

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 20-092**

**ELECTRIC AND GAS UTILITIES**

**2021–2023 Triennial Energy Efficiency Plan**

**Order Suspending in Part Order No. 26,553**

**O R D E R N O. 26,579**

**February 10, 2022**

In this order, the Commission suspends the portions of Order No. 26,553 setting the maximum Energy Efficiency (EE) portion of the System Benefit Charge (SBC) and Local Delivery Adjustment Charge (LDAC) rates, pending resolution of the Office of Consumer Advocate’s (OCA’s) appeal of Order No. 26,553 before the New Hampshire Supreme Court. The EE portion of the SBC and LDAC rates are, therefore, prospectively restored to their prior 2020–2021 levels, effective as of the date of this order. All other aspects of Order No. 26,553, as well as the Commission’s subsequent orders in docket DE 20-092 establishing, among other things, a procedural schedule for Energy Efficiency program evaluation remain in full force and effect.

**I. BACKGROUND AND PROCEDURAL HISTORY**

On November 12, 2021, the Commission issued Order No. 26,553, addressing the 2021–2023 New Hampshire Statewide Energy Efficiency Plan and implementation of energy efficiency programs for the remainder of the 2021–2023 triennium. That Order set out a detailed history of the proceedings in this docket which do not bear reiterating here with the following exceptions.

Earlier in docket DE 20-092, the Commission had issued Order No. 26,440, which kept the EE portion of the SBC and LDAC rates at their 2020 levels<sup>1</sup> until the Commission was able to issue a comprehensive order on Energy Efficiency rates and programming. Order No. 26,553 comprehensively addressed rates for the remainder of the triennium, gave guidance relating to future programming, and established further process relating to the establishment of programming for the remainder of the triennium.

Relevant to this order, Order No 26,553 set the maximum EE portion of the SBC rate for all rate classes at \$0.00373 per kWh in 2022 and \$0.00275 per kWh in 2023. It, further, set the maximum EE portion of the LDAC rate for residential customers at \$0.0476 per therm for residential customers and \$0.0326 per therm for commercial and industrial (C&I) customers as of December 1, 2021, and at \$0.0475 per therm for residential customers and \$0.0258 for C&I customers as of November 1, 2022.

The OCA and the Joint Utilities<sup>2</sup> jointly filed a timely motion for rehearing of Order No. 26,553 on December 10, 2021. The Commission granted in part and denied in part that motion on January 7, 2022. Relevant to this order, the Commission rejected the parties' arguments for rehearing the portions of Order No. 26,553 that pertained to the EE portions of the SBC and LDAC rates.

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<sup>1</sup> At the time Order No. 26,440 was issued, the EE portion of the SBC rate was \$0.00528 per kWh and the EE portion of the LDAC rate was \$0.0449 for Northern Utilities, Inc. residential customers, \$0.0238 for Northern Utilities, Inc. commercial customers, \$0.0861 for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities residential customers, \$0.0408 for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities commercial customers.

<sup>2</sup> The Joint Utilities are: Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities; New Hampshire Electric Cooperative, Inc.; Public Service Company of New Hampshire d/b/a Eversource Energy; Unitil Energy Systems, Inc.; Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities; and Northern Utilities, Inc.

On January 26, 2022, the OCA filed an appeal of Order No. 26,553 with the New Hampshire Supreme Court pursuant to RSA 541:6. It simultaneously asked the Court to stay Order No. 26,553 pending the appeal.

On February 4, 2022, the Joint Utilities filed an appeal of Order No. 26,553 with the New Hampshire Supreme Court pursuant to RSA 541:6. On February 7, the Conservation Law Foundation and Clean Energy New Hampshire, as well as LISTEN Community Services filed appeals of Order No. 26,553 with the New Hampshire Supreme Court pursuant to RSA 541:6. The Joint Utilities, the Conservation Law Foundation and Clean Energy New Hampshire, and LISTEN Community Services did not seek a stay of Order No. 26,553 pending the outcome of the appeal.

