

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 20-036**

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

**Calendar Year 2019  
Reliability Enhancement and Vegetation Management Plan  
Results and Reconciliation**

**Order Approving Reconciliation**

**ORDER NO. 26,352**

**April 30, 2020**

**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 D. Maurice Kreis, Esq., on behalf of residential ratepayers; and Paul B. Dexter, Esq., on behalf of Commission Staff.

In this order, the Commission approves Liberty's reconciliation of costs and revenues associated with the 2019 reliability enhancement program (REP) and vegetation management plan (VMP), effective May 1, 2020. The net result of approving the reconciliation is a 0.50 percent increase to Liberty's base distribution rates for reliability enhancement and a 0.008 cents per kilowatt hour (kWh) REP/VMP adjustment factor.

In Order No. 26,353, issued concurrently with this order, the Commission approved another rate change for Liberty for effect on May 1, 2020. The cumulative effect of the two rate changes will be to decrease monthly bills by 31 cents, or 0.27 percent, for residential consumers using 650 kWh per month.

## **I. PROCEDURAL HISTORY**

On March 13, 2020, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (Liberty or the Company) filed a report describing the results of its REP and VMP for calendar year 2019. Liberty filed the report pursuant to a settlement agreement (Settlement) approved in Order No. 26,005 (April 12, 2017), which largely continued the terms of a prior settlement agreement approved in Order No. 25,638 (March 17, 2014). The Company also filed supporting testimony and related schedules which detailed the reconciliation of the REP and VMP cost and revenue.

The Office of the Consumer Advocate (OCA) filed a letter of participation on March 30, 2020, pursuant to RSA 363:28. The Commission issued an order of notice on April 8, scheduling a web-enabled remote hearing for April 27. At the hearing, Liberty presented the testimony of the following employees of its affiliate, Liberty Utilities Service Corp.: Joel Rivera, Manager of GIS and Electric System Planning; Heather Green, Program Manager of Inspections and Vegetation; David B. Simek, Manager of Rates and Regulatory Affairs; Adam M. Hall, Analyst; and Anthony Strabone, Manager of Electrical Engineering.

The report, testimony, schedules, and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-036.html>.

## **II. MOTION FOR PROTECTIVE ORDER**

On April 27, 2020, Liberty filed a Motion for Protective Order Related to Discovery Responses pursuant to the New Hampshire Code of Administrative Rules, Puc 203.08, seeking to protect portions of its response to Staff 1-6. The response contains detailed contractor pricing information. Liberty stated that it notified parties pursuant to Puc 203.08 to consider attachments

1-6.b.2, 1-6.b.3, and 1-6.b.4 as confidential. Liberty argued that the pricing information is commercially sensitive for the contractor, its disclosure could harm the contractor's competitive interests and would jeopardize the Company's future requests for proposals (RFPs) for similar projects. Liberty represented that the information constitutes "confidential, commercial, or financial information" under RSA 91-A:5, IV. Neither Staff nor the OCA objected to Liberty's request.

RSA Chapter 91-A ensures public access to information about the conduct and activities of government agencies or "public bodies" such as the Commission. Disclosure of records may be required unless the information is exempt from disclosure under RSA 91-A:5. Among other types of information, RSA 91-A:5, IV exempts "confidential, commercial, or financial information." The party seeking protection of the information has the burden of proving that confidentiality and/or privacy interests outweigh the public's interest in disclosure. *Grafton County Attorney's Office v. Canner*, 169 N.H. 319, 322 (2016). Puc 203.08(b) requires a motion for confidential treatment to include, among other things, a "[s]pecific reference to the statutory or common law support for confidentiality" and a "detailed statement of the harm that would result from disclosure." Liberty asserted a confidentiality interest, which requires Liberty to "prove that disclosure is likely to: (1) impair the information holder's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained." *Hampton Police Ass'n, Inc. v. Town of Hampton*, 162 N.H. 7, 14 (2011). The benefits of disclosure to the public are then weighed against the interest(s) in nondisclosure. *See id.*

With respect to the specified information in Liberty's response to Staff 1-6, the Company claims that the information at issue is confidential, financial information, disclosure of which

could harm its contractor's competitive interests and would jeopardize the Company's future RFPs for similar projects. We agree.

