

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**IN RE: LIBERTY POWER HOLDINGS, LLC** :  
**RENEWABLE ENERGY STANDARD** : **DOCKET NO. 5233**  
**COMPLIANCE** :

**ORDER ON FINDING OF NON-COMPLIANCE  
WITH RENEWABLE ENERGY STANDARD AND  
TO DRAW ON LIBERTY POWER HOLDINGS, LLC'S BOND**

WHEREAS, R.I. Gen. Laws § 39-26-6 vests the Rhode Island Public Utilities Commission (Commission) with enforcing the Renewable Energy Standard (RES);<sup>1</sup> and

WHEREAS, The Commission has adopted rules governing the Implementation of a Renewable Energy Standard which includes compliance reporting and enforcement procedures;<sup>2</sup> and

WHEREAS, Liberty Power Holdings, LLC (Liberty) is an Obligated Entity under R.I. Gen. Laws § 39-26-2(16) and was required to obtain certain percentages of electricity sold in Rhode Island from eligible renewable energy sources;<sup>3</sup> and

WHEREAS, Liberty was also required to provide financial security pursuant to regulations adopted by the Rhode Island Division of Public Utilities and Carriers (Division) in the minimum amount of \$250,000, naming the Commission and Division as obligees;<sup>4</sup> and

WHEREAS, Liberty posted a License or Permit Bond, issued by The Hanover Insurance Group, as surety, in the amount of \$250,000 as financial security, as required by the Rules Applicable to Nonregulated Power Producers (815-RICR-30-05-01);<sup>5</sup> and

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<sup>1</sup> R.I. Gen. Laws § 39-26-6(e).

<sup>2</sup> 810-RICR-40-05-2.

<sup>3</sup> Liberty Power Holdings, LLC is a registered Nonregulated Power Producer authorized to sell electric energy to end-use customers. In compliance year 2020, each Obligated Entity was required to obtain at least 16% of the electricity they sell at retail from eligible renewable energy resources. R.I. Gen. Laws § 39-26-4(a)(4).

<sup>4</sup> See Rules Applicable to Nonregulated Power Producers, 815-RICR-30-05-1.

<sup>5</sup> The License or Permit Bond was dated March 6, 2018. Thereafter, Hanover Insurance Group issued yearly continuation certificates.

WHEREAS, Liberty submitted to the Commission a 2020 Renewable Energy Standard compliance filing on July 23, 2021; and

WHEREAS, The 2020 Renewable Energy Standard compliance filing had deficiencies and showed that Liberty had neither settled sufficient Rhode Island-eligible renewable energy certificates nor made Alternative Compliance Payments to the Rhode Island Renewable Energy Development Fund administered by the Rhode Island Commerce Corporation, leaving an outstanding obligation for Compliance Year 2020;<sup>6</sup> and

WHEREAS, On July 28, 2021, the Commission provided electronic notification to Liberty's regulatory contact and attorney of the deficiencies in the 2020 Renewable Energy Standard compliance filing and gave Liberty until August 13, 2021, to cure the deficiencies;<sup>7</sup> and

WHEREAS, on September 14, 2021, Liberty's regulatory contact and attorney informed the Commission that it had consulted with its reorganization counsel and that it was not permitted to make any Alternative Compliance or similar payments; and

WHEREAS, On January 14, 2022, the Commission and the Division filed a *Motion for Relief from Automatic Stay* in the Bankruptcy Court for the Southern District of Florida requesting relief from the automatic stay so that they could pursue all rights and remedies, and take any actions necessary, to commence, complete and obtain payment under License or Permit Bond; and

WHEREAS, On February 2, 2022, the Bankruptcy Court for the Southern District of Florida heard the Commission and the Division's *Motion for Relief from Automatic Stay* and after

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<sup>6</sup> Liberty Power Holdings, LLC 2020 Renewable Energy Standard Compliance Filing.

<sup>7</sup> The Commission informed Liberty that no renewable energy certificates (RECs) were listed as having been retired in a Liberty Power Holdings, LLC's RI settlement account, nor was any evidence of the required Alternative Compliance Payment (ACP) presented. Based on Narragansett Electric's Load Data, Liberty Power Holdings, LLC's total 2020 REC obligation was 11,292 RECs (9,880 new and 1,412 existing). After applying 14 previously banked RECs (the full banked balance shown in Liberty's 2019 filing), Liberty had an adjusted 2020 REC obligation of 11,278 (9,866 New & 1,412 Existing) or a required Alternative Compliance Payment of \$808,281.36 (11,278 x \$71.58). The Commission provided Liberty an opportunity to revise its compliance filing and come into compliance by August 13, 2021.

