NEW BRUNSWICK
ENERGY & UTILITIES BOARD

COMMISSION DE L'ÉNERGIE ET DES SERVICES PUBLICS
NOUVEAU-BRUNSWICK

ORAL DECISION

IN THE MATTER OF an application by Liberty Utilities (Gas New Brunswick) LP for approval of its 2021 Regulatory Financial Statements, for approval to change its distribution rates effective July 1, 2023, and for approval of a Revenue Decoupling Mechanism.

(Matter No. 533)

September 21st, 2023

IN THE MATTER OF an application by Liberty Utilities (Gas New Brunswick) LP for approval of its 2021 regulatory financial statements, for approval to change its distribution rates effective July 1, 2023, and for approval of a Revenue Decoupling Mechanism. (Matter No. 533)

APPLICATION: March 31, 2022, and March 6, 2023

ORAL HEARING: July 4-5, 2023; July 11, 2023

BEFORE:

Christopher Stewart
Presiding Member

John Herron
Member

Stephanie Wilson
Vice-Chairperson

APPLICANT:

Liberty Utilities (Gas New Brunswick) LP, as represented by its general partner, Liberty Utilities (Gas New Brunswick) Corp. (Liberty) — Len Hoyt, K.C.

PUBLIC INTERVENER: Alain Chiasson

In the Matter 533 of Liberty Utilities Application for Approval of the 2021 Regulatory Financial Statements and 2023 General Rate Application, Presiding Member Stewart delivered the following oral decision on September 21, 2023:

[1] Introduction and Summary Conclusions.

[2] In this matter, Liberty is seeking the Board's approval of its 2021 Regulatory Financial Statements and its 2023 distribution rates. Liberty proposes a 2023 revenue requirement of $49.776 million. This would result in an increase for its residential rate class, namely, Small General Service, and rate reductions for its commercial and industrial rate classes, namely, Mid-General Service, Large General Service, Contract General Service, Industrial Contract General Service and Off-Peak Service.

[3] As part of its application for its 2023 distribution rates, Liberty is also seeking approval of its revenue requirement comprised of several components including corporate allocations. It is also requesting approval of amounts related to variance accounts for the Large Industrial Contract Service rate class, the Payments from the Natural Gas Distribution Fund and the Revenue Requirement True-Up for the 2022 test year. Liberty is also seeking approval for the use of a Revenue Requirement True-Up variance account for the 2023 test year.

[4] In addition, Liberty is seeking approval to implement a Revenue Decoupling Mechanism or RDM, including a Weather Normalization Adjustment or WNA, and associated RDM Variance Account.

[5] For the reasons discussed in this Decision, the Board makes the following determinations, among others:

[6] Liberty's 2021 Regulatory Financial Statements are approved.

[7] The request for approval of an RDM, including a WNA, and an associated RDM variance account is denied.

[8] The amounts related to the LICS and SEUF Fees and the 2022 Revenue Requirement True-Up variance accounts are approved.

[9] The use of a Revenue Requirement True-Up variance account for the 2023 test year is approved.

[10] Concerning the proposed revenue requirement for 2023, the Board approves all components with the exception of the following:

[11] The Commercial Incentive program is reduced from $1 million to $750 thousand;

[12] The Propane Winback program is reduced from $300 thousand to $250 thousand; and

[13] The Retention program is reduced from $50 thousand to $0.

[14] Overview.

[15] In addition to approving Liberty's 2021 Regulatory Financial Statements, the Board must approve just and reasonable rates for 2023. The Board fixes rates pursuant to section 52 of the *Gas Distribution Act, 1999*.

[16] A utility's revenue requirement consists of a number of components such as operation and maintenance costs or O&M, amortization of property plant and equipment, financing costs, taxes and return on equity. For the test year, Liberty's revenue requirement is based on budgeted expenses.

[17] The Board evaluates the components of Liberty's proposed revenue requirement and determines what expenses and related amounts can be recovered in rates. Once approved, the total revenue requirement is then allocated amongst the rate classes. Rates are then set by the Board to allow Liberty to recover its expected revenue requirement for the test year.

[18] Issues.

[19] In approving Liberty's 2021 Financial statements, the Board must first decide whether Liberty met the Board approved threshold for capital investments. These issues are discussed in Section 4 of this Decision in a few moments.

[20] As for Liberty's proposed RDM, the Board must consider whether there is sufficient volume volatility to require a mechanism to address this risk and if the proposed mechanism is appropriate. These issues are discussed in Section 5 of this Decision.

[21] Additionally, in order to set just and reasonable 2023 distribution rates, the Board must evaluate the reasonableness of the various components of Liberty's revenue requirement, which includes approval of amounts related to previously approved variance accounts. The Board must also establish the allocation of the revenue to ensure just and reasonable rates. These issues are discussed in Sections 6, 7, 8 and 9 of this Decision.

[22] Section 4: Liberty's 2021 Regulatory Financial Statements are approved.

