 2020, is reasonable and consistent with RSA 378:27. Based on a preliminary review of Liberty's books and records, setting temporary rates at current rates will allow the Company an opportunity to earn its last authorized rate of return while a full evaluation is conducted. Consistent with RSA 378:29, the permanent rates approved in this docket will be reconciled back to the date on which temporary rates become effective. We will decide how any over- or under-recovery will be recovered from or returned to the Company's customers after we fix Liberty's permanent rates. In addition, we approve a temporary revenue requirement of \$92,890,325, and we approve the revenue per customer targets for decoupling on Exhibit 6, also for effect October 1, 2020, subject to further change in the permanent rate phase of this case, with any differences reconciled back to October 1, 2020.

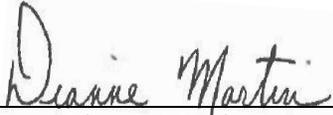
**Based upon the foregoing, it is hereby**

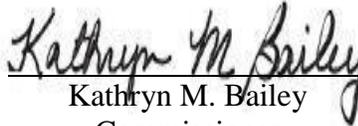
**ORDERED**, that Liberty's request to set temporary rates at current rates, effective with service rendered on and after October 1, 2020, is APPROVED; and it is

**FURTHER ORDERED**, that Liberty's requested revenue requirement for temporary rates of \$92,890,325 is APPROVED; and it is

**FURTHER ORDERED**, that Liberty's proposed revenue per customer targets for decoupling during the temporary rate phase are APPROVED.

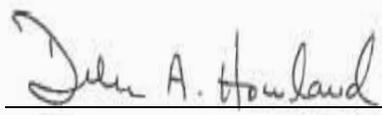
By order of the Public Utilities Commission of New Hampshire this thirtieth day of  
September, 2020.

  
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Dianne Martin  
Chairwoman

  
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Kathryn M. Bailey  
Commissioner

  
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Michael S. Giaimo  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director

## Service List - Docket Related

Docket#: 20-105

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