

STATE OF NEW HAMPSHIRE

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PUBLIC UTILITIES COMMISSION
21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

January 18, 2019

PRIORITY U.S. MAIL
FIRST CLASS MAIL, DELIVERY RECEIPT REQUESTED

Ms. Judith Tompson
9 Lancelot Court, Unit 8
Salem, NH 03079

Re: DE 18-148 Judith Tompson
Complaint against Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities
Rescheduling Hearing to February 19, 2019

Dear Ms. Tompson:

On November 30, 2018, the Commission granted your request for a hearing and a secretarial letter was issued scheduling an evidentiary hearing on January 29, 2019. The secretarial letter also established important deadlines and procedures. That letter was sent to you by certified mail, return receipt requested. On January 3, 2019, the United States Post Office in Salem returned the November 30th secretarial letter with a label stating "Return to Sender, Temporarily Away, Unable to Forward."

There are a number of requirements that apply to communications filed with the Commission e.g., all petitions and motions must include the address of the person filing the document. *See* N.H. Code of Administrative Rules Puc 203.05(a)(4). The address you provide is presumed to be one which permits the Commission to communicate with you.

Because you did not accept the certified mail containing the November 30th secretarial letter, the Commission has cancelled the January 29, 2019 hearing.

The hearing has been rescheduled for **February 19, 2019, at 1:00 p.m.**¹ If you do not attend that hearing, no further hearings will be scheduled. Instead, the Commission will rely solely on the pleadings to decide your complaint. The pleadings include your complaint, Liberty's answer, and any other documents or information filed consistent with the schedule provided below.

¹ Individuals needing assistance or auxiliary communication aids due to sensory impairments or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 South Fruit Street, Suite 10, Concord, New Hampshire 03301-2429, 603 271-2431, TDD Access: Relay N.H. 1800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

At the February 19, 2019 hearing, you will have the burden of proof as the party bringing the complaint. Please arrive at least 15 minutes in advance of your scheduled time. You have a right to be represented by an attorney, or another person, at your expense.

The Commission adopts the following procedures and determinations with respect to the scheduled hearing:

1. No later than Tuesday, January 29, 2019, at 4:00 p.m., you and Liberty (hereinafter “the parties”) shall file a letter describing any alleged inaccuracy in the “DE 18-148 Summary of Allegations” attached hereto.
2. No later than Tuesday, February 12, 2019, at 4:00 p.m., the parties, and Commission Staff, if applicable, shall file² the following:
 - a. A list of witnesses the party intends to call at the hearing. The list shall identify each witness by name and business address or town or city of residence.
 - b. A short written summary of each witness’s position. The summary should provide each witness’s account of the facts and any other relevant topic about which the witness is expected to testify.
 - c. You *may* provide and Liberty *shall* provide a list of agreed upon (stipulated) relevant facts either by working with the other party to create such a list, or by providing a list of facts that each side believes are not in dispute (*see* Puc 203.20); and
 - d. You *may* submit and Liberty *shall* submit a brief legal analysis of the issues identified in the attached “DE-18-148 Summary of Allegations” involved in this case.
3. No later than Tuesday, February 12, 2019, at 4:00 p.m., each party shall file all exhibits the party intends to introduce at the hearing. Exhibits shall include copies of disconnection notices, if any, any relevant official correspondence or other communications between the parties, and any other documents the party believes will support that party’s respective positions. Unless “good cause” is established, the Commission shall not accept any exhibits that were not submitted in advance.
4. At the hearing, the parties may ask questions of all witnesses, regardless of which party calls the witness. Unless “good cause” is established, only witnesses whose testimony has been summarized, as described above, shall be allowed to testify or

² For you as complainant, “file” means that a document is signed and sent to the Commission by first class mail, or by hand-delivery, so that the document is *received* no later than 4:00 p.m. on the specified date. *See* Puc 203.11. Consistent with the Commission’s October 1, 2018 Secretarial Letter, you are not required to provide the Commission with multiple copies of your filing. You must, however, mail or hand-deliver a copy to Liberty Utilities, c/o Michael Sheehan, Esq., Senior Counsel, 116 North Main Street, Concord, NH 03301.

provide information. Witnesses for Ms. Tompson (including Ms. Tompson herself) shall appear first, followed by witnesses for Liberty and any Staff witnesses, unless otherwise ordered.

5. At the end of the hearing, each party will be allowed to make a final statement to the Commission. Liberty will go first and Ms. Tompson will go last.
6. The hearing shall be transcribed, and Liberty shall bear the cost of the transcription. However, each party shall pay for its own copy of the transcript, if requested.

If you will continue to represent yourself in this matter, or are represented by a non-attorney, the Commission encourages you to contact Staff Attorney Mary Schwarzer, in writing, or by telephone at 603 271-2431 with any questions about the Commission's practice and procedure. In addition, as documents you file as exhibits may contain private or other confidential information, you must follow the simplified procedures outlined in the attached "DE 18-148 Procedure for Complainant's Filing of Allegedly Confidential Documents or Information" to identify any information claimed to be private or otherwise confidential.