[23] Liberty filed its 2021 Regulatory Financial Statements on March 31, 2022, in accordance with subsection 57(1) of the *Energy and Utilities Board Act.*

[24] In order to fix rates, the Board must confirm Liberty's closing rate base for 2021. The review of the 2021 Regulatory Financial Statements confirms that capital spending was prudent. The Board evaluates this using the Board's approved System Expansion Portfolio Test or SEP Test. The Board must also evaluate the results of the excess Earnings Sharing Mechanism.

[25] In its assessment of financial results, the Board evaluates whether Liberty's 2021 growth-related capital spending was prudent by applying the SEP Test, which is based on a three-year average of incremental capital costs and revenues associated with system expansion.

[26] Liberty submitted that the revenue from its capital expansion exceeded the costs by more than 104 percent, which is the threshold established in its SEP Test by the Board. Accordingly, the Board finds that Liberty's capital expansion meets the requirements of the SEP Test and concludes that the 2021 system expansion was prudent.

[27] In addition, the Board confirmed that the results from the 2021 Regulatory Financial Statements do not meet the threshold to invoke the Board's approved excess Earnings Sharing Mechanism.

[28] Accordingly, the Board approves Liberty's 2021 Regulatory Financial Statements, as filed.

[29] Section 5: Review of RDM Proposal

[30] Liberty proposes the adoption of an RDM applicable to all rate classes, except the LICS and OPS rate classes. As part of the RDM, its proposal also included the implementation of a WNA for the SGS rate class. In support of its RDM proposal, Liberty is also seeking the approval of an RDM variance account.

[31] Rates for the test year are based on assumptions and estimates including expected throughput volumes. Theoretically, a revenue decoupling mechanism can minimize the impact of variations from certain assumptions that impact a utility's revenue and its customers' bills.

[32] As an example, for SGS customers, Liberty makes assumptions about the expected volumes needed for heating loads in the test year that will factor into the overall recovery of its revenue requirements through its rates. A colder or warmer winter than expected will have a positive or negative effect to the revenue collected by the utility and consequently to the customers' bills.

[33] Liberty is proposing an RDM to remove the impact of variations in volume, such as those due to weather or economic factors, for reasons that are generally outside of the control of the utility's management.

[34] Liberty proposes to implement its decoupling mechanism on a Revenue Per Customer or RPC basis, meaning that each year the Board would authorize Liberty to collect a certain amount of RPC, differentiated by class, regardless of actual throughput volume. The proposal also includes a reconciliation mechanism.

[35] For SGS customers, Liberty proposes that decoupling would be implemented in two steps. Firstly, a WNA would be applied to customers' bills each month based on real-time variations in weather and secondly, an *ex post* annual adjustment would be made to reconcile the actual revenues collected from the SGS customers to the RPC authorized by the Board via the RDM.

[36] Liberty also proposes that most of the non-residential classes would be decoupled, but implementation for those classes would be one-step only, via the application of the annual *ex post* adjustment.

[37] Liberty submits that while not all the volume and therefore revenue variance is attributable to weather, much of it is, and the magnitude of the variance is impactful. The initial question the Board must resolve is whether there is a need for such a mechanism for Liberty's system.

[38] Liberty's proposed RDM is denied.

[39] For the reasons outlined below, the Board does not approve Liberty's proposed RDM. Consequentially, the request for the approval of an RDM variance account is also denied.

[40] Is there sufficient volatility to justify the implementation of the proposed RDM?

[41] Liberty submitted that its annual volumes are approximately 6 million GJ per year and the variation represents five percent above or below Liberty's total annual volumes. Liberty maintained that this variation is caused by weather and economic factors. Liberty further submitted that most of that volume uncertainty is caused by weather. This variation results in volatility in both customers' costs and Liberty's revenue.

[42] On cross-examination, Mr. DeCourcey stated that the seasonal demand of SGS customers results from their use of natural gas for heating purposes. He also stated that, in the case of many industrial customers, their variability over the course of the year is different because they use gas for other purposes.

[43] In his report, Mr. Knecht, the expert witness for the Public Intervener, agreed that the largest contributor to revenue variation for a natural gas distribution company is weather and that this could be addressed through an RDM or a stand-alone WNA.

[44] Mr. Knecht noted that while the proposed RDM would reduce revenue variability for the utility, it will not reduce customer bill volatility, due to the delay in passing through the variances.

[45] Liberty, however, stated the WNA included in its RDM proposal reconciles variances in the month in which they occur for SGS customers. Liberty also submitted the WNA creates the additional benefit of bill relief for SGS customers at the time when costs are highest.

[46] Under cross-examination by Mr. Hoyt, Mr. Knecht distinguished the effects of weather, which can be stabilized through weather normalization, from the effects of economic changes.

[47] The Board agrees that there is revenue volatility but finds that most of the volatility Liberty seeks to address, as confirmed by Mr. Knecht and Mr. DeCourcey, is largely attributable to weather. The Board finds that the weather volatility could be addressed through the implementation of a stand-alone WNA, should Liberty request it. The Board does not have sufficient information on non-weather volatility at this time to conclude the proposed RDM and its supporting variance account are warranted.

[48] Other issues with the RDM proposal.

