



STATE OF RHODE ISLAND

Public Utilities Commission

89 Jefferson Boulevard
Warwick, Rhode Island 02888
(401) 941-4500

Chairman Ronald T. Gerwatowski
Commissioner Abigail Anthony
Commissioner John C. Revens, Jr.

February 8, 2022

Via Electronic Mail

Samuel J. Vincent, Esq.
700 12th Street NW, Suite 700
Washington, DC 20005

RE: Non-compliance with the Rhode Island Renewable Energy Standard for Compliance Year 2020 (Docket No. 5233)

Dear Attorney Vincent:

This letter is to inform you that your client, Liberty Counsel Power Holdings, LLC (Liberty) is out of compliance with Rhode Island's Renewable Energy Standard (RES) for Compliance Year 2020. As you may be aware, the Rhode Island Public Utilities Commission (PUC) is responsible for implementing the state's RES.¹

During the PUC's review of Liberty's RES Annual Compliance Filing for 2020 (Compliance Filing), the PUC noted a number of issues that Liberty must cure to come into compliance. On July 28, 2021, PUC staff contacted Liberty by email to identify three items that needed to be addressed and provide Liberty an opportunity to revise its Compliance Filing and come into compliance by August 13, 2021.² Of the three items noted in the email, two were mandatory: 1. addressing the discrepancy between the Asset ID in Liberty's compliance filing and The Narragansett Electric Company data,³ and 2. providing evidence that an Alternative Compliance Payment (ACP) of \$808,281.36 was paid to the RI Commerce Corporation.

On September 14, 2021, you responded that Liberty was not permitted to make ACPs due to its ongoing bankruptcy proceeding, but that you would be in contact with the PUC "as the process unfolds over the coming weeks," and attaching Judge Grossman's September 13, 2021 Order.⁴ The email did not address the Asset ID discrepancy Liberty was required to address.

¹ Rhode Island General Laws § 39-26 *et seq.*

² The July 28, 2021 correspondence is attached to this letter.

³ Liberty had incorrectly listed its ISO-New England Participant ID in lieu of its RI Load Asset ID in Table 1.

⁴ The September 14, 2021 correspondence, without the September 13, 2021 Order, is included in the attachments.

On February 3, 2022, Judge Grossman issued an Order (the February 3, 2022 Order) granting the PUC's and the Rhode Island Division of Public Utilities and Carriers' (Division) Motion for Relief from the Automatic Stay.⁵

To date, Liberty is not in compliance with the PUC's regulations governing the 2020 RES. Pursuant to Section 2.10(A) of the PUC's Rules and Regulations Governing the Implementation of a Renewable Energy Standard (Rules), this letter hereby serves as a warning letter with a stated date of Compliance of February 10, 2022 at 4:00 p.m. If Liberty fails to provide further evidence that it is in compliance with the RES by this date, this matter will be placed on the PUC's February 11, 2022 Open Meeting agenda to find Liberty out of compliance with the RES for Compliance Year 2020.

Consistent with the February 3, 2022 Order, **the PUC is not seeking at this time, and through this process, that Liberty remedy its noncompliance through ACPs to the RI Commerce Corporation.** The PUC is merely following its regulations that afford Liberty clear notice and additional time to correct any error in staff's review of your 2020 Compliance Filing prior to its Open Meeting on February 11, 2022. Consistent with the February 3, 2022 Order, and pursuant to R.I. Gen Laws § 39-26-6(b) and § 39-1-27.1(c)(9), should the PUC find that Liberty failed to comply with the RES for Compliance Year 2020, the PUC may approve liquidation of Liberty's financial assurance held jointly by the PUC and Division.

Please supply any additional information for the record by February 10, 2022 electronically to RES.Filing@puc.ri.gov with a hard copy to follow.

Thank you for your attention to this matter.

Regards,



Todd A. Bianco
Principal Policy Associate
RI Public Utilities Commission

Cc: Renato Corrales, Liberty
Stephen Gibelli, Liberty
John Harrington, RIPUC
RES Administration, RIPUC
Luly Massaro, RIPUC
John Spirito, RI Division
Thomas Carlotto, RI Commerce

2 att.

