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

**May 30, 2019** - 10:09 a.m.  
Concord, New Hampshire

NPUC 14JUN19 9:33

**RE: DE 19-064**  
**LIBERTY UTILITIES (GRANITE STATE**  
**ELECTRIC) CORP. d/b/a LIBERTY**  
**UTILITIES: Notice of Intent to**  
**File Rate Schedules.**  
**(Prehearing conference)**

**PRESENT:** Cmsr. Kathryn M. Bailey, Presiding  
Cmsr. Michael S. Giaimo

Sandy Deno, Clerk

**APPEARANCES:** Reptg. Liberty Utilities (Granite  
State Electric) Corp. d/b/a  
**Liberty Utilities:**  
Michael Sheehan, Esq.

**Reptg. the City of Lebanon:**  
Clifton C. Below

**Reptg. Clean Energy NH:**  
Elijah D. Emerson, Esq. (Primmer...)  
Madeleine Mineau, Exec. Dir./CENH

Court Reporter: Steven E. Patnaude, LCR No. 52

**CERTIFIED**  
**ORIGINAL TRANSCRIPT**

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**APPEARANCES: (C o n t i n u e d)**

**Reptg. Residential Ratepayers:**

D. Maurice Kreis, Esq., Consumer Adv.  
Brian D. Buckley, Esq.  
Pradip Chattopadhyay, Asst. Cons. Adv.  
James Brennan, Finance Director  
Office of Consumer Advocate

**Reptg. PUC Staff:**

Paul B. Dexter, Esq.  
Jay Dudley, Electric Division



**P R O C E E D I N G**

1  
2 CMSR. BAILEY: Good morning. We're  
3 here today in Docket Number DE 19-064, Liberty  
4 Utilities (Granite State Electric), Petition  
5 for a general rate increase. I note for the  
6 record that we received an affidavit of  
7 publication on May 24th.

8 We have various motions on different  
9 subjects, and we'll take those up after we take  
10 appearances.

11 MR. SHEEHAN: Good morning,  
12 Commissioners. Mike Sheehan, for Liberty  
13 Utilities (Granite State Electric) Corp.

14 MR. BELOW: Good morning,  
15 Commissioners. Clifton Below, for the City of  
16 Lebanon.

17 MR. EMERSON: Good morning. Eli  
18 Emerson, from Primmer, Piper, Eggleston &  
19 Cramer, on behalf of Clean Energy New  
20 Hampshire.

21 MR. KREIS: Good morning. I'm D.  
22 Maurice Kreis, the Consumer Advocate, here on  
23 behalf of residential utility customers.

24 MR. DEXTER: Paul Dexter, appearing

1 on behalf of the Commission Staff.

2 CMSR. BAILEY: All right. Why don't  
3 we take up the Motions to Intervene from Clean  
4 Energy and the City of Lebanon. Are there any  
5 objections?

6 MR. SHEEHAN: None from the Company.

7 MR. DEXTER: Staff has no objection.

8 CMSR. BAILEY: All right. Seeing  
9 none, we'll grant those interventions.

10 All right. Let's take up the Motion  
11 for Protective Treatment of compensation  
12 information. We have the Company's motion, we  
13 have the Staff objection. Does anybody else  
14 have anything they want to add, and then I'll  
15 give the Company a chance to respond?

16 MR. DEXTER: Staff would like to make  
17 some comments at the appropriate time.

18 CMSR. BAILEY: Okay. Mr. Kreis.

19 MR. KREIS: I just wanted to say, on  
20 behalf of the OCA, that we support the Staff's  
21 motion for precisely the reasons that the Staff  
22 has given.

23 I concede that there is potentially a  
24 privacy interest that the Company has asserted.

1 But this is a scenario in which the benefits of  
2 disclosure clearly outweigh -- or, the public  
3 interest in disclosure clearly outweighs the  
4 privacy interest that the Company has asserted.  
5 And so, therefore, I believe the Commission  
6 should grant Staff's motion. Or at least,  
7 excuse me, not "grant Staff's motion", but  
8 agree with Staff's objection.

9 CMSR. BAILEY: Mr. Dexter.

10 MR. DEXTER: Thank you. I wanted to  
11 just reiterate some of the things we put into  
12 our objection. There are two parts to it.

13 And before we do that, I'd like to  
14 hand out the redacted page that's at issue.  
15 What we're talking about is Tab 14 in the  
16 Company's filing requirements, which requires  
17 the Company to provide a list of officers and  
18 directors of the utility, their full  
19 compensation for each of the last two years,  
20 detailing base compensation, bonuses, and  
21 incentive plans.

