

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 17-048**

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

**Petition for Permanent and Temporary Rates**

**Order on Motion for Clarification**

**ORDER NO. 26,156**

**July 10, 2018**

**APPEARANCES:** Michael J. Sheehan, Esq., on behalf of Liberty Utilities (EnergyNorth Natural Gas) 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., and Alexander F. Speidel, Esq., on behalf of Commission Staff.

As explained in detail below, the Commission grants in part and denies in part Liberty's Motion for Clarification.

**I. PROCEDURAL HISTORY**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty or the Company) filed a Petition for Permanent and Temporary Rates on April 28, 2017. The petition requested: (1) a permanent increase in Liberty's distribution rates effective with service rendered on or after July 1, 2017, designed to yield an increase of \$13,749,361 in annual revenues; (2) temporary rates effective with service rendered on or after July 1, 2017, designed to yield an increase of \$7,778,497 in annual revenues for its EnergyNorth Division; and (3) a step adjustment in rates designed to yield an increase of \$6,071,562 in annual revenues (to recover costs associated with approximately \$41 million of capital expenditures projected to be made during 2017). By letter dated April 3, 2017, the Office of the Consumer Advocate (OCA) indicated that it would be participating in the proceeding pursuant to RSA 363:28.

On February 27, 2018, Liberty and the OCA filed a comprehensive settlement in this matter, which provided for a permanent annual rate increase of \$10.3 million. Staff opposed the settlement. Following a seven-day hearing, on April 27, 2018, the Commission issued an order rejecting the settlement and approving a permanent rate increase for Liberty of \$8,060,117, effective May 1, 2018, with a step increase effective the same day of \$4,729,953. Order No. 26,122 (April 27, 2018) (Order) at 2. The Order also approved two important rate design changes for Liberty's residential customers: significant reductions in Liberty customer charges and corresponding increases in volumetric charges. In addition, the Order approved a decoupling proposal applicable to all rate classes and consolidated the rates of the Company's EnergyNorth and Keene Divisions.

On May 25, 2018, Liberty filed a Motion for Rehearing regarding the effective date of the changes to the Company's rate design. The Commission granted Liberty's Motion for Rehearing in part and is currently conducting a rehearing process.

Also on May 25, 2018, Liberty filed a Motion for Clarification pertaining to five issues addressed in the Order: (1) the Average Service Lives of the Company's assets, (2) Depreciation, (3) the Training Center, (4) iNATGAS, and (5) Fuel Inventory. Staff filed a Response on June 8, 2018 (Response), largely in support of Liberty's Motion, but Staff opposed the requested clarification of the Commission's treatment of Liberty's iNATGAS investment. Liberty filed a Reply to Staff's Response on June 11 (Reply) addressing the iNATGAS issue and asking the Commission to grant permission to defer the iNATGAS related revenue requirement disallowance of \$400,391 contained in the Order and to specify a test for recovery of this deferred amount.

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 <http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-048.html>.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Liberty**

#### **1. Average Service Life**

##### **a. Capitalized Software – Account 303.00**

In its Motion for Clarification, Liberty stated that the Order adopted a single weighted average service life (ASL) of 6.2 years for Capitalized Software when, Liberty claimed, it had proposed three underlying ASLs (3, 5, and 10 years) for various types of software. Liberty asked the Commission to clarify that the three specific ASLs were approved, rather than the weighted average 6.2 year ASL.

##### **b. Transportation - Account 392.00; Power Operated Equipment - Account 396.00**

Liberty asked the Commission to clarify that the Order approved a 5-year ASL for Account 392 – Transportation, and Account 396 - Power Operated Equipment. Liberty claimed the Order was not clear concerning those two asset accounts because the ASLs for those accounts were not listed in Appendix 6 of the Order, where the Commission listed the approved ASLs.

#### **2. Depreciation**

Liberty sought clarification of three issues concerning depreciation for the former Keene Division. First, Liberty stated that the Order did not align the depreciation and amortization rates for accounts that are used by both EnergyNorth and Keene. Second, Liberty claimed that the Order did not approve group depreciation for Keene assets. Third, Liberty stated that the Order

did not specify a 20-year life and a 5.0 percent depreciation rate for Account 319 (used by Keene, but not EnergyNorth). Liberty sought clarification that the same depreciation and amortization rates were approved for EnergyNorth and Keene, that Keene assets are subject to group depreciation, and further that the approved ASL for Account 319 is 20 years and the approved depreciation rate is 5.0 percent.