As part of the OCA's appeal, the Commission, and the OCA proposed to resolve issues relating to the OCA's request for stay through settlement. In settlement of the OCA's motion to stay, the SBC and LDAC rates shall revert to their tariffed rates effective at the time Order No. 26,553 was issued, and the OCA will withdraw its request for stay.

## **II. COMMISSION ANALYSIS**

Although the Commission has no reason to question the process by which it arrived at the rate reductions established by Order No. 26,553, nor to question its ultimate conclusions on the merits of those rates, the Commission nonetheless finds it just and reasonable and in the public interest to approve the terms of a settlement agreement negotiated by the Department of Justice pending the appeals of Order No. 26,553. Thus, those portions of Order No. 26,553 that reduced the maximum EE portion of the SBC and LDAC rates are hereby suspended pending the outcome of the appeal. The effect of this suspension is to restore the EE portion of the SBC and LDAC

rates to the 2020 levels established in the prior triennium and maintained throughout much of 2021 by Order No. 26,440.

This suspension of Order No. 26,553 is to be applied prospectively, effective, as soon as is practicable, on a service-rendered basis, as of the date of this order.

Although the OCA questions other aspects of Order No. 26,553 in its appeal, the Commission does not find it appropriate at this time to suspend any other aspect of Order No. 26,553. It is crucial that the Commission continue the important work of evaluating EE program proposals to ensure that those programs are a cost-effective use of ratepayers' money. Thus, no portion of this order should be construed as altering or suspending any other aspect of Order No. 26,553, as reheard and clarified by Order No. 26,560. In addition, this order has no effect on the procedural schedule deadlines established in Order No. 26,573, which established a procedural schedule for the evaluation of future EE programming in this docket. To the extent that clarification of Order No. 26,573 is warranted in light of the rate changes directed herein, and commensurate EE programming budget changes, the Program Proposal filing due March 31, 2022 shall include an updated budget for calendar years 2022 and 2023 reflecting the actual rates in effect between January 1, 2022 and the date of this order pursuant to the rates established by Order No. 26,553; the rates authorized herein, effective the date of this order; and any other future changes based on new statutory directives, if any.

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

**ORDERED**, that the portions of Order No. 26,553 reducing the maximum EE portion of the SBC and LDAC rates from their 2020-2021 levels are hereby suspended, resulting in the EE portion of the SBC rate increasing to \$0.00528 per kWh for each of the Joint Utilities, the EE portion of the LDAC rate increasing to \$0.0449 per therm for

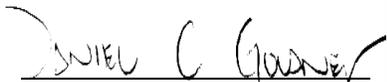
Northern Utilities, Inc. residential customers, \$0.0238 per therm for Northern Utilities, Inc. commercial customers, \$0.0861 per therm for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities residential customers, and \$0.0408 per therm for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities commercial customers, such suspension to apply prospectively and effective, as soon as is practicable, on a service-rendered basis, as of the date of this order; and it is

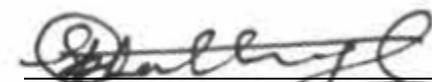
**FURTHER ORDERED**, that all other aspects of Order No. 26,553, as reheard and clarified by Order No. 26,560, remain in full force and effect; and it is

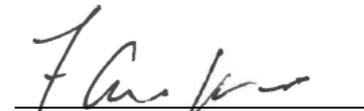
**FURTHER ORDERED**, that all other orders of the Commission in docket DE 20-092 subsequent to Order No. 26,553 remain in full force and effect; and it is

**FURTHER ORDERED**, that that the Joint Utilities shall file annotated and clean versions of their compliance tariffs within 15 days of this order.

By order of the Public Utilities Commission of New Hampshire this tenth day of February, 2022.

  
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Daniel C. Goldner  
Chairman

  
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Pradip K. Chattopadhyay  
Commissioner

  
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F. Anne Ross  
Special Commissioner

# Service List - Docket Related

***Docket# : 20-092***

***Printed: 2/10/2022***

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