22 And I have a confidential page and  
23 the redacted page, and I'm not sure that the  
24 Commissioners have seen the redacted page. So,

1 I'd like to pass that out.

2 CMSR. BAILEY: All right.

3 [Atty. Dexter distributing  
4 documents.]

5 CMSR. BAILEY: While you're doing  
6 that, Mr. Sheehan, I noticed in your request  
7 for waiver of the rules that require you to  
8 file two copies of one redacted and one  
9 confidential, my expectation was that we were  
10 going to get the redacted binder and a separate  
11 page with the confidential information on it.

12 But the binder that I have is marked  
13 "Confidential" and it has the one confidential  
14 page in it. So, did you do something  
15 differently then or did I misunderstand what  
16 you were saying?

17 MR. SHEEHAN: What we did, first of  
18 all, was try to repeat what we've done in the  
19 last two cases, that was accepted and approved  
20 without any comment, really. So, we really  
21 thought it was what everyone expected, which is  
22 why we filed it.

23 We did file a binder with a redacted  
24 page. All of the confidential versions, we

1 just pulled the page out to have them separate.  
2 We thought, again, from prior experience, that  
3 that would make things easier on your end.

4 So, if you have a confidential  
5 version with the confidential page in it, that  
6 means someone on your end has inserted it in.

7 CMSR. BAILEY: I see.

8 MR. SHEEHAN: I know we had kept it  
9 separate.

10 CMSR. BAILEY: Okay.

11 MR. SHEEHAN: So, the request was  
12 simply, let's just pull it out so you have --  
13 the Commission has the six or seven copies  
14 without the confidential page in it without any  
15 risk of mishandling. That's all.

16 CMSR. BAILEY: All right. Thank you.  
17 And before we go on with your argument about  
18 why we should deny their motion to keep this  
19 confidential, does anybody object to the way  
20 that they filed it and the waiver request for  
21 the 203.02 and 203.08 rules?

22 MR. DEXTER: Staff has some comments  
23 on that as well.

24 CMSR. BAILEY: Okay.



1 MR. DEXTER: When it's appropriate.

2 CMSR. BAILEY: Okay. It's  
3 appropriate. Go ahead. You go ahead and say  
4 what you were going to say. Thanks.

5 MR. DEXTER: So, concerning the one  
6 page and the presentation of the  
7 in-the-envelope versus in-the-binder motion  
8 that the Company filed, Mr. Sheehan is correct  
9 that Staff did not object to that in past  
10 cases, and was asked before this case was filed  
11 whether we would assent to it as we have, since  
12 we had not objected in the past.

13 I wasn't in a position to give an  
14 assent at that point. I needed some time to  
15 talk to the Clerk and to other folks in the  
16 Legal Division. And we've come to the  
17 conclusion that either method would work. In  
18 other words, the idea is to keep this one page  
19 confidential, to the extent it's granted  
20 protection.

21 We believe -- Staff believes that  
22 compliance with the rule would work just as  
23 well as following the procedure that the  
24 Company laid out in its motion. The Staff and

1 the Commission handle confidential information  
2 as a matter of course all the time. We don't  
3 feel there was any reason to vary from that  
4 procedure.

5 However, you know, it was filed the  
6 way it was filed. We don't have any -- it's  
7 going to be fine either way. So, our  
8 recommendation in this case would be for the  
9 Commission to grant their motion, since that's  
10 the way it was filed, and not require any  
11 additional filings or corrections or anything  
12 like that. But just make it clear that this  
13 ruling is for this case only, and that this  
14 issue would be looked again in future rate  
15 cases.

16 CMSR. BAILEY: So, if they had  
17 complied with the rule, then they would have  
18 had to file two copies of all of the public  
19 information, two full copies?

20 MR. DEXTER: My understanding is, if  
21 they had complied with the rule, they would  
22 have filed seven binders with the confidential  
23 page in it and one binder with the redacted  
24 page in it, for a total of eight binders.

1 CMSR. BAILEY: Okay.

2 MR. DEXTER: And what they filed  
3 instead was seven binders, with the  
4 confidential information in an envelope. So,  
5 the net effect is we ended up short one binder,  
6 but that's not really an issue.

7 CMSR. BAILEY: Okay. Thanks. Go  
8 ahead.

9 MR. DEXTER: So, what I handed out  
10 was the redacted page from the filing  
11 requirements. And as I started to say, Staff's  
12 objection, we really have two parts to the  
13 objection.

14 The first has to do with the  
15 nonfiling -- nondisclosure of the directors'  
16 fees. Now, even in the confidential version,  
17 there are no figures associated with several of  
18 the directors that are listed for the two  
19 years. And there's a notation that says that  
20 these "weren't paid via payroll", presumably  
21 explaining why they weren't disclosed.

