

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 13-063

**GRANITE STATE ELECTRIC COMPANY, INC.
D/B/A LIBERTY UTILITIES**

Petition for Permanent Rate Increase

Order Approving Temporary Rates

ORDER NO. 25,531

June 27, 2013

APPEARANCES: Sarah B. Knowlton, Esq. on behalf of Granite State Electric Company, Inc. d/b/a Liberty Utilities; Hinckley, Allen & Snyder, LLP by Daniel M. Deschenes, Esq. on behalf of Mary Hitchcock Memorial Hospital and Dartmouth-Hitchcock; the Office of Consumer Advocate by Susan W. Chamberlin, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

I. PROCEDURAL HISTORY

On February 27, 2013, Granite State Electric Company, Inc. d/b/a Liberty Utilities (Liberty or Company) filed a notice of intent to file rate schedules. On March 29, 2013, Liberty filed a petition for temporary distribution rates pursuant to RSA 378:27. Liberty's temporary rate request was part of a broader filing in which Liberty requested a permanent rate increase of \$14,168,940 in annual distribution revenues. In its filing, Liberty requested a temporary increase in annual distribution revenues of \$9,215,479 for effect on a service-rendered basis on and after July 1, 2013. The temporary rate request represents an increase in customers' bills of 11.7% on an overall basis.

With its petition, Liberty filed testimony and related exhibits and a motion for waiver of certain requirements of N. H. Code Admin. Rules Puc 1600 related to the production of certain information regarding Algonquin Power & Utilities Corp., Liberty's parent company, and

National Grid, the prior parent company of Granite State Electric Company. In addition, Liberty filed a motion for confidential treatment for compensation information for the Company's president and one of its directors because the information has not been made available to the public.

On March 11, 2013, the Office of Consumer Advocate (OCA) notified the Commission that it would be participating in this proceeding on behalf of residential ratepayers pursuant to RSA 363:28. Mary Hitchcock Memorial Hospital and Dartmouth Hitchcock (Dartmouth Hitchcock) filed a motion to intervene on April 19, 2013.

On April 11, 2013, the Commission issued an Order No. 25,490 suspending the tariff and scheduling a prehearing conference and technical session on April 24, 2013. The Commission granted Dartmouth Hitchcock's motion to intervene at the prehearing conference. Also on April 24, 2013, the Staff filed a proposed procedural schedule agreed to by the parties during the technical session for both the temporary and permanent phase of the proceeding. On April 25, 2013, the Commission issued a secretarial letter approving the procedural schedule as proposed by Staff, including setting a hearing on temporary rates for June 4, 2013.

Staff filed testimony of Steven E. Mullen, Assistant Director of the Electric Division, on May 24, 2013. Settlement discussions followed. On May 30, 2013, Staff, on behalf of the parties, filed a request for permission to late-file a settlement agreement pursuant to N. H. Code Admin. Rules Puc 203.20. The Commission granted the request and accepted the Settlement Agreement at the June 4, 2013 hearing.

On May 31, 2013, Liberty filed a motion for confidential treatment regarding Staff data request 1-29. Staff data request 1-29 asked for information regarding Liberty's solicitation for

consultants in connection with the rate case proceeding. In the motion, Liberty requested confidential treatment of the bid range supplied by respondents to the solicitation.

On June 3, 2013, Staff filed a Stipulation and Settlement Agreement (Settlement Agreement) regarding temporary rates signed by Liberty, the OCA and Staff. The hearing was held as scheduled. On June 5, 2013, Liberty filed a corrected page 3 to Hearing Exhibit 4, the Stipulation and Settlement Agreement.

At the June 4, 2013 hearing, the Commission heard argument on Liberty's three pending motions: (1) the motion for waiver of certain filing requirements of N.H. Code Admin. Rules Puc 1600, (2) the motion for confidential treatment of certain executive compensation, and (3) the motion for confidential treatment for certain information contained in its response to Staff data request 1-29. No party objected to any of the motions. The Commission granted all three motions at the hearing.

