



**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Docket No. DE 19-064

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities
Distribution Service Rate Case

REBUTTAL TESTIMONY

OF

STEVEN E. MULLEN

January 30, 2020

THIS PAGE INTENTIONALLY LEFT BLANK

1 **I. INTRODUCTION AND BACKGROUND**

2 **Q. Please state your name and business address.**

3 A. My name is Steven E. Mullen. My business address is 15 Buttrick Road, Londonderry,
4 New Hampshire.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by Liberty Utilities Service Corp. (“Liberty”) as Director, Rates and
7 Regulatory Affairs. I am responsible for rates and regulatory affairs for Liberty Utilities
8 (Granite State Electric) Corp. (“Granite State” or “the Company”) and Liberty Utilities
9 (EnergyNorth Natural Gas) Corp. (“EnergyNorth”) in New Hampshire, Liberty Utilities
10 (Peach State Natural Gas) Corp. in Georgia, and Liberty Utilities (St. Lawrence Gas)
11 Corp. in New York.

12 **Q. On whose behalf are you testifying today?**

13 A. I am testifying on behalf of Granite State.

14 **Q. Have you previously submitted testimony in this proceeding?**

15 A. Yes. I submitted prefiled testimony as part of the Company’s April 30, 2019, filing for
16 an increase in distribution rates. My educational background, professional background,
17 and qualifications are contained in that prior testimony.

18 **II. PURPOSE AND OVERVIEW OF TESTIMONY**

19 **Q. What is the purpose of your testimony?**

20 A. My testimony responds to the testimony filed by Commission Staff (“Staff”) and the
21 Office of the Consumer Advocate (“OCA”) in this rate case proceeding. I provide

1 comments on their recommended levels of distribution revenue increase, their respective
2 positions regarding future opportunities for rate adjustments to recover the costs of
3 needed capital investments, and ways to lengthen the time between rate cases.

4 **Q. Please summarize the respective positions of the Company, Staff, and the OCA in**
5 **this proceeding with respect to temporary rates, permanent rates, and step**
6 **increases.**

7 A. A comparison of the respective positions is best displayed in tabular form:

	Temporary Rates	Permanent Rates	Step Increase for 2019 Plant Additions	Multi-Year Rate Plan including step increases for future plant additions
Company	\$ 2,093,349	\$ 6,673,493	Yes	Yes
Staff	\$ 2,093,349	\$ 29,539	No	No
OCA	\$ 2,093,349	\$ 3,480,489	Yes	No

8

9 **Q. Please comment on the various positions on the aspects of the case laid out in your**
10 **table above.**

11 A. I will begin with temporary rates. Based on costs and revenues recorded for the
12 Company’s test year ending December 31, 2018, the Company is under-earning by
13 approximately \$2.1 million on an annual basis, without any consideration of post-test
14 year adjustments and other changes to test year booked amounts normally allowed for the
15 setting of new base rates. Staff and the OCA concurred in that position, and the

1 Commission ultimately approved the \$2.1 million increase on a temporary basis.¹ In its
2 order approving the temporary rate increase, the Commission stated:

3 Based on the record in this case, we find that a temporary rate increase of
4 \$2,093,349 appropriately balances the interests of Liberty's customers
5 with the interests of its shareholders. For purposes of temporary rates, and
6 the more limited investigation envisioned by RSA 378:27, we find that the
7 record justifies the increase. The increase is based on the books and
8 records of the Company, as traced to the Company's FERC Form 1 on file
9 with the Commission, with reasonable adjustments to reflect normalized
10 distribution operations. The record demonstrates that in 2018 Liberty
11 earned less than its allowed rate of return on rate base. All parties support,
12 or do not object to, the proposed temporary rate amount. Accordingly, we
13 approve the temporary rate increase as proposed, subject to reconciliation.

