

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 19-161**

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.**

**D/B/A LIBERTY UTILITIES**

**Petition for Permanent and Temporary Rates**

**Order Suspending Proposed Tariff and  
Scheduling Prehearing Conference**

**ORDER NO. 26,319**

**December 24, 2019**

This order suspends Liberty's proposed gas service tariff for a temporary and a permanent rate increase pending further investigation and schedules a Prehearing Conference for January 10, 2020.

On November 27, 2019, Liberty Utilities (EnergyNorth Natural Gas) Corp. (Liberty or the Company) filed a Petition for Permanent and Temporary Rates. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are at [www.puc.nh.gov/Regulatory/Docketbk/2019/19-161.html](http://www.puc.nh.gov/Regulatory/Docketbk/2019/19-161.html).

Liberty's petition requests that the Commission fix, determine, and prescribe, pursuant to RSA 378:27 and 378:28: (1) a permanent increase in Liberty's distribution rates effective with service rendered on or after February 1, 2020, designed to yield an increase of \$10,780,660 in annual distribution revenue; (2) a temporary rate increase effective on or after February 1, 2020, designed to yield an increase of \$7,886,812 in annual distribution revenue, pending the Commission's final determination on the Company's request for a permanent rate increase; and (3) a step increase in distribution rates designed to yield an increase of \$3,030,911 annually to begin recovering the annual revenue requirement associated with capital projects completed

during the six month period July 1 through December 31, 2019, with the step increase effective no earlier than January 1, 2020, to be effective coincident with the implementation of permanent rates.

Liberty's filing includes direct testimony and exhibits in support of the proposed rates, with related supplemental information, including proposed tariff pages. Liberty also filed a Motion for Protective Order and Confidential Treatment Regarding Compensation Information pursuant to the New Hampshire Code of Administrative Rules Puc 203.08, to protect information pertaining to the compensation of its officers and directors from public disclosure.

In its petition, Liberty stated that it is seeking the requested increases in rates because the Company has been unable to earn the rate of return authorized by the Commission in Docket No. DG 17-048 in Order No. 26,122 (April 27, 2018). Liberty asserted that its earned return on rate base for the distribution portion of its business was 5.14 percent for the test year ending June 30, 2019, which is less than the return on rate base of 6.86 percent, computed using the Company's last authorized return on equity of 9.3 percent. According to Liberty, the under-earning is primarily the result of the Company's significant investment in non-revenue producing capital projects that are necessary for the provision of safe and reliable service. Liberty claimed that unless rate relief is granted it will not earn a reasonable return on the cost of its property that is used and useful in the public service, which, in the Company's view, results in a confiscation of property.

The proposed temporary rate is a 9.3 percent increase in current annual distribution revenue. The proposed permanent rate, including the temporary increase, is a 12.7 percent increase in annual distribution revenue. The proposed step increase is an additional 3.6 percent increase, which combined with the permanent increase, results in a 16.3 percent increase in current annual distribution revenues. The percentage increase to customer bills would vary by

rate class due to differences between and among rate class structures. The percent increase would also vary within each class due to differing customer consumption characteristics.

Pursuant to RSA 378:27, Liberty requested temporary rates to be effective with services rendered on or after February 1, 2020, until the Commission decides the permanent rate case. With the tariff suspension ordered below, Liberty’s requested Permanent and Step Adjustment rate increase would be implemented on November 27, 2020. The proposed permanent rate would increase the monthly residential customer service charge from \$15.20 per therm to \$17.30 per therm, and the delivery charge from \$0.5560 per therm to \$0.6338 per therm. The projected annual increase in typical customer gas bills (delivery and supply charges) from the temporary, permanent, and step adjustment rate changes are as follows:

Customer Bill Impact - Increase in Total Annual Cost (Delivery & Supply)								
Class	Annual Therms	Current Cost	Temp. Rates	Increase	Perm. Rates	Increase	Step Rates	Increase
R-3 Residential Heating	811	\$1,185	\$1,250	5%	\$1,287	9%	\$1,309	10%
G-42 C&I High Winter Use	18,075	\$20,819	\$21,659	4%	\$22,027	6%	\$22,309	7%
G-52 C&I Low Winter Use	17,937	\$17,566	\$18,122	3%	\$18,355	4%	\$18,542	6%

Liberty’s filing raises, *inter alia*, issues related to whether the proposed temporary and permanent rates are just, reasonable, and lawful, as required by RSA 374:2 and 378:7; and whether the proposed increases will yield a just and reasonable rate of return on the prudent cost of plant, equipment, and capital improvements used and useful in Liberty’s provision of service to the public, less accrued depreciation, as required by RSA 378:27 and 378:28.