Subsequent to the hearing, on June 25, 2013, Liberty filed a letter stating that it had discovered that certain schedules attached to the Settlement Agreement incorporated default service rates (under the heading "commodity") that were incorrect. Liberty explained that the default service rates in the schedules are rates that were effective for a prior period and are slightly higher than the rates in effect at the time the Settlement Agreement was filed. Liberty stated that the amount of increase in the distribution rates set forth in the Settlement Agreement are correctly stated and that the only impact is that rate increases will be slightly lower when the lower default service rate is taken into account. To correct this error, Liberty proposed to file replacement pages to the Settlement Agreement schedules as part of its compliance filing on temporary rates. Liberty reported that the total bill impact on the proposed temporary

distribution rates to residential customers using 676 kWh per month, residential customers' average use, would be an increase of \$7.45 in monthly bills, or an increase of 8%.

II. SUMMARY OF STIPULATION AND SETTLEMENT AGREEMENT

Pursuant to the terms of the Settlement Agreement, Liberty would receive a temporary distribution revenue increase of \$6.5 million effective for service on and after July 1, 2013 and would collect the temporary rate increase by applying a uniform increase in distribution revenue of 26.35% to each of Liberty's current rate schedules and rates.

The Settlement Agreement provides that the temporary revenue increase will be based upon a capital structure of 55% equity/45% debt as discussed in DG 11-040¹, a return on equity of 9.67% as included in an approved settlement agreement in DG 06-107², the last proceeding involving a general adjustment to the Company's distribution rates, and a weighted cost of debt of 6.02%, resulting in an overall return of 8.03%.

The Settlement Agreement also recognized that Liberty may request an increase in its Storm Recovery Adjustment Factor (SRAF) in a separate petition to be filed for effect with rates as of November 1, 2013. The Settlement Agreement stated that the Company is also requesting an adjustment to the SRAF in the permanent rate phase of this proceeding, and that further consideration of any deficit remaining in the Company's storm fund after the adjustment to the SRAF would not be precluded in the permanent rate phase of the docket.

III. POSITIONS OF THE PARTIES AND STAFF

A. Granite State Electric Company, Inc. d/b/a Liberty Utilities

¹ DG 11-040 is the proceeding wherein Granite State Electric Company and EnergyNorth Natural Gas were acquired from National Grid.

² DG 06-107 is a proceeding involving the merger of Granite State Electric Company's former parent company, National Grid plc, with KeySpan Corporation.

In prefiled testimony, Liberty stated that the Company's earnings are approximately 936 basis points below its last rate of return authorized by the Commission in Order No. 24,777 (July 12, 2007). According to the Company, this under-earning is the result of a material increase in Liberty's rate base that has occurred since the Company's rate case. The Company attested that it continues to invest significant amounts of capital in non-revenue producing projects and its overall sales remain relatively flat. According to Liberty, a temporary rate increase is in the interest of both the Company's customers and its shareholders. Liberty said that the approval of temporary rates will begin to mitigate the problems associated with regulatory lag and provide the parties sufficient opportunity to investigate the permanent rate request, and would provide for smoother transition to permanent rates.

Liberty emphasized the importance of the provision in the Settlement Agreement which allows Liberty to seek an adjustment to its SRAF for effect on November 1, 2013. Liberty stated that its storm reserve fund is currently running a deficit of \$7 million which, with the current factor in effect, would not be paid until 2019 if the Company did not receive approval to increase the revenue to the fund. The Company pointed out that although the parties did not agree to a particular amount of revenue to be recovered through the SRAF, the agreement to allow Liberty to go forward with a SRAF proceeding while the permanent rate case proceeds would allow Liberty to further improve its earnings.

At hearing, it was pointed out that page 3 of Settlement Agreement inadvertently did not reflect certain wording that was agreed to by the settling parties. The Company agreed to file a corrected page (Hearing Exhibit 4). Liberty concluded by requesting the Commission approve the Settlement Agreement and the proposed increase in distribution revenues on a service-rendered basis effective on and after July 1, 2013.

B. Dartmouth Hitchcock

Although Dartmouth Hitchcock said that it had participated in settlement discussions, it did not have sufficient time to review the proposed Settlement Agreement and, consequently, did not sign it. Dartmouth Hitchcock did not object to the Settlement Agreement.