14 **Q. Are temporary rates designed to be set as a preliminary assessment pending review
15 of other cost elements that will ultimately be incorporated into new base rates?**

16 A. Yes. However, the agreement amongst the Company, Staff, and the OCA, along with the
17 ultimate approval by the Commission of a revenue shortfall, is important for analyzing
18 the positions of Staff and the OCA with respect to permanent rates as well as future step
19 increases.

20 **III. POSITIONS ON PERMANENT RATES**

21 **Q. Please describe the Company's position with respect to the necessary level of
22 permanent distribution revenue increase.**

23 A. In its April 30, 2019, initial filing in this proceeding, the Company requested a \$5.7
24 million increase in distribution revenues. Following the end of the discovery period, the
25 Company filed an updated calculation of the revenue requirement on November 25, 2019,

¹ See Order No. 26, 267 (June 28, 2019).

1 which included the \$6.7 million amount in the table above. The primary driver of the
2 difference in the updated revenue requirement relates to the cessation of a ratemaking
3 adjustment that originated from Docket No. DG 11-040, the docket in which Granite
4 State's acquisition by Liberty was approved.²

5 **Q. What is the Company's view of the OCA's recommendation of an approximate \$3.5**
6 **million increase in distribution revenues?**

7 A. Although there is a significant gap between OCA's recommendation and the Company's
8 requested revenue increase attributable to certain positions and adjustments proposed by
9 the OCA, the OCA's position is in excess of the temporary \$2.1 million increase and at
10 least represents an acknowledgement of the Company's actual operating costs and
11 investments levels, while making meaningful progress to a settled result.

12 **Q. Please provide the Company's assessment of Staff's position on a recommended**
13 **level of increase in distribution revenues.**

14 A. Staff's position is simply a non-starter because it is founded on a series of positions and
15 recommendations that are wholly unwarranted and depart from accepted ratemaking
16 practices, resulting in permanent rates that are *less than* the approved temporary rates.
17 This is an irrational and unreasonable outcome for a base rate proceeding because the
18 temporary rates are set based on test year records, which do not adequately account for
19 the actual cost of service that the Company will incur as of the date that new rates

² See the Joint Technical Statement of Philip E. Greene and David B. Simek:
https://www.puc.nh.gov/Regulatory/Docketbk/2019/19-064/LETTERS-MEMOS-TARIFFS/19-064_2019-11-25_GSEC_TECH_STATEMENTS_GREENE_SIMEK.PDF

1 become effective. If the rates that are set in this proceeding are designed to collect only
2 the cost incurred in the test year, then the Company will need to file another rate case in
3 short order to update those rates because the rates will exhibit a revenue deficiency at the
4 moment that the rates become effective.

5 Moreover, upon review and inquiry by the Company, it was discovered that Staff's
6 position includes some significant errors that call their position into question. For
7 example, Staff removed items from rate base that were not included in rate base. Another
8 significant error was found in an adjustment that included balance sheet amounts as part
9 of a recommended reduction in operating expenses. These errors and other problems
10 with Staff's testimony are covered in more detail in the rebuttal testimonies of other
11 Company witnesses. However, the significance of the errors raises serious questions
12 about the approach and overall validity of the Staff's positions. Although Staff's
13 testimony purports to provide for a "just and reasonable" level of revenue increase, that is
14 simply not the case as Staff's position is inappropriate and unworkable from a ratemaking
15 standpoint.

16 **Q. When distribution rates are established coming out of a base distribution rate case,**
17 **will those rates be in place until the next such rate case, which could be a period of**
18 **years in the future?**

19 **A. Yes.**

1 **Q. When a utility is granted an allowed rate of return on equity is that return on equity**
2 **guaranteed?**

3 A. Not at all. Although rates are set to allow an authorized rate of return, the Company's
4 ability to earn that return is a function of: (1) the integrity of the base rates that are set in
5 terms of reflecting the Company's actual cost of service at the time rates take effect; and
6 (2) the Company's ability to manage cost changes occurring after that date within the
7 parameters reflected in base rates. If base rates are not set so as to reasonably reflect the
8 Company's actual cost of service, then the Company has no chance at maintaining a rate
9 of return that is reasonable and the only alternative to address that situation is the filing of
10 another, sequential rate case.

