

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 23-067

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP. d/b/a LIBERTY

Request for Change in Distribution Rates

Commencement of Adjudicative Proceeding

ORDER NO. 26,877

August 25, 2023

This order provides notice that the Commission received a request for general increases in distribution rates from Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty). Among other things, Liberty requests permission to increase its distribution revenues by approximately \$27,550,000 for effect October 1, 2023, through increases to the distribution portion of rates. For rate class R-3 (residential heating, non-Keene customers), Liberty seeks to increase customer charges 12.8% from \$15.39 to \$17.37, and volumetric distribution rates approximately 29% from \$0.6167 per therm to \$0.7964 per therm. The requested changes would increase a typical R-3 residential heating customer's overall bill by approximately 22.5%, or \$220.09 per year¹, which includes distribution, cost of gas (COG), and the Local Distribution Adjustment Charge (LDAC). Other classes of Liberty gas customers would see similar percentage increases in their customer charges and volumetric distribution rates under Liberty's proposal. In this order, the Commission commences an adjudicative proceeding to evaluate Liberty's request; suspends Liberty's proposed tariffs for a period of 12 months pending further investigation; schedules a prehearing conference and presentation on the rate case on September 21, 2023 at 1:30 p.m.;

¹ Certain Liberty rate schedules made with its filing show slightly lower bill impacts, see Filing at Page II-759.

and schedules a hearing on Liberty's request for temporary rates on September 27, 2023 at 9:00 a.m.

I. BACKGROUND AND PROCEDURAL HISTORY

Liberty is a gas distribution utility serving customers in the central and southern regions of New Hampshire, the City of Berlin in northern New Hampshire, and the City of Keene in western New Hampshire (through a separate Keene Division). Liberty's most recent full rate case occurred in Docket No. DG 20-105 and resulted in permanent rate increases designed to yield an increase to gross distribution revenues of approximately \$6.3 million. *See* Order No. 26,505 (July 20, 2021). In addition, two step adjustments for capital additions placed in service in calendar year 2020 and 2021 were authorized and capped at a \$4.0 million increase in annual distribution revenue for 2020, and \$3.2 million for 2021. *Id.* The Settlement Agreement approved by the Commission in Order No. 26,505 specified that Liberty's next permanent distribution rate case was to be filed with a test year no sooner than that ending on December 31, 2022. *Id.*

On July 27, 2023, Liberty filed a petition requesting the Commission set temporary and permanent distribution rates to increase its normalized 2022 test year distribution revenues of approximately \$103.1 million by approximately \$27.6 million, resulting in a total distribution revenue requirement of approximately \$130.7 million, for effect October 1, 2023. Filing at Page II-013; Page II-633. Liberty also requests a series of proposed step increases to recover capital investments for calendar years 2023, 2024, and 2025. *Id.* The rate adjustments for these three proposed step increases would take effect on August 1, 2024, August 1, 2025, and August 1, 2026, respectively. Liberty Petition at Page 1. Liberty stated that it has invested over \$179.1 million in its distribution system since its last rate case in Docket No. DG 20-105, of

which, Liberty asserts, \$123.1 million has not been reflected in its current distribution rates. *Id.*

For its temporary rates, Liberty proposes an increase of approximately \$15.3 million, to be effective on October 1, 2023. For a R-3 residential (non-Keene) heating customer using 765 therms per year, Liberty expects the rate impact of temporary rates would be approximately 10.6 percent, or \$103.94 annually on a total-bill basis. Filing at Pages II-28 to II-32. Other classes of Liberty customers would experience similar increases from the implementation of the requested temporary rates. *Id.*

Liberty also proposes a variety of other regulatory and tariff changes, including conversion of Liberty's Keene Division system to a natural gas system from a propane-air system, with associated cost recovery; a proposed arrearage management program; a "fee free" credit/debit card processing program for Liberty customers; and revisions to Liberty's LDAC tariff. *See* Petition at Page 4.

