STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 18-050

LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP.
d/b/a LIBERTY UTILITIES

Rate Changes Proposed Regarding Tax Reform Act

Order Approving Rate Adjustments

O R D E R N O. 26,139

May 31, 2018

APPEARANCES: Michael J. Sheehan, Esq., on behalf of Liberty Utilities (Granite State Electric) Corp. d/b/a/ Liberty Utilities; the Office of the Consumer Advocate by Brian D. Buckley, Esq., on behalf of residential ratepayers; and Paul B. Dexter, Esq., and Suzanne Amidon, Esq., on behalf of Commission Staff.

In this order, the Commission approves a distribution revenue decrease for Liberty Utilities, passing on to ratepayers the benefits of reduced corporate taxes resulting from recent changes to state and federal tax laws. This order also approves Liberty's proposal to forego other distribution rate increases that were scheduled to take effect June 1, 2018, as a way to pass additional benefits of corporate tax reductions on to customers.

I. PROCEDURAL HISTORY

In addition to the changes approved in this order, Liberty's distribution rates were scheduled to increase effective June 1, 2018, for its Reliability Enhancement Program and Vegetation Management Program, Docket No. DE 18-034; for a step increase for capital investments and rate case expenses from its last general rate case, Docket No. DE 16-383; and for the annual reconciliation of stranded costs and transmission costs, Docket No. DE 18-051.

The cumulative effect of the four changes is an increase in monthly bills between 5 and 6 percent for residential consumers using 650 kWh per month.

On January 3, 2018, the Commission issued Order 26,096, which directed regulated utilities to file, on or before April 1, 2018, proposals regarding the tax reductions resulting from the new 21 percent federal tax rate associated with the Tax Cuts and Jobs Act of 2017 (2017 Tax Act) as well as the recently reduced New Hampshire Business Profits Tax rate. On March 30, 2018, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (Liberty or the Company) requested that its filing deadline be extended to April 13. That request was granted. Liberty submitted a Technical Statement of Steven E. Mullen.

On April 9, 2018, the Office of Consumer Advocate (OCA) filed a letter of participation pursuant to RSA 363:28. An Order of Notice, issued on April 19, scheduled a hearing for May 9, 2018. On April 25, Liberty submitted a Supplemental Technical Statement by Mr. Mullen.

Commission Staff (Staff) submitted a letter on May 4, 2018, recommending that the Commission require Liberty to submit detailed testimony and an analysis of the impact the Company's proposal would have on a typical customer's bill. Staff also requested that the hearing be re-scheduled to May 17. In a Secretarial Letter issued May 7, the Commission rescheduled the hearing and directed Liberty to file additional information on the method of calculating the tax savings, and specific customer rate impacts of the adjustment. On May 10, Liberty filed the Testimony of Mr. Mullen, containing a schedule titled "Typical Bill Impact." A hearing was held on May 17, 2018.

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/2018/18-050.html.

II. POSITIONS

A. Liberty

In its April 13 Technical Statement, Liberty proposed to decrease rates to account for the reduced federal and state tax rates, passing back these savings to customers. Liberty calculated the reductions using the Federal Energy Regulatory Commission (FERC) method applied in 1987, the last time federal corporate tax rates decreased significantly. First, Liberty calculated the tax impact on the permanent rate revenue requirement that was established in its most recent rate case, Docket No. DE 16-383, Order No. 26,005 (April 12, 2017). The reduced tax effect was an annual revenue reduction of $1,256,082. Next, Liberty performed a similar calculation for the step increase that was implemented in Docket No. DE 16-383, effective May 1, 2017, determining the tax impact was an annual reduction of $187,231.

Liberty proposed to return this total amount of $1,443,313 in two ways. First Liberty proposed to forego other rate increases that were scheduled to take effect on June 1, 2018, as follows:

> $289,348 - from a Step Adjustment for capital investments reviewed and approved in DE 16-383;
>
> $82,353 - (annualized figure) for $48,039 of rate case expenses not yet recovered from DE 16-383;
>
> $552,414 - Operation and Maintenance (O&M) expenses recovered through Liberty's Vegetation Management Program (VMP) as reviewed and approved in DE 18-034; and
>
> $76,833 - revenue requirement for investments made under Liberty's Reliability Enhancement Program (REP) as reviewed and approved in DE 18-034.

