

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 23-076

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

Winter 2023-2024 and Summer 2024 Cost of Gas and LDAC Filing

Order Approving Lump Sum Credit to Customers

O R D E R N O. 27,072

November 14, 2024

In this order, the Commission approves a lump-sum refund of approximately \$5.7 million proposed by Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty), as requested in a petition before the Commission, with the support of the Office of the Consumer Advocate (OCA) and the New Hampshire Department of Energy (DOE), to its customers. This \$5.7 million represents a refund of a portion of an over-collection in Liberty's summer 2023 Cost of Gas (COG) rates of approximately \$6.3 million, resulting from an accounting error by Liberty.

I. BACKGROUND

On August 2, 2024, Liberty filed an "Assented-to Petition to Authorize Lump Sum Credit to Customers." Hearing Exhibit 23. This petition included the Technical Statement of Liberty personnel Alyssa E. Maston, and supporting accounting attachments. On August 6, 2024, the Commission issued a procedural order in this instant Docket No. DG 23-076, scheduling a hearing regarding Liberty's petition on September 26, 2024, "...to enable the Commission to explore the issues presented, including the accuracy of the resultant rates proposed by Liberty." The Commission also requested, in its August 6 procedural order, that the DOE review the Liberty petition and file a position statement by August 30, 2024.

On August 29, 2024, the DOE filed the Technical Statement of Ashraful Alam, a Utility Analyst in the DOE's Division of Regulatory Support, and supporting attachments. Hearing Exhibit 24, giving the DOE's technical perspective regarding the matters discussed.

Subsequently, on September 19, 2024, Liberty filed an updated version of the Maston Technical Statement, and supporting attachments; Hearing Exhibit 25, presenting updated projections of the Summer 2023 COG over-collection figures, among other elements.

The petition and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-076.html>

The hearing regarding the Liberty petition was held on September 26, 2024, at which representatives of Liberty, the DOE, and OCA appeared, and Ms. Maston gave additional oral testimony in support of the petition on behalf of Liberty, and Mr. Alam gave testimony on behalf of the DOE. *See* Transcript of September 26, 2024 Public Hearing (Tr.), *passim*. The general overview of the historical development of the error by Liberty in its COG accounting, and the requested course of corrective action proposed by Liberty in its petition, which was supported by the DOE and OCA, is as follows. *See* Hearing Exhibit 25, *passim*. In March 2023, Liberty incorrectly booked an adjustment of approximately \$6.1 million when allocating gas costs between the Summer and Winter COG deferral accounts; the \$6.1 million in costs were attributable to the Winter period (November-April), but were booked to the Summer period (May-October) deferral account. As a result, the Summer-period under-collection was over-stated by that amount. In October 2023, Liberty identified and

corrected the accounting error, which flipped the Summer deferral account balance from a large under-collection to a large over-collection, and in turn, drove down Summer 2024 COG rates, but did not account for the additional over-recovery stemming from the higher-than-necessary Summer 2023 COG rates. At the commencement of the Summer 2024 COG season (May 2024), the Liberty over-collection had grown to approximately \$10 million, and only approximately \$5 million would be refunded to customers by October 2024 at the approved COG rates.

Following consultation with the DOE and the OCA, Liberty determined that a direct, customer-specific bill credit to its COG customers, pursuant to a series of technical steps, Hearing Exhibit 25, Bates Pages 2-3, and outlined overall in Hearing Exhibit 25, Attachment A, Bates Pages 4-5, would be the most appropriate means of dealing with the remaining over-collection balance. With certain Summer 2023 Liberty customers having left (moved out of) the system since that time, the Liberty would keep any remaining un-refunded overcollection balance in the Summer COG deferral account, inclusive of carrying charges, until the Summer 2025 COG period, and would then apply this balance as an offset to Summer 2025 COG rates. Liberty further advised that "...while Updated Attachment A updates the projections originally presented on August 2, 2024, it remains the case that the final refunds will differ from the amounts shown in Updated Attachment A based on the actual Summer 2024 results. Liberty will update the credit calculation with the most accurate dollar amounts and customer counts for a final time just before issuing the credits." Hearing Exhibit 25 at Bates Page 3.

