STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 23-076

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

Winter 2023/2024 Cost of Gas and Summer 2024 Cost of Gas and LDAC Filing

Order Establishing Cost of Gas Rates

O R D E R N O. 26,898

October 31, 2023

In this order, the Commission conditionally approves Cost of Gas (COG) rates for the 2023-2024 winter period and for the 2024 summer period. The costs for the winter and summer periods are reflective of commodity prices, hedging, and Liberty's gas transportation, storage, and peaking strategies. Although the rates conditionally approved today do reflect these factors, they also reflect corrections to Liberty's erroneous booking of revenues during the prior period.

Residential COG Rates
(per therm)

	Winter Rates			**Summer Rates**		
	Proposed Rates	Prior Year Weighted Average Rate	Change	Proposed Rates	Prior Year Weighted Average Rate	Change
Cost of Gas	$0.7563	$0.8505	($0.0942)	$.0187	$0.9917	($0.9730)

Turning from the rates in the table above to bill impacts, Liberty's customers can expect to pay 7% less than last winter and 42% less than last summer, based on weighted-average rates in the prior year periods.

Gas commodity costs incurred by Liberty in making purchases to serve its customers are passed through without a markup in the COG tariff rates. The Commission does not administratively set the prices offered by wholesale gas suppliers or ancillary service providers to serve Liberty's customer load. These prices are set by the suppliers and service providers themselves, informed by prevailing market conditions, where Liberty endeavors to procure a reliable gas supply at the lowest cost. The Commission oversees this procurement process as part of this proceeding and approves the resultant rates under the governing statutory standards.

I. PROCEDURAL HISTORY

On August 19, 2023, the Commission commenced an adjudicative proceeding and provided notice of hearing on Liberty's proposed COG rates, including rates subject to adjustment based on market changes and Liberty's fixed winter rate offering, called the Fixed Price Option (FPO). The New Hampshire Department of Energy (DOE) filed a notice of appearance and the Office of the Consumer Advocate (OCA) filed a letter of participation. There were no intervenors.

On October 19, 2023, the Commission held a duly noticed hearing on Liberty's proposed COG rates for the 2023-2024 winter period and for the 2024 summer period. At the hearing, Liberty disclosed that it discovered that certain prior period revenues were not properly allocated between the Summer and Winter accounts, resulting in erroneous starting balances that rendered its proposed COG rates inaccurate. Liberty presented a plan, assented to by the DOE, to make an updated COG rate filing on October 23.

On October 23, 2023, Liberty filed a revised winter 2023/2024 and summer 2024 cost of gas (COG) filing outlining its proposed COG rates for the winter period

(November 1, 2023, through April 30, 2024) and the summer period (May 1, 2024, through October 31, 2024).

On October 26, 2023, the DOE and OCA filed position statements relating to the proposed COG rates and Liberty's FPO offering.

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
https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-076.html

II. BACKGROUND AND OVERVIEW OF LIBERTY'S COG REQUESTS

The Cost of Gas adjustment mechanism was implemented in 1974 during a time of rapidly changing prices to reflect increases and decreases in energy supply costs in customer rates without having to go through extended proceedings to change fuel delivery rates. Liberty has limited control over the market price of natural gas, which is an unregulated commodity. Similarly, it has limited control over items such as fuel transportation. The COG adjustment mechanism allows Liberty to pass those costs on to its customers directly and efficiently without mark-up or profit. COG rates are initially set using projected costs and sales for the upcoming winter period, which runs from November 1 through April 30 and the summer period which runs from May 1 through October 31. Costs and revenues from winter and summer periods are tracked in separate accounts.

Through the COG adjustment mechanism, Liberty may adjust COG rates monthly to incorporate changes in the propane and natural gas markets based on actual costs to date and projected costs for the remainder of the period. While there is no limitation on reductions to COG rates, rates may be adjusted upward without Commission action up to a cumulative maximum of 25 percent above the approved rate. To the extent that adjustments are based on projected costs, they are subject to periodic reconciliation, after all actual costs are known and reported. The adjustment process is designed to be responsive to market conditions, not to correct company errors.

As in prior years, Liberty offered residential customers the opportunity to lock in a specific price per therm for winter gas supply through its FPO program. Under the program, a customer pays one price per therm for the gas supply portion of the monthly bill from November 1 through April 30, regardless of market-price fluctuations. That price is set two cents higher than the initial rate proposed for non-FPO customers. The non-FPO COG rate fluctuates with market prices and is subject to monthly increases or decreases. Liberty initially proposed a residential FPO program rate of $0.6375 per them, which was communicated to customers via letter. Liberty's revised proposed residential FPO program rate as filed on October 23, 2023, is $0.7763.