Foregoing those rate increases, left $442,365 of tax rate reduction benefits. Liberty proposed to return that amount to customers through a 1.06 percent reduction to all distribution rates and charges, effective June 1, 2018.

The 2017 Tax Act also affects Liberty's accumulated deferred income taxes (ADIT). According to Liberty, its ADIT balance decreased by approximately $3.9 million as of December 31, 2017. Liberty recorded this $3.9 million reduction as a regulatory liability and proposed that it be deferred until the Company's next rate case, which it plans to file in April of 2019.

In the April 25 Technical Statement, Liberty proposed to pass back the tax rate reductions for the time period of January 1 to June 1, 2018. First, Liberty calculated the taxes collected over the 5-month period at the old tax rates as $601,380. Next, Liberty calculated the remaining balance of rate case expenses and temporary rate recoupment being collected in base distribution rates from DE 16-383 as $562,526.[1] Liberty proposed to end the recoupment effective June 1, 2018, instead of on December 31, 2018.

Under that proposal, $38,855 would need to be returned to ratepayers. Liberty proposed to apply the remainder against rate case expenses that will be incurred in the planned 2019 rate case. The $38,855 would be returned to customers over the rate case expense recovery period, as determined in that rate case. Liberty prefers its proposal to Staff's (discussed below) because the amount is small relative to the total tax reduction benefit that will be realized by customers. As such, either proposing a limited time base rate reduction, or recalculating the proposed stranded cost and/or transmission cost charges in DE 18-051, would not be worth the administrative effort

---

[1] The Commission approved a settlement agreement in DE 16-383 that provided for the recovery of rate case expenses and the recoupment of the under-recovery during the period when temporary rates were in effect through a distribution rate increase starting May 1, 2017, and ending December 31, 2018 (20 months). Order No. 26,005 at 8 (April 12, 2017); *see* RSA 378:29 (authorizing the reconciliation of any over- or under-recovery while temporary rates are in effect).

involved and could be confusing for customers. According to Liberty, a distribution rate reduction that passes back the $38,855, and reverses on December 31, 2018, would reduce residential customer's typical bill by only 4 cents per month for 7 months.

B. OCA

The OCA generally supported Liberty's proposal, but questioned whether using tax reduction benefits to offset the $552,414 of VMP O&M expenses, an annual amount established in DE 18-034, would have the effect of making the VMP O&M expense level set in DE 18-034 permanent. Liberty responded that, as currently established, a base VMP O&M figure would be set in its 2019 rate case and any variances would be reviewed in each annual VMP proposal.

OCA also opposed deferral of refunding the remaining $38,855 arising from collection of taxes under the old rates for the first five months of 2018. The OCA argued that those benefits should be returned to customers starting June 1, 2018, and complained that the proposed deferment would not provide for carrying charges on the $38,855. OCA made no comment on Liberty's proposal to address the impacts on ADIT in its next rate case.

C. Staff

Staff supported Liberty's proposal, except the proposal to refund the remaining $38,855. When questioned by Staff, Liberty stated that deferring $38,855 as a credit toward future rate case expenses would mean that amount would not be fully returned to customers until December 31, 2020. Staff instead recommended that the $38,855 be returned via Liberty's annual retail rate filing pending in Docket No. DE 18-051. In that docket, the Commission will establish charges allowing Liberty to recover stranded costs and transmission costs. Staff stated that under its approach, return of the $38,855 would begin on June 1, 2018, and be assured because those charges are fully reconciling.

Staff did not comment on Liberty's proposed deferment of its ADIT to the next rate case.

III. COMMISSION ANALYSIS

In Order No. 26,005, we approved base distribution rates for Liberty that were just and reasonable and designed to recover, among other items, a reasonable level of income taxes Liberty would incur under the then current federal corporate tax rate of 35 percent. The 2017 Tax Act reduced the federal corporate tax rate to 21 percent. In addition, the New Hampshire Business Enterprise Tax and the Business Profits Tax were also reduced. As required by Order No. 26,096 (January 3, 2018), Liberty filed a proposal addressing the tax law change and its effect. Liberty's calculation used a method approved by the FERC when federal corporate tax rates dropped significantly in the 1980s. We note that neither Staff nor OCA objected to this method.