11 **Q. What is the purpose of the proposed step increase?**

12 A. Assuming that the base rates that are set reasonably reflect the Company's actual cost of
13 service at the time that rates go into effect, the Company will begin to experience
14 earnings attrition each month as the Company makes new investments in the system.
15 When base rates are set, there is no recovery of capital investments made after the end of
16 the test year. Therefore, it becomes vital to have access to recovery features such as a
17 step adjustment to offset the earnings attrition that would otherwise take place between
18 rate cases. Without a step adjustment, the Company has no option other than to file an
19 entire rate case to address the earnings attrition attributable to ongoing capital investment.
20 The step adjustment typically allows only for recovery of capital investment, while the
21 rate case filing will update both operating expense and capital investment. Therefore, the
22 step adjustment is a way to assist the Company in avoiding the need for a full base-rate

1 filing, while protecting the interests of customers in avoiding the need for a full base-rate
2 increase.

3 **Q. Did the Staff and the OCA recommend any rate mechanisms or provide any**
4 **analysis of how their recommendations would provide the Company with a**
5 **reasonable opportunity to earn a reasonable rate of return, particularly as the years**
6 **progress?**

7 A. No. Although the OCA at least was in support of a step increase related to 2019 capital
8 investments, which would mitigate some of the earnings attrition that would take place,
9 neither the Staff nor the OCA supported the Company's request to discuss a multi-year
10 rate plan. Staff's position for no step increase related to 2019 plant additions, discussed
11 below, makes it impossible for the Company to have an opportunity to earn whatever the
12 Commission determines is a reasonable rate of return in this proceeding.

13 **Q. Why is that?**

14 A. Granite State's rate case has a 2018 test year, yet, as proposed by the Company,
15 permanent rates would go into effect on May 1, 2020. As also proposed by the
16 Company, the step adjustment for 2019 capital additions would similarly go into effect on
17 May 1, 2020, thus providing necessary revenue to begin recovery of plant additions that
18 have been placed in service through December 31, 2019. Without that additional
19 revenue, approving a revenue requirement in mid-2020 that is based on year end 2018
20 plant would start the Company in a diminished financial capacity, driving the need for a
21 new rate case.

1 **IV. POSITIONS REGARDING STEP ADJUSTMENT FOR 2019 PLANT ADDITIONS**

2 **Q. Why did the Company request a step adjustment related to its 2019 capital**
3 **additions?**

4 A. The largest negative impact on a utility's earnings between rate cases is the regulatory lag
5 between the time capital investments are made and the beginning of the recovery of the
6 revenue requirement associated with those capital investments, particularly when those
7 investments are considered non-revenue producing or non-growth related. That revenue
8 requirement includes a return on and of (a/k/a depreciation expense) the investment as
9 well as associated costs, such as property taxes. A discussion of this topic was included
10 on Bates II-204 through Bates II-205 of my April 30, 2019, prefiled testimony. Rather
11 than repeat that discussion here, suffice it to say that it becomes a simple math exercise to
12 understand that, without mechanisms in place to recover the increase in the revenue
13 requirement associated with investments in non-revenue producing plant additions
14 between rate cases, earnings will decrease and a utility will need to file a new rate case in
15 short order.

16 **Q. Please summarize Staff's position regarding a step adjustment for the 2019 capital**
17 **additions.**

18 A. Staff not only opposed the step adjustment, but recommended a separate proceeding to
19 review the 2019 capital additions along with the potential hiring of a consultant as part of
20 that proceeding. This is quite troubling as Staff does not appear to be concerned with the
21 amount of additional costs and use of resources that would be involved in such a
22 proceeding. It is also troubling that Staff recommended the hiring of a consultant when

1 Staff has demonstrated in this proceeding that it will selectively ignore the results of its
2 own consultant's work if those results do not support the particular narrative Staff is
3 putting forth in testimony.