22 But Staff is not aware of any  
23 exception or provision that allows the Company  
24 to not disclose those at all, just because

1 they're "not paid via payroll".

2 MR. SHEEHAN: If I could interject  
3 here? We've given that issue further thought,  
4 and we will make public the compensation paid  
5 to directors. So, we can essentially agree  
6 with Staff on that issue, that will satisfy  
7 Staff.

8 CMSR. BAILEY: To all directors?

9 MR. SHEEHAN: To the --

10 CMSR. BAILEY: Or just the Class II  
11 that aren't paid by payroll?

12 MR. SHEEHAN: Certainly them, that's  
13 what I had in my head. The other, Mr.  
14 Robertson's pay is disclosed through FERC  
15 requirements, so, as we said, that will become  
16 public. I frankly don't recall who the other  
17 director is, if I could look over your shoulder  
18 for a second.

19 CMSR. BAILEY: Mr. Pasieka, he's the  
20 only other one?

21 MR. SHEEHAN: Right. That one we  
22 would ask to keep confidential, because it's --  
23 he is a full-time employee of APUC, and his pay  
24 would fall under the same arguments we've made

1 as to the local New Hampshire people.

2 So, my interjection here was  
3 simply -- was to agree that the Tier II  
4 directors' pay will be filed publicly, and to  
5 note that they are directors of -- the  
6 compensation you will see is not just for  
7 Granite State. It's for their roles as  
8 director in all of the East Region companies,  
9 which is two in New Hampshire, one in Mass.,  
10 and one in Georgia.

11 CMSR. BAILEY: Okay. Mr. Dexter.

12 MR. DEXTER: Thank you. With regard  
13 to the second part of Staff's objection, that  
14 had to do with the confidential treatment of  
15 the officers of the Company, which, as I  
16 understand, include a president and a  
17 secretary/treasurer.

18 The Company has indicated that they  
19 were following the Public Service of New  
20 Hampshire case that they cited, where there was  
21 a balance struck by the Commission. And the  
22 balance indicated -- the PSNH order indicated  
23 that those officers whose salary would be  
24 disclosed in other public documents would be

1 disclosed publicly, and then other officers  
2 would be disclosed in the aggregate.

3 And Liberty followed the -- I guess  
4 the letter of that precedent, but it doesn't  
5 really work in this case. Because, according  
6 to Liberty, the only person on this list whose  
7 compensation gets disclosed publicly through  
8 SEC or FERC filings is Ian Robertson, and he is  
9 neither the president nor the  
10 secretary/treasurer.

11 So, if you look at the redacted  
12 version that I handed out, that's the only  
13 information that's disclosed publicly. And  
14 that leaves the public in the position of  
15 having no access, either in the aggregate or  
16 individually, to the president and the  
17 secretary/treasurer.

18 Just to demonstrate the difference  
19 between the effect of the Liberty method,  
20 versus how it was applied in PSNH, I brought  
21 some copies of the recent PSNH filing. This  
22 was made April 29th, 2019. And I'll pass it  
23 out. But you'll see on the back that it  
24 discloses the salaries of what they call the

1 top five officers, and then Officers 6 through  
2 49 are presented in the aggregate.

3 And this is a public document. And  
4 then you can compare this to the redacted  
5 version that I handed out earlier.

6 *[Atty. Dexter distributing*  
7 *documents.]*

8 MR. DEXTER: So, by comparing the two  
9 documents, I think you can see that the balance  
10 that was struck back in 2009 regarding Public  
11 Service provides some level of disclosure  
12 regarding officer compensation. And the  
13 Liberty method, as presented in this case,  
14 really doesn't.

15 The other thing that's interesting in  
16 the PSNH document is that they were also  
17 required to indicate, on the far right there, a  
18 percentage of the compensation that was  
19 applicable to the regulated utility in New  
20 Hampshire, which might be a useful thing to  
21 have for the Liberty situation as well, since  
22 as I understand, these officers are allocated  
23 to various organizations within the Liberty  
24 structure.

1           So, that's the essence of our  
2           objection.

3           CMSR. BAILEY: Thank you. Before we  
4           get to Mr. Sheehan, does anybody else have any  
5           comments?

6                           *[No verbal response.]*

7           CMSR. BAILEY: All right.  
8           Mr. Sheehan.

9           MR. SHEEHAN: Thank you. I want to  
10          start with Mr. Kreis's comments. The test --  
11          the analysis the Commission goes through in  
12          these is the Supreme Court test -- I just  
13          spaced the name -- the Lamberts test. And it  
14          says (1) is there a privacy interest in the  
15          info; (2) is there a public interest in  
16          disclosure; and if so, (3) we balance them and  
17          figure out where that balance is struck.