⁵ The February 3, 2022 Order is attached to this letter.

Massaro, Luly (PUC)

From: Massaro, Luly (PUC)
Sent: Wednesday, September 15, 2021 10:22 AM
To: Bianco, Todd (PUC); Harrington, John (PUC); Scott Albert; Josh Duckwall; Renewable Energy Standard
Subject: FW: [EXTERNAL] : Re: Annual Compliance Filing: Liberty Power
Attachments: 050151400836.pdf

Response from Liberty Power.
Luly

From: Samuel Vincent <samvincent1096@gmail.com>
Sent: Tuesday, September 14, 2021 6:32 PM
To: Massaro, Luly (PUC) <Luly.Massaro@puc.ri.gov>
Subject: Re: [EXTERNAL] : Re: Annual Compliance Filing: Liberty Power

Dear Luly,

Our apologies for the delayed response: we have been quite preoccupied with our Chapter 11 reorganization.

We have consulted our reorganization counsel, who has advised us that, unfortunately, we are not permitted to make any Alternative Compliance or similar payments. Doing so would negatively impact our bankruptcy estate, in contravention of the U.S. Bankruptcy Code.

That said, according to a recent agreement to sell substantially all our accounts, Liberty Power Holdings intends to wind up its entire business in Rhode Island by the end of this year. Please see the attached Order Approving Sale for more details. We will be in further contact with the Commission as this process unfolds over the coming weeks. In the meantime, please do not hesitate to contact me with any questions.

Best regards,

Samuel J. Vincent, Esq.
D.C. Bar No. 1673400
(574) 307 9132
www.linkedin.com/in/samueljvincent [linkedin.com]

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JURISDICTIONAL NOTICE: The oversigned is licensed to practice law in the District of Columbia, not your state.

On Mon, Aug 2, 2021 at 6:34 PM Samuel Vincent <samvincent1096@gmail.com> wrote:

Thank you, Luly.

On Mon, Aug 2, 2021 at 4:30 PM Massaro, Luly (PUC) <Luly.Massaro@puc.ri.gov> wrote:

Vincent,

Liberty Power's ISO-NE Asset Number is 14772 and it should be provided in Table One.

Luly

Luly Massaro

Commission Clerk

RI Public Utilities Commission

89 Jefferson Boulevard

Warwick, Rhode Island

401-780-2107

Luly.massaro@puc.ri.gov

From: Samuel Vincent <samvincent1096@gmail.com>

Sent: Friday, July 30, 2021 1:11 PM

To: Massaro, Luly (PUC) <Luly.Massaro@puc.ri.gov>

Cc: Stephen Gibelli <sgibelli@libertypowercorp.com>

Subject: [EXTERNAL] : Re: Annual Compliance Filing: Liberty Power

Dear Luly,

Thank you for the clarification; we will update and resubmit Table 1 accordingly. Should we provide the NE/NG asset ID in addition to or in lieu of the ISO-NE ID?

Best regards,

Sam

On Wed, Jul 28, 2021 at 2:47 PM Massaro, Luly (PUC) <Luly.Massaro@puc.ri.gov> wrote:

Dear Mr. Vincent,

During the Rhode Island Public Utility Commission's (RI PUC) review of Liberty Power's 2020 Annual Compliance Filing, one large and two smaller issues were identified that require attention and further action as follows:

1) During our review, it was noticed that no RECs were listed as having been retired in a Liberty Power Holdings RI settlement account, nor was any evidence of the required Alternative Compliance Payment (ACP) presented. Based on Narragansett Electric's Load Data, Liberty Power's total 2020 REC obligation = 11,292 (9,880 New and 1,412 Existing). After applying 14 previously banked RECs in the 2020 Table 1 submittal (the full banked balance shown in Liberty's 2019 filing), this results in an adjusted 2020 REC obligation of 11,278 (9,866 New & 1,412 Existing) and a required Alternative Compliance Payment of \$808,281.36 (11,278 x \$71.58) . **← Evidence of the ACP must be submitted prior to the RI PUC's approval of Liberty's 2020 Annual Compliance Filing**

Two other, less significant, items include:

2) Although an Excel version of Table 1 was provided, no PDF Version of Table 1 was submitted with the filing. **← Liberty should submit a PDF version of Table 1 to complete the RI PUC's records.**

3) The asset ID noted for Liberty Power Holdings on Narragansett Electric's Load Data records is 14772, while the ID listed on Liberty's Table 1 was 50888. **← Resolution of this discrepancy is required.**

Please provide documentation verifying the required ACP, a PDF version of Table 1, and an explanation or resolution of the discrepancy in the asset ID. Submit the requested information to RES.Filings@puc.ri.gov by August 13, 2021. Should you have further questions, send to RES.Filings@puc.ri.gov or contact me at 401-780-2107.

