

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 19-059**

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

**Solicitation of Energy Service**

**Order Approving Solicitation Process and Resulting Rates**

**ORDER NO. 26,264**

**June 24, 2019**

**APPEARANCES:** Michael J. Sheehan, Esq., on behalf of Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities; Office of the Consumer Advocate, by Brian Buckley, Esq., on behalf of residential ratepayers; and Suzanne G. Amidon, Esq., on behalf of Commission Staff.

This order approves Liberty's competitive solicitation of energy supply for its large and small customer groups and authorizes Liberty to recover the costs of that supply through rates effective with services rendered on and after August 1, 2019. As a result, residential rates for energy service will decrease from 8.299 cents per kilowatt-hour (kWh) to 7.710 cents per kWh.<sup>1</sup>

**I. PROCEDURAL HISTORY**

On March 26, 2019, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (Liberty or Company) filed a notice of its schedule for solicitation of energy supply for the six-month period of August 1, 2019, through January 31, 2020. On June 7, 2019, Liberty filed testimony and related exhibits supporting energy service reconciliation for the period August 1, 2018, to July 31, 2019. On June 17, Liberty filed the results of its solicitation along with supporting testimony, related exhibits, and proposed rates to recover the costs of power supply.

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<sup>1</sup> Liberty has proposed additional rate changes in other proceedings for effect on August 1, which will also have an impact on customer bills.

The solicitation requested power supply for Liberty's large and medium commercial customers (Large Customer Group) and its small commercial and residential customers (Small Customer Group).<sup>2</sup> Liberty made its filings pursuant to a settlement agreement approved by the Commission in Order No. 24,577 (January 13, 2006), as modified by Order No. 24,922 (December 19, 2008), Order No. 25,601 (November 27, 2013), and Order No. 25,806 (September 2, 2015).

Liberty's filing included the testimony of John D. Warshaw, Manager, Electric Supply for Liberty Utilities Service Corp.; and testimony and a technical statement of David B. Simek, Manager, Rates and Regulatory Affairs for Liberty Utilities Service Corp. The attachments to Mr. Warshaw's testimony contain information that Liberty claimed is confidential pursuant to New Hampshire Code Admin. Rules Puc 201.06(a)(15), including the Company's master power agreement transaction confirmation with the winning suppliers, a bid evaluation and summary, and information regarding compliance with New Hampshire's Renewable Portfolio Standard (RPS) requirements. Liberty proposed an adjustment to the RPS adder that the Company uses to procure renewable energy in compliance with New Hampshire's RPS law.

Mr. Simek's testimony and technical statement presented the reconciliation of energy service revenues and expenditures for the period August 1, 2018, through July 31, 2019. Mr. Simek also provided the reconciliation of costs and revenues associated with compliance with RPS requirements, and administrative and general costs and revenues associated with the provision of energy service for the reconciliation period. The updated reconciliation provided

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<sup>2</sup> The Large Customer Group includes customers taking service under the General Long-Hour Service Rate G-2, or General Service Time-of-Use Rate G-1, under the Company's Retail Delivery Tariff. The Small Customer Group includes customers taking service under Domestic Service Rate D, Domestic Service-Optional Peak Load Pricing Rate D-10, Outdoor Lighting Service Rate M, Limited Total Electrical Living Rate T, General Service Rate G-3, or Limited Commercial Space Heating Rate V, under the Company's Retail Delivery Tariff.

the most current information available regarding the factors that were included in the calculation of the proposed energy service rates for both the Small and Large Customer Groups.

The Office of the Consumer Advocate (OCA) filed a letter of participation pursuant to RSA 363:28 on March 27, 2019. On April 2, 2019, the Commission issued an order of notice scheduling a hearing on June 19, 2019. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <http://www.puc.nh.gov/Regulatory/Docketbk/2019/19-059.html>.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Liberty**

#### **1. RFP Process**

Liberty testified that it conducted its solicitation process consistent with the terms of the settlement agreement approved in Order No. 24,577. Liberty issued a request for proposals (RFP) on May 1, 2019, to a number of potential suppliers. The Company also distributed the RFP to all members of the NEPOOL Markets Committee and posted the RFP on its energy supply website. The RFP requested fixed pricing for each month of service on an as-delivered energy basis. Liberty received indicative proposals on June 4, 2019, and final bids one week later.

For each customer group, Liberty chose the supplier that (1) provided a bid that conformed to the RFP, (2) had the lowest price, (3) met the credit requirements described in the RFP, and (4) passed Liberty's qualitative evaluation. On June 11, 2019, Liberty entered into a wholesale Transaction Confirmation (Schedule JDW-4) with Calpine Energy Services L.P. (Calpine) the winning bidder to provide energy to the Large Customer Group. Liberty filed the Calpine Master Power Agreement with the Commission in Docket No. DE 16-249, Liberty's

2017 energy service docket. Also on June 11, Liberty entered into a wholesale Transaction Confirmation (Schedule JDW-5) with NextEra Energy Marketing, LLC (NextEra), the winning bidder to provide energy to the Small Customer Group. Liberty filed the NextEra Master Power Agreement with the Commission in Docket No. DE 15-010.