In support of its petition, Liberty pre-filed the direct testimony of its President, Neil Proudman, along with the pre-filed direct testimonies and attachments of over a dozen employees or consultants, and proposed tariff revisions. Liberty also filed a motion for confidential treatment of certain compensation information required by Puc 1604.01. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at

<https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-067.html>.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether the proposed adjusted rates are just and reasonable, as required by RSA 374:2, and RSA 378:5 and 378:7; whether the proposed temporary and permanent rate increases will yield a just

and reasonable rate of return on the prudent cost of plant, equipment and capital improvements used and useful in Liberty's provision of service to the public less accrued depreciation, as required by RSA 378:27 and 378:28; whether the proposed arrearage management program and other innovations are alternative forms of regulation and, if so, whether they meet the standards for approval in N.H. Code Admin. R. PART 206 and RSA 374:3-a; whether the requested conversion of the Keene Division system to a natural gas system from a propane-air system comports with the utility franchise requirements of Liberty, the requirements for prudence, "used and useful" standards for capital investment assessment, and just and reasonable rates under RSA Chapters 374 and 378 and all other applicable law; whether the ratemaking methodologies proposed by Liberty are accurate, internally consistent, and consistent with all relevant law, regulations, and Commission orders; and whether the burden of proof under RSA 378:8 is met for each rate and ratemaking methodology change proposed, including those for the proposed changes to the LDAC, and the requested course of step adjustments for Liberty's investments made in 2023, 2024, and 2025.

Issues related to Liberty's temporary rate request will be addressed at the temporary rates hearing on September 27, 2023.

The rate case will be addressed at hearings within the 12-month suspension period. Whereas this is the second full rate case for a gas distribution utility since the PUC and DOE reorganization on July 1, 2021, we anticipate some changes to the proceeding timeline and discovery process compared to rate cases before the reorganization. Similar to how the Commission has approached the structuring of the proceeding for Liberty's electric affiliate in its rate case, Docket No. DE 23-039, the Commission notes that it will require sufficient time from the final hearing to the final

Order regarding this rate proposal, and hearings spaced to provide adequate time for the Commission's review of the record (including any potential record requests that emanate from the hearings).

A procedural schedule to address Liberty's permanent rate requests will not be approved until the parties have the opportunity to be heard on this topic and submit a proposal or proposals. The parties and any prospective intervenors should be prepared to discuss a procedural schedule at the September 21, 2023, prehearing conference. Puc 203.15 (d)(4). The Commission requests that the parties take into account the procedural needs of the Commission, as delineated above, in the development of their procedural schedule proposal.

Furthermore, the discovery and pre-filed testimony processes must keep the Commission informed of the progress of the matter, including how the Department of Energy (DOE) will meet its duty to provide necessary administrative, technical, and staff support to the public utilities commission in carrying out its regulatory and adjudicative functions, including what areas the DOE will exercise its investigatory authorities in order to provide a complete record for consideration by the Commission in this matter. *See* RSA 12-P:2, III. The parties and any prospective intervenors should be prepared to discuss matters which aid in the disposition of this proceeding at the September 21, 2023, prehearing conference. Puc 203.15 (c)(6).

The Commission will conduct any prehearing conferences and 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 ten (10) days prior to the 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 chapter 374, RSA chapter 378, N.H. Code Admin. R. PART 206, and the Commission's procedural rules; and it is

FURTHER ORDERED, that Liberty's proposed tariffs are suspended for a period of not to exceed 12 months, or until July 26, 2024, pursuant to RSA 378:6, I(a), pending investigation and further order of the Commission; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference in this matter at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 21, 2023, at 1:30 p.m., at which each party and prospective intervenor should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15. Three hours shall be allotted for this prehearing conference; and it is

FURTHER ORDERED, Liberty shall provide an executive summary of its requests to the Commission at the September 21, 2023, prehearing conference. PowerPoint slides pre-filed by September 14, 2023 are requested; and it is

FURTHER ORDERED, Liberty shall provide live spreadsheets for all the schedules and models in its filing, with all supporting work papers, filed with the Commission and served on the parties on or before September 15, 2023; and it is

FURTHER ORDERED, during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including intervention requests,

the establishment of a procedural schedule governing the remainder of the proceeding, and other matters which aid in the disposition 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 the Commission will hold a hearing on Liberty's request for temporary rates in this matter at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 27, 2023, at 9:00 a.m. One day shall be allotted for this hearing; 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 Liberty and any other parties on the service list, on or before September 8, 2023. 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 September 15, 2023; 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 1604.03, Liberty shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice in a newspaper or newspapers of general circulation in those parts of the State where it does business no later than August 31, 2023, such publication to be documented by affidavit filed with the Commission on or before September 4, 2023; and it is

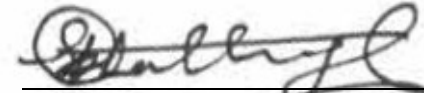
FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Liberty shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before August 31, 2023. 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.

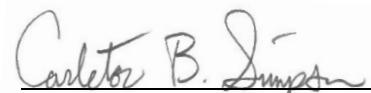
By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of August, 2023.



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#: 23-067

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