Regards,

Luly

Luly Massaro

Commission Clerk

RI Public Utilities Commission

89 Jefferson Boulevard

Warwick, Rhode Island

401-780-2107

Luly.massaro@puc.ri.gov

From: Samuel Vincent <samvincent1096@gmail.com>
Sent: Friday, July 23, 2021 4:33 PM
To: Renewable Energy Standard <res.filings@puc.ri.gov>
Cc: Stephen Gibelli <sgibelli@libertypowercorp.com>
Subject: [EXTERNAL] : Annual Compliance Filing: Liberty Power

Dear Ms. Massaro,

Enclosed, please find Liberty Power Holdings LLC's 2020 Renewable Energy Standard Annual Compliance Filing and required attachments. Should you have any questions, please do not hesitate to contact me.

Regards,

Samuel J. Vincent, Esq.
D.C. Bar No. 1673400

Of Counsel

LIBERTY POWER HOLDINGS LLC
(574) 307 9132
www.linkedin.com/in/samueljvincent [linkedin.com]

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JURISDICTIONAL NOTICE: The undersigned is licensed to practice law in the District of Columbia, not your state.



ORDERED in the Southern District of Florida on February 3, 2022.

A handwritten signature in black ink that reads "Scott M. Grossman".

Scott M. Grossman, Judge
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**
www.flsb.uscourts.gov

In re: Case No: 21-13797-SMG
LIBERTY POWER HOLDINGS, LLC, Chapter 11
Debtor.
_____ /

**ORDER GRANTING THE RHODE ISLAND PUBLIC UTILITIES COMMISSION
AND THE RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS'
MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

THIS CAUSE came before this Court on February 2, 2022 at 1:30 p.m. (the "Hearing") on *The Rhode Island Public Utilities Commission and The Rhode Island Division of Public Utilities and Carriers' Motion for Relief from Automatic Stay* (the "Motion") [ECF No. 530]. The Court, having considered the Motion and the presentation of the Movants, having been advised that the Debtors and the other parties in interest in attendance at the Hearing do not object to the entry of this Order, finding that the Motion was properly served, finding that no objections were filed to

the Motion, and otherwise being fully advised in the premises,

ORDERS as follows:

1. The Motion is **GRANTED** as set forth below.
2. Relief from the automatic stay is granted so that The Rhode Island Public Utilities Commission (the “Commission”) and The Rhode Island Division of Public Utilities and Carriers (the “Division”) may pursue all rights and remedies, and take any actions necessary, to commence, complete and obtain payment under that certain “License or Permit Bond,” as defined in and attached to the Motion, without further order of the Court.
3. Neither the Commission nor the Division shall seek any remedies against the Debtors, other than their efforts to draw against or liquidate the Bond, as set forth in the Motion.
4. Nothing in this order shall constitute a finding or agreement by the Debtors or The Hanover Insurance Company as to any of the allegations contained in the Motion; including, but not limited to, allegations that the Debtors were obligated to comply with alternative compliance payments, or that the Debtors failed to make any such payments.
5. The provisions of Bankruptcy Rule 4001(a)(3) are hereby waived, such that this Order shall be effectively immediately upon entry.

###

Submitted by:

Ross R. Hartog, Esq.
Markowitz, Ringel, Trusty & Hartog, P.A.
Counsel to Movants
101 NE Third Avenue, Suite 1210
Fort Lauderdale, FL 33301
Tel: (954) 767-0030

Copies to:

Ross R. Hartog, Esq.
(Attorney Hartog is directed to mail a copy of this Order to all interested parties and to file a certificate of service).