[49] In addition to finding that there is insufficient information contained in Liberty's evidence to determine if there is a material revenue impact from non-weather volatility, the Board finds that the proposal does not address certain equity and customer consultation concerns.

[50] The Board is concerned about customer-specific variances and the socialization of the impact of these variances on the other rate classes that could be affected by this proposal. For example, in the case of a revenue shortfall in the CGS class, ratepayers in the ICGS class may be required to cover that shortfall. Mr. Knecht stated that revenue decoupling works better for classes with relatively homogeneous customers. Given the size of Liberty's system, the Board is concerned that the impact of an interruption of consequence would redistribute the risk unfairly to other customers, not only in the rate class but in the rate classes grouped together under this proposal.

[51] Also, the Board is concerned about the lack of customer consultation. While Liberty submitted that its proposal reasonably reflects input from both Board Staff and Mr. Knecht and that it is consistent with preferences revealed in past proceedings before the Board, the Board shares Mr. Knecht's concerns that the lack of any customer consultation may impact customer acceptance.

[52] Finally, the Board is concerned that, under its current proposal, customers remaining in a rate class might be responsible for amounts owing to the utility caused by a customer who is no longer within that rate class as a result of Liberty's annual review. This could create an inequitable situation.

[53] WNA as a stand-alone.

[54] For the reasons described below, the Board sees merit in a stand-alone WNA for the SGS rate class as it could address revenue volatility attributable to weather. Subject to the review of any future proposal made by Liberty, the Board would be prepared to consider a mechanism that, at a minimum, addresses concerns noted in this decision.

[55] Liberty argued that the proposed WNA reduces bill variability, stabilizes annual bill amounts, maintains customer benefits of individual energy conservation efforts, helps stabilize revenue against fixed costs included in variable distribution charges and reduces volatility of Liberty's financial results.

[56] Liberty's expectation is that its SGS customers are the most susceptible to changes in consumption driven by weather where the residential demand is more seasonal than that of commercial and/or industrial customers. As explained by Mr. DeCourcey under cross-examination, Liberty "decided to limit the WNA to those customers that benefit from it the most and are the best match for the mechanism." Mr. Tillman also stated that the "WNA is specific to the residential class to […] provide relief from extreme weather within the month that it occurs."

[57] The proposed WNA is calculated by comparing the Distribution Volumetric Charges on the customer's current bill with the charges a customer would have received if the temperatures in the billing period matched the 20-year average for that period. Liberty also proposes to cap monthly adjustments for weather normalization at plus or minus 20 percent to proactively limit the monthly impact of the WNA while amounts outside of the cap would be captured in the proposed RDM variance account and recovered or credited through the RDM.

[58] Mr. Knecht described how WNAs can be "customer-specific" and "real-time" and that they have the potential to be a "win-win" for the utility shareholders and ratepayers in terms of risk reduction and more stable revenues and bills for utilities and customers, respectively. In final argument, the Public Intervener suggested that the implementation of the WNA for the SGS rate class for a two-to-three-year pilot could be reasonably considered.

[59] Although the Board sees merit in a stand-alone WNA for the SGS rate class, Liberty raised concerns about the implementation of a stand-alone WNA without the *ex post* reconciliation.

[60] While Mr. Knecht recognized potential advantages to a WNA mechanism for both the ratepayers and the shareholders, he also voiced concerns about a lack of consultation with Liberty's SGS ratepayers and was uncomfortable making a recommendation in favour. The Board shares Mr. Knecht's concern in this regard as well.

[61] Mr. Knecht raised concerns about months with low heating degree days and the application of a WNA. The Board expects any new proposal for a WNA would address the concerns just discussed.

[62] Conclusion.

[63] The Board denies Liberty's proposal for an RDM and supporting variance account. In order to address Liberty's concerns about weather volatility, the Board would consider the implementation of a mechanism which addresses weather volatility, as discussed above.

[64] In addition, should Liberty wish to propose a mechanism that addresses non-weather volatility, the Board directs Liberty to include in its filing an analysis of the effects of their proposed mechanism over the previous three years.

[65] Section 6: Variance accounts.

[66] In this proceeding, Liberty has sought to include amounts related to previously approved variance accounts for the LICS rate class, SEUF Fees and the Revenue Requirement True-Up, respectively, in its 2023 revenue requirement.

[67] Amounts related to LICS variance account are approved.

[68] In Matter 494, the Board approved the creation of a LICS variance account. In this proceeding, Liberty seeks to apply the total net revenue earned from the LICS rate class in 2022 against the 2023 revenue requirement.

[69] The Board approves the application of the total net revenue earned from the LICS rate class in 2022 against Liberty's 2023 revenue requirement, as filed.

[70] Amounts related to the SEUF Fees variance account are approved.

[71] In Matter 494, the Board approved the creation of a variance account for SEUF fees. In this application, Liberty sought to apply the difference between the actuals for 2021 and the budgeted 2021 SEUF fees against the 2023 revenue requirement. Liberty also seeks to apply the estimated 2022 amount reflected as miscellaneous revenue against the 2023 revenue requirement.

[72] The Board approves the amounts as filed.