The impacts of Liberty's proposals on the winter and summer bills of a typical residential heating customer are summarized in the tables below:

Winter Bill			Proposed vs 2022-23	
	Proposed 2023-24	2022-23	$	Change %
Base Rate	$487.02	$509.54	($22.53)	-4.42%
COG	$484.02	$544.32	($60.30)	-11.09%
LDAC	$75.52	$70.68	$4.84	6.85%
Winter Total	$1,046.55	$1,124.55	($77.89)	-6.94%

Summer Bill	Proposed 2024	2023	Proposed vs 2023 $	Change %
Base Rate	$188.22	$190.71	($2.48)	-1.31%
COG	$2.91	$154.18	($151.27)	-98.11%
LDAC	$18.35	$18.10	$0.25	1.38%
Summer Total	$209.48	$362.99	($153.51)	-42.29%

III. POSITIONS OF THE PARTIES

At the hearing, the parties acknowledged Liberty's significant booking error, and recommended that subsequent filings form the basis of rates. These filings consisted of Liberty's revised filing, the DOE's technical statements, and the OCA's position statement. Liberty requested approval of its revised rates.

The DOE recommended approval of Liberty's revised rates subject to the following conditions:

1) The outcome of future DOE Final Audit Reports for both the Winter 2022/2023 and Summer 2023 periods;
2) Liberty filing updated Company Winter 2022/2023 Reconciliation Report and Summer 2023 Reconciliation Report; and
3) That interest (i.e., carrying) charges and additional FPO program costs due to Company error not be passed to ratepayers.

The DOE suggested that additional processes would be required to resolve the issues related to carrying charges and FPO expenses. The DOE also recommended the proposed summer rates be approved, pending the outcome of the additional process related to Liberty's error and an updated Summer 2024 rates filing on or about March

2024. With respect to whether or not to continue the FPO program this year in light of the changes to proposed FPO rates, the DOE recommended:

1) Continuation of the FPO program using the updated rates;
2) That Liberty accept its proposed edits and recommendations related to customer notification letters, including giving customers email and postal service options to disenroll, three weeks in which to make that decision, enclosure of a postage-paid mailing envelope, and prominent website publication;
3) That costs associated with the second FPO mailing, including printing, postage, and associated Staff time not be borne by ratepayers; and
4) Liberty permit customers who do not receive the second notification letter be allowed to disenroll after the deadline, and that Liberty credit customers the difference between the non-FPO rate and the approved higher FPO rate as described in its technical statement.

At the hearing, the OCA generally supported the DOE’s positions. With respect to the FPO option, the OCA filed a written position statement. The OCA supported the withdrawal of the FPO option for all Liberty gas customers, both on its core system and in its Keene Division.

IV. COMMISSION ANALYSIS

The Commission does not administratively fix the market prices for gas commodities or ancillary services for Liberty or any other gas utility in our State; the offering prices of the wholesale gas, transportation, and storage suppliers participating in the American gas market, responding to prevailing market conditions, drive this outcome. The Commission does, however, oversee the process used by Liberty for its gas portfolio development, and its calculation of the resultant COG rates, for compliance with statutes, Commission rules, and orders, as well as technical accuracy, to ensure just and reasonable rates within this market-driven framework.

The Commission has broad statutory authority to set rates in addition to "powers inherent within its broad grant" of express authority. *See Appeal of Verizon New England, Inc.*, 153 N.H. 50, 64-66 (2005) (citations omitted). The Commission applies the "just and reasonable" ratemaking standards of RSA 374:2 and RSA 378:7 when setting COG rates. *See Northern Utilities, Inc.*, Order No. 25,891 (April 29, 2016). In circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8.

In this case, the last-minute revelation of booking errors calls into question the technical accuracy of Liberty's filings and justifies conditions on our approval of the rates presented in Liberty's October 23, 2023 filing. The COG mechanism should reflect changes in commodity markets, not be a tool to remedy company errors. As such, we adopt the DOE's recommendations that the proposed COG rates should be approved, conditioned on the outcome of DOE Final Audit Reports for both the Winter 2022/2023 and Summer 2023 periods, Liberty filing an updated Winter 2022/2023 Reconciliation Report and Summer 2023 Reconciliation Report, that costs (including carrying costs and new FPO program costs) associated with remedying the booking error not be borne by ratepayers, and on additional process to identify costs associated with remedying the booking error if the parties are unable to agree on them.

