

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 17-063

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

2017 Cast Iron/Bare Steel Replacement Program

Order Approving Revised Delivery Rates

ORDER NO. 26,036

June 30, 2017

APPEARANCES: Michael J. Sheehan, Esq., for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities; and John S. Clifford, Esq., for the Staff of the New Hampshire Public Utilities Commission.

In this order, the Commission approves an increase in Liberty's base delivery rates to collect an additional \$688,807 annually, which will allow Liberty to recover approximately \$5,892,976 that Liberty invested in the Cast Iron/Bare Steel Replacement Program during fiscal year 2017. This rate change will cause a \$2.81 yearly increase for the typical residential heating customer.

I. PROCEDURAL HISTORY

On April 17, 2017, Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty Utilities ("Liberty"), filed its Fiscal Year 2017 Cast Iron/Bare Steel Replacement Program Results Filing. The Cast Iron/Bare Steel ("CIBS") program was established in the settlement agreement approved by the Commission as part of the merger of National Grid and EnergyNorth. *National Grid*, Order No. 24,777 at 27 (July 12, 2007). Liberty became subject to the settlement agreement upon Liberty's acquisition of the EnergyNorth system. *National Grid USA*, Order No. 25,370 at 25 (May 30, 2012). Liberty filed the supporting testimony of Richard MacDonald,

Brian Frost, and David B. Simek. In its filing, Liberty sought a \$694,182 increase in its base delivery rates to recover \$5,940,951 in qualifying capital costs spent in fiscal year 2017 (April 1, 2016, to March 31, 2017) to remove cast iron and bare steel pipes. Liberty requested authority to implement the rate increase as of July 1, 2017.

The Commission issued an order of notice scheduling a hearing for June 19, 2017. No parties intervened. At the hearing, Messrs. Simek, MacDonald and Frost, of Liberty, testified in support of the Company's request. Staff offered the pre-filed and live testimony of Randall S. Knepper, Director of the Commission's Safety Division.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-063.html>

II. POSITIONS OF THE COMPANY AND STAFF

A. Liberty

Liberty testified that it eliminated 10.26 miles of cast iron and bare steel pipe during the fiscal year ("FY") 2017 CIBS program, at a total cost of \$9.79 million. Liberty sought to add \$5,940,951 of the \$9.79 million to rate base, inclusive of \$585,800 in added 2016 carryover costs.¹ Liberty excluded the base spending level of \$520,965 under the terms of the settlement agreement that created the CIBS program. Pursuant to the terms of that agreement, \$537,824 of the \$585,800 carryover costs from FY 2016 are recovered automatically (as allowed under a cap specified by the settlement agreement) while the remaining \$47,976 required preapproval of the Safety Division for recovery as part of the FY 2017 CIBS accounting. The Safety Division did not approve Liberty's request to include the additional amount of FY2016 carryover costs.

¹ Carryover costs typically represent the unfinished portion of a project such as final restoration costs.

Liberty updated the status of its pending litigation against the cities of Manchester and Concord regarding their road degradation fees and how Liberty accounted for those fees in this filing. The City of Concord, against whom litigation has proceeded to the New Hampshire Supreme Court, has received payment of degradation fees under protest from Liberty, which Liberty will refund to its customers if its litigation is successful and Concord is required to disgorge the paid fees by Liberty. Liberty has not been paying Manchester its degradation fees, pending the outcome of the litigation against that municipality, but Liberty has been accruing the fees on its books for the period 2014 through 2017.

At the hearing, the Company informed the Commission that on June 16, 2017, the business day before the hearing, the New Hampshire Supreme Court issued an order denying the relief requested by Liberty. The Company had not yet had an opportunity to fully evaluate the impact of the ruling but recognized that the \$1,198,059 in degradation fees it has been withholding from payment to Manchester will need to be paid.

Regarding progress on the CIBS program, Liberty expressed confidence that it remained on pace to reach its goal of replacing all “leak prone pipe,” including all CIBS-qualified pipe, on a 10-year replacement schedule; that is, by the year 2024. At the hearing, in response to Staff’s testimony questioning whether Liberty could meet the goal, Liberty reiterated its expectation that it could do so.

