

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 16-097

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

2016 Least Cost Integrated Resource Plan

Order Granting Waivers of 2019 LCIRP Requirements

ORDER NO. 26,261

June 14, 2019

This order grants Liberty Utilities a partial waiver of its 2019 Least Cost Integrated Resource Plan filing requirement pursuant to RSA 378:38-a. The Commission directs the Company to file a more limited document consistent with Order No. 26,039 (July 10, 2017).

I. PROCEDURAL HISTORY

On April 15, 2019, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (Liberty or the Company) filed a motion to waive or to stay its obligation to file a Least Cost Integrated Resource Plan (LCIRP) on July 1, 2019. On April 25, 2019, the Office of the Consumer Advocate (OCA) filed an objection to Liberty's motion.

II. POSITIONS OF THE PARTIES AND STAFF

A. Liberty

Liberty pointed to the Staff Recommendation on Grid Modernization (Staff Report) filed on February 12, 2019, in Docket No. IR 15-296, in which Commission Staff (Staff) recommended that electric distribution utilities file an "integrated distribution plan" (IDP) that would be more comprehensive and transparent than an LCIRP. According to Liberty, the IDP would address elements required under the existing LCIRP statute, RSA 378:38, and would

incorporate a number of new requirements related to grid modernization, the details of which would be developed through a working group process over the balance of 2019. Staff Report at 66-68.

With the Company's next LCIRP due to be filed on July 1, 2019, Liberty argued that it would be a more efficient use of utility and Staff resources to delay or waive that LCIRP filing requirement to allow Liberty to file its first IDP in 2020. Liberty further argued that Staff has recommended that the electric utilities seek waivers of LCIRP filing requirements from the Commission to allow them to focus their efforts on preparing "more robust, integrated, and transparent IDPs." Staff Report at 67.

Liberty maintained that RSA 378:38-a allows the Commission to "waive for good cause any requirement under RSA 378:38, upon written request by a utility," and that "a 2019 LCIRP filing would be a wasted effort because it would almost immediately be superseded (or satisfied) by the proposed 2020 IDP." Liberty Motion at 3. Liberty claimed that eliminating unnecessary work on an LCIRP is "good cause" for the Commission to grant a waiver of all filing requirements under RSA 378:38.

B. OCA

The OCA argued that RSA 378:38-a does not permit a waiver of the two-year and five-year filing requirements of RSA 378:38, but instead permits a waiver only of the specific content elements of an LCIRP, as listed in subsections I through VII of RSA 378:38. According to the OCA, the Commission's prior decisions on waiver requests regarding LCIRP filings have been limited to only certain subsections and have not involved waiving the timing requirements for filing an LCIRP.

The OCA also asserted that an LCIRP filing in July 2019 would document changes that Liberty has made to its distribution system and to its system planning and investment methodologies. Further, the OCA claimed that the stakeholder process to refine the filing requirements for the IDPs is likely to take longer than the nine months expected in the Staff Report. As a result, IDPs may be further delayed beyond 2020. In addition, the OCA asserted that the LCIRP process “is simply an external expression of the Company’s already existing demand forecasting, planning processes, and capital investment plans and would therefore not represent a constraint on Company resources.” OCA Objection at 5. According to the OCA, even if the LCIRP process creates additional work, that additional work does not justify a waiver under RSA 378:38-a. Further, the OCA argued that the LCIRP might form a basis upon which the subsequent IDP can build and that the 2019 LCIRP and the 2020 IDP are not mutually exclusive. Instead, one is a natural supplement that builds on the other. *Id.* at 6.

The OCA took issue with Liberty’s characterization of the OCA’s earlier comments in the 2015 Eversource LCIRP docket. According to the OCA, its prior comments were not to encourage utilities to avoid filing their next LCIRP, but were instead meant to encourage the Commission to waive the requirements enumerated in RSA 378:38 selectively, which requirements the OCA argues are vestiges of vertical integration. *Id.* 6-7.

The OCA pointed out that in Docket No. DE 17-136 (2019 Energy Efficiency Plan Update) Liberty agreed to file a grid needs assessment in its next LCIRP. Given that this agreement was made in December 2018, the OCA maintained that Liberty knew of its resource constraints and nonetheless agreed to file its next LCIRP on schedule. *Id.* at 11. Liberty reaffirmed its commitment to file a grid needs assessment three months ago in Docket

No. 17-136 (Battery Storage Petition). Thus, Liberty should not now claim good cause to waive the LCIRP filing.