4 **Q. Please expand on your last comment.**

5 A. In his testimony, Mr. Dudley references a targeted audit performed by the Liberty
6 Consulting Group ("LCG") in 2016. As part of that audit, LCG reviewed the planning
7 and budgeting processes in place during 2014 and 2015, and made certain conclusions
8 and recommendations. The Company's response to that 2016 audit report indicated that
9 it had already made certain improvements to its processes and, in 2017, LCG performed a
10 follow-up assessment and prepared a new report at the request of the Commission to
11 determine whether the recommended improvements had been put in place. That 2017
12 LCG report confirmed that the Company had in fact implemented recommended
13 improvements. For example, in its November 1, 2017, report, LCG concluded:

- 14 • LU-NH has incorporated changes to its 2017 capital budgeting processes to avoid
15 the large 2016 IT Software variances in the future;
- 16 • Management has improved its monitoring and tracking of over-budget CAPEX
17 variances, using 10 percent variance tolerances;
- 18 • Management has significantly improved its monthly capital budget meetings,
19 variance management and reporting processes for its capital budgets; and
- 20 • LU-NH has implemented Project Close-out Reports that provide a solid format
21 for improving capital expenditure performance.

1 In its direct testimony in this proceeding, however, Staff ignored that 2017 follow-up
2 report and LCG's positive findings.³ When the Company inquired as to whether Staff
3 reviewed the 2017 report as it was preparing its testimony, Staff responded that it "was
4 aware" of that report, but it did not reference it in testimony because the 2017 report only
5 reflected a "slice of time." Although that 2017 follow-up work was indeed a "slice of
6 time" review, it was a slice of time that is more current and more relevant to the
7 Company's performance in 2020 than LCG's observations from 2014–15. By citing
8 only LCG's initial findings, Staff has mischaracterized the Company's processes and
9 ignored LCG's more recent conclusions.

10 **Q. As part of his opposition to the Company's proposed step increase for certain 2019**
11 **capital additions, did Staff witness Mr. Dudley mischaracterize the similar initial**
12 **step increase that was in the approved Settlement Agreement in the Company's last**
13 **distribution rate case, Docket No. DE 16-383?**

14 A. Yes. On Bates 000052 through Bates 000053 of his testimony Mr. Dudley criticized the
15 agreed-upon terms of that settlement with respect to the step adjustment that took effect
16 on May 1, 2017, which was to begin recovery of the revenue requirement related to
17 certain capital additions that were placed in service during calendar year 2016 (the year
18 following the 2015 test year). Mr. Dudley gave the impression that the Company
19 somehow took advantage of the schedule in that docket to avoid review and scrutiny of
20 those capital investments. Not only is that representation incorrect, but it conflicts with

³ Similar criticism was contained in rebuttal testimony filed by EnergyNorth in its most recent distribution rate case, Docket No. DG 17-048: https://www.puc.nh.gov/Regulatory/Docketbk/2017/17-048/TESTIMONY/17-048_2018-01-25_ENGI_RTESTIMONY_MULLEN.PDF at Bates 139, et seq.

1 the express terms of the Settlement Agreement of which Staff was a willing participant.
2 That Settlement Agreement provided for a specific dollar amount of revenue increase,
3 based on final 2016 capital spending amounts for specific projects that were listed in the
4 agreement. Staff's post-hoc critique of a settlement to which it was a party should be
5 given no credence here.

6 **Q. What was the OCA's position regarding the proposed step adjustment for 2019**
7 **capital additions?**

8 A. The OCA was supportive of the concept although not necessarily in agreement as to the
9 amount of the adjustment. As the step adjustment would include only the final costs of
10 plant additions placed in service by December 31, 2019, the final amount is subject to
11 further review.

