

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 15-104

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

2015 Cast Iron/Bare Steel Replacement Program

Order Approving Revised Delivery Rate

ORDER NO. 25,798

June 26, 2015

APPEARANCES: R.J. Ritchey, Esq., for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities; Wayne R. Jortner, Esq., of the Office of Consumer Advocate for residential ratepayers; and Michael J. Sheehan, Esq., for the Staff of the Public Utilities Commission.

In this order, we approve an increase in Liberty's base delivery rates to collect \$253,694 annually, which will allow Liberty to recover approximately \$3.1 million that the company invested in the Cast Iron/Bare Steel Replacement Program during fiscal year 2015. This rate change will cause a \$1.22 yearly increase for the typical residential heating customer.

I. PROCEDURAL HISTORY

On April 15, 2015, Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty Utilities (Liberty), filed its Fiscal Year 2015 Cast Iron/Bare Steel Replacement Program Results Filing (Report). Exhibit 1 at 21. The Cast Iron/Bare Steel (CIBS) program was established in the settlement agreement approved by the Commission as part of the merger of National Grid and EnergyNorth. *National Grid*, Order No. 24,777 at 27 (July 12, 2007). Liberty became subject to the settlement agreement upon Liberty's acquisition of the EnergyNorth system. *National Grid USA*, Order No. 25,370 at 25 (May 30, 2012). Liberty filed supporting testimony of Gwyn M. Cassetty, Ian T. Crabtree, and David B. Simek. Exhibit 1 at 1, 47. Liberty

subsequently filed a revised Report and Mr. Simek filed revised testimony to update and correct some figures in the original filing. Exhibits 2 and 3. As explained in the revised filings, Liberty is seeking a \$253,694 increase in its base delivery rates to recover \$3,115,314 in qualifying capital costs spent in fiscal year 2015 to remove cast iron and bare steel pipes. Exhibit 3 at 5. Liberty requested authority to implement the rate increase as of July 1, 2015. *Id.* at 3-4.

The Commission issued an order of notice scheduling a hearing for June 4, 2015. The Office of Consumer Advocate (OCA) notified the Commission of its participation on behalf of residential ratepayers pursuant to RSA 363:28. No parties intervened. The hearing was held as scheduled. Ms. Cassetty, Mr. Crabtree, and Mr. Simek testified in support of Liberty's request. Transcript of June 4, 2015, hearing (Tr.) at 9. Staff offered the prefiled and live testimony of Randall S. Knepper, Director of the Commission's Safety Division. Exhibit 4; Tr. at 55.

II. POSITIONS OF THE PARTIES AND STAFF

A. Liberty

Liberty testified that it eliminated 5.0 miles of cast iron and bare steel pipe during the fiscal year (FY) 2015 CIBS program, at a total cost of \$4.9 million. Exhibit 2 at 6. Liberty replaced 4.73 miles of pipe, abandoned 0.27 miles, and replaced 159 bare steel services. Exhibit 1 at 7, 10; Exhibit 2 at 6, 23 (line 32). Liberty seeks to add \$3,115,314 of the \$4.9 million total cost to its rate base. Liberty excluded: (1) \$912,607 in estimated paving costs that will be carried over into next year's FY 2016 CIBS proceeding, discussed below; (2) the \$506,240 base amount that Liberty cannot recover under the terms of the settlement agreement that created the CIBS program, Order No. 24,777 at 29; and (3) other costs not recoverable through the CIBS program. Exhibit 1 at 7, 10; Exhibit 2 at 5; Exhibit 3 at 5. Liberty calculated that an increase of \$253,694 in its annual revenue requirement is necessary to recover those

costs. Exhibit 2 at 6; Exhibit 3 at 5. Liberty requested authority to implement that increase as of July 1, 2015, on a pro rata basis among all customer classes. Exhibit 2 at 6; Exhibit 3 at 7. The impact on a typical residential heating customer would be a \$1.22 yearly increase. Exhibit 3 at 10.

Liberty testified that the overall variance between its estimates and the actual costs for the FY 2015 projects was “insignificant,” even though variances on some projects were substantial. Exhibit 1 at 12. Liberty described several changes it has made to further refine its estimates. Liberty has increased its communication with the three municipalities where most of its CIBS work is located to include face-to-face meetings, which has improved coordination with municipal projects. *Id.* at 8-9; Tr. at 41-43. Liberty has also changed how it allocates the costs to oversee and supervise the jobs, and Liberty has revised its bid structure. *Id.* at 12-13.

Liberty testified that it continues to work toward its goal of eliminating the rest of its 110 miles of cast iron and bare steel pipes by 2024. Exhibit 1 at 17, 19; Tr. at 37. Liberty plans to eliminate approximately 8 miles in FY 2016 and 12 miles each year thereafter through the CIBS program, plus about 2 miles each year through its municipal work. Exhibit 1 at 17-18. To help accomplish this increased level of replacement, Liberty reported that it reached five-year agreements with three contractors who can provide up to 25 crews, compared to the 15 crews available before. Exhibit 1 at 12, 14; Tr. at 37-38. Liberty testified that it improved its communication with the major cities involved with the CIBS program, as mentioned above; that it had a successful pilot project in Nashua to cut trenches only one foot wide rather than the customary three feet (a practice it hopes to expand); and that it adopted a “geographic zone approach” for selecting and replacing all the leak-prone pipe in an area, rather than isolated pipes. Exhibit 1 at 8-9, 11-12.