Finally, the OCA argued if the Commission is inclined to grant any part of a waiver, it grant Liberty permission to file a more limited LCIRP. The OCA suggested that such a limited LCIRP might include: (1) a demand forecast; (2) a demand-side energy management assessment; and (3) an assessment of distribution and sub-transmission requirements (including the next five years of projected business as usual requirements). *Id.* at 13. The OCA acknowledged that an assessment of smart grid technologies required by the LCIRP statute could wait until the IDP filings. *Id.* at 8.

III. COMMISSION ANALYSIS

Pursuant to RSA 378:38-a, “[t]he commission, by order, may waive for good cause any requirement under RSA 378:38, upon written request by a utility.” RSA 378:38 states in full as follows:

Pursuant to the policy established under RSA 378:37, each electric and natural gas utility, under RSA 362:2, shall file a least cost integrated resource plan with the commission within 2 years of the commission's final order regarding the utility's prior plan, and in all cases within 5 years of the filing date of the prior plan. Each such plan shall include, but not be limited to, the following, as applicable:

- I. A forecast of future demand for the utility's service area.
- II. An assessment of demand-side energy management programs, including conservation, efficiency, and load management programs.
- III. An assessment of supply options including owned capacity, market procurements, renewable energy, and distributed energy resources.
- IV. An assessment of distribution and transmission requirements, including an assessment of the benefits and costs of "smart grid" technologies, and the institution or extension of electric utility programs designed to ensure a more reliable and resilient grid to prevent or minimize power outages, including but not limited to, infrastructure automation and technologies.

V. An assessment of plan integration and impact on state compliance with the Clean Air Act of 1990, as amended, and other environmental laws that may impact a utility's assets or customers.

VI. An assessment of the plan's long- and short-term environmental, economic, and energy price and supply impact on the state.

VII. An assessment of plan integration and consistency with the state energy strategy under RSA 4-E:1.

Section 378:38 contains filing and timing requirements as well as elements to be contained within the LCIRP filing. We read the plain language of RSA 378:38-a as allowing the Commission to waive both the specific content elements of an LCIRP and the timelines for filing. We will not grant any waivers without good reason, and we will require a compelling demonstration of good cause before waiving the timeline for filing an LCIRP.

The Commission's decision on the Company's prior LCIRP was issued on July 10, 2017. *See* Order No. 26,039. That decision directed Liberty to file its LCIRP by July 1, 2019. Liberty has asked the Commission to waive the July 1, 2019, deadline. Given our pending investigation on grid modernization in Docket IR 15-296, and the anticipated timing of an IDP filing, we find that a waiver of the July 1, 2019, filing deadline for Liberty will permit a more efficient use of utility resources. Thus, good cause exists for a waiver of the July 1 filing deadline, as well as the requirement set forth in RSA 378:38 that LCIRPs be filed within two years of the Commission's final order regarding Liberty's prior plan.

RSA 378:38 also contains a five-year filing requirement that runs from the date that a utility's prior LCIRP was filed. Liberty filed its prior LCIRP on January 15, 2016. Thus, the five-year filing requirement would compel a Liberty LCIRP filing on or before

January 15, 2021. This five-year requirement ensures that LCIRP filings occur at regular intervals regardless of the timing of the review and approval process at the Commission.

We do not find good cause to waive the five-year requirement at this time.

While we will allow Liberty to delay its LCIRP filing, we will nonetheless require a more limited filing by the Company on or before July 15, 2019. The purpose of this filing will be to ensure that Liberty is adhering to certain commitments made in its prior approved LCIRP. Our approval of Liberty's 2016 LCIRP contained specific deliverables and we will require updates of those in Liberty's July 15 filing, as follows:

- Confirmation that the utility is currently following the process of system planning using established procedures, criteria, and policies outlined in its 2016 LCIRP, and achieving the objectives included in its 2016 LCIRP.
- Copies of adopted standard operating procedures for employees and managers integrating day-to-day and long-term planning consistent with the Company's objectives of Least Cost Planning.