During the hearing, Liberty also responded to Staff’s position (in Mr. Knepper’s pre-filed testimony) that the Safety Division would not approve \$47,976 in FY 2016 carryover costs subject to its discretionary approval authority under the terms of the settlement agreement. Although Liberty disagreed with Staff’s recommendation, Liberty decided not to push for recovery in this proceeding and confirmed that if the \$47,976 in disallowed FY 2016 carryover

costs were not included, the resulting incremental revenue requirement calculation would be \$688,807 for FY 2017 CIBS recovery, with an expected annual bill impact on typical residential customers of \$2.81. Liberty stated that it is likely to seek recovery of the disallowed costs in its pending full distribution rate case. Liberty testified at length regarding what it viewed to be the challenges it faced in attempting to control carryover costs, which included the realities of the short New Hampshire construction season, its need to retain local paving contractors with contracts that meet their requirements, and other ongoing issues, including most especially municipal regulations.

B. Staff

Staff filed the testimony of Randall S. Knepper, Director of the Safety Division.

Mr. Knepper, in his pre-filed testimony and at hearing, discussed these areas of interest to Staff: (1) the ongoing necessity for Liberty to engage in physical pipe sample gathering; (2) concerns regarding Liberty's ability to meet its 2024 goal for completing the CIBS program replacements of impaired/problematic pipe; and (3) the reasons for denying Liberty's request to recover carryover costs above 5 percent. Mr. Knepper's testimony also presented primary source data, including photographs of impaired CIBS-replaced pipe, informational tables, and other schedules as part of its review of Liberty's filing.

Mr. Knepper testified that in his professional opinion, which includes broad experience in gas safety, degraded-pipe sampling is of critical importance in ongoing safety oversight of Liberty's system by Staff, and more than justifies the modest costs of pipe sample gathering. Mr. Knepper also expressed cautious optimism that the 2024 total replacement goal could be met by Liberty.

On the issue of disallowance of \$47,976 in carryover costs, Mr. Knepper confirmed that approval for inclusion of those costs beyond the five percent cap specified by the settlement agreement, is within the full discretion of the Safety Division pursuant to the terms of the agreement. Mr. Knepper indicated that recovery of carryover costs above the five percent cap should be requested in Liberty's rate case. Mr. Knepper indicated that weather restrictions, municipal regulations, contracting issues, and personnel limitations, were known restrictions to Liberty when it agreed to the terms of the settlement agreement, and that Liberty is responsible for taking necessary steps towards ameliorating such issues to avoid potential disallowances. Mr. Knepper expressed his understanding that the disallowance provision was designed as an incentive for Liberty to limit carryover costs. Mr. Knepper also noted that Liberty, with its 2017 rate case, would not suffer a long regulatory lag prior to recovery of those carryover costs.

Staff supported recovery of the scaled-back incremental revenue requirement of \$688,807.

III. COMMISSION ANALYSIS

Based on the record in this docket, we find that Liberty's proposed adjustments, as modified by the disallowance of \$47,976 of carryover costs denied by the Safety Division pursuant to the terms of the relevant settlement agreement, will result in rates that are just and reasonable as required by RSA 374:2 and 378:7. Specifically, we approve the addition of \$5,892,976 to Liberty's rate base and the related increase in its revenue requirement of \$688,807. Given that a full distribution rate case by Liberty is ongoing, we are not unduly concerned that there will be an excessive regulatory lag in Liberty's recovery of the carryover costs (presuming that the expenditures were prudent), nor do we expect that Liberty will be denied a just and reasonable return on the CIBS investments as a result of this disallowance.

We concur with the Safety Division that Liberty should maintain its soil testing program, because it provides useful scientific information regarding degradation conditions throughout the Liberty system. Furthermore, Liberty should also continue to provide physical samples of degraded pipe to Safety Division personnel. Liberty should continue its marketing efforts for new customers along CIBS routes. As a result, we continue our requirement from Order 25,918 that Liberty provide Staff with a report by the end of 2018 documenting the results of its market research conducted during the 2018 CIBS program, and its plans for marketing to new customers going forward. Furthermore, we note Staff's concern with the pace of replacement of CIBS-qualified pipe but are encouraged by Liberty's desire to accomplish its goal, provided that Liberty follow all relevant safety requirements to the strictest letter of the law. We expect that next year's CIBS results will shed more light on whether this 10-year goal remains feasible. We will continue to monitor these issues in future CIBS filings.

Based upon the foregoing, it is hereby

ORDERED, that Liberty be permitted to increase its base delivery rates to add \$688,807 to its annual revenues, effective July 1, 2017, on a service rendered basis; and it is


FURTHER ORDERED, that Liberty provide Staff with a report by the end of 2018 documenting the results of its market research conducted during the 2018 CIBS year and its plan for marketing to new customers going forward; and it is

FURTHER ORDERED, that Liberty file properly annotated tariff pages filed with the Commission by July 14, 2017, as required by N.H. Code Admin. Rules Puc 1603, and consistent with this Order.

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