To the extent that any of the above is inconsistent with the Commission's Rules of Practice and Procedure, the Commission has determined that a waiver of the applicable rule or rules serves the public interest and will be conducive to, rather than disruptive of, the orderly proceedings of the Commission. *See* Puc 201.05. You have previously been provided with a paper copy of the Commission's Rules of Practice and Procedure, N.H. Code Admin. Rules Chapter Puc 200. If you wish to be provided with another paper copy of those rules, please contact Attorney Schwarzer and she will mail them to your address of record.

Sincerely,



Debra A. Howland
Executive Director

cc: Service List

Enc: DE 18-148 Summary of Allegations
DE 18-148 Procedure for Complainant's Filing of Allegedly Confidential Information

DE 18-148 Summary of Allegations

The following summary of allegations is based on Ms. Tompson's complaint. The Commission only has jurisdiction to consider violations consistent with its statutory purpose. Accordingly, the fact that an allegation is identified here does not mean that the Commission necessarily has jurisdiction to consider it.

In her complaint, Ms. Tompson alleges that Liberty has violated:

- the provisions of Puc 1203.01 and 07, *Payment Arrangements*, and Puc 1205.02, *Medical Emergency Certification*, by directing Ms. Tompson to set up a payment plan;
- the provisions in Puc 1203.18, *Transfer of Service*, by transferring Ms. Tompson's account to her landlord on or about August 2018, without notice, without Ms. Tompson's consent, and while she continued residing at the service address;
- the provisions of Puc 1203.14(a), *Social Service Assistance*, by failing to direct Ms. Tompson to social service providers who could pay her bill;
- the provisions of Puc 1203.06 *Bill Forms*, by not including required information in an August 2018 bill, including the date of the current meter reading, the date of the prior meter reading and the date of the next meter reading;
- the provisions of Puc 1205.02, *Medical Emergency Certification*, by failing to provide a copy of Ms. Tompson's "current medical certification" despite multiple requests;
- the provisions of Puc 1205.04, *Expiration of Medical Emergency Certification*, when the company failed to notify Ms. Tompson 30 days before the expiration of her medical emergency certification; and when Liberty contacted her physician and "fraudulently" "attempted to dissuade the physician from filing" a medical certification form;
- the payment, scope, and debt collection provisions of Puc 1203, *Service Provisions*, and Puc 1204, *Winter Rules*, RSA 358-A:2, the *New Hampshire Consumer Protection Act*, and 15 U.S.C. Sec. 1692, the *federal Fair Debt Collection Practices Act* (FDCPA), by charging Ms. Tompson amounts not due, including the portion of her account balance transferred to Liberty by "a prior electric service provider[National Grid]"; by failing to apply funds made available by N.H. Fuel Assistance, by failing to treat Fuel Assistance as the "party responsible for payment of bills," and by sending Ms. Tompson notice of disconnection rather than sending the notice to Fuel Assistance; improperly calculating, accounting for, and/or failing to validate her outstanding monthly balance; using disconnection as a means of debt collection; and by asking her to set up a payment plan, which she asserts "reaffirms" a debt she disputes;
- the notice provisions of Puc 1203.11, *Disconnection of Service*, 1203.12, *Disconnection of Service in Residential Tenant/Landlord Situations*, Puc 1203.11, *Disconnection of*

Service, Puc 1205.03, Disconnections of Services to Medical Emergency Customers, and/or Puc 1205.04, Expiration of Medical Emergency Certification, by failing to provide appropriate notice when it disconnected her gas service in November 2017, failed to provide a copy of the company's May 2018 request for permission to disconnect her service, and through delivery of an August 29, 2018, letter, which stated, "After Friday, August 31, 2018[,] we will have no choice but to disconnect your service letter; and

Ms. Tompson also alleges that: Liberty violated a Salem 10th Circuit District Court order regarding eviction and ongoing electricity service; Liberty violated a duty of care it owed complainant by contract; Liberty engaged in extortion and negligent misrepresentation when it threatened to disconnect Ms. Tompson's electricity, and that, by transfer of the account, her landlord became the owner of her balance.

**DE 18-148 Procedure for Complainant's Filing of
Allegedly Confidential Documents or Information**

As explained in N.H. Code Admin. Rules Puc 201.04(a):

All documents submitted to the Commission or staff ...shall become matters of public record, subject to RSA 91-A, with the following exceptions...Information about individual residential customers, the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A: 5, IV.... [and] ... Other documents entitled to confidential treatment pursuant to RSA 91-A or other applicable law.

Puc 201.04(b) further describes how parties must submit documents that contain information claimed to be private or otherwise confidential.

For simplicity, as long as Ms. Tompson continues to represent herself, or is represented by a non-attorney, she will not be required to file a motion for confidential treatment and will be required only to:

- highlight or underline any portion of a document that she asserts contains confidential information;
- write "CONFIDENTIAL" in the upper-right-hand corner of the document's first page, and any other page containing the allegedly confidential information; and
- identify in a few sentences, at the bottom of the document or a separate sheet, the harm that would allegedly result were the information at issue made public.

Documents so identified shall be treated as confidential throughout the proceeding by the Commission and any other party who may receive them; maintained by the Commission, and any other party, according to conditions as shall be necessary to preserve confidentiality, subject to a final determination by the Commission during or at the conclusion of the proceeding. The Commission's final determination may include, but is not limited to, an opportunity for Ms. Tompson or Staff to file redacted documents in the public docket.