According to Liberty, the load-weighted average of the power supply costs for the Large Customer Group for the six-month period will be 7.343 cents per kWh, as compared with the current load-weighted average of 8.827 cents per kWh. For the same period last year, the load-weighted average of power supply costs for the Large Customer Group was 8.556 cents per kWh. The load-weighted average of power supply costs for the Small Customer Group for the six-month period will be 7.862 cents per kWh, as compared with the current load-weighted average of 9.103 cents per kWh. For the same period last year, the load-weighted average of power supply costs for the Small Customer Group was 8.913 cents per kWh. Mr. Warshaw said the lower market prices are consistent with the Company's energy price forecasts. He said that the forward prices for power are down, and that the decrease in the forward capacity market price contributed to lower power supply costs.

## **2. RPS Adder**

The energy service period covered in this filing includes five months of the 2019 RPS compliance year, and one month of the 2020 RPS compliance year. Liberty said that the total 2019 RPS compliance requirement is 19.7 percent of load, and for 2020, the compliance requirement will increase to 20.7 percent of load. Liberty calculated an RPS compliance adder of 0.539 cents per kWh for the five months of 2019, and 0.559 cents per kWh for January 2020. Those adders are included in the calculation of energy service rates for both the Large and Small Customer Groups.

### 3. Retail Rates

Liberty calculates the base energy rate for both customer groups using the applicable loss factors, and then adjusts the rates by the amount of the RPS adder, the Energy Service Adjustment Factor (ESAF), and the Energy Service Cost Reclassification Adjustment Factor (ESCRAF). Liberty testified that in 2018, the Company had uncovered several prior period adjustments that amounted to a significant over-collection. Half of the over-collection, or approximately \$4.6 million, is included in the reconciliation for the energy service period beginning August 1, 2019. The Commission had previously directed Liberty to provide Commission Audit Staff with the results of the reconciliation calculated for the period beginning August 1, 2019, in time for Audit Staff to complete its review for the inclusion of reconciliation amounts in energy service rates in this proceeding. Liberty testified that it provided that information to Audit Staff on June 7, 2019.

According to Liberty, the Energy Service Adjustment Factor is a credit, or reduction, of 0.822 cents per kWh to the rates of both the Large and Small Customer Groups. Liberty calculated the energy service rate for the Small Customer Group, adjusted for the RPS, ESAF and ESCRAF components, to be 7.710 cents per kWh, a reduction from the current retail rate of 8.299 cents per kWh.

For the Large Customer Group, Liberty develops base energy rates that vary by month. Liberty then adjusts those rates using the reconciliation factors and the RPS adders, to calculate a total energy service rate for each month in the energy service period. As a result of those calculations, Liberty derived the following monthly rates for customers in the Large Customer Group.

August 2019	5.959 cents per kWh
September 2019	5.880 cents per kWh
October 2019	5.905 cents per kWh
November 2019	6.951 cents per kWh
December 2019	9.042 cents per kWh
January 2020	10.663 cents per kWh

## **B. OCA**

The OCA stated that, while it appreciated that Liberty's solicitation resulted in lower energy service rates for residential customers, it was concerned that Liberty did not provide the reconciliation filing to Audit Staff in time to permit a full review of the reconciliation before the merits hearing.

## **C. Staff**

Staff said that Liberty had appropriately conducted the solicitation and selection of winning bidders consistent with Commission orders. Staff also stated that the resulting rates are just and reasonable and based on the competitive market. Staff recommended that the Commission approve Liberty's petition. Staff also expressed concern that Liberty did not submit the reconciliation with a reasonable and appropriate amount of time for Audit Staff to complete its review before hearing.

## **III. COMMISSION ANALYSIS**

We find that Liberty complied with the procedures set forth in the settlement agreement approved in Order No. 24,577, as amended in subsequent dockets, regarding its issuance of the RFP, its analysis of the bids, and its selection of the winning bidders. We are also satisfied that Liberty took appropriate steps to solicit multiple potential suppliers in order to receive competitive bid responses. We find that the results are consistent with the requirements of RSA 374-F:3, V(c) that default service be procured through the competitive market, and we find that the resulting rates are just and reasonable as required by RSA 374:2.

We further find that Liberty's evaluation of the bids and its selection of suppliers were reasonable and appropriate. Liberty's testimony and its bid evaluation report indicate that bid prices reflect expected market conditions for the six-month period beginning August 1, 2019. Finally, based on the testimony and other information provided by Mr. Warshaw, we approve the RPS adder and the proposed rates.

We share the concern and frustration noted by Staff and the OCA about the timing of Liberty's filing of the results of the required audit of its ESAF and ESCRAF. Order No. 26,150 clearly required that an audit be conducted of the ESAF and the ESCRAF and related accounts and balances in time to allow an audit of those results by Staff to be reflected in this reconciliation filing. *See* Order No. 26,150 at 8 and 9. When questioned in December of 2018, Mr. Simek testified the Company was "absolutely" on track to be able to address the issue in the spring 2019 reconciliation filing. Docket No. DE 18-041, Hearing Transcript of December 12, 2018, at 24. Liberty's filing on June 7, 2019, did not provide Audit Staff a reasonable amount of time to complete its review of the audit. The audit results should have been filed for review well before the reconciliation filing.