Liberty updated the status of its pending litigation against the cities of Manchester and Concord regarding road degradation fees and how Liberty accounted for those fees in this filing. The superior court trial in the consolidated cases occurred over several days concluding in late May 2015. The parties now await a decision. Liberty noted an appeal was possible. Tr. at 53. Liberty has been paying Concord its degradation fees under protest. Manchester agreed to allow Liberty not to pay the fees in lieu of a bond, although Liberty records the Manchester fees on its books. Exhibit 2 at 7-9; Exhibit 3 at 10-13; Tr. at 28-29.

Liberty described a favorable tax deduction that reduced the requested revenue increase. As in prior years, Liberty took an immediate income tax deduction for all CIBS work as “repairs” while it booked the costs as capital expenses to be depreciated over a number of years. Exhibit 3 at 8-9; Tr. at 26-28. “This tax deductibility results in a greater deferred tax reserve which reduces the rate base and resulting revenue requirement charged to customers.” Exhibit 3 at 9.

Liberty provided photographs and descriptions of the pipes actually removed from the ground. Exhibit 2 at 11-21. Liberty also described the results of chemical tests on soil samples removed from near the removed pipes. *Id.* Liberty previously used soil test results to help select pipes to be replaced in future years. Exhibit 2 at 19-20. Liberty testified at the hearing, however, that it no longer uses soil tests for that purpose and noted that the \$4,000 cost per sample was substantial. Tr. at 16-18. For these reasons, Liberty stated that it “should no longer incur costs under the CIBS Program that are related to soil analysis,” and suggested this was an appropriate topic for “further discussion with Staff as we look to the future of the program.” Tr. at 18, 24, and 30-34. The soil tests are required in the settlement agreement approved in Order No. 25,370. Tr. at 30.

Finally, in the order approving last year's CIBS rate we asked Liberty to "document[] the results of its market research conducted during this construction season and its plans for marketing to new customers going forward," Order No. 25,684 at 4-5 (June 27, 2014), which Liberty filed in December, Exhibit 1 at 43-45. In that filing, Liberty reported that in FY 2015 it acquired 15 new customers (and 17 new services) from a pool of 47 potential customers along the CIBS route. Exhibit 1 at 15; Tr. at 39-40; *see* Tr. at 47-49 (Liberty's description of its marketing efforts). Despite this success,¹ Liberty suggested that it should reduce its marketing efforts going forward because they did not pass the cost-benefit test. "The return on investment is low with respect to marketing to non-customers along CIBS routes because the saturation rate is so high." Exhibit 1 at 16; Tr. at 39; *see* Exhibit 1 at 17 ("we do not plan to go door-to-door in 2015 due to lack of return on time invested").

B. Staff

Staff filed the testimony of Randall S. Knepper, Director of the Safety Division. Exhibit 4; Tr. at 55. Mr. Knepper provided a history of the seven-year-old CIBS program, a description of the program, and basic facts concerning cast iron and bare steel pipes still in Liberty's service territory. Exhibit 4 at 5-8. Mr. Knepper noted that there are approximately 115 miles of cast iron and bare steel pipe to be replaced in Nashua (35.6 miles), Manchester (57.3 miles), and Concord (22.3 miles). *Id.* at 7. Mr. Knepper expressed his "concern ... that we are not gaining sufficient ground" on a major objective of the CIBS program, to "accelerate the timeframe for replacing these problematic pipelines." *Id.* at 10. This concern arises from the fact that although the mileage replaced through Liberty's CIBS program increased, replacement through other avenues decreased, resulting in Liberty replacing the precise average mileage of

¹ Liberty acquired two new customers along CIBS routes in FY 2014 (out of 64 non-gas customers), and one new customer in FY 2013 (out of 46 non-gas customers). Testimony of Stephen P. Frink, Exhibit 3 in Docket No. DG 14-041, at 3; Tr. at 40.

the past seven years. *Id.* at 10-11; Tr. at 69. Mr. Knepper thus “welcome[d]” Liberty’s intent to increase its projected mileage for FY 2016 to achieve the Staff-initiated goal of replacing all leak-prone pipes within ten years. Exhibit 4 at 15 -16; Tr. at 78-79; *see* Order 25,694 at 3 (“Mr. Knepper believes Liberty should accelerate the program to have all cast iron and bare steel replaced within the next 10 years”). Mr. Knepper noted that the 5.0 miles of eliminated pipe and 159 replaced bare steel services are both the highest removed through the CIBS program. Exhibit 4 at 9. Mr. Knepper testified that the cost of the accelerated program, on a per therm basis, should remain reasonable: “In the long run, I would expect that rate payers would realize savings in costs related to this accelerated program [in addition to] the improved safety and reliability from replacing these problem mains over the course of the next ten years as opposed to the next twenty years.” *Id.* at 16.