In addition, Liberty’s filing raises issues under RSA 378:7 which states that the Commission shall be under no obligation to investigate any rate matter which it has investigated within a period of two years, but may do so within said period at its discretion. Issues raised under this provision include but are not limited to: (1) whether two years has passed since the Commission last investigated Liberty’s distribution rates; and (2) whether deciding not to

investigate Liberty's proposed rates at this time would constitute an unconstitutional taking as discussed by the New Hampshire Supreme Court in *Appeal of Gas Service, Inc.*, 121 NH 602 (1981). After hearing from parties on these issues at the Prehearing Conference scheduled below, the Commission will issue an order indicating whether it will use the discretion provided under the statute to investigate the proposed rates. In the event the Commission decides to permit Liberty's rate filing and to investigate these rates, any temporary rates granted will be for effect February 1, 2020, for purposes of recoupment under RSA 378:29. Under either outcome, suspension of the tariffs pursuant to RSA 378:6, I(a) at this time is appropriate. Each party has the right to have an attorney represent the party at the party's own expense.

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

**ORDERED**, that the proposed tariff pages are suspended pursuant to RSA 378:6, I(a), pending investigation and further order of the Commission; and it is

**FURTHER ORDERED**, that a Prehearing Conference, pursuant to New Hampshire Code of Administrative Rules Puc 203.15, be held before the Commission located at 21 S. Fruit Street, Suite 10, Concord, New Hampshire, on January 10, 2020, at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in Puc 203.15. Also, the Commission will allow each party and Commission Staff to present argument and evidence at the Prehearing Conference concerning whether the Commission should exercise its discretion under RSA 378:7 to permit Liberty's rate filing and to investigate the proposed rates, including addressing the two issues delineated above; and it is

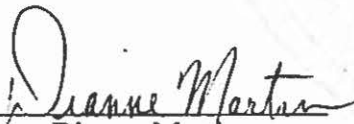
**FURTHER ORDERED**, that, immediately following the Prehearing Conference, Liberty, the Staff of the Commission, the Office of the Consumer Advocate, and any Intervenors hold a Technical Session to review the petition, discuss a procedural schedule, and allow Liberty to provide any amendments or updates to its filing; and it is

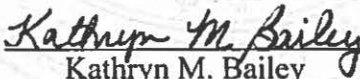
**FURTHER ORDERED**, that, pursuant to Puc 203.12, Liberty shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order no later than January 2, 2020, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before January 8, 2020; and it is

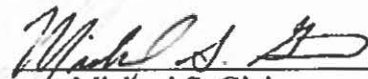
**FURTHER ORDERED**, that, consistent with Puc 203.17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to Liberty and to the Office of the Consumer Advocate on or before January 8, 2020, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, consistent with Puc 203.17 and RSA 541-A:32, 1(b); and it is

**FURTHER ORDERED**, that any party objecting to a Petition to Intervene make said objection on or before January 10, 2020; and it is

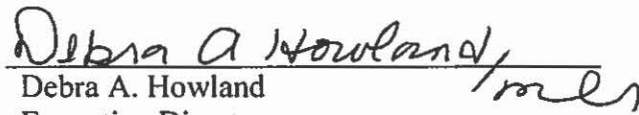
By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of December, 2019.

  
Dianne Martin  
Chairwoman

  
Kathryn M. Bailey  
Commissioner

  
Michael S. Giaimo  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

ExecutiveDirector@puc.nh.gov  
Christa.Shute@oca.nh.gov  
cynthia.trottier@libertyutilities.com  
david.simek@libertyutilities.com  
donald.kreis@oca.nh.gov  
james.brennan@oca.nh.gov  
karen.sinville@libertyutilities.com  
maheen.bajwa@fticonsulting.com  
Matthew.DeCoursey@fticonsulting.com  
maureen.karpf@libertyutilities.com  
ocalitigation@oca.nh.gov  
philip.greene@libertyutilities.com  
pradip.chattopadhyay@oca.nh.gov  
steven.mullen@libertyutilities.com  
michael.sheehan@libertyutilities.com  
al-azad.iqbal@puc.nh.gov  
amanda.noonan@puc.nh.gov  
jayson.laflamme@puc.nh.gov  
paul.dexter@puc.nh.gov  
steve.frink@puc.nh.gov