considering the Motion and the presentation of the Commission and the Division, having been advised that the Debtors, including Liberty Power Holdings, LLC, and the other parties in interest in attendance at the hearing did not object to the motion, finding that the motion was properly served, and finding that no objections were filed to the motion, granted the motion providing that the Commission and Division may pursue all rights and remedies, and take any actions necessary, to commence, complete and obtain to draw against or liquidate the License or Permit Bond;<sup>8</sup> and

WHEREAS, On February 8, 2022, the Commission again wrote to Liberty's regulatory contact and attorney providing Liberty clear notice and additional time to correct any error in the Commission's review of Liberty's 2020 Compliance Filing prior to its Open Meeting scheduled for February 11, 2022. The Commission also informed Liberty that, consistent with the Bankruptcy Court's February 3, 2022 Order, and pursuant to R.I. Gen Laws § 39-26-6(b) and § 39-1-27.1(c)(9), should the Commission find that Liberty failed to comply with the RES for Compliance Year 2020, the Commission may approve liquidation of Liberty's License or Permit Bond; and

WHEREAS, Liberty has not provided evidence that it either settled the requisite number of Rhode Island-eligible renewable energy certificates or made ACP payment to the Renewable Energy Development Fund; and

WHEREAS, R.I. Gen. Laws § 39-1-27.1(c)(9) and 815-RICR-30-05-1.3A(9)(b) provide that financial security shall be available to satisfy penalties for failure to comply with the provisions of R.I. Gen. Laws Chapter 39-26 as determined by the Commission and that payments made pursuant to this subsection shall be forfeited and shall be remitted to the Renewable Energy Development Fund established by R.I. Gen. Laws § 39-26-7; and

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<sup>8</sup> The Bankruptcy Court for the Southern District of Florida issued a written Order on February 3, 2022.

WHEREAS, At an Open Meeting on February 11, 2022, the Commission considered this matter and found Liberty has failed to comply with the Renewable Energy Standard for Compliance Year 2020. Liberty's obligation for Compliance Year 2020 was met in part by banked Renewable Energy Certificates (RECs) from Compliance Year 2019. After accounting for these banked RECs, Liberty still has an unsettled 2020 REC obligation of 11,278 RECs (9,866 New & 1,412 Existing). Liberty has provided no additional evidence that the company has eligible RECs to meet its obligation for 2020, and Commission staff has confirmed that Liberty's NEPOOL-GIS account has no remaining RECs eligible to be retired. Liberty has also not made a required Alternative Compliance Payments of \$808,281.36 to the Renewable Energy Development Fund to settle the outstanding obligation; and

WHEREAS, The Commission further found that the amount of Alternative Compliance Payments owed to the Renewable Energy Development Fund far exceeds the amount of the License or Permit Bond on file with the Commission and Division; and

WHEREAS, The Commission penalizes Liberty pursuant to R.I. Gen. Laws § 39-26-4 and § 39-1-27.1(c)(9) and 815-RICR-30-05-1.3A(9)(b), in the amount of \$250,000 for violating the provisions of R.I. Gen. Laws § 39-26-4; and

WHEREAS, The Commission has designated the Commission Chairman to demand release of the full amount of the License or Permit Bond dated March 6, 2018; and

WHEREAS, Remittance of the funds available under the License or Permit Bond does not in any way relieve Liberty from its remaining obligation to the Renewable Energy Development Fund;<sup>9</sup> and

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<sup>9</sup> 810-RICR-40-05-2.10B.

WHEREAS, The RIPUC directs the Clerk to transmit this Order to the Division of Public Utilities and Carriers for enforcement action under its Rules Applicable to Nonregulated Power Producers as it deems necessary.

Accordingly, it is hereby,

(24311) ORDERED:

1. Liberty Power Holdings, LLC has failed to comply with the 2020 Renewable Energy Standard.
2. Liberty Power Holdings, LLC's Alternative Compliance Payment obligation to the State of Rhode Island Renewable Energy Development Fund far exceeds the License or Permit Bond on file with the Rhode Island Public Utilities Commission and Rhode Island Division of Public Utilities and Carriers.
3. The Chairperson of the Rhode Island Public Utilities Commission has been designated to claim release of the full amount of the License or Permit Bond.
4. This Order does not relieve Liberty Power Holdings, LLC from its 2020 Renewable Energy Standard obligation.
5. The Clerk shall transmit a copy of this Order to the Division of Public Utilities and Carriers for enforcement action under its Rules Applicable to Nonregulated Power Producers.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON FEBRUARY 11, 2022, PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED FEBRUARY 18, 2022.

PUBLIC UTILITIES COMMISSION



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Ronald T. Gerwatowski, Chairman



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Abigail Anthony, Commissioner



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John C. Revens, Jr., Commissioner

**NOTICE OF RIGHT OF APPEAL:** Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Rhode Island Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.