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PUBLIC UTILITIES COMMISSION

21 S. Fruit St., Suite 10
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July 1, 2015

Sarah B. Knowlton, Esq.
Liberty Utilities
15 Buttrick Road
Londonderry, NH 03053

Re: DE 15-246; Liberty Utilities
License by Notification of Existing Crossings on Existing Poles
Motion to Accept Filing and Waiver of Puc 202.06(b)

Dear Ms. Knowlton:

Liberty Utilities (Liberty) filed a *Motion to Accept Filing and Waiver of Puc 202.06(b)* (Motion) in the above matter. The Motion asked the Commission to accept its initial electronic filing as timely and to waive Puc 202.06(b)'s requirement of an original and two paper copies.

Regarding timeliness, Liberty emailed the filing on June 17, 2015, "and mailed one paper copy of the transmittal letter to the Commission." Motion at 1. Liberty made the filing pursuant to RSA 371:17-b, which requires it to be made "within 2 years of the effective date of this section," or within two years of June 19, 2013. After a conversation with Commission Staff on June 18, Liberty delivered on June 19 the Motion and "the additional two paper copies of the transmittal letter." Liberty asked that the Commission "accept the Company's filing as timely."

RSA 21:35, I, provides: "Except where specifically stated to the contrary, when a period or limit of time is to be reckoned from a day or date, that day or date shall be excluded from and the day on which an act should occur shall be included in the computation of the period or limit of time." Because RSA 371:17-b does not "state[] to the contrary," its two year period started to run on June 20, 2013, and expired at the end of June 19, 2015. *See Chesley v. Harvey Industries*, 157 N.H. 211, 214 (2008). The Commission thus found that, if Liberty's filing was complete upon submission, then Liberty's filing was timely because it was received on or before June 19, 2015.

Liberty's Motion also requested a waiver of Puc 202.06(b) which requires "one original and 2 paper copies." Liberty only submitted an electronic version of the filing itself and paper copies of its cover letter and Motion. Liberty stated that it only submitted the substantive filing electronically because it "believ[ed] that was the proper mode of submission." The source of

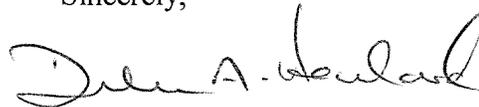
Liberty's belief is unclear. Puc 202.06(4) requires, through its reference to Puc 203.02, an original and 6 paper copies of "all the documents" if the filing was made "in an adjudicative proceeding." Puc 202.06(b) requires "one original and 2 paper copies" for "all other commission filings, including those required by statute. This filing was required by RSA 371:17-b. It clearly falls within Puc 202.06(b) and thus required an original and two copies.

Liberty also stated the initial filing is "voluminous" and it would be "onerous" to provide paper copies. The requirement of paper copies is not to burden those who appear before the Commission. If a filing is so large that it represents a true burden to file the appropriate number of paper copies, the Commission entertains – and sometimes grants – waiver requests to allow fewer paper copies. The Commission rarely excuses the need to file all paper copies, however, because the Commission archives submissions in paper form.

Under Puc 201.05, the Commission may waive any rule if it finds a waiver serves the public interest and does not disrupt the orderly and efficient resolution of matters before the Commission. A waiver request requires consideration of whether compliance with the rule would be onerous given the circumstances or whether the purpose of the rule is satisfied by the alternative method proposed. The Commission determined that the standards for a waiver are satisfied here and that granting a partial waiver of Puc 202.06(b) is consistent with the public good. Liberty's failure to file paper copies caused no party prejudice, the incorrect filing was in good faith, and the issue can easily be resolved. Because Liberty accompanied its filing with a good-faith motion to waive all paper copies, the Commission partially waived Puc 202.06(b) and found Liberty's submission to be complete upon filing on June 19, 2015. However, Liberty must submit at least one paper copy of its initial filing by July 9, 2015.

Finally, the Commission notes that Liberty may have included in its filing more than RSA 371:17-b requires. The statute only calls for a "complete list identifying the specific geographic and pole locations of each existing crossing." It does not require supporting documents. If Liberty chooses to revise its filing, and if the new filing is smaller, the Commission expects Liberty to comply with Puc 202.06(b).

Sincerely,



Debra A. Howland
Executive Director

cc: service list

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.