[73] Revenue Requirement True-Up variance account for 2022.

[74] In Matter 494, the Board approved the creation of a Revenue Requirement True-Up variance account, except for the SGS class of customers, for 2022. In Matters 530 and 540, the Board allowed all amounts in the true-up variance account as of December 31, 2022, to be recovered or credited, as applicable, for all of Liberty's customers during 2023.

[75] In this proceeding, Liberty included a proposal for how the balance of this account as of December 31, 2022, should be included in the 2023 revenue requirement. The Board approves Liberty's proposal, as filed.

[76] Revenue Requirement True-Up variance account for 2023.

[77] Liberty is proposing a Revenue Requirement True-Up variance account for 2023, similar to that of 2022, to capture the difference between the revenue received from the current rates from January 1, 2023, until the effective date of new 2023 rates. The Board will allow the amounts to be recorded in a 2023 Revenue Requirement True-Up variance account. Those amounts will be recovered or credited, as applicable, for all classes of customers. The recovery or credit shall be addressed in the next general rate application.

[78] Nothing in this decision approves the future use of a Revenue Requirement True-Up variance account.

[79] Reporting requirement in future rate applications.

[80] In his report, Mr. Knecht stated that, with the proliferation of variance accounts and other accounts such as incentive programs, Liberty should provide a continuity schedule for

each as part of its GRA filings. The Public Intervener requested this as well in final arguments.

[81] The Board agrees with Mr. Knecht and directs Liberty to include continuity schedules for each variance account, retention program, and incentive program in their annual GRA filing. The continuity schedules should reflect the monthly activity in each account using the prior year's actuals/approved, the current year forecast, and the test year.

[82] Section 7: Revenue Requirement

[83] The proposed 2023 revenue requirement is based on budgeted expenses, including income before extraordinary items, regulatory deferral, and return on rate base. This is summarized as follows and all amounts are subject to rounding.

[84] O&M Expenses, 12.570 million.

[85] Other Expenses, 0.067 million.

[86] Bad Debt Expense, 0.205 million.

[87] Amortization of Property, Plant, and Equipment, 7.418 million.

[88] Municipal and Other Taxes, 1.268 million.

[89] Interest on Amounts Due to Associates and Affiliates and Other Interest, 5.157 million.

[90] Amortization of Deferred Development Costs, 2.793 million.

[91] Amortization of Intangible Software, 0.607 million.

[92] Amortization of Regulatory Deferral Account, 3.846 million.

[93] Amortization of Variance Accounts, 1.416 million.

[94] Regulated Return on Equity, 12.473 million, and

[95] Income Tax Expense, 1.955 million.

[96] Leaving a total budgeted revenue requirement of 49.776 million.

[97] Again subject to rounding.

[98] Corporate Allocations.

[99] The Board approves corporate allocations of $3,269,685 for Liberty's 2023 budget based on the results of its filed cost allocation methodology for regulated and non-regulated affiliate transactions. The Board also accepts the appropriateness of Liberty's parent company, Algonquin Power & Utilities Corporation's Cost Allocation Manual, dated January 1, 2017 or the CAM, adopted by Liberty as the methodology for allocating corporate services' costs.

[100] Corporate allocations are costs charged to the utility from affiliates that benefit Liberty and ratepayers for services such as managerial guidance, centralized support functions and expertise in technical areas.

[101] The allocation methods detailed in the CAM should not result in subsidization of non-regulated services or products by regulated entities, and vice versa. The CAM follows the National Association of Regulatory Utility Commissioners or NARUC Guidelines for cost allocations and affiliate transactions for services and products between its regulated entities and affiliates.

[102] The basis for the methodology is that, wherever possible, costs for services or products directly attributable to Liberty are to be directly charged to Liberty. When this is not possible, the allocation of costs is allowable in reasonable and realistic proportions based on the expected benefit provided to Liberty. Liberty describes the method for allocating indirect costs is done by using the Utility Four Factor methodology based on customer counts, utility net plant, non-labour expenses and labour expenses.

[103] In its rebuttal evidence, Liberty submitted that corporate allocations are budgeted based on the anticipated need of the corresponding service being provided. Certain services may be required more in some years, and less in others. Factors contributing to the amount being allocated include direct charges, agenda/goals for the year of the specific utility, team size, sales and acquisitions and reorganization of teams and corporate structure.

[104] Corporate allocation costs are a major contributor to total O&M. Liberty's proposal represents an increase of about $500 thousand over the approved 2022 corporate allocation budget.

[105] In Matter 478, the Board directed Liberty to obtain an independent review of corporate allocations. In Matter 494, Liberty filed a report from PWC and concluded that the methods used by Algonquin were reasonable and consistent with the guidance from the Federal Energy Regulatory Commission and NARUC. At the time, Mr. Knecht did not disagree with PWC's review but felt further analysis was required. The Board agreed and

directed the Board Staff to engage a consultant to review Liberty's corporate allocations and costs.

[106] In this proceeding, Liberty engaged the consulting firm, MNP, to review Liberty's corporate allocations and provide a detailed listing of allocations and the associated benefits to Liberty and its ratepayers.

