

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DE 24-xxx

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

Petition to Amend Tariff

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (“Liberty” or the “Company”), through counsel, respectfully petitions the New Hampshire Public Utilities Commission (“Commission”) pursuant to Puc 1605 to amend its tariff to provide for the recovery of incremental costs incurred to alter Company facilities at the request or direction of a municipality when the requested alteration is more expensive than the solution that the Company would have chosen in the normal course of business.

In support of this petition, Liberty states as follows:

Background

1. In Order No. 26,494 (July 1, 2021), the Commission approved a step increase that included costs Liberty incurred to relocate from overhead to underground certain distribution facilities on Main Street in Salem. Liberty requested recovery of approximately \$1.5 million for that project, which was approximately \$300,000 higher than the costs Liberty would have incurred had the relocated facilities remained overhead.
2. At hearing, the Commission questioned why all Liberty customers should bear the costs for Salem’s insistence that Liberty relocate the facilities underground when an available overhead option was available:

[Commissioner Bailey:] But the Town asked you to replace the poles and wires. And if you had replaced the poles and wires, that would have been one thing. But you spent additional money to bury at the Town’s request. So why shouldn’t the Town be responsible for that additional cost?

Transcript of August 10, 2021, hearing in Docket No. DE 19-064, at 130-131.

3. The answer to the Commissioner's questions was that the Company's tariff did not authorize charging municipalities for such costs. Transcript at 132. The electric lines in question were within the Town's right of way pursuant to a license granted by the Town. *See generally* RSA 231:161 *et seq.* And the Town has certain statutory rights to compel the Company remove the facilities altogether. RSA 231:177.¹ Relying on that authority, the Town insisted that Liberty relocate the Main Street facilities underground. *See* Transcript at 132-134.
4. The Commission approved recovery of the incremental costs, but made clear that the Company should propose tariff amendments to address this situation in the future:

Further, concerning the issue of relocation of poles and wires from overhead to underground at a customer's request, as happened in Salem, we require that the Company propose to modify its tariff, as soon as practical, so that ... all customers who request relocation of existing overhead facilities be required to pay the excess cost, if the customer requests those facilities to be placed underground.

Order No. 26,494 at 7.

5. Note that the Commission's use of "customer" in the paragraph quoted above is not accurate. The Company has existing tariff language that requires a "customer" to pay the excess costs of relocating facilities. See Tariff at Original Page 16, at Section 27, "Relocation of Company-Owned Equipment", which is the section that immediately precedes the new tariff language that is proposed here and thus appears in Attachment A.

¹ RSA 231:177 states: "Removal of Wires and Poles by the State or Town After Notice. – Poles used by telephone, telegraph or other public utilities including railroads and street railways may be removed after 10 days' notice in writing of the intention to remove the same has been given by the commissioner of transportation or the highway agent of any city or town."

6. The situation addressed in this petition arises when a municipality is acting as the owner of the public rights of way, not as a customer, and thus the entity authorized to grant licenses for utilities to locate facilities within those rights of way and authorized to require utilities to remove facilities from their rights of way.
7. Liberty proposed tariff changes to address this issue in the pending rate case, Docket No. DE 23-039. *See* Proposed Tariff No. 23 at Original Page 70 (“Extension of Underground Facilities”).

Salem’s New Project

8. In light of the delays in that docket, the Commission will not approve the proposed language to be in effect for the 2024 construction season and Salem has again insisted that the Company relocate to underground additional facilities to accommodate the widening of Main Street that could otherwise remain overhead. Indeed, the Town Engineer formally rejected the license that Liberty needed to relocate overhead facilities to another overhead location to accommodate the Town’s street-widening project. And by letter dated September 26, 2023, counsel for town conveyed the Salem Town Council’s denial of Liberty’s appeal of the Town Engineer’s refusal to grant the license for the less expensive overhead option.
9. Construction of this underground solution in Salem may begin as early as September 2024. The cost to relocate the overhead facilities underground will be substantially more than the costs Liberty would incur to move the existing lines in question further from the street.
10. Liberty thus files this petition to have the tariff language reviewed in advance of Liberty incurring incremental costs to again place lines underground and clarify who should bear the incremental costs.

11. Of course, if approved, the proposed tariff language will apply to all such projects that arise in Liberty's service areas.

Proposed Tariff Language

12. The proposed tariff language applies the rationale of its existing line extension provisions. That is, the Company is responsible for a certain level of costs to connect a new customer and, if the actual costs exceed those predetermined costs, the customer is responsible for those excess costs. *See generally*, Tariff Original Page 76, Schedule of Fees.
13. For municipality-driven projects, as opposed to customer-driven projects, the proposed language provides that the Company is responsible for the costs of the most economical means of complying with the municipality's request and that the municipality is responsible for any excess costs.
14. Using the Town of Salem's request as an example, the proposed language would maintain Liberty's responsibility for the cost of the least cost option to move the lines, and Salem will be responsible for the extra costs to move the lines underground.

Legal Standards

15. Puc 1605, titled "Service or Tariff Change Other Than Full Rate Case," dictates the process for requesting tariff changes that do not result "in a significant change to the return on the cost of the property of the utility used and useful in the provision of services." Puc 1605.01(b). The Puc 1605 procedures are appropriate here because the tariff changes proposed in this petition will not cause a "significant change" to the Company's return.
16. Puc 1605.02(a) lists the requirements for this filing. The Company must provide a "cover letter summarizing the proposed tariff change," "annotated and clean tariff pages showing

the proposed changes as required pursuant to Puc 1604,” and “supportive narrative, testimony or technical statement.”

17. This petition satisfies the requirement that the Company provide a summary of the proposed tariff changes. Attachment A contains the clean and annotated tariff pages showing the proposed changes. Attachment B is the Technical Statement of Tyler Culbertson, which provide details of the proposed tariff language and how the Company will implement the new language, if approved.
18. No hearing is required because the proposed tariff changes do not change rates that the Company charges. Therefore, the Company respectfully asks that the Commission approve the proposed tariff language by order or by operation of law. *See* Puc 1603.07(a)(1).²

² Puc 1603.07 Proposed Tariff, When Effective.

(a) Proposed tariff changes, filed and published in accordance with RSA 378 and Puc 1600, shall become effective, unless suspended as provided in (c) below, as follows:

- (1) After 30 days' notice to the commission and the providing of such notice to the public as directed by the commission; or
- (2) Upon issuance of an order of the commission.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Approve the proposed tariff language in Attachment A; and
- B. Grant such other relief as is just and reasonable and consistent with the public interest.

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

By its Attorney,



Date: April 22, 2024

By: _____

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Certificate of Service

I hereby certify that on April 22, 2024, a copy of this Petition has been electronically forwarded to the Department of Energy and the Office of the Consumer Advocate.



Michael J. Sheehan