C. Office of Consumer Advocate

The OCA did not present a witness at the temporary rate hearing. In its closing the OCA stated that it had participated in settlement discussions and that it supported the Settlement Agreement with the corrections to page 3 of the agreement as noted by Staff.

D. Commission Staff

Staff testified in support of the Settlement Agreement. Staff concluded by stating that the Settlement Agreement was a just and reasonable resolution of the issues in the temporary rate case and that the Settlement Agreement is in the public interest consistent with N.H. Code Admin. Rules Puc 203.20(b). Staff recommended that the Commission approve the Settlement Agreement with the correction of page 3 of the Settlement Agreement.

IV. COMMISSION ANALYSIS

N.H. Code of Admin. Rules Puc 203.20(b) provides that the Commission shall approve disposition of any contested case by settlement “if it determines that the result is just and reasonable and serves the public interest.” *See also* RSA 541-A:31, V(a). Nonetheless, even where all parties in a proceeding enter into a settlement agreement, the Commission cannot approve it “without independently determining that the result comports with applicable standards. *Unitil Energy System, Inc.* Order No. 24,677, 91 NH PUC 416, 425-426 (2006) (citation omitted).

RSA 378:27 requires the Commission to set temporary rates at a reasonable level:

“...sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission, unless there appears to be reasonable ground for questioning the figures in such reports.”

See also Appeal of the Office of Consumer Advocate, 134 NH 651,661 (1991). “this is ‘less stringent’ than the standard for permanent rates, in that temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Id.* at 660 (citation omitted). Moreover, the effective date of temporary rates “fixes and determines the period during which the rates allowed in the underlying permanent rate proceeding may apply.” *Appeal of Pennichuck Water Works*, 120 NH 562, 564 (1980). Based on the record in this case, we find that the revenue increase as set forth in the Settlement Agreement is appropriate and the resulting rates are just and reasonable.

According to Liberty’s petition and the pre-filed testimony, the Company’s rate of return as of December 31, 2012 was negative 0.75% compared to its authorized return of 8.61%. The Company testified that there has been a significant increase in rate base and operating costs that contribute to the under-earning. At the same time, the number of customers served by Liberty has remained relatively flat since 2006 and the growth in sales is minimal. Liberty also testified that providing a temporary rate at this point would provide for a smoother transition from current rates to permanent rates at the end of the permanent rate proceeding.

We find that the temporary increase to distribution revenues proposed in the Settlement Agreement appropriately balances the interests of customers with the interests of shareholders, and that the resulting rates are just and reasonable as required by RSA 378:5 and 378:7. We also agree that the term of the Settlement Agreement that allows the Company to accelerate its request for an increase to its SRAF is reasonable and could allow Liberty to begin recovery of some amount of storm-related costs in advance of the approval of permanent rates in this docket.

Based on the financial data presented by the Company, we conclude that it is just and reasonable to grant the company a temporary increase to distribution revenues pending a full investigation into the request for a permanent distribution rate increase. Therefore, we approve the Settlement Agreement in its entirety. Consistent with RSA 378:29, the permanent rates approved in this docket will be reconciled back to the effective date of temporary rates, that is, July 1, 2013. We will decide how any over- or under- recovery will proceed following a future determination of permanent rates.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement is APPROVED, with temporary rates to be effective July 1, 2013 on a service rendered basis; and it is

FURTHER ORDERED, that Liberty shall file with the Commission properly annotated tariff pages consistent with the Settlement Agreement within 10 days of the date of this order, as required by N.H. Code Admin. Rules Puc 1603; and it is

FURTHER ORDERED, that, as part of the compliance filing, Liberty shall include replacement schedules to be attached to the Settlement Agreement (Exhibit 4), consistent with Liberty's June 25, 2013 letter.

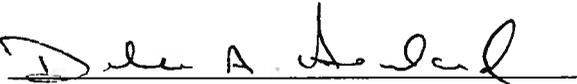
By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 2013.


Amy L. Ignatius
Chairman


Michael D. Harrington
Commissioner


Robert R. Scott
Commissioner

Attested by:


Debra A. Howland
Executive Director