[107] Board Staff retained Mr. Andrew Logan of Teed Saunders Doyle to review Liberty's corporate allocations. Mr. Logan focused on two risks: 1) whether costs could be allocated to the regulated entity that are not required to operate and deliver services to the ratepayers, and 2) whether costs prudently allocated could be overstated or excessive. Mr. Logan referenced several documents in his review including previous Board decisions, the PWC report and Liberty's MNP report.

[108] In final argument, the Public Intervener submitted that there was reasonable agreement between Liberty and Mr. Logan that corporate allocations must meet two criteria. Firstly, that costs involved must provide value to the local utility and secondly, the costs can be no greater than the costs the local utility would incur to perform the same services locally.

[109] Do the proposed corporate allocations benefit the customers?

[110] In the first part of its review, MNP assessed the benefits to customers of 2023 proposed budgeted allocated costs. MNP concluded that all services were required by Liberty's customers.

[111] Mr. Logan concluded in his report that Liberty had provided sufficient evidence to mitigate the risk of imprudent costs being allocated and included as part of the revenue requirement. He recommended that the Board approve the CAM as the methodology for allocating corporate services' costs going forward.

[112] With respect to whether the proposed allocated costs provided value to Liberty, the Public Intervener accepted Mr. Logan's opinion with respect to the PWC report in Matter 494 where costs were determined to be consistent with NARUC and FERC guidelines.

[113] In its response to interrogatories from Board Staff, MNP indicated that costs would not have been considered prudent if they related to activities that: (a) go beyond the scope of the services required for a utility, (b) are associated with the overall governance from a shareholder perspective or minding the investment, or (c) represent additional superfluous management layers. On cross-examination, Liberty confirmed that such costs would not be included in allocated costs.

[114] In final argument, the Public Intervener acknowledged that there was no evidence that any of the costs allocated to Liberty were unreasonable.

[115] Accordingly, the Board approves the CAM as the methodology for allocating corporate services' costs.

[116] In future hearings, the Board directs Liberty to apply the methodology consistently for similar costs that meet the criteria of the allocation methodology. The Board, however, recognizes that the allocation methodology should be reviewed and adjusted periodically to ensure its appropriateness and as such, directs Liberty to advise the Board of any changes to the approved CAM.

[117] Do corporate allocated costs exceed stand-alone?

[118] MNP found that the proposed aggregate of the total labour and non-labour cost allocation of $3,269,685 fell within the expected mid and high range for the total labour amount of $1,826,971 to $3,702,799.

[119] To estimate the services and allocated labour costs that would be required by Liberty if it were a stand-alone utility and not receiving that benefit from the affiliated groups, MNP used full-time equivalent staff or FTE estimates for each service category.

[120] The forecast costs according to MNP for the projected FTE's for each service category were created, using publicly available salary data, and then compared against the 2023 budgeted allocated costs. MNP determined that the aggregated proposed total labour cost allocation of $2,345,966 falls between the aggregated expected low to mid-range for the total labour, or between $1,826,971 to $3,702,799 for the test year.

[121] MNP concluded that all 2023 Budgeted Allocated Costs charged by Liberty's affiliates were reasonable to be incurred by a utility of the size and complexity of Liberty.

[122] Mr. Logan agreed that the MNP review provided a basis to compare the corporate allocation costs to quantitative data and that while the model was not perfect, it can provide the groundwork for future applications. His report noted that for three minor categories of the 18 service categories, the costs exceeded the high range value by a total of $110,355. As a result, Mr. Logan recommended reducing the requested total proposed corporate allocation of $3,269,685 by $110,355.

[123] In final argument, the Public Intervener did not take exception to specific parameters used in the MNP standalone cost analysis for this proceeding. He noted that although Mr. Logan relied on MNP's estimates and analysis, the only difference between the Logan

report analysis and the MNP analysis was that Mr. Logan prepared his standalone cost test on a function-by-function basis, while MNP provided its analysis on an aggregate basis. The Public Intervener agreed with Mr. Logan's recommendation to disallow the total of three aggregate labour and non-labour categories that exceeded the upper end of the ranges for the three specific categories.

[124] Mr. Hoyt took issue with the suggested disallowance. Mr. Hoyt submitted that Mr. Logan had accepted the labour components on an aggregate basis but not the non-labour components.

[125] The Board accepts the stand-alone analysis completed by MNP as a reasonable test to determine whether Liberty could provide the labour and non labour services at a cost similar or less than those provided by Liberty's parent company.

[126] In its analysis, MNP used several assumptions to consolidate CAM categories and to estimate the required FTE's. In completing its analysis for minor non-labour categories, MNP described difficulty in isolating the costs for the labour and non-labour allocated costs.

[127] Given that Mr. Logan and the Public Intervener accepted the methodology and assumptions made in MNP's analysis, the Board is not convinced that the proposed reduction to the aggregate corporate cost allocation is justified.

[128] Conclusion.

[129] The Board approves including $3,269,685 for Liberty's corporate allocations in its 2023 budget based on its filed cost allocation methodology for regulated and non-regulated affiliate transactions.