Next, we must consider the public interest in disclosure. Here, Liberty seeks to protect detailed pricing breakdowns from a contractor bid sheet, while disclosing the total amount of the awarded contract. Given the total amount of the contract, the pricing breakdowns are unlikely to further inform the public of the Commission's regulatory activities.

On balance, the public's interest in disclosure of this information is minimal compared with the potential harm to Liberty and its contractor. Therefore, we grant Liberty's Motion for Protective Order Related to Discovery Responses to Staff 1-6. This ruling is subject to our ongoing authority, on our own motion, or on the motion of Staff, any party, or member of the public to reconsider our determination. *See* N.H. Admin. R., Puc 203.08(k).

### **III. POSITIONS OF THE PARTIES AND STAFF ON THE RECONCILIATION**

#### **A. Liberty**

According to Liberty, the REP and VMP are premised on the understanding that annual spending on both capital and operations and maintenance (O&M) activities is necessary to maintain the safety and reliability of its electric distribution system. Hearing Exhibit (Exh.) 1 at 33. Liberty presented statistics demonstrating that the reliability of its system has steadily improved since the REP and VMP were implemented. *Id.* at 13. The Settlement set an annual target REP investment amount of \$1.5 million, and also an annual base amount of \$1.5 million (*i.e.*, the amount included in base rates) for VMP O&M expense. *Id.* at 33.

Liberty filed the REP and VMP reconciliations of 2019 estimated and actual expenditures. The vegetation management activities undertaken in 2019 included planned cycle tree trimming, interim and spot tree trimming, and hazard tree removal. *Id.* at 17. Liberty

reported actual spending of \$1,601,147 for VMP O&M in 2019, after crediting contributions by Consolidated Communications (Consolidated). *Id.* at 3, 17. The Company requested recovery of \$101,147 of O&M costs (2019 spending of \$1,601,147, less the base amount of \$1,500,000). Accounting for a prior period over-recovery of \$26,163, Liberty requested a proposed adjustment factor of 0.008 cents per kWh.<sup>1</sup> *Id.* at 67.

With respect to REP investments, Liberty stated that it develops a safety and reliability work plan each year that incorporates spending for proposed infrastructure replacement, system capacity, performance initiatives, individual capital projects, and work activities required to comply with franchise or tariff requirements. Required work activities include pole relocations, response to unit damage and failures, and new business construction. Liberty then prioritizes those projects and reviews the plan to arrive at a budget that will improve performance in a cost-effective manner. *Id.* at 34.

Most of the 2019 REP capital budget was associated with re-conductoring approximately 1.9 miles in Enfield and another 1.9 miles in Charlestown with spacer-cable. The REP capital budget also included the installation of single-phase tripping re-closers in Pelham, Alstead, and Walpole. The spacer-cable and tripping re-closers are designed to increase reliability and reduce costs.

Total capital spending for which recovery is sought in this case is \$1,837,934 – consisting of \$1,212,204 of investments installed and placed in service in 2019 – and \$625,729 of investment made in 2018 but placed in service in 2019. *Id.* at 19. Liberty calculated the annual revenue requirement to recover this \$1,837,934 in capital investments to be \$210,503, which would result in a base rate increase of 0.50 percent. *Id.* at 51, 66.

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<sup>1</sup> See Exhibit 1, p 67, \$0.00008/kWh.

**B. OCA**

The OCA supported approval of the proposed rates. The OCA also requested that the Commission open an investigation about ownership of utility poles to ensure costs are fairly allocated, and maintenance, including pole-setting, is not delayed for electric customers by joint pole ownership with telephone companies. The OCA urged Liberty to pursue all avenues under inter-company agreements to achieve equitable cost sharing and maintenance arrangements, including renegotiation of the agreements with telephone company joint-pole owners. Finally, the OCA recommended the Commission investigate whether there is a point at which additional reliability enhancements are no longer cost effective.

**C. Staff**

Staff stated that Liberty's 2019 REP and VMP activities are appropriate for cost recovery as proposed, and that the proposed rates are appropriately calculated. Staff questioned whether the Enfield re-conductoring project was performed in a least cost manner. First, Staff questioned whether Liberty could have taken actions to start the pole setting process earlier in 2019, given it predicted a non-response from Consolidated Communications concerning pole setting. Further, Staff questioned whether it was reasonable for Liberty to use internal construction crews for pole framing and wire pulling after the poles were set, given that those crews were also assigned O&M and emergency tasks during the summer months. Staff questioned whether the bid ultimately received for pole framing and wire pulling was least cost because the RFP was issued in October – the last quarter of the year. Staff noted that the longer a project is open, the more Allowance for Funds Used During Construction (AFUDC) accrues, increasing costs.

