

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 21-138

**LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP. d/b/a LIBERTY
2022 Vegetation Management Program Plan**

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On November 15, 2021, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty or the Company) filed a request for the Commission to approve its Vegetation Management Program (VMP) Plan and budget for Calendar Year (CY) 2022. In support of its request, Liberty filed the direct testimony of Christopher Steele, Heather Green, and Heather M. Tebbetts, with the Company's CY 2022 VMP Plan attached as Appendices 1-4. Liberty's initial filing and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-138.html>.

I. BACKGROUND AND PROCEDURAL HISTORY

In Docket No. DG 06-107, the Commission issued Order No. 24,777 (July 12, 2007) approving a master settlement agreement that, among other things, provided for a Granite State Electric Company (GSEC)¹ rate plan, including a reliability enhancement program (REP) plan and a VMP plan. *Id.* at 6. The purpose of the REP and VMP plans was to improve GSEC's reliability performance and bring it back to historical performance levels by the end of fiscal year (FY) 2013 through REP activities,

¹ GSEC was then owned by National Grid. Order No. 25,638 at 4 (March 17, 2014). Liberty Energy NH, a subsidiary of Algonquin Power & Utilities Corp., acquired GSEC in July 2012. *Id.*

such as equipment upgrades and vegetation management activities, such as tree trimming. *Id.* at 14-15.

GSEC was required to track all operations and maintenance (O&M) expenses it incurred to implement the REP and VMP plans during each FY and to submit an annual reconciliation filing to the Commission. *Id.* at 15-17. If actual expenses exceeded a certain base amount, then the difference would be refunded to customers or credited for future O&M expenses related to the REP and VMP plans. *Id.* at 17. Subject to Commission approval, if an REP and VMP plan included a budget higher than the base amount and GSEC's actual expenses exceeded the forecasted budget, the incremental expense could be included in rates through a uniform adjustment factor on a per kilowatt-hour basis and recovered over a 12-month period. *Id.*

The Commission issued Order No. 25,638 (March 17, 2014) in Docket No. DE 13-063, which approved a settlement agreement modifying the REP and VMP plan. The settlement agreement required Liberty, which acquired GSEC in 2012, to submit its REP/VMP plan for the following CY to the Commission for review beginning in 2014. *Id.* at 12. The base O&M budget for each plan was established at \$1,360,000. *Id.*

Pursuant to the settlement agreement the Commission approved in Order No. 26,005 (April 12, 2017), issued in Docket No. DE 16-383, the level of O&M expense built into base rates was increased to \$1,500,000, and vegetation trim cycles were shortened from 5 years to 4 years. *Id.* at 9. Liberty was required to report reliability statistics on a circuit by circuit basis, indicating which circuits had transitioned to a 4-year cycle. *Id.* Further, the Company was required to use accrual accounting for future reconciliation filings. *Id.*

The settlement agreement approved by Order No. 26,376 (June 30, 2020) in Docket No. DE 19-064 increased Liberty's VMP spending to \$2,200,000 for 2020, which was to continue until changed in a future base rate case. *See Settlement Agreement at Bates 11.* It stated that "[t]he Company shall not recover any VMP expenses that exceed 10% of that amount, or in excess of \$2,420,000, through the annual reconciliation filing, or otherwise." *Id.* In addition, the settlement agreement provided that the Company's REP would end following the final order in the "Calendar Year 2020 Annual Report and Reconciliation and Rate Adjustment Filing" docket. Order No. 26,376 at 9. It required Liberty to maintain a 4-year cycle of tree trimming and vegetation management and to continue to comply with the filing and reporting requirements already in place. *Id.* The Commission approved Liberty's reconciliation of costs and revenues associated with its 2020 REP and VMP in Order No. 26,478 (April 30, 2021) issued in Docket No. DE 21-049.

In the current docket, Liberty seeks the Commission's approval of a VMP budget of \$3,069,639, stating that its costs have increased as a result of several factors. According to the filing, those factors include: the loss of payments from Consolidated Communications towards shared vegetation management costs, effective January 2020; additional work that was previously deferred; increased labor costs due to a reduced workforce; an increase in the number of required tree removals; the costs of traffic control; and right of way maintenance.

Liberty asserted that its current maximum allowance of \$2,420,000 is insufficient to maintain a 4-year pruning cycle and will not enable Liberty to comply with New Hampshire Code of Administrative Rules, Puc 307.10, entitled "Tree-Pruning Standards." The Company stated that, although it has identified a cost of \$5,471,624 in O&E expenses for vegetation management activities in CY 2022, it has committed to

spending \$3,069,639, of which \$2,420,000 will come from rates. Liberty proposed that the additional \$649,639 come from earnings. The Company stated that it expects to address the issues of increased costs and funding during its next rate case.

II. ISSUES PRESENTED

The filing presents the following issues: whether Liberty has appropriately accounted for the projected costs of its CY 2022 VMP; whether Liberty's CY 2022 VMP plan and proposed budget are consistent with prior Commission orders; and what actions Liberty has taken to control costs. Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. Parties may, however, file a written request for the Commission to also use video teleconferencing to conduct the proceedings. Parties should support the request with reasoning as to why the hearing should use video teleconferencing, such as a health condition, or to reduce the cost of witness travel. Any party requesting a hybrid hearing format to accommodate those who will be participating remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that a hybrid approach will be used, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform, and a remote hearing link will be posted on the Commission's website.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A:31, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on March 22, 2022, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, Liberty shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is,

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to Liberty and any other parties on the service list, on or before March 1, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other

substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before March 15, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Liberty shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before February 18, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this ninth day of February, 2022.

A handwritten signature in black ink, appearing to read "Daniel C. Goldner", written over a horizontal line.

Daniel C. Goldner
Presiding Officer
Chairman

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

ClerksOffice@puc.nh.gov

Christopher.Steele@Libertyutilities.com

Energy-Litigation@energy.nh.gov

Heather.Green@libertyutilities.com

heather.tebbetts@libertyutilities.com

karen.sinville@libertyutilities.com

Matthew.DeCoursey@fticonsulting.com

maureen.karpf@libertyutilities.com

michael.sheehan@libertyutilities.com

ocalitigation@oca.nh.gov