

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 20-049

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

2020 Cast Iron/Bare Steel Replacement Program Results

Order Approving Revised Delivery Rates

ORDER NO. 26,374

June 30, 2020

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 Christa Shute, Esq., on behalf of residential ratepayers; and Lynn Fabrizio, Esq., on behalf of Commission Staff.

In this order, the Commission approves an increase in Liberty's base delivery rates, effective July 1, 2020. The additional revenue collected will allow Liberty to recover the costs associated with replacing degrading cast iron and bare steel pipes during fiscal year 2020. This rate change will result in a \$7.03, or 0.60 percent, annual increase for the average residential heating customer using 809 therms per year.

I. PROCEDURAL HISTORY

On April 15, 2020, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty or the Company) submitted its 2020 Cast Iron/Bare Steel (CIBS) Replacement Program Results. The CIBS replacement program was established through a settlement agreement the Commission approved as part of the merger of National Grid and EnergyNorth in 2007. *See National Grid*, Order No. 24,777 at 27 (July 12, 2007). Liberty became subject to an updated settlement agreement that included a continuation of the CIBS program in Docket DG 11-040 upon Commission approval of Liberty's acquisition of the EnergyNorth natural gas system. *See National Grid USA*, Order No. 25,370 at 25 (May 30, 2012).

In its 2020 CIBS filing, Liberty requested recovery of capital expenditures under the CIBS program from April 1, 2019, to March 31, 2020 (CIBS FY 2020). Specifically, Liberty requested a \$1,612,633 increase in its base delivery rates to recover \$14,885,261 in qualifying capital costs spent to replace cast iron and bare steel pipes in CIBS FY 2020. Liberty requested authority to implement the rate increase as of July 1, 2020. In support of its request, Liberty filed the testimony of Catherine A. McNamara, Rates and Regulatory Affairs Analyst, and the joint testimony of Robert A. Mostone, Director of Gas Operations, and Brian R. Frost, Engineer, for Liberty Utilities Service Corp.

The Commission issued an order of notice scheduling a web-enabled remote technical session with Liberty, Commission Staff (Staff), and any intervenors, to be held on May 14, 2020, and a web-enabled remote hearing on the merits to be held on June 18. On April 4, the Office of the Consumer Advocate (OCA) filed a letter notifying the Commission of its participation in this proceeding on behalf of residential customers, pursuant to RSA 363:28. No other parties intervened.

On May 15, 2020, Staff filed a report on the technical session held, with a proposed procedural schedule for the remainder of the proceeding. The Commission approved the procedural schedule by secretarial letter on May 20. On June 12, Staff filed the testimony of Randall S. Knepper, Director of Safety and Security for the Commission's Safety Division.

At the hearing, Liberty offered the pre-filed and live testimony of Ms. McNamara, Mr. Mostone, and Mr. Frost in support of its request for a rate increase. Staff offered the pre-filed and live testimony of Mr. Knepper.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-049.html>.

II. POSITIONS OF THE PARTIES AND STAFF

A. Liberty

Liberty stated that it replaced 11.13 miles of cast iron and bare steel pipe during CIBS FY 2020 at a total cost of \$21,369,387. Exh. 1, Mostone-Frost at Bates 008. The Company seeks to add \$14,885,261 to its rate base. Exh. 1, McNamara at Bates 036. In accordance with the terms of the settlement agreement, Liberty excluded from its rate base calculation the base spending level of \$549,222 and included carry-over costs from CIBS FY 2019 of \$930,987. Liberty maintained that the net incremental expenditure of \$14,885,261 it proposed to include in rate base would result in a revenue deficiency requirement of \$1,612,633. *Id.* at Bates 037.

Liberty requested authority to implement a permanent increase in delivery rates as of July 1, 2020, on an equal percentage basis among all customer classes. According to Liberty, the estimated bill impact on an average residential heating customer would be an increase of \$7.03 per year. *Id.* at Bates 040.

Liberty testified that approximately 56 miles of CIBS pipe remain in the ground as of the end of the FY 2020 replacement projects. Exh. 1, McNamara, Att. CAM-1, line 13, at Bates 045. Liberty testified that the actual costs of the completed projects in FY 2020 on a loaded cost basis was 15 percent greater than the Company's pre-project budgeting and cost estimation. The Company also testified that for FY 2020 projects the variance between actual and estimated costs was 27 percent overall on a direct cost basis. Exh. 1, Mostone-Frost at Bates 011. In response to inquiries at hearing, Liberty's witness stated that "there's a lot of wild cards" with respect to CIBS replacement planning, including municipal projects that require permitting and coordination with municipal paving and other projects, but acknowledged that the Company's project estimating practices warranted review. Hearing Transcript of June 18, 2020, (*Id.*) at 44, 62, and 70. The Company testified that it expected it could complete the replacement

of CIBS in Concord within two to three years; in Nashua within five years; and in Manchester within five to ten years, depending on when the City completes its sewer project. *Id.* at 45, 47-48.