Mr. Knepper asked the commission to continue with the requirement that Liberty perform bacteria testing of soil samples taken from sites where bare steel pipe has been removed. Exhibit 4 at 6. Soil testing is required under the settlement agreement approved in Order No. 25,694, Mr. Knepper testified that the distribution integrity management plan also requires soil testing, that test results from near one corroded pipe will help identify similar areas where corrosion may also exist, and that the results can inform the monitoring decisions of coated steel pipes that are located where bare steel pipes were in poor condition. Tr. at 64-65. Digging the hole required for the soil testing, which is the bulk of the \$4,000 cost, also allows the company to remove a section of the replaced pipe. Mr. Knepper testified that examining this pipe allows Liberty and Staff to learn how badly the pipes were corroded, the “penetration wall loss,” and provides feedback on whether Liberty is selecting the most corroded pipes for earliest removal. Tr. at 81-82.

Mr. Knepper also asked the commission to encourage Liberty to continue with its existing marketing efforts, at a minimum. Tr. at 63. Liberty was successful in FY 2015, acquiring 15 new customers, and should continue aggressively marketing to non-gas users along CIBS routes. Exhibit 4 at 13; *see* Tr. at 60 (“In my mind, getting ... roughly one-third out of 47 customers is a success”).

The primary concern Mr. Knepper raised is related to “carryover costs.” Carryover costs are the costs for paving that was not completed in the same construction season as the main replacement work due to the arrival of winter. The carryover costs are “always related to paving.” Tr. at 35. The carryover costs in this filing are \$912,607, almost 20% of the \$4.9 million in total CIBS costs. Exhibit 1 at 7, 10. Mr. Knepper testified that carryover costs make it difficult to determine and allocate the true cost of each year’s projects and to investigate why particular projects were above or below their estimates. Exhibit 4 at 17. The settlement agreement that gave rise to the CIBS program encouraged Liberty to complete all the paving work in the same season by excluding from recovery under the CIBS program those carryover costs that exceed 5% of the estimated total CIBS costs for that year. *Id.* at 17; Tr. at 74-75. Mr. Knepper testified that Liberty should make every effort to begin CIBS work earlier in the year so that the projects can be finished before winter, thus eliminating carryover costs. If Liberty is unable to reduce carryover costs, Mr. Knepper suggested that the Commission revisit this provision of the settlement agreement approved in Order No. 25,370. Exhibit 4 at 18-19.²

Finally, Mr. Knepper made several procedural recommendations. Mr. Knepper recommended changes in the documents and forms Liberty uses to collect and report CIBS data to Staff, and he recommended that the Commission’s Audit Staff audit the CIBS costs beginning

² According to the settlement agreement, \$365,108 of the \$912,607 carryover from FY 2015 should be included in the FY 2016 CIBS recovery, and the remaining \$547,499 should be deferred until a future rate case. Exhibit 4 at 18.

with the FY 2016 program. Exhibit 4 at 19-20; Tr. at 62. Staff also asked the Commission to continue with the April 15 filing date for the CIBS docket. Tr. at 88. Liberty agreed with these recommendations. Tr. at 22-23, and 90.

C. OCA

The OCA did not object to Liberty's requested rate increase. Tr. at 88.

III. COMMISSION ANALYSIS

Based on our review of the record in this docket, we find that Liberty's proposed adjustments will result in rates that are just and reasonable as required by RSA 378:7. Specifically, we approve the addition of \$3,115,314 to Liberty's rate base and the related increase in its revenue requirement of \$253,694.

We do not believe Liberty should abandon soil testing at this time. We understand Liberty's argument that the test results are playing a lesser role in prioritizing pipes for replacement, but the testing is required by commission order and the information remains useful. Liberty should continue its marketing efforts for new customers along CIBS routes. The number of customers acquired in FY 2015 was not insubstantial. We thus continue our requirement from last year that Liberty provide Staff with a report by the end of 2015 documenting the results of its market research conducted during this construction season and its plans for marketing to new customers going forward. Finally, we urge Liberty to continue its efforts to complete the CIBS projects in a single construction season to reduce carryover costs. We commend Liberty's improved communication with its three largest municipalities, retention of three contractors, and we understand that Liberty is mindful of the issue of carryover costs. We will continue to monitor these issues in future CIBS filings.


Based upon the foregoing, it is hereby


ORDERED, that Liberty be permitted to increase its base delivery rates to increase annual revenues by \$253,694, effective July 1, 2015, on a service rendered basis; and it is

FURTHER ORDERED, that Liberty provide Staff with a report by the end of 2015 documenting the results of its market research conducted during this construction season and its plans for marketing to new customers going forward; and it is

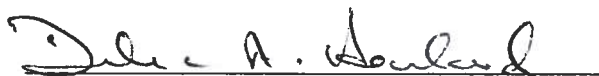
FURTHER ORDERED, that Liberty file properly annotated tariff pages filed with the Commission by July 13, 2015, as required by N.H. Code Admin. Rules Puc 1603, and consistent with this Order.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day
June, 2015.


Martin P. Honigberg
Chairman


Robert R. Scott
Commissioner

Attested by:


Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.