#### **IV. COMMISSION ANALYSIS**

We find that Liberty's annual REP and VMP report and its REP/VMP activities during 2019 are consistent with the program goals and parameters authorized by the Commission. Under the Settlement, Liberty is required to present a detailed budget of proposed REP investments for Staff to review prior to undertaking the projects, which it has done here.

We share the OCA's concerns about the need for Consolidated and other joint-pole owners to bear a fair share of costs and maintenance associated with joint pole ownership. The agreements that govern joint maintenance were negotiated in an era when both electric and phone providers were regulated monopolies serving new customers, and thus may need to be reviewed by the electric companies to ensure that costs are shared equitably and maintenance is not delayed. We direct Liberty to take steps to protect its interests under the inter-company agreements including, if appropriate, renegotiation of those agreements to reflect current circumstances.

For purposes of this case, the record shows that in 2019, Consolidated paid Liberty \$495,381 in vegetation management expenses related to shared poles, which is in line with prior years. Consolidated's decision not to set the poles for the Enfield project was anticipated by Liberty and factored into its project schedule, and the record indicates, in this instance, no additional costs were incurred.

We also share Staff's concern that the Enfield project could have been started sooner in the year, been completed sooner, and thus reduced AFUDC. The various internal decisions that led Liberty to issue an RFP in October 2019 for work that it had identified as early as late 2018 are certainly subject to examination. Liberty stated that the bid for the framing and wire pulling was less costly on a per-foot basis than the average cost for all similar projects it undertook

during the year, and that no additional costs were experienced because the bid was issued in October. Ultimately, in this instance, the bid received was reasonable, so no disallowance of the investment is warranted. Liberty must always undertake each project in a well-planned manner with resources scheduled thoughtfully and logically so that each project can be completed in a timely, least-cost fashion.

Parties indicated that review of whether to continue the REP/VMP program outside a rate case may be subject to discussion in another pending case. If the issue is not resolved in that case, we direct Liberty, in its next REP/VMP Report, to recommend reliability metrics such as SAIDI and SAIFI that can be established to indicate a sufficient level of safe and reliable service, routinely maintained. Once established, those metrics will be used as benchmarks to determine whether additional reliability enhancement investment is necessary.

Based on the evidence presented, we approve a base rate increase for REP investments of 0.50 percent and an REP/VMP factor to be included in distribution rates of 0.008 cents per kWh for effect on May 1, 2020. We find those rates to be just and reasonable, as required by RSA 374:2 and RSA 378:7.

**Based upon the foregoing, it is hereby**

**ORDERED**, that Liberty shall increase its base rates by 0.50 percent, effective on and after May 1, 2020, which increase allows recovery of \$210,503 in revenue requirement associated with reliability enhancement program capital investments as described in Exh. 1; and it is

**FURTHER ORDERED**, that Liberty is authorized to recover an adjustment factor of 0.008 cents per kWh for costs associated with reliability enhancement program and vegetation



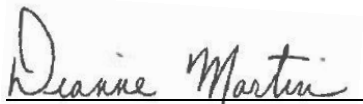
management expense in 2019 as described in Exhibit 1, effective with rates on and after May 1, 2020; and it is

**FURTHER ORDERED**, that Liberty report to the Commission about its efforts to improve maintenance arrangements with joint-pole owners within the next six months; and it is

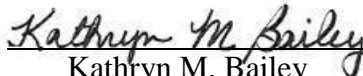
**FURTHER ORDERED**, that no later than its next Reliability Enhancement Program Report, Liberty determine and recommend metrics that indicate a level of sufficient reliable service that can be routinely maintained; and it is

**FURTHER ORDERED**, that Liberty shall file tariff pages conforming to this order pursuant to N.H. Admin. R., PART Puc 1603, within 15 days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 2020.



Dianne Martin  
Chairwoman

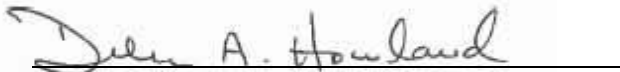


Kathryn M. Bailey  
Commissioner



Michael S. Giaimo  
Commissioner

Attested by:



Debra A. Howland  
Executive Director

## Service List - Docket Related

Docket# : 20-036

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