In conclusion, we will grant Liberty's waiver request, in part, and will not require a full LCIRP filing on July 1, 2019. We will require a more limited filing by July 15, 2019, however, and that filing must include updates on the status of specific deliverables required by our prior order approving Liberty's 2016 LCIRP. Liberty's next LCIRP must be in compliance with all statutory requirements as well as any Commission-ordered requirements, including but not limited to the elements relating to grid modernization.

Based upon the foregoing, it is hereby

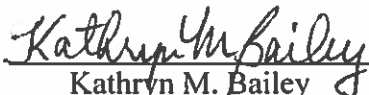
ORDERED, that Liberty's request for waiver is GRANTED IN PART as discussed in this order; and it is

FURTHER ORDERED, that Liberty shall make a filing containing the limited information as discussed in this order on or before July 15, 2019.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of
June, 2019.



Martin P. Honigberg
Chairman

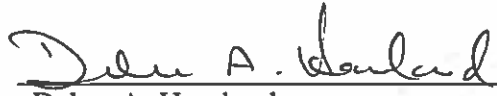


Kathryn M. Bailey
Commissioner

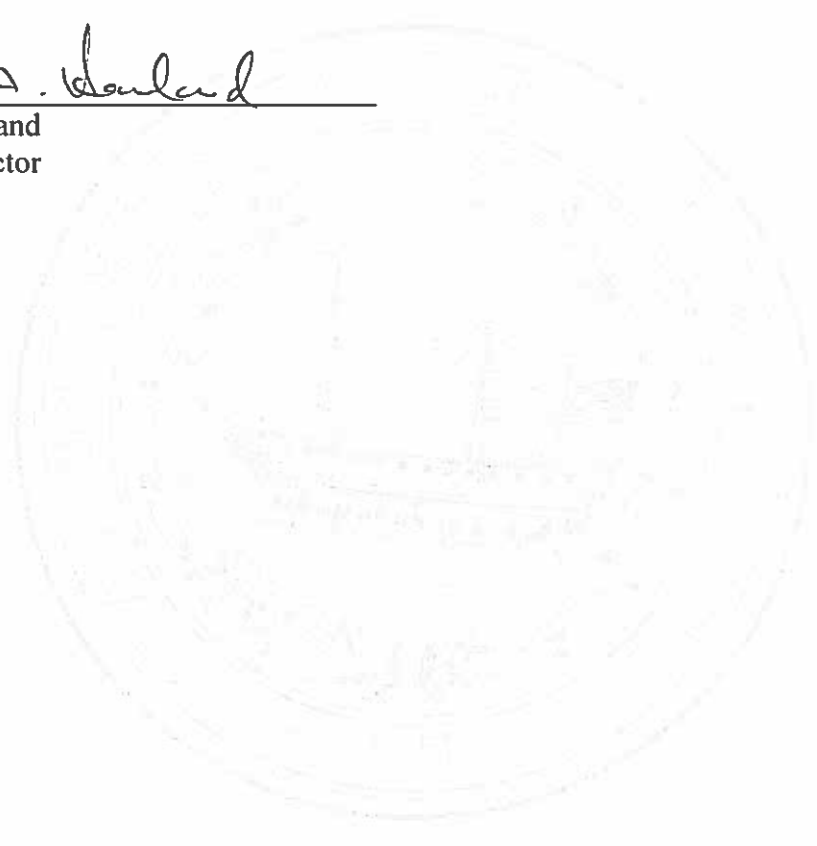


Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director



ExecutiveDirector@puc.nh.gov

jody.carmody@puc.nh.gov

christian.brouillard@libertyutilities

donald.kreis@oca.nh.gov

eric.stanley@libertyutilities.com

heather.tebbetts@libertyutilities.co

jroberge@clf.org

karen.sinville@libertyutilities.com

maureen.karpf@libertyutilities.com

mbirchard@clf.org

ocalitigation@oca.nh.gov

pradip.chattopadhyay@oca.nh.gov

Stephen.Hall@libertyutilities.com

steven.mullen@libertyutilities.com

tirwin@clf.org

michael.sheehan@libertyutilities.c

~~alexander.speidel@puc.nh.gov~~ *men*

amanda.noonan@puc.nh.gov

elizabeth.nixon@puc.nh.gov

leszek.stachow@puc.nh.gov

lynn.fabrizio@puc.nh.gov

richard.chagnon@puc.nh.gov

tom.frantz@puc.nh.gov