B. OCA

The OCA supported Staff's position, including the recovery of rates as requested in Liberty's petition, and the proposed annual project reporting and target end-date for replacement of CIBS pipes that remain in the ground. The OCA stated that, given the considerable investment required to replace the remaining leak-prone pipes, the level of detailed reporting that has been requested by Staff seems reasonable and appropriate. *Id.* at 140-142.

C. Staff

Staff recommended approval of Liberty's proposed increase in annual revenue requirement for FY 2020 CIBS program costs, based on Staff's audit of costs and review of the Company's revenue requirement calculation. *Id.* at 141. Staff noted that, in prior CIBS proceedings, Liberty had targeted year-end 2024 to complete the replacement of existing CIBS pipe, but that the Company indicated in this year's filing that it does not expect to meet that goal. Given that approximately 56 miles of CIBS pipe remain in the ground in addition to the inclusion of approximately seven miles of cast iron within Liberty's Keene system, in conjunction with other significant capital projects Liberty plans to undertake, Staff surmised it is unlikely the Company will be able to complete the replacement of all CIBS pipes by year-end 2024. Exh. 2, Knepper at Bates 011. Accordingly, Staff recommended that Liberty be required to target year-end 2025 to remove CIBS from its distribution system. Tr. at 100-102, 131. Staff further recommended minor allowances in the 2025 target for the replacement of large diameter CIBS pipe, which Mr. Knepper stated is generally less leak prone and more costly to remove, and for

the cast iron mains in Keene, if Liberty proceeds with its conversion of the Keene system from propane-air to natural gas. *Id.* at 100.

Staff also recommended that the Commission require Liberty to provide annual CIBS reports for Staff review, to include information that could be somewhat more limited than has been required to date under the existing settlement agreement. According to Staff, the reported information should be sufficient to enable it to track the Company's progress in removing the remaining CIBS pipe, as well as to inform the Commission of any concerns regarding ongoing CIBS replacement efforts. *See, e.g., Id.* at 127, 141.

Staff stated that, with the termination of the CIBS accelerated recovery program in this proceeding, Liberty will no longer be required to file testimony, or marketing reports, or to provide physical samples of replaced bare steel mains for Staff's review. The Commission monitoring of CIBS spending will no longer require multiple technical sessions, testimony from both Staff and interveners, or an adjudicative hearing each year going forward. Thus, both the Company and Staff will be relieved of a significant administrative burden associated with the current CIBS program. *Id.* at 108, 130.

Staff indicated it would request that Liberty provide the same level of detailed data regarding CIBS replacement that has been provided over the past 12 years of the CIBS program for purposes of monitoring safety compliance as well as capital expenditures. *Id.* at 128. Staff also noted that it would expect Liberty to produce similarly detailed reports of CIBS expenditures for any permanent rate proceedings that Liberty may file over the next five years. *Id.* at 127. Given the limited amount of CIBS pipes still in service, Staff recommended that the Company be required to provide an annual reporting requirement such as the spreadsheet included as Attachment 7 to Mr. Knepper's written testimony, or that the Commission could require the Company to provide the existing spreadsheet format that they have been using for

12 years in the CIBS proceedings. *Id.* at 126-127, referencing Exh. 1, Att. RAM/BRF-2 at Bates 030.

III. COMMISSION ANALYSIS

Based on the record in this proceeding, we find that Liberty's proposed increase of \$1,612,633 in the annual revenue requirement to cover CIBS FY 2020 costs, pursuant to the terms of the CIBS settlement agreement, will result in rates that are just and reasonable as required by RSA 374:2 and 378:7.

The rates reviewed and approved in this order are based on costs that ultimately are charged to Liberty's customers. The filings and testimony in this proceeding highlighted the magnitude of project cost overruns Liberty has permitted in its management of the CIBS replacement program, and the Company stated on the record that it normally does not track the costs of capital projects in the detail that Staff has requested in these proceedings. *See* Tr. at 97 and Exh. 3, Staff Final Audit Report at Bates 002 (Company variance calculation of eight percent does not take into account costs related to projects that were abandoned, deferred, or not completed within FY 2020, thereby reducing the actual variance in project costs for CIBS FY 2020 from 28 percent to 15 percent).

Based on our review of the record, including live testimony provided at hearing, we are concerned with the significant variance in the actual cost of CIBS projects over projected costs. Given the consecutive years in which the Company had a double-digit variance between spending and budget, we strongly encourage Liberty to analyze its policies and practices to better plan and budget its CIBS pipe replacement projects and to control its related costs going forward. CIBS planning and budgeting should more accurately reflect anticipated costs related to state and municipal requirements, and should identify and account for asbestos or other environmental liabilities that may arise in proposed replacement projects. *See, e.g.*, Tr. at 42-43 and 67

(Company tends not to factor potential asbestos into project estimates because historical information is spotty, and projects may be removed from or added to its CIBS FY plan based on city and town construction projects).