12 **V. POSITIONS REGARDING MULTI-YEAR RATE PLAN**

13 **Q. What did the Company propose with respect to a multi-year rate plan?**

14 A. As stated in my April 30, 2019, pre-filed direct testimony,

15 The Company would like to explore with Staff and the OCA ways to
16 lengthen the time between rate cases, while providing a reasonable
17 opportunity for the Company to earn a reasonable rate of return. A multi-
18 year plan that includes a provision for step adjustments related to plant
19 investments, along with addressing changes in property taxes, would be a
20 step in the right direction. This would allow the Company to focus on
21 operating the business while also reducing rate case expenses being
22 incurred on a frequent basis. In addition, with large endeavors such as grid
23 modernization currently being explored, the Company, Staff, and the OCA

1 could devote more time and attention to exploring and planning for the
2 future of the electric industry.⁴

3 **Q. Did the Company lay out all the details that it wanted to see in a multi-year plan?**

4 A. No. The Company purposefully avoided being too prescriptive to allow for the free flow
5 of ideas between the Company, Staff, the OCA, and intervenors. The Company did,
6 however, provide reference to multi-year rate plans including step adjustments that had
7 been approved by the Commission in the past.⁵

8 **Q. Has the Commission approved multi-year rate plans in the past?**

9 A. Yes, several times.⁶ For instance, multi-year rate plans were approved in the following
10 distribution rate case dockets:

- 11 • Docket No. DE 09-035, Public Service Company of New Hampshire;
- 12 • Docket No. DE 10-055, Unitil Energy Systems, Inc.; and
- 13 • Docket No. DE 16-384, Unitil Energy Systems, Inc.

14 **Q. Are Staff and the OCA familiar with the terms of those agreements?**

15 A. Yes. Both Staff and the OCA were signatories to the settlement agreements in those
16 dockets that contained multi-year agreements.

⁴ Mullen April 30, 2019, Direct Testimony at Bates II-207.

⁵ Rivera/Strabone/Tebbetts April 30, 2019, Joint Direct Testimony at Bates II-191.

⁶ The Commission also approved multi-year rate plans for Granite State Electric and EnergyNorth Natural Gas as part of its approval of a comprehensive settlement agreement in Docket No. DG 06-107. However, as that docket concerned the merger of National Grid and Keyspan, the issues at play were far broader than a distribution rate case.

1 **Q. Are you personally familiar with the terms of any of those plans and the reasons**
2 **they were put into place?**

3 A. Yes. During my prior employment at the Commission, I was the lead Staff witness and
4 negotiator for the agreements in DE 09-035 and DE 10-055.

5 **Q. What were the durations of those multi-year plans?**

6 A. The approved multi-year plans in DE 09-035, DE 10-055, and DE 16-384 had durations
7 of 5, 5, and 3 years, respectively.

8 **Q. Did those multi-year rate plans include a variety of provisions, including ones that**
9 **provided some customer protections?**

10 A. Yes. In addition to step adjustments associated with a portion of interim capital
11 additions, other provisions included earnings sharing mechanisms and stay-out periods.
12 Again, by referencing those agreements and purposely being non-prescriptive with regard
13 to the terms of what should be in a proposed multi-year rate plan, the Company was
14 expressing its willingness to listen to ideas that would achieve the same overall goals.

15 **Q. In approving those prior multi-year rate plans, did the Commission opine that the**
16 **plans were reasonable for a number of reasons?**

17 A. Yes, in the orders approving the settlement agreements in DE 09-035 and DE 10-055, the
18 Commission used almost identical language in the “Conclusion” sections of the orders.
19 From DE 09-035:

20 Having reviewed the testimony, evidence and other information submitted
21 in this docket, *we conclude that the settlement agreement filed on April*
22 *30, 2010 is just and reasonable and in the public interest and that it*