After review, pursuant to RSA 374:2 and RSA 378:7, we find Liberty's proposal to return tax rate reductions benefits to be reasonable, with one exception. We find that Liberty's proposal to include $48,039, annualized as $82,353, in final rate case expenses (which are non-recurring) as an offset to the proposed permanent tax rate reductions should not be approved. Instead, we require that the $48,039 in final rate case expenses be treated in the same manner as Liberty proposed for the remainder of the past rate case expenses. Specifically, Liberty proposed to cease recovery of the remaining amount of past rate case expenses and temporary rate recoupment ($562,526) effective June 1, 2018, as a means to pass to customers $601,380 in tax rate reduction benefits that accrued between January 1, 2018, and May 31, 2018.

We require that the $48,039 in final rate case expenses be treated the same as the $562,526 remaining recoupment/rate case expenses (for a total of $610,565). By stopping recovery on June 1, 2018, ratepayers will receive the full benefit of the $601,380 in tax reduction benefits collected during the first five months of 2018. Liberty can treat the difference of $9,185 in the same manner it treats rate case expenses in its 2019 rate case. If no such rate case is filed in 2019, Liberty may propose another means for collecting this $9,185 from customers.

Removing the $48,039 (annualized to $82,353) of final rate case expenses from Liberty's calculation of the 1.06 percent reduction to distribution rates, the results in a 1.25 percent reduction in distribution rates.

Thus, we are generally supportive of Liberty's comprehensive proposal to return these tax reduction benefits to customers. Liberty's ratepayers will see an immediate benefit from the tax reductions. We believe avoiding previously scheduled rate increases for a capital investment step adjustment, REP capital investments and VMP O&M expenses, will be beneficial to Liberty's customers.[2] Also, ending the recoupment of rate case expenses and temporary rate differences seven months early provides immediate relief to customers.

We appreciate OCA and Staff's opposition to Liberty's proposed deferment of $38,855 to off-set expenses in the 2019 rate case. Our resolution of the final rate case expenses obviates the need for this deferral.

Based upon the foregoing, it is hereby

ORDERED, that Liberty's proposal to address the impacts of the 2017 Tax Act is hereby approved, except as amended above for the treatment of $48,039 in final rate case expenses; and it is

FURTHER ORDERED, that as a result of this decision, a rate increase for Liberty's Step Adjustment for $2,400,000 in capital investments, with an annual revenue requirement of

---

[2] We do not view Liberty's proposal as having any impact on how base and annual levels of VMP expenses are set, as queried by the OCA. That established process is unchanged by this Order.

$289,348 approved for recovery this date in DE 16-383, will be offset by tax impacts as described in this order; and it is

FURTHER ORDERED, that, as a result of this decision, a rate increase for Liberty's additional $48,039 rate case expenses approved for recovery this date in DE 16-383, will be offset by tax impacts as described in this order; and it is

FURTHER ORDERED, that, as a result of this order, a rate increase for Liberty's Vegetation Management Program O&M expenses of $552,414, approved for recovery this date in DE 18-034, will be offset by tax impacts as described in this order; and it is

FURTHER ORDERED, that, as a result of this order, a rate increase for Liberty's REP capital investments, with an incremental annual rate adjustment of $76,833 approved for recovery this date in DE 18-034, will be offset by tax impacts as described in this order; and it is

FURTHER ORDERED, that, Liberty shall pass on to customers the remaining tax rate reduction benefits of $524,718 annually, by decreasing its distribution rates by 1.25 percent; and it is

FURTHER ORDERED, that, Liberty shall return revenue collected between January 1 and June 1, 2018, resulting from the reduced tax rate by, effective June 1, 2018, terminating the rate case expenses and temporary rates recoupment implemented on May 1, 2017, including the $48,039 final rate case expenses in DE 16-383; and it is

FURTHER ORDERED, that, Liberty may recover the remaining $9,185 in final rate case expenses not recovered through this order in its future 2019 rate case expenses; and it is

FURTHER ORDERED, that the treatment of Liberty's regulatory liability of $3.9 million, recorded to capture the impact of the 2017 Tax Act on Liberty's accumulated deferred income tax balance, shall be addressed in Liberty's next distribution rate case; and it is

FURTHER ORDERED, that Liberty shall file tariffs conforming with this order within 15 days, in accordance with N.H. Code Admin Rules Puc 1603.02(c)

By order of the Public Utilities Commission of New Hampshire this thirty-first day of May, 2018

Martin P. Honigberg Chairman	Kathryn M. Bailey Commissioner	Michael S. Giaimo Commissioner

Attested by:

Debra A. Howland
Executive Director