[130] In future filings, the Board directs Liberty to provide information on inputs to the CAM allocator formula and any changes and impacts from changes to the CAM including, but not limited to, changes to corporate allocator inputs and formulas, and allocator categories.

[131] Labour and Benefits.

[132] The Board approves Liberty's proposed Labour and Benefits budget of $9.101 million for the reasons described below.

[133] Liberty proposes a Labour and Benefits amount of $9.101 million in its 2023 test year budget. This represents an increase of $440 thousand from its budget for 2022. Liberty

points to general salary increases and increased bonus incentive amounts to be paid under its short- and long-term employee incentive programs as the driving factors for the increase.

[134] In his report, Mr. Knecht acknowledged the inflationary pressure on labour costs, however, he raised some concerns with respect to the increased level of employee incentive payments. Mr. Knecht reviewed the past budgets for 2021 and 2022 which indicated that the employee incentive amounts for those years averaged 11.23 percent of the salary budget. He recommended that the employee incentive budget for the 2023 test year be capped at 11.23 percent and, as a result, $206 thousand be disallowed.

[135] In its rebuttal evidence, Liberty stated that $125 thousand of the increased employee incentive amount related to Liberty's long-term employee incentive program which was awarded to eligible employees in 2020. It further noted that 2023 is the first year that a payout will occur based on a three-year vesting period. Liberty submitted its long-term incentive program is primarily designed for retention purposes. Liberty also stated that a similar program had existed with the distribution system's previous owner and the Board had approved amounts paid under that program in the past.

[136] Liberty also pointed to a constant market assessment of total compensation programs and a corporate review across the Algonquin organization. This review identified a need to ensure the retention and attraction of talent in the current job market. Liberty stated that the increased salary and employee incentive costs are necessary to provide some relief from inflation. Liberty also stated that these increases are driven by its need to stay competitive in an evolving market and the additional opportunities available to employees.

[137] Without any particular endorsement of the propriety or effectiveness of Liberty's employee compensation programs, the Board recognizes inflationary pressure and that the incentive programs in place at Liberty were deemed necessary after the review by the larger corporate group to attract and retain talent. The Board finds that the amount sought in the revenue requirement is reasonable and appropriate. Future proposed increases in overall compensation will be examined in the context of the amount approved for the 2023 test year.

[138] During cross-examination, Liberty's witnesses were asked whether Liberty's Labour and Benefits budget should reflect a "vacancy credit." Specifically, the issue raised was whether there should be an adjustment to the budget to reflect the salary and benefit savings when positions are vacant.

[139] The Board finds that the inclusion of a vacancy credit is appropriate. However, the evidentiary record in this proceeding is insufficient to allow the Board to make a fair determination on the appropriate credit at this time.

[140] Customer Retention and Incentives Programs.

[141] Liberty proposes $1.5 million for previously approved retention and incentives programs in its 2023 budget. The $1.5 million includes $150 thousand for Residential Incentives, $1 million for Commercial Incentives, $300 thousand for the Propane Winback program and $50 thousand for the Retention program.

[142] For the reasons noted below, the Board approves $1.15 million for Liberty's customer retention and incentives programs, which includes:

[143] $150 thousand for Residential Incentives;

[144] $750 thousand for Commercial Incentives;

[145] $250 thousand for the Propane Winback program; and

[146] $0 for the Retention program.

[147] In Matter 494, Liberty proposed to include the costs for these programs in its revenue requirement for 2022. The Board approved $150 thousand for Residential Incentives, $500 thousand for Commercial Incentives, $100 thousand for the Propane Winback program and $100 thousand for the Retention program. Prior to this and with the change in ownership, Liberty had temporarily assumed responsibility for the cost of these programs using its $5 million Fuel for the Future Fund which was exhausted by 2021. Liberty confirmed in its evidence that in the last quarter of 2021, it had resumed ratepayer funding of its regulated retention and incentives programs.

[148] In his opening statement, Mr. Volpé suggested that with a new carbon charge regime, increasing electricity rates, electrification pressures and increasing operating costs, the energy market in New Brunswick continues to be in a state of flux and that creative approaches to growing the gas system and keeping rates competitive need to be implemented. He further stated that customer incentive programs are part of that mix.

[149] As of September 2022, Liberty submitted that it had spent $70,240 for Residential Incentives, $311,800 for Commercial Incentives, $270,672 for the Propane Winback program and nothing on its Retention program.

[150] Mr. Knecht analyzed Liberty's proposed budget by comparing the historical average spending by program and the ending account balance to the proposed budget. He compared the amounts approved by the Board for 2022 and what he would consider to be a reasonable budget based on the history and the current balance in the accounts. Mr. Knecht updated some of these amounts during the hearing itself.

[151] Mr. Knecht considered the following amounts to be reasonable:

[152] $150 thousand for Residential Incentives;

[153] $750 thousand for Commercial Incentives;

[154] $250 thousand for the Propane Winback program; and

[155] $0 for the Retention program.