### **3. Training Center**

Liberty requested that the Order be clarified to state that the lease agreement between EnergyNorth and Liberty Utilities (Granite State Electric) Corp. may remain in effect under its existing terms and conditions. Liberty stated that it filed the lease as an affiliate agreement in Docket No. DE 16-560. That docket was consolidated with this case, but the Order did not approve the lease.

### **4. iNATGAS**

Liberty requested that the Order be clarified to allow deferral of the \$400,391 revenue requirement reduction contained in the Order so that Liberty may have the opportunity to recover that amount in a future rate case. Also, Liberty requested that the Commission specify that Liberty could recover this amount in a future rate case if the iNATGAS venture attains a positive net present value under the same discounted cash flow analysis presented in the contract approval docket (DG 14-091) using actual sales for past years and minimum take or pay volumes for future years.

### **5. Fuel Inventory**

Liberty stated that while the Order removed fuel inventory from rate base, it did not specify that Liberty could include fuel inventory as a rate base item in the Cost of Gas (COG) rate. Liberty noted that the Order said that the Keene COG would include the revenue

requirement associated with fuel inventory. Liberty requested clarification that the Order also approved fuel inventory as a rate base item in the EnergyNorth COG.

## **B. OCA**

The OCA submitted no comments on the issues raised by Liberty in its Motion for Clarification.

## **C. Staff**

### **1. Average Service Life**

#### **a. Capitalized Software – Account 303.00**

Staff responded that the Order approved a weighted ASL of 6.2 years for capitalized software, as Liberty requested in several places in its filing. Staff noted, however, that using the three underlying ASLs would be more accurate and therefore supported Liberty's requested clarification. Staff suggested that Liberty be required to document and clearly explain how the various pieces of new software are assigned the various ASLs (and accrual rates).

#### **b. Transportation - Account 392.00; Power Operated Equipment - Account 396.00**

Staff agreed that the Order should be clarified to approve a 5.0-year ASL for the two accounts, as Liberty requested in its rate case filing.

### **2. Depreciation**

Staff supported two of the three depreciation items for which Liberty sought clarification: that Keene and EnergyNorth ASLs and accrual rates be aligned for accounts that are used by both entities; and that Keene assets be subject to group depreciation. Concerning the ASL for Account 319, Staff did not oppose the requested clarification on the grounds that the request was consistent with what was used in Keene's last rate case.

### **3. Training Center**

Staff opposed Liberty's request that the training center lease between EnergyNorth and Granite State Electric remain in effect under its existing terms and conditions. Instead, Staff supported approval of the lease subject to an amendment stating that Granite State Electric shall pay EnergyNorth its proportionate share of EnergyNorth's annual cost of ownership, including EnergyNorth's return on its prudently incurred investment in its training center of \$2,347,000, as determined in the Order.

### **4. iNATGAS**

Staff opposed Liberty's requested clarifications concerning the iNATGAS contract, noting that the Order did not provide for Liberty to recover (in a future rate case) the \$400,391 revenue requirement disallowance made in this case. Further, Staff opposed the request that the Commission specify at this time the test it might apply in a future rate case to allow Liberty to recover more of its iNATGAS facility investment going forward.

### **5. Fuel Inventories**

Staff supported Liberty's request that the Order be clarified to specifically allow recovery of the revenue requirement associated with fuel inventory through the COG for both EnergyNorth and Keene.

## **III. COMMISSION ANALYSIS**

The Commission may grant a Motion for Clarification where the Commission's intent has not been made sufficiently clear and where evidence exists in the record to support the Commission's intent. *N.H. Gas Corp.*, Order No. 24,127 at 3 (February 14, 2003).

## **1. Average Service Life**

### **a. Capitalized Software – Account 303.00**

The Order approved a 6.2-year ASL for capitalized software. Order at 15-16 and Appendix 6. We are persuaded, however, that using the three underlying ASLs for capitalized software will result in a more accurate depreciation expense calculation and, thus, we hereby approve the three underlying ASLs for capitalized software: 3 years; 5 years; and 10 years. As suggested by Staff, we require that Liberty, in its next rate case, clearly explain how each piece of software is assigned an ASL.

### **b. Transportation - Account 392.00; Power Operated Equipment - Account 396.00**

The intent of the Order was to approve the ASL proposed by Liberty's witness, Mr. Normand. Therefore, we approve the requested clarification and state that the ASLs for Account 392 – Transportation, and Account 396 - Power Operated Equipment are 5 years. Exh. 10 at 464, 468.