With respect to the FPO program, we conclude that because the program is described in Liberty's tariff and has already been offered to customers this year, it should not be withdrawn. However, because the rates approved differ significantly from those presented in the initial letter, we adopt the DOE's recommendations regarding customer notifications and affording enrolled customers the opportunity to de-enroll from the program. Therefore, Liberty shall accept the DOE's proposed edits and recommendations related to customer notification letters, including giving customers email and postal service options to disenroll, three weeks in which to make that decision, enclosure of a postage-paid mailing envelope, and prominent website publication. Furthermore, Liberty shall track the costs associated with the second FPO mailing, including printing, postage, and associated staff time.

Liberty shall permit customers who do not receive the second notification letter to disenroll after the deadline, and credit those customers the difference between the approved non-FPO rate and the approved higher FPO rate, consistent with the technical statement of DOE Consumer Services Director Amanda Noonan.

Finally, the parties shall confer to address the issues of costs to be borne by Liberty, inclusive of carrying costs and other direct costs identified herein above. If the parties dispute these costs, they shall present the dispute to the Commission for resolution.

Based on our review of the record in this docket and the process discussed to ensure the accuracy of the COG rates in this period, we find the proposed 2023-2024 winter and 2024 summer COG rates just and reasonable subject to the conditions above, and therefore approve them. Because the COG rate components are reconciled each year, any adjustments needed to reconcile actual costs and revenues will be made in filings for rates effective later in 2024 and 2025. In addition, any issues discovered during DOE audits, either pending or future, should be raised to Commission if not resolved between parties.

As in the past, Liberty may, without further Commission action, adjust its approved COG rates based on the projected over- or under-collection for the period, the adjusted rate to be effective the first day of the month and not to exceed 25 percent above the approved rate.

Based upon the foregoing, it is hereby

ORDERED, that Liberty's 2023-2024 winter period COG per therm rates effective for service rendered on or after November 1, 2023, and its 2024 summer period per therm rates effective on and after May 1, 2024, are conditionally approved as discussed herein and as indicated in the table that follows; and it is

	Winter 2023-2024	Winter Maximum Rates
Residential	$0.7563	$0.9454
Residential (GAP)	$0.4160	$0.5200
C&I - LLF (High winter use)	$0.7561	$0.9451
C&I – HLF (Low winter use)	$0.7573	$0.9466
Residential FPO	$0.7763	
Residential FPO (GAP)	$0.4270	

	Summer 2024	Summer Maximum Rates
Residential	$0.0187	$0.0234
C&I - LLF (High winter use)	$0.0181	$0.0226
C&I – HLF (Low winter use)	$0.0193	$0.0241

FURTHER ORDERED, that Liberty may, without further Commission action, adjust its approved COG rates based on the projected over- or under-collection for the period, the adjusted rate to be effective the first day of the month and not to exceed a maximum rate of 25 percent above the approved rate (said maximum rates identified in the table above), with no limitations on reductions to the COG rates; and it is

FURTHER ORDERED that Liberty shall provide the Commission with its monthly calculation of the projected over- or under-collection, along with the resulting revised COG rates for the subsequent month, not less than five business days prior to the first day of the subsequent month. Liberty shall include revised Calculation of the Firm Sales Cost of Gas Rate annotated tariff pages and revised rate schedules under separate cover letter if Liberty elects to adjust COG rates, with revised annotated tariff pages to be filed; and it is

FURTHER ORDERED, that the over- or under-collection shall accrue interest at the prime rate as reported by the Federal Reserve Statistical Release of Selected Interest Rates, the rate to be adjusted monthly; and it is

FURTHER ORDERED, that, as discussed in the body of this order, Liberty shall notify its enrolled FPO customers of the approved FPO rate and allow them the opportunity to de-enroll, and shall track costs associated with this notification and de-enrollment; and it is

FURTHER ORDERED, that, as discussed in the body of this order, costs associated with the booking error and remedying the booking error shall not be borne by ratepayers. The parties shall confer to identify such costs, and any disputes over such costs shall be brough before the Commission; and it is

FURTHER ORDERED, that Liberty shall file annotated tariff pages as required by N.H. Code Admin. R., Puc 1603 conforming to this order within fifteen (15) days of the date of this order, or November 15, 2023.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 2023.

Daniel C. Goldner Chairman	Pradip K. Chattopadhyay Commissioner	Carleton B. Simpson Commissioner

Service List - Docket Related

Docket#: 23-076

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