

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DE 21-____

LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP.
d/b/a LIBERTY

Petition for Approval of a Property Tax Mechanism

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (“Liberty” or the “Company”) hereby petitions the New Hampshire Public Utilities Commission (the “Commission”) pursuant to RSA 72:8-e for approval of an annual mechanism to recover (or refund) changes in the Company’s total property tax expense.

In support of this petition, the Company states as follows:

Introduction

1. In 2019 the Legislature passed and the Governor signed HB 700, which established a new method for municipalities to assess utility property and provided for a new mechanism for utilities to adjust rates annually to recover (or refund) changes in property taxes. The guidelines for the new mechanism are codified at RSA 72:8-b, which states as follows:

72:8-e Recovery of Taxes by Electric, Gas and Water Utility Companies. For the implementation period of the valuation of utility company assets under RSA 72:8-d, VI and terminating with the property tax year effective April 1, 2024, the public utility commission shall by order establish a rate recovery mechanism for any public utility owning property that meets the definition of utility company assets under RSA 72:8-d, I^[1] Such rate recovery mechanism shall either:

¹ The statute defines “utility company assets” for “an electric company providing electricity service to retail customers” as follows:

the distribution poles, wires, conductors, attachments, meters, transformers, and substations accounted for by the utility in accordance with FERC Form 1, buildings, contributions in aid of construction (CIAC), construction works in progress (CWIP), and

I. Adjust annually to recover all property taxes paid by each such utility on such utility company assets based upon the methodology set forth in of RSA 72:8-d; or

II. Be established in an alternative manner acceptable to both the utility and the public utility commission.

2. Although the statute directs the Commission to establish the mechanism “by order,” it does not dictate the mechanism’s terms. The statute allows flexibility for the Commission to approve a mechanism that will “adjust annually to recover all property taxes ... on such utility company assets,” or a mechanism that is designed in “an alternative manner acceptable to both the utility and the public utility commission.” *Id.*

3. The statute allows the new recovery mechanism to address changes in property taxes beginning with the tax year effective April 1, 2020. RSA 72:8-e.

Liberty’s Proposed Mechanism

4. By this petition, the Company seeks Commission approval of a recovery mechanism authorized by the new statute, to be effective January 1, 2021.

5. Liberty’s proposal is an “alternative” method in that it seeks to adjust rates as to all utility owned property -- both property that falls within the definition of “utility company assets”

land rights, including use of the public rights of way, easements on private land owned by third parties, and land owned in fee by the electric company, so long as such easements and fee land are associated solely with distribution power lines classified as distribution according to FERC standards.

RSA 72:8-d, I(b)(1).

quoted above and property that falls outside that definition but that is property for which the utility is otherwise entitled to recover its property tax expense.

6. The Company's proposal is simply to compare the actual municipal and state property tax expense, based on the most recent municipal and state property tax bills, to the amount currently collected in distribution rates, and adjust rates annually through a reconciling factor to recover (or refund) the difference between the amount of actual property tax expense and the amount of property tax collected in distribution rates, with an appropriate carrying charge on the amount to be collected or returned. Liberty proposes to use the prime rate for such carrying charges as it does for other reconciling charges.

7. By including both "utility company assets" and other utility property, the mechanism would be simple to implement, administer, and verify. It would avoid the cumbersome task of carving out the utility property that is outside the statutory definition, property for which the Company is still entitled to recover its tax expense. The Commission retains the authority to include in a recovery mechanism those costs that the Commission finds to be appropriate – the statute does not preclude recovery of tax expense for property that is outside the definition.

8. Indeed, the Commission approved such a mechanism in the Eversource rate case. The Eversource settlement agreement provides as follows:

9.1 The Company shall be authorized to implement an annual Regulatory Reconciliation Adjustment ("RRA") mechanism, which is intended to allow the Company to request recovery or refund of the limited set of costs identified below:

(c) Property tax expenses, as compared to the amount in base rates. Consistent with RSA 72:8-e, property tax over- or under-recoveries as compared to the amount in base distribution rates shall be adjusted annually through the RRA. The amount included in base distribution rates for property tax expense shall be \$45,186,407 based on property tax expense as of December 2019, normalized to exclude any credits related to property tax settlement proceeds for tax years preceding the test year. On an annual basis, actual property tax expense for the prior calendar year shall be compared against the amount in base rates and any variances will be reconciled through the RRA mechanism. Annual actual

property tax expense shall be normalized to adjust for any credits received due to abatement settlement proceeds received for tax years preceding the test year. The RRA shall recover any over- or under- recoveries beginning in calendar year 2020.

Settlement Agreement in Docket No. DE 19-057, Hearing Exhibit 58, at Bates 000017. The Commission approved the above settlement as “just and reasonable” in Order No. 26,433 (Dec. 15, 2020) with the following description of the property tax recovery mechanism: “The RRA would permit the Company to request recovery or refund of ... property tax expenses, as compared to the amount in base rates.” *Id* at 14, 21.

9. The Commission did not carve out from Eversource’s RRA the utility property that did not fall under the definition of “utility company assets” in RSA 72:8-d. Since Liberty’s proposal here is essentially the same as the Eversource RRA, Liberty similarly seeks a Commission finding that the Liberty mechanism is “just and reasonable.”

10. Liberty notes that the property tax mechanism it is proposing also mirrors the proposal made for its sister company, Liberty Utilities (EnergyNorth Natural Gas) Corp., in its ongoing distribution rate case, Docket No. DG 20-105 (See the Prefiled Direct Testimony of Steven E. Mullen at Bates II-206 through II-209). Approving Liberty’s proposals in that proceeding as well as in this petition, coupled with the approval in the Eversource proceeding described above, would create a measure of uniformity in property tax reconciling mechanisms among New Hampshire regulated utilities.

Proposed Regulatory Process

11. Although the statute allows the Company to recover property tax changes beginning with the tax year effective April 1, 2020, Liberty seeks approval of its mechanism to recover

changes in property tax expense as of January 1, 2021. That is, the first adjustment will examine the difference between tax expense in rates and the actual tax expense as of January 1, 2021.²

12. Liberty proposes that the Commission address and rule on recovery or refund of the reconciling mechanism during the Company's annual retail rate filing. This filing, made in late March each year, adjusts and reconciles the Company's collection of its transmission expenses, stranded cost charges, and RGGI refunds, with annual rate changes effective May 1. It would be logical and administratively efficient to add the property tax mechanism to this existing proceeding.

13. Given that the 2021 retail rate filing will likely be adjudicated before this docket is completed (the order in the retail rate docket is made by May 1), the Company proposes that the first property tax adjustment be made with the final order in this docket, and thereafter as part of the retail rate filing.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Approve the Company's proposed property tax recovery mechanism;
- B. Approve the first rate adjustment for property tax expense in the with order in this docket;
- C. Order that the property tax mechanism be filed with the Company's retail rate filing in 2022 and thereafter; and
- D. Grant such other relief as is just and reasonable and consistent with the public interest.

² Although Liberty did not experience a significant change in property tax expense in 2020, there will be a substantial increase in 2021. Therefore, Liberty proposes the January 1, 2021, effective date for its mechanism.

Respectfully submitted,
Liberty Utilities (Granite State Electric) Corp., d/b/a
Liberty
By its Attorney,



Date: March 8, 2021

By:

Michael J. Sheehan, Esq. #6590
116 North Main Street
Concord, NH 03301
Telephone (603) 724-2135
Michael.Sheehan@libertyutilites.com

Certificate of Service

I certify that on March 8, 2021, a copy of this petition has been electronically forwarded to the Office of the Consumer Advocate.



Michael J. Sheehan