

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 23-067

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

Request for Change in Distribution Rates

**Order Granting Motion for Rehearing by the
New Hampshire Department of Energy**

ORDER NO. 26,923

December 29, 2023

This order approves a motion for rehearing of the Commission's Order No. 26,899 relating to Liberty's temporary rates, and schedules a hearing for January 8, 2024 regarding the issues presented.

I. BACKGROUND

On November 30, 2023, the New Hampshire Department of Energy (DOE) filed a Motion for Rehearing of Order No. 26,899 (Motion), which had been issued by the Commission in this proceeding on October 31, 2023. This Order fixed, determined, and prescribed temporary rates for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty or the Company), to be effective November 1, 2023, as part of its general distribution rate case. On December 1, 2023, the Office of the Consumer Advocate (OCA) filed a letter stating that it concurred with the DOE's Motion, and recommended Commission approval of the relief sought by the DOE through the Motion. On December 7, 2023, Liberty filed its objection to the Motion. The DOE's Motion raised objections to the Commission's provision of recoupment for the Company's temporary rates as of October 1, 2023 (totaling approximately \$500,000), under the provisions of Order No. 26,899, and the Company, in its objection, defended the Commission's approach.

The Motion and associated docket filings are posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-067.html>.

In its Motion, the DOE asserted that the Commission's issuance of Order No. 26,899 was procedurally infirm, as "...[t]he Parties did not have adequate notice as required by the Administrative Procedures Act (APA)¹ that the PUC would be addressing recoupment at the October 27, 2023 hearing and subsequent order..." Motion at 5-6. The DOE also claimed in its Motion that the Commission was precluded from making recoupment effective as of October 1, instead of November 1, 2023, under the terms of RSA 378:29 (which governs temporary rates) because temporary rates were not in effect as of October 1, 2023. Motion at 6-7. For its relief requested, the DOE asked that the Commission grant rehearing regarding the \$500,000 recoupment provision at issue, and to defer the Commission's final decision on recoupment to the permanent rate phase of this proceeding. Motion at 7.

The Company's objection requested that the Commission deny the DOE's Motion, affirm the Commission's authorization that Liberty was entitled to recover revenues for temporary rates as of October 1, 2023, as outlined by the terms of Order No. 26,899, and "[d]efer consideration of the recoupment amount until the time that final rates are set..." Liberty Objection at 1-2.

II. COMMISSION ANALYSIS

Pursuant to RSA 541:3, the Commission may grant rehearing or reconsideration when a party states good reason for such relief. Good reason may be shown by identifying new evidence that could not have been presented in the underlying proceeding, *O'Loughlin v. N.H. Personnel Comm'n*, 117 N.H. 999, 1004 (1977), or by identifying specific matters that were "overlooked or mistakenly

¹ RSA 541-A:31, III(c) and (d).

conceived” by the Commission, *Dumais v. State*, 118 N.H. 309, 311 (1978). A successful motion for rehearing does not merely reassert prior arguments and request a different outcome. *Abenaki Water Company, Inc.*, Order No. 26,312 at 8-9 (November 27, 2019).

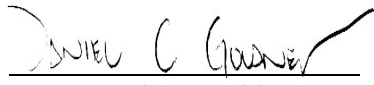
In this instance, the Commission believes that a hearing is warranted to further develop the record and hear from the parties with respect the issues raised in the DOE Motion and the Company’s objection. We are not fully convinced that the DOE’s arguments in favor of the Commission’s revision of its ruling on temporary rates *nunc pro tunc*, due to alleged procedural infirmity or violation of RSA 378:29’s terms, are supportable on their face. However, we do recognize that larger issues surrounding the Company’s rate proceeding are potentially in play, in light of recent developments involving the Company’s electric utility affiliate’s distribution rate case, considered by the Commission in Docket No. DE 23-039. In that case, the DOE has made allegations, as part of an outstanding Motion to Dismiss, that Liberty’s electric affiliate company has severe enterprise-wide accounting issues, calling into question their revenue requirement calculations, among other rate-case elements. This has led to concerns by the Commission that there are similar potential issues relating to this proceeding that could come to the fore in the near future, thus prompting a revisit of the Company’s temporary rate calculations.

To this end, we hereby order rehearing of this matter at the Commission on January 8, 2024, at 9:00 a.m. Furthermore, we inform all interested parties that after this hearing, at a date that is practicable for all parties, leave for the filing of legal briefs regarding the issues presented will be afforded.

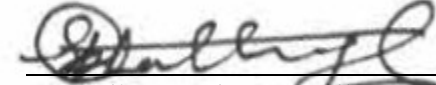
Based upon the foregoing, it is hereby

ORDERED, that the DOE's Motion for Rehearing of Order No. 26,899 is GRANTED, with a hearing to be held at the Commission's offices located at 21 S. Fruit Street, Suite 10, Concord, New Hampshire on January 8, 2024, at 9:00 a.m. Three hours shall be allotted for this hearing, which is to be held in person pursuant to the Hearing Guidelines issued in this proceeding on August 25, 2023.

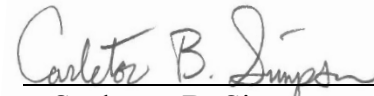
By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 2023.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 23-067

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