

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 13-196

GRANITE STATE ELECTRIC COMPANY D/B/A LIBERTY UTILITIES

Request for Adjustment to the Storm Recovery Adjustment Factor

Order Approving Settlement Agreement

O R D E R N O. 25,585

October 21, 2013

APPEARANCES: Devine, Millimet & Branch P.A. by Harry N. Malone, Esq. on behalf of Granite State Electric Company d/b/a Liberty Utilities; the Office of Consumer Advocate by Susan W. Chamberlin, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

I. PROCEDURAL HISTORY

On July 17, 2013, Granite State Electric Company d/b/a Liberty Utilities (Liberty or Company) filed testimony with related schedules and exhibits and a proposed tariff page in support of a request to increase Liberty's storm recovery adjustment factor (SRAF). The filing was made pursuant to the terms of a settlement agreement on temporary rates approved by the Commission in Order No. 25,521 (June 27, 2013) in Docket DE 13-063, Liberty's 2013 distribution rate case. In its petition for a distribution rate increase, Liberty requested a number of changes to the storm fund, including a request to increase the SRAF. In the settlement agreement, the settling parties acknowledged that Liberty had the right to seek an increase to the SRAF outside of the distribution rate case in a separate proceeding. The settling parties also agreed that any SRAF approved by the Commission as a result of that proceeding would be effective November 1, 2013. In its filing, Liberty requested that the increase in the SRAF be approved for effect with services rendered on or after November 1, 2013.

The Commission issued Order No. 25,553 on July 25, 2013 suspending the tariff and scheduling a hearing for September 25, 2013. On July 28, 2013, the Office of Consumer Advocate (OCA) filed a letter of participation in the docket pursuant to RSA 363:28.

Staff filed a Stipulation and Settlement Agreement on behalf of itself and Liberty on September 23, 2013. The merits hearing was held as scheduled on September 25, 2013. On that same date and subsequent to the hearing, Staff filed a letter correcting the hearing record.

II. INITIAL FILING OF LIBERTY

In prefilled testimony, the Company explained that the SRAF is a per kilowatt-hour (kWh) charge that the Commission approved to allow Liberty to recover the costs of restoring power and repairing damage to its electrical system caused by major storms. For purposes of the storm fund, a major storm is defined as a severe weather event or events causing 30 concurrent troubles and 15% of customers interrupted, or 45 concurrent troubles. Troubles are defined as interruption events occurring on either primary or secondary lines.

The filing indicated that as of the end of April 2013, the deficit in the storm fund was \$6.1 million. Liberty stated that the deficit resulted from the Company's costs to restore power and repair damage to its electrical system related to three major storms, namely Hurricane Irene (August 2011), the October 2011 Snowstorm, and Hurricane Sandy (October 2012). Liberty attested that all three storms qualified as major storms based on the number of troubles and customer interruptions and therefore the costs associated with these storms qualify for reimbursement from the storm fund. Liberty estimated that the costs incurred in connection with the three storms was approximately \$4.0 million.

Liberty testified that it currently recovers \$120,000 annually from base distribution rates in addition to the currently effective SRAF of 0.223 cents per kWh approved by the Commission

in Order No.25,310 (December 29, 2011). Liberty requested authority to recover an additional \$2.2 million through the SRAF over a 17-month period beginning November 1, 2013 to eliminate the storm fund deficit. If its request were granted, Liberty calculated that the SRAF would increase from 0.223 cents per kWh to 0.388 cents per kWh. For residential customers using 676 kWh per month, the average use by residential customers taking default service from Liberty for the 12-month period ending April 2013, the total bill impact would be an increase of 1.1% from \$97.21 to \$98.32. Other customers would experience increases ranging from 1.1% to 1.6%.

III. STIPULATION AND SETTLEMENT AGREEMENT

In the Stipulation and Settlement Agreement (Settlement Agreement), Staff and Liberty (Settling Parties) agreed that Liberty should be authorized to increase the SRAF from 0.223 cents per kWh to 0.329 cents per kWh effective November 1, 2013 through October 31, 2014. Pursuant to the Settlement Agreement, effective November 1, 2014, the SRAF would be reduced to 0.221 cents per kWh and remain at that level until October 31, 2015.

Staff and Liberty agreed that the stipulated SRAF rates are expected to recover approximately \$5.07 million, the amount of storm fund deficit expected to be outstanding as of November 1, 2013. The Settling Parties further agreed that the SRAF rates established in the Settlement Agreement are not intended to recover costs associated with any major storms that may occur between November 1, 2013 and October 31, 2015. According to settlement terms, the Settling Parties will meet prior to October 31, 2015 to determine the disposition of any remaining balance in the storm fund account, positive or negative, that exists as of October 31, 2015.

The Settling Parties further acknowledged that the Settlement Agreement does not represent an agreement on the prudence of costs incurred by Liberty associated with Hurricane

Irene, the October 2011 Snowstorm and Hurricane Sandy, nor any potential adjustments to the recovery of those costs resulting from the Staff audits. The Settlement Agreement also stated that while Commission Staff had completed its audit of the costs expended by the Company to restore power and repair damage after Hurricane Sandy, the costs associated with Hurricane Irene and the October 2011 Snowstorm had not been audited as of the signing of the Settlement Agreement.