II. COMMISSION ANALYSIS

The Commission has broad statutory authority to set rates in addition to "powers inherent within its broad grant" of express authority. *See Appeal of Verizon*

New England, Inc., 153 N.H. 50, 64-66 (2005) (citations omitted). The Commission applies the “just and reasonable” ratemaking standard of RSA 374:2 and RSA 378:7 when setting COG rates. *See Northern Utilities, Inc.*, Order No. 25,891 (April 29, 2016). In circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8.

In past instances where errors in the COG accounting of utilities have been uncovered, the Commission has authorized refunds of over-collections by the utilities involved within the context of a settlement agreement. *See, e.g., Northern Utilities, Inc.*, Order No. 25,431 (October 29, 2012) (wherein gas utility was authorized to refund approximately \$4 million as a downward COG adjustment to customers, as part of the Commission’s approval of a settlement agreement in Docket No. DG 12-131). In this instance, Liberty has filed an assented-to petition to effectuate an approximately \$5 million lump-sum refund of an inadvertent overcollection, with the support of the DOE and the OCA.

In an abundance of caution, and in light of recent reversals, revisions, and overall confusion regarding accounting by Liberty within its most recent COG filings, or involving Liberty’s electric-utility affiliate’s accounting, the Commission has found it advisable to allow this matter to settle for a period. *See generally* Docket No. DE 22-035, Liberty May 29, 2024 Motion to Amend Order 26,836 (May 31, 2023), and subsequent filings; Order No. 27,069 (October 28, 2024) (provisionally approving this year’s COG rates for Liberty after a series of Liberty corrections and revisions to its COG proposal, with further proceedings to follow). In this time, no “revision” or “reversal” filings have been made by Liberty or any other parties in the context of this proposed refund. We would also expect that as the October 2024 COG rate-filing confusion has passed, Liberty’s COG personnel would be in a better position to

accurately, and capably, implement the customer-specific credits sought in its petition, especially with the finalization of the over-collection balance in Summer COG accounting as of October 31, 2024, as referred to in its petition.

In light of this, the Commission APPROVES the relief requested by Liberty, the DOE, and the OCA in this phase of the proceeding, and APPROVES the issuance of a lump-sum refund to Liberty's Summer 2023 customers, with customer-specific credits based upon their usage during that period, pursuant to the over-all schedule presented to the Commission in Hearing Exhibit 25, Attachment A; and the Commission APPROVES the Liberty proposal, as assented-to by the DOE and OCA, to keep the remainder of the over-collection amount (move-out allocation balance) in the Summer COG deferral account, inclusive of carrying charges, and to be rolled forward to the Summer 2025 COG rate period, and factored into Liberty's Summer 2025 COG rate calculation. Furthermore, Liberty shall FILE a report with the Commission in this instant Docket No. DG 23-076, no later than December 31, 2024, regarding the results of its refund-credit efforts over the following one and one-half months.


Based upon the foregoing, it is hereby

ORDERED, that Liberty shall make the customer-specific credit refunds to its customers sought in the assented-to petition considered in this phase of this instant proceeding, as outlined in Hearing Exhibit 25, Attachment A, and as applying the latest COG accounting figures regarding the over-collection in question, and all other relevant elements; and it is


FURTHER ORDERED, that the remainder of the over-collection amount (move-out allocation balance) is to be kept in the Liberty Summer COG deferral account, inclusive of carrying charges, and is to be rolled forward to the Summer 2025 COG rate period, and factored into Liberty's Summer 2025 COG rate calculation; and it is

FURTHER ORDERED, that Liberty shall file a report with the Commission in this instant Docket No. DG 23-076, no later than December 31, 2024, regarding the results of Liberty's refund-credit efforts in this matter.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of November, 2024.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner

Service List - Docket Related

Docket#: 23-076

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