## **2. Depreciation**

The Order consolidated the Keene Division into EnergyNorth's operations for many purposes, including calculating depreciation. Accordingly, we clarify that the Order approved aligned depreciation rates for accounts that are common to both the EnergyNorth and Keene operations. Likewise, we approve group depreciation for Keene assets. Concerning Account 319, although we find no specific support for the proposed ASL of 20 years and the proposed accrual rate of 5.0 percent, we will approve them, based on the fact that these figures were used in Keene's last rate case.

### 3. Training Center

The Order did not specifically approve the training center lease. While approval is neither called for under RSA 366:3 nor essential to establishing rates under RSA 378:28, we have conducted in this docket a thorough investigation of the lease as contemplated in RSA 366:5 and thus believe a finding as to the justness and reasonableness of its terms is appropriate. As presented, the lease allows EnergyNorth to charge Granite State Electric its “proportionate share of EnergyNorth’s annual cost of ownership, including EnergyNorth’s return on its investment.” Given the findings in the Order, the lease should be amended to allow EnergyNorth to charge Granite State Electric a proportionate share of its return on its *prudently incurred* investment in its training center of \$2,347,000. Without such amendment, Granite State Electric would pay a return on assets that EnergyNorth did not demonstrate were prudently incurred, a result that would not be just and reasonable. Accordingly, we find that Liberty should amend its lease and then file the amended lease.

### 4. iNATGAS

The Order outlined serious concerns with Liberty’s iNATGAS investment. It concluded by adopting Staff’s proposed adjustment, which had the effect of allowing cost recovery based on the level of investment Liberty estimated in Docket No. DG 14-091, when it presented the iNATGAS contract for approval (\$2,245,000), plus related operation and maintenance expenses. Order at 31-32. The Order thus had the further effect of disallowing the difference between the predicted level of investment (\$2,245,000 + Allowance for Funds Used During Construction (AFUDC) of \$51,307 = \$2,296,307) and the actual level of investment at project completion (\$4,815,594). Order Appendix 2 at 1. As we noted in the Order, the entire cost of the facility could have been disallowed. Nonetheless, we determined that complete exclusion of recovery

was not the best overall remedy, because the plant appears to be used and useful and has the potential to provide net benefits to customers in the future. Order at 31.

The Order states “we will re-evaluate this investment in Liberty’s next rate case and may consider putting more of the investment in rate base at that time.” Since the Order did not strictly call for a rate base exclusion (but instead adopted Staff’s adjustment that had the revenue requirement effect of a rate base exclusion for purposes of this one rate case), the quoted statement could be clarified. We restate that sentence as follows: “We will re-evaluate this investment in Liberty’s next rate case and may consider allowing a greater level of cost recovery at that time.”

Concerning Liberty’s request that the Order establish a deferral of the \$400,319 disallowance, we decline to order such a deferral, because that disallowance (which was made for purposes of calculating rates in this case alone) is not subject to recovery in a future rate case. We clarify that any “greater level of cost recovery” allowed in the next rate case will be forward-looking.

## **5. Fuel Inventories**

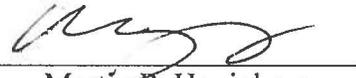
We concur with Liberty and Staff that the intent of the Order was to move the collection of the revenue requirement associated with fuel inventories from base rates to the COG for both EnergyNorth and Keene, and we now clarify that the Order intended that result. We will review the details of such collection in the EnergyNorth and Keene COG filings.

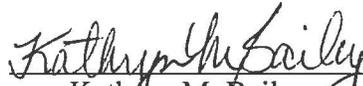
**Based upon the foregoing, it is hereby**

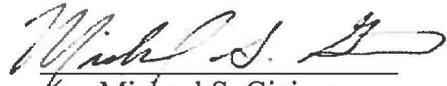
**ORDERED**, that Liberty’s Motion for Clarification is granted in part and denied in part; and it is

**FURTHER ORDERED**, that Liberty file within 30 days an amended lease with its affiliate, Granite State Electric, consistent with this order.

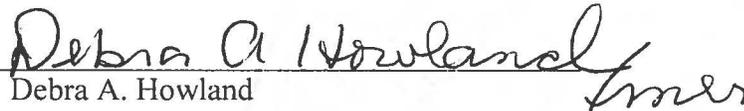
By order of the Public Utilities Commission of New Hampshire this tenth day of July, 2018.

  
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Martin P. Honigberg  
Chairman

  
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Kathryn M. Bailey  
Commissioner

  
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Michael S. Giaimo  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director