

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 17-048

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.

Petition for Permanent and Temporary Rates

Order Approving Temporary Rates

ORDER NO. 26,035

June 30, 2017

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 Brian Buckley, Esq., on behalf of residential ratepayers; and Paul B. Dexter, Esq., and Alexander Speidel, Esq., on behalf of Commission Staff.

In this order, the Commission approves a temporary rate increase for Liberty Utilities (EnergyNorth Natural Gas) Corp., effective July 1, 2017, which will remain in place until the end of the Company's permanent rate case. A Liberty residential customer, except those in the company's Keene Division (where no temporary rate change was requested), who uses 760 therms per year, is expected to see a total annual bill increase of approximately \$50 (or 5 percent). The temporary rates are subject to reconciliation based on the outcome of the permanent rate case.

I. PROCEDURAL HISTORY

On April 28, 2017, Liberty Utilities (EnergyNorth Natural Gas) Corp. ("Liberty" or "the Company") filed a Petition for Permanent and Temporary Rates. The petition and subsequent docket filings, other than any information for which confidential treatment is requested or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-048.html>.

Liberty operates two gas divisions in New Hampshire, its EnergyNorth Division, where it serves over 90,000 customers in southern and central New Hampshire and Berlin, and its Keene Division, where it serves approximately 1300 propane air customers in the city of Keene. Liberty's petition requested that the Commission grant: (1) a permanent increase in Liberty's distribution rates effective with service rendered on or after July 1, 2017, designed to yield an increase of \$13,749,361 in annual revenues; (2) temporary rates effective with service rendered on or after July 1, 2017, designed to yield an increase of \$7,778,497 in annual revenues for its EnergyNorth Division, 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 \$6,071,562 in annual revenues (to recover costs associated with approximately \$42 million of capital expenditures projected to be made during 2017) to be effective no earlier than January 1, 2018.

Liberty's filing included direct testimony and exhibits in support of the proposed rates, and related supplemental information, including the proposed tariff, in accordance with N.H. Code Admin. Rules Puc1600. Pursuant to RSA 378:27, Liberty requested temporary rates to be effective with services rendered on and after July 1, 2017, until the Commission decides the permanent rate case. Liberty did not request temporary rates for its Keene Division.

By letter dated April 3, 2017, the Office of Consumer Advocate (OCA) indicated that it would be participating in the proceeding. Staff, the OCA, and the Company met in a Settlement Conference on May 26, 2017. On June 5, they submitted a Settlement Agreement that resolves all issues in the temporary rate phase of the proceeding. The Agreement calls for a temporary increase in revenues of \$6,750,000 on an annual basis, which would be recovered by increasing each component of Liberty's distribution rates by 9.56 percent for its EnergyNorth Division

customers. Because the distribution rate is not the entire bill and the change would not change any other rate element, a residential customer of Liberty's EnergyNorth Division who uses 760 therms would see a total annual bill increase of approximately \$50 (or 5 percent). The increase would be reconciled to the permanent rates pending the outcome of the full proceeding. On June 12, the Commission held a public hearing to consider the Settlement.

II. POSITIONS OF THE PARTIES

A. Liberty

Liberty stated that for the year ending December 31, 2016, its overall earned rate of return was 5.17 percent for its EnergyNorth Division versus its authorized return of 7.05 percent. Liberty stated further 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. Petition at 2; Exhibit 1 at 7-8. At the June 12 hearing, David Simek, an analyst with Liberty, testified that Liberty was currently not earning its allowed rate of return. He stated that the rates agreed to in the Settlement are just and reasonable. In response to questions by the Commission, Mr. Simek reiterated that Liberty had proposed temporary rates for its EnergyNorth customers only. No temporary rates were proposed for the Keene Division, and thus no reconciliation between temporary rates and permanent rates would occur for the Keene Division. He stated that the Keene Division currently experiences negative earnings. He also pointed out that as part of the permanent rate case, Liberty was proposing to combine the rates of the two divisions.

B. OCA

Dr. Pradip Chattopadhyay, the Assistant Consumer Advocate, testified that the rates proposed in the Settlement Agreement are just and reasonable. Dr. Chattopadhyay noted that his conclusion was supported by the fact that any temporary rates approved pursuant to the

Settlement would be reconciled to the level of any permanent rates approved in this case, after full investigation.

C. Staff

Jayson Laflamme, an analyst in the Commission's Gas and Water Division, also testified that the rates in the Settlement Agreement are just and reasonable.

III. COMMISSION ANALYSIS

Puc 203.20(b) provides that the Commission shall approve disposition of any contested case by settlement "if it determines that the result is just and reasonable and serves the public interest." *See also* RSA 541-A: 31, V(a). Nonetheless, even where all parties in a proceeding enter into a settlement agreement, the Commission cannot approve it "without independently determining that the result comports with applicable standards." *Unitil Energy Systems, Inc.* Order No. 24,677 (Oct. 6, 2006) at 18.

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 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's petition and pre-filed testimony, the Company's earned return on rate base for the test year ended December 31, 2016 was 5.17 percent, which is lower than its

authorized return on rate base of 7.05 percent (calculated using the last authorized return on equity of 9.67 percent from DG 10-017, Order No. 25,202 at 18-19). Liberty stated that absent a temporary rate increase, it would not have an opportunity to earn a reasonable rate of return until a permanent rate order becomes effective.


We find that the temporary increase to distribution revenues proposed in the Settlement Agreement is reasonable and consistent with RSA 378:27. Based on a preliminary review of its books and records, the agreed upon amount will allow the Company an opportunity to earn its last authorized rate of return while a full evaluation is conducted. We also agree with the parties that it is appropriate to begin recovering the temporary revenue increase through rates effective on and after July 1, 2017. 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 EnergyNorth customers following a future determination of permanent rates. Therefore, we approve the Settlement Agreement in its entirety.

Based upon the foregoing, it is hereby


ORDERED, that the Settlement Agreement is APPROVED, with temporary rates to be effective July 1, 2017, on a service rendered basis; and it is

FURTHER ORDERED, that that Liberty shall file properly annotated tariff pages consistent with the Settlement Agreement within 10 days of the date of this order, as required by N.H. Code Admin. Rules Puc 1603.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of June,
2017.

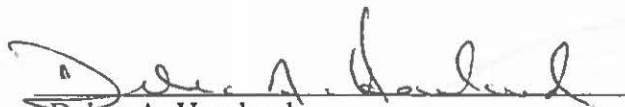


Martin P. Honigberg
Chairman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