Our review of the filing of the audit raised another timing issue. Liberty's reconciliation filing on Friday, June 7, provided only 5 working days before the energy service rate filing was submitted on June 17. The hearing was two days after the energy service filing. Liberty and the Commission had previously planned for the work required for review of a typical reconciliation filing. In Docket No. DE 15-010, the Commission required that the reconciliation filing be made at least 30 days before the energy service rate filing. *See* Order No. 25,806 (September 2, 2015) (approving Liberty proposal to amend default service process). In 2016, 2017, and 2018, Liberty made its reconciliation filings on dates in May that were 29, 26, and 33 days prior to the

respective energy service rate filings. While two of the three filings were not in compliance with Order No. 25,806, the filings were made early enough for Commission Staff and the OCA to review and consider the issues presented. This year's filing was untimely and demonstrated a lack of care and attention to regulatory responsibilities. By submitting the filing so close in time to the energy service rate filing, Liberty disregarded the very 30-day filing requirement the Company proposed and which the Commission approved less than five years ago. This cannot happen again.

Notwithstanding those concerns, we approve the inclusion of the proposed reconciliation in rates, conditioned on Liberty further reconciling the results with Staff's audit. In addition, we remind Liberty that it must file the annual reconciliation associated with the energy service rates no later than 30 days before the energy service rate filing. If Liberty is unable to meet that deadline, it must seek an extension of time or other appropriate relief. Future violations of the reconciliation filing requirements may result in regulatory fines.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the Master Power Agreements and Transaction Confirmations entered into by Liberty with Calpine and NextEra for the six-month power supply requirements beginning August 1, 2019, are hereby APPROVED; and it is

**FURTHER ORDERED**, that Liberty's request to recover the costs of the power supply through the retail energy service rates proposed in its filing is hereby APPROVED; and it is

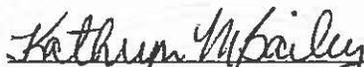
**FURTHER ORDERED**, that Liberty shall reconcile its filing consistent with the findings of Staff's audit; and it is

**FURTHER ORDERED**, that Liberty file the reconciliation associated with energy service rates each year at least 30 days prior to its energy service rate filing, subject to update with the energy service filing; and it is

**FURTHER ORDERED**, that Liberty shall file conforming tariffs within 30 days of the date of this order, consistent with N.H. Code Admin. Rules Puc 1603.02.

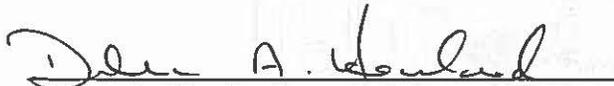
By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of June, 2019.

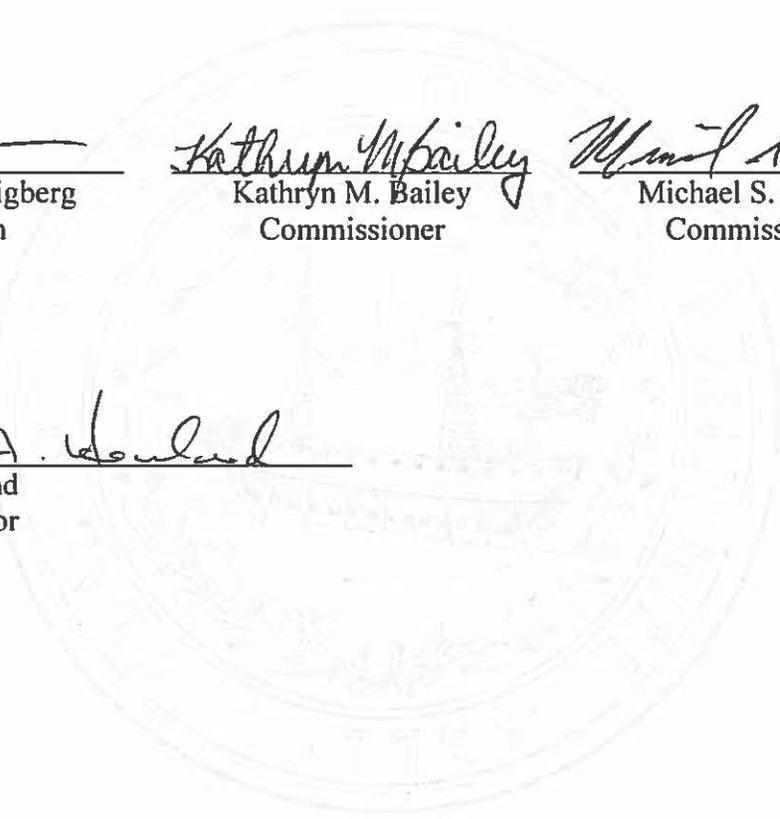
  
Martin P. Honigberg  
Chairman

  
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Attested by:

  
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