1 ***produces rates which are just and reasonable. It provides for an initial***
2 ***rate increase that resolves a revenue deficiency and brings the***
3 ***Company's rate base up-to date. Moreover, it provides for a series of rate***
4 ***increases intended, among other things, to ensure that the erosion of***
5 ***earnings attributable to attrition will not compel the Company to seek***
6 ***another rate increase in a short time. The settlement agreement offers***
7 ***this protection without unduly burdening customers and without***
8 ***removing all risk from the Company and its shareholders to operate an***
9 ***efficient business. Further, the term of the agreement is long enough to***
10 ***allow the rate changes to be meaningful, without being so long as to***
11 ***lock-in customers or the Company to a losing strategy for an***
12 ***unreasonable period. It also provides some protection for both***
13 ***customers and the Company from over- or under-earning.*** We also note
14 that the Company does not intend to request recovery of any rate case
15 expenses. We conclude that the settlement agreement, including its
16 requirements relating to reliability enhancements, tariff changes, and
17 miscellaneous changes, as well as the rate design it contains, represents a
18 fair and just compromise.⁷ (emphasis added)

19 From DE 10-055:

20 Having reviewed the testimony, evidence and other information submitted
21 in this docket, ***we conclude that the Settlement filed on February 23,***
22 ***2011, is just and reasonable and in the public interest and that it***
23 ***produces rates that are just and reasonable. The agreement provides for***
24 ***an initial rate increase that resolves a revenue deficiency and brings the***
25 ***Company's rate base up-to-date. Moreover, it provides for a series of***
26 ***rate increases intended, among other things, to ensure recovery of the***
27 ***capital expenditures needed to enhance and augment its REP and VMP,***
28 ***as well as to address major storm restoration efforts will not compel the***
29 ***Company to seek another rate increase in the immediate future. The***
30 ***Settlement offers this protection without unduly burdening customers***
31 ***and without removing all risk from the Company and its shareholders to***
32 ***operate an efficient business. Further, the term of the agreement is***
33 ***sufficient to allow the rate changes to be meaningful, without locking in***
34 ***the Company or its customers to a losing strategy for an unreasonable***
35 ***period. It also provides some protection for both customer and the***
36 ***Company from over- or under-earning.*** We conclude that the Settlement,
37 including its requirements relating to reliability enhancements and tariff
38 changes, as well as the rate design it contains, represents a fair and just

⁷ Order No. 25,123 (June 28, 2010) at 41.

1 compromise and that our approval of the agreement is in the public good.⁸
2 (emphasis added)

3 Finally, from DE 16-384:

4 We have reviewed the record and *have concluded that the effect of the*
5 *Settlement Agreement is to balance the interests of the customers' desire*
6 *to pay no higher rates than reasonably necessary and the investors' right*
7 *to earn a reasonable return on their investment. See Eastman Sewer*
8 *Company, Inc.* 138 N.H, 221, 225 (1994). We have carefully reviewed the
9 Settlement Agreement, which represents a global settlement of all issues
10 in this proceeding, and we approve the Settlement Agreement in its
11 entirety, without any modification, as being a just and reasonable
12 resolution of the issues in this case and in the public interest. We also find
13 the resulting rates to be just and reasonable as required by RSA 374:1 and
14 RSA 378:28.⁹ (emphasis added)

15 **Q. Based on their positions in testimony, are Staff and the OCA open to the idea of**
16 **discussing multi-year rate plans?**

17 A. Staff apparently is not, which is disappointing in many respects. Staff's position for no
18 step increases at all, whether part of a multi-year rate plan or not, marks a stunning
19 departure from the last 20 years of regulatory practice in New Hampshire. The OCA,
20 while not supporting a multi-year rate plan, at least appears open to discussing the matter
21 along with other elements that will be addressed below.

22 **Q. Please describe Staff's position on this point.**

23 A. As stated on Bates 000055 of Mr. Dudley's testimony, Staff prefers to stick with "a more
24 traditional rate-making scheme" including "periodic rate cases." This position is difficult

⁸ Order No. 25,214 (April 26, 2011) at 37-38.

⁹ Order No. 26,007 (April 20, 2017) at 17.

