

STATE OF NEW HAMPSHIRE

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October 29, 2019

Re: DG 19-161, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities  
Request for Change in Rates  
Motions to Waive Puc 1604.01 and Puc 1605.02

To the Parties:

On October 1, 2019, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty or the Company) filed a notice of intent to file rate schedules on October 31, 2019, seeking a \$11 million overall increase in annual distribution revenue based on a non-calendar test year ending June 30, 2019. With its filing, Liberty submitted motions to waive N.H. Code Admin. Rules Puc 1604.01 and Puc 1605.02. Commission Staff (Staff) objected to Liberty's motion to waive 1604.01. The Office of the Consumer Advocate did not file a response to either motion.

In its first motion, Liberty requested a waiver of two subsections of Puc 1604.01(a), which requires utilities to file certain information as part of a full rate case unless this information was previously filed with the Commission. Specifically, Liberty moved for a waiver of Puc 1604.01(a)(19), which requires copies of "balance sheets and income statements for the previous 2 years," and (20), requiring copies of "quarterly income statements for the previous 2 years."

Liberty represented that the information required by Puc 1604.01(a)(19) and (20) could be found in its previously filed annual reports and F-8G Reports,<sup>1</sup> which are based on a calendar year, or its internal financial reports, which will be included with its rate case filing pursuant to Puc 1604.01(a)(1). The Company stated that the information required by the rule is "readily available in a reasonable format to those reviewing Liberty's rate case filing." See Motion, ¶ 9. Liberty maintained that a waiver of those sections of Puc 1604.01(a) is warranted under Puc 201.05 because the purpose of the rule will be satisfied by an alternative method, and a waiver will not disrupt the resolution of the docket.

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<sup>1</sup> Each year Liberty files an Annual Report for Gas Utilities – Form F-16 with the Commission, pursuant to Puc 509.04, which for purposes of this letter will be referred to as the "annual report." Liberty is required to file a Monthly Income Statement - Form F-8G twice a year pursuant to Puc 509.05(a).

Staff objected to the Company's waiver request on the ground that Liberty is essentially shifting the burden of producing the information required by Puc 1604.01(a)(19) and (20) onto the Commission, Staff, and intervenors. Staff stated that annual reports contain balance sheets and income statements reported on a calendar-year basis. Further, Staff explained that F-8G Reports contain less detailed monthly income statements than those found in the annual reports, and they do not contain balance sheets.

Should Liberty's request to waive Puc 1604.01(a)(19) be granted, Staff asserted that it, the Commission, and any intervenors would be required to obtain data from three years' worth of reports to produce the financial statements necessary to compare Liberty's non-calendar test year financial figures to the recent past. Staff noted that the Commission accepted Liberty's reliance on prior annual reports to satisfy the requirements of Puc 1604.01(a)(19) in Liberty's last rate case in Docket No. DG 17-048, when Liberty used a test year ending December 31, 2016. Staff argued that Puc 1604.01(a)(20) also should not be waived, because neither the annual reports nor F-8G Reports contain quarterly information. It added that Liberty filed the information required by Puc 1604.01(a)(20) in Docket No. DG 17-048.

In a footnote in its objection, Staff noted that a Liberty rate filing on October 31, 2019, would trigger an investigation less than two years since the Commission last investigated the Company's gas distribution rates in DG 17-048. Staff reserved the right to request the Commission exercise its discretion under RSA 378:7 to not investigate Liberty's new rate matter. Staff also requested that the Commission order Liberty to file a split-year annual report based on its non-calendar test year, as Staff relies heavily on the data contained in annual reports to evaluate rate increase requests.

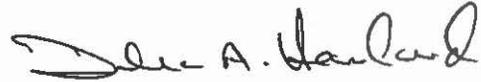
Liberty's second motion requested a waiver of Puc 1605.02(a)(2), which requires a utility file an original and two copies of "annotated and clean tariff pages" showing proposed changes. The Company averred that the rule's requirement of a clean version would be satisfied when Liberty filed a clean copy of the tariff, which is approximately 150 pages long, at the conclusion of the rate case. According to Liberty, filing a clean version at this time would be neither necessary nor useful, because it will be different from any tariff the Commission approves.

The Commission has reviewed Liberty's motion for waiver of Puc 1604.01 and Staff's objection. It finds that the financial information Liberty previously filed with the Commission in its annual reports and F-8G Reports, as well as any internal financial reports that Liberty must file under Puc 1604.01(a)(1), will not contain sufficiently detailed information for the (non-calendar) test year Liberty has chosen in this docket. First, the annual and F-8G Reports do not contain quarterly information. Second, the internal financial reports filed pursuant to Puc 1604.01(a)(1) do not go back 2 years prior to the test year, as required by Puc 1604.01(a)(20).

A non-calendar test year is more difficult for parties to analyze. Given that fact, a request to provide *less* information than was provided in Liberty's last gas rate case, which was based on a calendar test year, faces a high bar. Accordingly, the Commission determined that the standards for waiver in Puc 201.05 have not been satisfied, and denies Liberty's motion for a waiver of Puc 1604.01(a)(19) and (20). The Commission, however, grants Liberty's request to waive Puc 1605.02(a)(2).

The Commission will address whether it will exercise its discretion under RSA 378:7 to permit Liberty's filing following argument at the Prehearing Conference. If the Commission decides to permit the filing and to investigate Liberty's rates, it will rule on Staff's request for Liberty to file a split-year annual report at that time.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra A. Howland". The signature is fluid and cursive, with a large initial "D" and "H".

Debra A. Howland  
Executive Director

cc: Service List (Electronically)  
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