[156] Mr. Knecht considered that the Commercial Incentives budget far exceeds typical spending while the Propane Winback program budget is barely sufficient to recover the year-end 2022 deficit. Mr. Knecht further noted that Liberty proposes to add $50 thousand to its retention program for which it spent nothing in 2022.

[157] Under cross-examination, Liberty sought to explain why the Board should award $50 thousand for its Retention program when it did not spend anything in 2022. Although Liberty did not spend any amounts on its Retention program in 2022, it stated that either customers left without notice or what was offered by Liberty was insufficient to retain customers who left for another form of energy.

[158] Regarding Commercial Incentives, Liberty explained that it believed $1 million is required to attract new load due to the increased competition from other forms of energy. Liberty further explained that it may need to "spend more per GJ to attract those customers."

[159] The Public Intervener's position was that that the explanations proposed by Liberty, especially for the Retention and Commercial Incentives programs were insufficient. The Board agrees.

[160] The Board finds that the analysis provided by Mr. Knecht is an appropriate mechanism, in this proceeding, to establish appropriate levels of spending for these programs. Accordingly, the Board approves the amounts for Liberty's retention and incentive programs as discussed earlier.

[161] Other issues.

[162] Working capital.

[163] Mr. Knecht raised concerns about Liberty's working capital. Although Liberty responded to these concerns in its rebuttal evidence, the Public Intervener submitted that the Board order a review of Liberty's approach to the calculation of its working capital. He noted that it had been some time since the estimate of the required working capital had been reviewed.

[164] The Board agrees that working capital has not been reviewed recently. In the next GRA, Liberty is directed to provide updated evidence supporting the reasonableness of its working capital.

[165] Conclusion.

[166] The Board approves the proposed 2023 revenue requirement, subject to the following adjustments for Retention and Incentives Programs:

[167] The Commercial Incentives Program is reduced from $1 million to $750 thousand;

[168] The Propane Winback program is reduced from $300 thousand to $250 thousand; and

[169] The Retention program is reduced from $50 thousand to $0.

[170] Section 8: Load Forecast and Cost Allocation.

[171] New load forecast.

[172] The Board approves Liberty's new Benchmark Method for load forecasting.

[173] This method replaces the Forward Volume Projection approach. In addition to process changes, the Benchmark Method uses a five-year average of weather normalized consumption instead of the three-year average.

[174] As part of its development, Liberty embarked on a stakeholder consultation process and Mr. Knecht did not oppose the new Benchmark Method.

[175] At this time, the Board is unable to evaluate whether the Benchmark Method results in an improved forecast and further refinements may be warranted.

[176] In future GRAs, the Board directs Liberty to provide variance explanations between forecast and actual loads.

[177] Coast Allocation.

[178] The Board directs Liberty to implement the allocation of the LICS class in compliance with the decision in Matter 515 and to correct the error in the use of the peak demand allocator in the compliance filing, subsequent to the issuance of this decision.

[179] Cost allocation is the method of dividing the utility's revenue requirement to ensure that each customer class is paying the appropriate cost for any service they receive. Pipes, equipment or services are not used by customers equally and so the costs are not shared equally.

[180] Mr. Knecht raised three issues with the filed cost allocation study.

[181] The first issue was the apportionment of the incremental revenues related to the LICS class. In Matter 515, the Board agreed with the expert testimony of Mr. Knecht and Liberty's expert, Mr. Feingold, that the incremental revenue related to the class should be allocated in proportion to the revenue for each class.

[182] In this proceeding, Liberty allocated the costs and the revenue related to the LICS class using different methods. During cross examination Mr. Lavigne stated that, in Liberty's opinion, this approach "made more sense." He further stated that the difference between the Board's approved approach in Matter 515 and the approach used by Liberty in this proceeding was immaterial.

[183] The Board disagrees with Liberty. The Board's approved approach will ensure that the incremental revenues from the LICS class are appropriately credited to the customers. Liberty is directed to use the Board's approved approach for the LICS incremental revenues in the compliance filing.

[184] The second cost allocation issue is related to an error in the use of an adjusted peak demand allocation factor. Liberty acknowledged this error and is directed to reflect the correction in its compliance filing.

[185] Finally, Mr. Knecht recommended that the amortization expenses of the Revenue Requirement True-Up variance account be directly assigned to the specific rate class which incurs the variance. Liberty agreed. Accordingly, the Board directs that amortization expenses related to the Revenue Requirement True-Up variance account be directly assigned.

[186] Section 9: Miscellaneous Revenue.

[187] The Board approves the miscellaneous revenue of $2.346 million as forecasted by Liberty for the reasons set out below.

[188] Liberty's total revenue is comprised of revenue from distribution rates and from miscellaneous revenue. Miscellaneous revenue includes amounts such as the revenue from SEUF fees, Agent Billing and Collection services, interest income, late payment fees, and other items. In addition, to protect confidentiality, LICS revenue is also included. The revenue from the SEUFs and the LICS Class are subject to variance accounts.

[189] Agent Billing and Collection Services.

[190] The Board approves a 2.0% increase in Liberty's charge for Agent Billing and Collection services.