1 to understand given that, through informal discussions with various Staff members over
2 the past few years, Liberty is frequently criticized for the number of cases that get filed.
3 The “more traditional rate-making scheme” referred to by Staff involves the use of a
4 historical test year, which creates regulatory lag and has contributed to the number and
5 frequency of rate cases. Yet now the Company is being critiqued because it seeks to take
6 a method that has been “tried and true” for other utilities and to implement it to address
7 concerns about the frequency of rate cases. The Commission’s docketbook is replete
8 with cases involving utilities in various regulated industries where step adjustments—
9 sometimes a series of step adjustments—have been approved in recognition of the
10 significant capital investment requirements in the utility industries.¹⁰ As the years
11 progress, more of that older investment requires replacement and upgrade, thereby
12 intensifying the need for timely cost recovery.

13 The Company hoped to accomplish a move toward a ratemaking model that, while being
14 less traditional, would also not be recreating the wheel. The “periodic rate cases” bring
15 with them hundreds of thousands of dollars of rate case expenses that customers
16 ultimately bear. Those dollars could either be saved or spent on system improvements
17 and innovations for the benefit of customers. In light of the Commission’s prior rulings
18 on multi-year rate plans, the Company’s view is that the Commission should reject
19 Staff’s position on a multi-year rate plan as being unreasonable because Staff’s position

¹⁰ The Company identified 44 occasions in the last 20 years in which the Commission approved at least one step increase for post-test year investment, and many occasions approving 2 or more step increases, as part of its orders approving the requested permanent rate increases arising from the test years at issue.

1 does not balance the interests of customers and shareholders and would virtually
2 guarantee frequent, expensive, and time-consuming rate case filings.

3 **Q. What was the OCA’s position with respect to implementation of a multi-year rate**
4 **plan?**

5 A. The OCA, while acknowledging the past multi-year rate plans that have been
6 implemented in New Hampshire, considers the Company’s proposal for future year step
7 adjustments to be “a significant regulatory change”¹¹ and a “major divergence from
8 traditional regulation and should be implemented in conjunction with additional
9 P[erformance] B[ased] R[egulation] mechanism”(sic).¹²

10 **Q. What is the Company’s response to the OCA’s position?**

11 A. The position appears to be clearly at odds with the findings made by the Commission in
12 the prior orders cited above. Nevertheless, as stated above, the Company is open to
13 listening to new ideas with respect to components of a multi-year rate plan. PBR is one
14 such concept that the Company is willing to discuss. Mr. Nelson’s testimony was mostly
15 theoretical in the discussion of PBR, so it remains to be seen what specific mechanisms
16 could be brought into play. As the OCA testimony stands, however, it contains nothing
17 that would eliminate the need for frequent rate cases.

¹¹ Nelson December 6, 2019, Direct Testimony at Bates 010.

¹² Id. at Bates 014.

1 **Q. In your earlier quote from your April 30, 2019, prefiled testimony in this**
2 **proceeding, you mentioned property taxes as an item that should be considered as**
3 **part of a multi-year rate plan. Have there been any recent developments related to**
4 **property taxes that would support approval for a rate mechanism that includes**
5 **property taxes?**

6 A. Yes. On June 21, 2019, HB 700, which established a methodology for valuing utility
7 distribution assets for property tax purposes, was signed into law. Part of that law
8 established a five-year phase-in period to fully transition the property tax valuation of
9 utility distribution assets to the required methodology. The initial property tax year of the
10 phase-in period is the tax year effective April 1, 2020. The law also requires the
11 Commission to establish by order a rate recovery mechanism for the property taxes
12 incurred by a public utility. Thus, the Company's proposal would work well with the
13 recent law. To date I am not aware of any action that has been taken with respect to
14 implementation of the provisions of that law, but having such a provision in a multi-year
15 rate plan for the Company would aid the Commission with its responsibilities pursuant to
16 that law.

17 **Q. Does this conclude your testimony?**

18 A. Yes, it does.