We find it in the public interest that Liberty continue to track detailed project and cost information. We also agree with Staff's recommendation that Liberty continue to submit an annual report to the Commission's Safety Division based on an agreed-upon form and content containing detailed information on CIBS project planning and replacement. Staff indicated Liberty could provide a report similar to that provided in Exh. 2, Att. RSK-7 (Attachment 7) to Mr. Knepper's testimony. That format is more limited in scope than Exh. 1, Att. RAM/BRF-2 at Bates 030, and would enhance the information currently provided through the annual E-22 Report of Proposed Expenditures for Additions, Extensions, and Capital Improvements to Fixed Capital, required to be submitted under N.H. Admin. R., Puc 509.11. *See* Tr. at 107, 127. The E-22 report provides single line items with very little description, while Attachment 7 provides important information and should not be burdensome to provide.

That said, we consider the information included within the current reports, including the larger spreadsheet report submitted at Exh. 1, Att. RAM/BRF-2, as provided in this proceeding and in prior CIBS proceedings, to be information that a utility should reasonably be expected to maintain in the normal course of its business operations. We direct Staff and the Company to work together to find a level of cost reporting acceptable to both. To the extent the Company and Staff agree on any modifications of the spreadsheet information included in Attachment 7, we direct that the Company file such agreement by no later than October 1, 2020. In the absence of such an agreement, we direct Liberty to file the spreadsheet information contained in Attachment 7 every year, no later than March 1.

We also acknowledge the testimony of Company witnesses suggesting that Liberty would not be able to complete the replacement of the approximately 56 miles of CIBS that remain in the ground in Liberty's New Hampshire service territories within the next five years. We recognize that the remaining lengths of CIBS pipe are located primarily in the more densely populated areas of the state, including Manchester, Nashua, and Concord, and that replacement projects are often affected by municipal policies and procedures.

CIBS replacement, however, is necessary to ensure public safety, a point that both the Company and Staff have made repeatedly throughout the existence of the current CIBS program. We expect the Company to continue its replacement efforts and to work closely with its project planners as well as with appropriate town officials to complete all replacements by year-end 2025. We recognize that disruptions or impediments may arise due to factors beyond the Company's control. We therefore find that a reasonable allowance for such contingencies may be warranted, provided that any such allowances are supported by accurate and comprehensive records of the costs and construction details of CIBS replacement projects during the current and future construction seasons.

We conclude that year-end 2025 represents a reasonable target date for completion of the CIBS replacement program, with the exception of large diameter pipes and cast iron pipe located in Keene. *See* Tr. at 74 (in prior three years, the Company has replaced between 10 and 12 miles of CIBS each year). If circumstances arise to justify or necessitate a delay in the completion of the replacement program, Liberty shall inform Commission Staff of the circumstances and the revised target date for project completion.

As established in last year's proceeding by Order No. 26,266 (June 28, 2019), in Docket DG 19-054, the current CIBS accelerated rate recovery program, as approved initially by Order No. 25,370 (May 30, 2012), in Docket DG 11-040, terminates with this order.

Based upon the foregoing, it is hereby

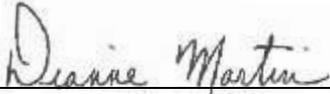
ORDERED, that Liberty Utilities is authorized to increase its base delivery rates to add \$1,612,633 to its annual revenues, effective July 1, 2020, on a service-rendered basis; and it is

FURTHER ORDERED, that Liberty Utilities plan for and use its best efforts to complete, by the end of calendar year 2025, replacement of the remaining cast iron and bare steel pipe in its system, with the exception of cast iron mains in Keene and low pressure pipelines greater than 10-inch nominal diameter; and it is

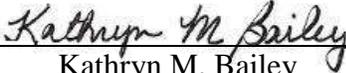
FURTHER ORDERED, that Liberty Utilities file with the Safety Division each year by March 1, a report that includes the elements and format presented in Attachment 7 to Exhibit 2 as filed in this proceeding, and as may be further modified by agreement between Liberty Utilities and Staff filed with the Commission by no later than October 1, 2020; and it is

FURTHER ORDERED, that Liberty Utilities file properly annotated tariff pages with the Commission by July 30, 2020, as required by N.H. Admin. R., Puc 1603, and consistent with this order.

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



Dianne Martin
Chairwoman

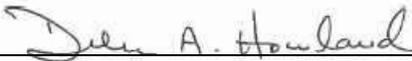


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 20-049

Printed: 6/30/2020

Email Addresses

ExecutiveDirector@puc.nh.gov
pradip.chattopadhyay@oca.nh.gov
lynn.fabrizio@puc.nh.gov
steve.frink@puc.nh.gov
brian.frost@libertyutilities.com
al-azad.iqbal@puc.nh.gov
maureen.karpf@libertyutilities.com
randy.knepper@puc.nh.gov
jayson.laflamme@puc.nh.gov
catherine.mcnamara@libertyutilities.com
Robert.Mostone@LibertyUtilities.com
steven.mullen@libertyutilities.com
amanda.noonan@puc.nh.gov
ocalitigation@oca.nh.gov
michael.sheehan@libertyutilities.com
Christa.Shute@oca.nh.gov
david.simek@libertyutilities.com
karen.sinville@libertyutilities.com