[191] Liberty provides Agent Billing and Collection services to any service provider that applies to use Liberty's billing and/or collection services. Liberty proposes to increase its current charge for Agent Billing and Collection services by 2.0% for 2023 to recognize the increase in costs to provide these services. There were no objections raised to the proposed increase.

[192] In this proceeding, in light of Liberty's increased costs and inflationary pressures, the Board finds that a 2.0% increase is reasonable. Accordingly, the Board approves a 2.0% increase in Liberty's charge for Agent Billing and Collection services.

[193] Distribution Rates.

[194] The Board approves the percentage increase for the SGS class as proposed by Liberty, however, the Board directs Liberty to adjust the rate decreases to the commercial and industrial classes in a manner similar to that proposed by Mr. Knecht.

[195] As noted previously, Liberty's revenue requirement for 2023 is lower than for 2022. Liberty's proposal was to decrease rates, on an aggregate average, by more than 3%. Commercial classes would benefit from a decrease greater than the aggregate average while the SGS rate class would see an increase by 3.1%.

[196] Liberty described its rate strategy as having four main goals, as follows:

[197] 1. holding OPS rate at the same level;

[198] 2. with respect to the SGS class, improving the revenue to cost ratio for SGS customers so those customers pay a greater portion of their costs;

[199] 3. for the MGS, LGS and CGS classes, offsetting or reversing rate increases approved last year; and

[200] 4. distributing the remainder of the rate decrease to the ICGS class.

[201] Mr. Knecht disagreed with the proposed rate changes. He suggested that, given the magnitude of the rate decreases for the commercial classes, the rate increase for SGS class was "excessive and inequitable." He noted that, in Matter 494, the SGS class was limited to a two percent increase despite larger increases for other classes.

[202] Mr. Knecht was also concerned with the allocation of the rate decreases among the commercial classes. Given that the LGS class had the highest revenue to cost ratio, Mr. Knecht suggested it should get the largest rate decrease.

[203] Mr. Knecht proposed an alternative in which the rate increase to SGS class is limited to two percent. As a consequence, the overall rate decreases to the other classes would be smaller. In addition, Mr. Knecht proposed that the LGS class get a larger decrease than proposed by Liberty, which would also reduce the decrease to the remaining classes.

[204] In rebuttal evidence, Dr. Ros maintained that Liberty's proposed increase to SGS rates is not excessive because the average SGS customer will pay a modest monthly increase of $2.33 per month under Liberty's proposal, relative to an average monthly SGS distribution charge of $77.42.

[205] In addition, Dr. Ros argued that the proposed decreases for MGS and LGS customers, of 4.2% and 3.8% respectively, are justified because of the relative threat of conversion to propane. Liberty stated the threat from propane remains for both of these classes and it is its belief that the MGS class is still most affected by propane competition, which supports a larger decrease for MGS.

[206] The Board acknowledges Mr. Knecht's concern about the increase for SGS class, however, in this circumstance, progress toward improving the revenue to cost ratio for that class is important. The Board therefore approves the rate increase for SGS customers of 3.1%, as proposed.

[207] In addition, the Board agrees with Mr. Knecht that the LGS class should receive a greater rate decrease than the other commercial classes where LGS customers pay significantly more than their share of Liberty's costs to serve them. As for Liberty's concern about propane competition, the Board notes that Liberty's evidence indicates that during 2021 and the first nine months of 2022, no MGS customers were lost to propane. The Board

finds that there is insufficient evidence of competition from propane to justify a greater decrease to the MGS class and a corresponding smaller decrease to the LGS class. Therefore, the Board finds that there should be a larger decrease to the rate for the LGS class as proposed by Mr. Knecht in order to improve the revenue to cost ratio for that class.

[208] The Board directs Liberty to allocate the rate decreases to commercial customers in a manner that is consistent with Mr. Knecht's proposal. Specifically, as the revenue to cost ratio for the LGS class requires improvement, the Board directs Liberty to assign the largest percentage rate decrease to that class. Given that the Board has not adopted Mr. Knecht's proposal in its entirety, some adjustments to the proposed rate decreases for the remaining commercial classes are expected.

[209] Section 10: Conclusion.

[210] As discussed in Section 4, the Board approves Liberty's 2021 Regulatory Financial Statements.

[211] The Board does not approve Liberty's proposed RDM, as noted in Section 5, as it has insufficient information on non-weather volatility to allow it to conclude whether the proposed RDM and its supporting variance account are warranted.

[212] As noted in Section 6, amounts related to the LICS variance account, SEUF Fees variance account and Revenue Requirement True-Up variance account for 2022 are approved. A Revenue Requirement True-Up variance account for 2023 is also approved.

[213] The Board has evaluated the various components of Liberty's proposed revenue requirement for 2023 as set out in Sections 6, 7, 8 and 9. The Board approves all components except for those discussed above.

[214] Liberty is ordered to submit a compliance filing, including a revised 2023 test year budget, cost of service study, proof of revenue, and the resulting rates with the above-noted adjustments and corrections. Subject to the review of the compliance filing, the Board will issue an order fixing rates across customer classes and the remaining charges, and will set a time at which those rates will take effect.