IV. POSITIONS OF THE PARTIES ON SETTLEMENT AGREEMENT

A. Liberty

Liberty stated that it supported the Settlement Agreement. Liberty said that the Settlement Agreement balances two objectives—relatively prompt recovery by the Company of costs it already incurred, and minimizing the impacts on customers' bill amounts. According to Liberty, if the Settlement Agreement is approved, the monthly bill for an average residential customer would increase about 72.0 cents, from \$97.21 per month to \$97.93 per month, or an increase of 0.6%, effective November 1, 2013. On November 1, 2014, when the SRAF would decrease, an average residential customer would experience a monthly bill reduction of about 73.0 cents, a decrease of about 0.6% in total monthly bills. Liberty explained that by "average residential customer," it was referring to a customer using 676 kWh per month, the average use for residential customers over the 12-month period ending April 2013. Liberty also confirmed that the expected negative balance in the storm fund effective October 31, 2013 is approximately \$5.07 million.

Liberty concluded by requesting that the Commission approve the Settlement Agreement.

B. Office of Consumer Advocate

The OCA stated that it did not support the Settlement Agreement. According to the OCA, without an audit of costs incurred in connection with storm recovery, it is impossible to determine whether the Company's practices were effective or prudent at the time or whether they could be improved in the future. The OCA argued that if National Grid is not providing sufficient data to Liberty to allow the audits to commence for Tropical Storm Irene and the October Snowstorm, National Grid should have escrow money withheld.

The OCA stated that it was concerned about the lack of transparency with respect to the Settlement Agreement. The OCA further stated that it heard of the Staff audit results for Hurricane Sandy for the first time from testimony at hearing and that the OCA did not have access to the Staff audit results.

C. Staff

Staff addressed the OCA's concern about allowing the Company to begin recovery of storm-related costs prior to the completion of the Staff audit of those costs. Staff explained that the Commission allowed utilities to commence recovery of costs associated major storms before the completion of the Staff audit in other proceedings similar to the instant petition. According to Staff, such audits have resulted in very little disallowance of costs, and that any recovery of storm related costs are reconciled to reflect any diallowances resulting from those audits.

Staff stated that it participated in the development of the Settlement Agreement and opined that the Settlement Agreement appropriately balances the interests of the ratepayers, by affording them a less severe increase than proposed in the filing, with the interests of the Company in commencing recovery of the storm restoration costs incurred. Staff concluded by stating that the Settlement Agreement is in the public interest and recommended that the

Commission approve it. Staff further recommended that the order specifically state that any amounts to be recovered by the Company reflect the final audits by Staff and any adjustments resulting from such audits.

Following the hearing, Staff filed a letter to correct the record regarding the OCA's claim that it had not received the Staff audit report for Hurricane Sandy. In that letter, Staff provided a copy of an email that demonstrated that the Consumer Advocate received an electronic copy of the audit on September 6, 2013, in the same email that conveyed a copy of the report to Staff.

V. COMMISSION ANALYSIS

N.H. Code of Admin. Rules Puc 203.20(b) provides that the Commission shall approve the disposition of any contested case by settlement "if it determines that the result is just and reasonable and serves the public interest." *See also* RSA 541-A:31, V(a). Nonetheless, even where all parties in a proceeding enter into a settlement agreement, the Commission cannot approve it "without independently determining that the result comports with applicable standards." *Unitil Energy System, Inc.* Order No. 24,677, 91 NH PUC 416, 425-426 (2006) (citation omitted).

We have reviewed the Settlement Agreement and the testimony of Liberty and Staff. We find that the Settlement Agreement appropriately balances the interests of the Company in recovering costs incurred in connection with major storms while mitigating the rate impact on customers. Based on the foregoing, we find that the Settlement Agreement is in the public interest, and that the resulting rates are just and reasonable pursuant to RSA 378:5 and 378:7 and are generally consistent with the principles of restructuring pursuant to RSA 374-F. Therefore, we approve the Settlement Agreement and the adjustments to the SRAF contained therein. In so doing, we direct that recovery of the storm related costs for Hurricane Irene, the October 2011

Snowstorm, and Hurricane Sandy be reconciled to any adjustments arising from Staff's audit of those storms. In addition, we will require Liberty to continue to file annual reports on April 1 of each year regarding the status of its storm fund.

Based upon the foregoing, it is hereby

ORDERED, that the Stipulation and Settlement Agreement between Granite State Electric Company d/b/a Liberty Utilities and Commission Staff is hereby APPROVED; and it is

FURTHER ORDERED, that Granite State Electric Company d/b/a Liberty Utilities is authorized to increase the SRAF from 0.223 cents per kWh to 0.329 cents per kWh effective with service rendered on and after November 1, 2013, to be adjusted to 0.221 cents per kWh effective November 1, 2014 and consistent with the terms of the Settlement Agreement; and it is

FURTHER ORDERED, that all recovery of costs associated with Tropical Storm Irene, the October Snowstorm and Hurricane Sandy be reconciled to the final results of Staff's audits of those costs; and it is

FURTHER ORDERED, that Granite State Electric Company d/b/a Liberty Utilities shall continue to file an annual report on the status of the Storm Fund by April 1 of each year; and it is

FURTHER ORDERED, that Granite State Electric Company d/b/a Liberty Utilities shall file tariffs conforming with this Order within 15 days of the date of this order.

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By order of the Public Utilities Commission of New Hampshire this twenty-first day of

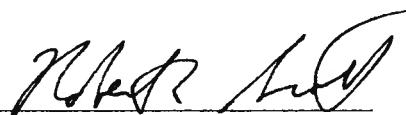
October, 2013.



Amy I. Ignatius
Chairman



Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director