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DEPARTMENT OF ENERGY
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February 29, 2024

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

Re: DE 23-081, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Request for Approval of Revenue Decoupling Adjustment for July 2022 through June 2023; Expedited Department of Energy Letter Requesting Clarification of Tariff Suspension Date and Requesting Further Suspension

Dear Chairman Goldner:

It recently came to the attention of the New Hampshire Department of Energy (“DOE” or “Department”) that the last procedural order in this matter that addressed the suspension period of the tariff in the above-captioned docket suspended the tariff until March 1, 2024. An April 1, 2024, suspension date was brought up and discussed in a hearing on February 1, 2024, in this matter¹, but the Department would like to confirm the official suspension of the tariff until that date. The Department therefore requests clarification of whether March 1, 2024, remains the official end of the suspension period of the tariff, or whether there has been an official extension to April 1, 2024. If there has not been an official extension to April 1, 2024, the Department requests that the suspension be officially extended until that date.

On September 1, 2023, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (“Liberty” or “Company”) filed a request for Commission approval of a change in distribution rates effective November 1, 2023, to reconcile the second year of the Company’s revenue decoupling adjustment mechanism (“RDAF”). The Commission opened the above-captioned docket and issued a Commencement of Adjudicative Proceeding and Notice of Prehearing Conference and Hearing Order on September 25, 2023, which suspended Liberty’s proposed revised revenue decoupling tariff until December 1, 2023, pending further order of the Commission, and scheduled a one-day hearing for November 8, 2023. The Department filed an assented-to proposed procedural schedule on behalf of the parties to this docket on October 11, 2023, which the Commission approved on October 12, 2023. The parties to this docket are Liberty, the DOE, and the Office of the Consumer Advocate (“OCA”) (hereinafter referred to as “the Parties”).

¹ DE 23-081 Docket Tab 37, Transcript of Hearing Held 2/1/24 at pp. 202-205.

Due to delayed and incomplete data responses from the Company, the Department filed a request that the Commission postpone the hearing scheduled for November 8, 2023, and reschedule the hearing once complete responses were received. The Commission issued an order on November 6, 2023, postponing the November 8 hearing and requesting that the parties file a revised proposed procedural schedule on or before November 22, 2023. The parties filed an assented-to revised proposed procedural schedule on November 21, 2023. The Commission approved the parties' revised schedule on November 22, 2023; scheduled a one-day hearing for February 1, 2024; and further suspended the proposed tariff until March 1, 2024, in order to accommodate the new hearing date.

A hearing was held on February 1, 2024. At the end of the hearing, the Commission scheduled a further hearing in this matter for March 27, 2024, noting a planned tariff implementation date of April 1, 2024. However, the fact that the tariff was currently suspended until March 1, 2024, was not addressed. The DOE did not realize at the hearing that the last procedural order addressing the tariff suspension period had a tariff effective date of March 1, 2024. Shortly before submitting this letter, in reviewing the above-captioned docket, the DOE came to that realization. The DOE is not aware of another order that extended the tariff suspension date beyond March 1, 2024.

Although it appears clear that the Commission's intent as indicated at the February 1, 2024, hearing was for the tariff implementation date to be April 1, 2024, and the parties indicated agreement with the proposed timeline, the Commission did not directly state that it was extending the current suspension date from March 1, 2024, to April 1, 2024.² Further, in the Commission's November 22, 2023, order extending the suspension date until March 1, 2024, the Commission cited RSA 378:6, I(b), which grants the Commission discretion to extend the time of suspension for five months beyond the initial three month period of investigation. The Commission noted that by extending the suspension period until March 1, 2024, it was extending the suspension period of the proposed tariff for a total of four months after the November 1, 2023, proposed effective date.³ RSA 378:6, I(b) appears to allow for suspension up to eight months after the Commission's initial order suspending the proposed tariff – the three initial months plus up to five months of extension. Therefore, it appears that the Commission has authority to suspend the tariff in this case until May 25, 2024, which would be eight months following the date of the Commission's September 25, 2024, order suspending the effective date of Liberty's proposed rate schedule. The Commission also noted in the February 1, 2024, hearing, that if the Commission was unable to issue an order by April 1, 2024, it would have to extend the deadline by another month.⁴

The Department therefore requests clarification on whether the March 1, 2024, suspension date is still in effect, or whether the Commission has officially extended the suspension to April 1, 2024. If the Commission has not officially extended the suspension

² Id.

³ DE 23-081, Docket Tab 23, Procedural Order Re: Proposed Amended Procedural Schedule and Further Suspending Tariff

⁴ DE 23-081, Docket Tab 37, Transcript of Hearing Held 2/1/24 at 205.

to April 1, 2024, the Department requests that the Commission do so, in order to accommodate the March 27, 2024, hearing and allow parties an opportunity to complete the record in this docket and receive a final order from the Commission before the Company's requested RDAF rate change goes into effect.

Consistent with the Commission's current practices, this letter is being filed only in electronic form.

Sincerely,

/s/ Alexandra K. Ladwig

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