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May 17, 2024

Chairman Daniel C. Goldner
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

via e-mail to: ClerksOffice@puc.nh.gov

Re: Docket No. DE 23-039
Liberty Utilities (Granite State Electric) Corp.
Distribution Service Rate Case

Dear Chairman Goldner:

This letter is intended to advise the Commission on the position of the Office of the Consumer Advocate ("OCA") on two pending matters in the above-referenced docket: the motion for clarification of Order No. 27,000 (April 30, 2024), filed today by the Department of Energy ("Department"), and the expected submission by the Department of a proposed procedural schedule on Monday as directed in the penultimate ordering clause at page 8 of that Order. I will be out of the office on Monday at the NECPUC Symposium, thus necessitating this preemptive filing on the scheduling issue.

The OCA concurs with the Department's request for clarification of Order No. 27,000 so that it specifies the shareholders of the subject utility, as opposed to its customers, must bear the cost of the extensive audit work mandated by the Order. Indeed, it is the position of the OCA that shareholders must bear *all* costs, including those incurred our office, incurred in this proceeding and attributable to the inadequacy of the books and records on which the utility has relied here. Such costs include but are not necessarily limited to consulting work that will be superseded by the need to conduct what amounts to a second rate case within this proceeding.

With respect to the proposed procedural schedule for the expected next phase of the docket, it is our understanding that the Department will advise the Commission on Monday that in light of the realities of state procurement, and the scope of the audit work the Commission has deemed necessary, the rate case itself cannot move forward before January 1, 2026 – resulting in an anticipated order approving permanent rates by June 30, 2026.

The OCA shares the Department's understanding of how long it will take to procure auditing assistance, conduct audits, and review auditors' findings. However, the OCA cannot concur with a procedural schedule that will result in permanent rates being reconciled pursuant to RSA 378:29 to temporary rates that were effective on July 1, 2023. *See* Order No. 26,855 (June 30, 2023) (approving

temporary rate settlement). Unless, by happenstance, the new permanent rates equal the temporary rates, the three years of recoupment cannot be in the public interest – regardless of whether ratepayers owe the utility money or vice versa. Moreover, it is difficult to conceive of how fixing rates in 2026 based on a 2022 test year, which is the basis of the pending rate case, could possibly meet the statutory requirement that rates be just and reasonable as required by RSA 374 and RSA 378.

Therefore, the OCA urges the Commission to reject whatever procedural schedule the Department proposes on Monday and, instead, grant the Department’s pending motion for dismissal of the case outright. Such a result would place the onus for demonstrating the justness and reasonableness of any new rates, based on reliable books and records, where it squarely belongs – on the utility that claims a rate increase is necessary.

The applicable ordering clause of Order No. 27,000 directed the Department to submit a procedural schedule “with the concurrence of the Company and the other parties to this proceeding.” The Department has faithfully complied with this directive to seek concurrence. And, indeed, we do concur with the Department’s estimate of how long the next phase of the proceeding – the auditing process required by Order No. 27,000 – would take. What we cannot concur with is moving forward with a rate case that appears to have veered into an alternative reality plane that cannot be what the General Court had in mind when it established the regulatory paradigm enshrined in RSA 378.

Thank you for considering our views.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DKreis', written in a cursive style.

Donald M. Kreis
Consumer Advocate

Cc: Service List, via e-mail