18          The Commission -- my concerns with  
19          Staff's arguments are, first, the proposal we  
20          made in this case, again, is identical to what  
21          has been filed in the last several Liberty rate  
22          cases, it was assented to, it was approved by  
23          the Commission. So, there is a body of law out  
24          there that says "this is how the Commission has



1 done it." So, any time there's a request to  
2 change, I suggest the Commission should pause  
3 and say "Do we want to change? Is this the  
4 right thing to change?"

5 Second, the Commission has repeatedly  
6 said that compensation information of  
7 individual employees is protected. And it has  
8 repeatedly said, contrary to what Mr. Kreis  
9 just said, that the benefits of disclosure do  
10 not outweigh -- I mean, they do outweigh --  
11 I'll start over. The benefits of privacy  
12 outweigh the benefits of disclosure.

13 And in the recent Liberty cases that  
14 I cited, plus these orders that, the PSNH one  
15 in particular, and the older EnergyNorth one,  
16 and the motions from '09 and 2010 also make  
17 that statement. So, there's, again, a clear  
18 and consistent orders from the Commission that  
19 individual compensation data is -- should be  
20 protected ahead of the public interest in  
21 disclosure of that specific information.

22 That being said, the approach, and I  
23 haven't read the backup of the PSNH document  
24 filed, but it seems to be consistent with those

1           2009 and 2010 orders that did two things: It  
2           kept confidential the individual data of people  
3           who were not otherwise disclosed, and it  
4           required a summary combined disclosure.

5                        So, I suspect, I don't know for sure,  
6           but that the five people listed on the PSNH one  
7           are similar to Mr. Robertson. These are people  
8           that PSNH or its parent likely has to disclose  
9           under FERC or SEC, meaning Securities and  
10          Exchange Commission, rules, and that the other  
11          41 are the local president, whatever officers  
12          we have in New Hampshire for that utility.

13                       I think the same analogy applies  
14          here. Mr. Robertson of our list is the only  
15          one that we must disclose, and that would be  
16          the same as these top five. And then the  
17          others on our sheet would fall into the other  
18          41 category, which would not need to be  
19          disclosed, except in aggregate.

20                       Now, we have not done that in  
21          aggregate. But we will do so, if that's what  
22          seems to be a reasonable follow of the orders.

23                       CMSR. BAILEY: Is Mr. Robertson --  
24          he's the Chairman of the Board?

1 MR. SHEEHAN: Correct.

2 CMSR. BAILEY: So, he's not the  
3 president. So, he's not an officer -- he's not  
4 a -- I don't know the right term.

5 MR. SHEEHAN: So, it's -- the way to  
6 look at it is, Algonquin, APUC, Algonquin Power  
7 Utilities Corp., owns indirectly Granite State.  
8 And so, he's the Chairman of the Board of APUC.  
9 They also have him as a director of some of  
10 these entities. But he's that. And the other  
11 people, the president and secretary/treasurer,  
12 are of the local utility of Granite State that  
13 sit here in New Hampshire.

14 CMSR. BAILEY: Are there any of your  
15 affiliates that disclose the local affiliate  
16 salaries?

17 MR. SHEEHAN: We don't, in New  
18 Hampshire.

19 CMSR. BAILEY: "We don't, in New  
20 Hampshire." That wasn't my question.

21 MR. SHEEHAN: I know. And that's  
22 what I know.

23 CMSR. BAILEY: Okay.

24 MR. SHEEHAN: So, EnergyNorth and

1 Granite State do not disclose our current  
2 president, for example, Ms. Fleck's, or the  
3 current treasurer's information anywhere. It's  
4 not in annual reports, it's not in any SEC  
5 filings.

6 I do not believe we do otherwise. I  
7 can't be certain of that. But there may be  
8 different state regulations, and we're in a  
9 dozen states. So, I don't know how it's  
10 handled in those other places.

11 So, I am going to point you to the  
12 important language from the 2010 EnergyNorth  
13 order and suggest a resolution to this. That  
14 order is cited in the motion and the objection,  
15 25,119, it is an EnergyNorth case when the  
16 Company was owned by National Grid. And on  
17 Page 11 in that order is a conclusion by the  
18 Commission. I won't read every word, but I'll  
19 summarize it. They determined that Grid shall  
20 publicly file a schedule containing the  
21 following: Total compensation of the 17  
22 individuals listed as officers in its annual  
23 report.

24 Let me back up. The conclusion is,

1 the important thing here is, "Individually  
2 identifiable compensation information, other  
3 than that in the annual report, will be kept  
4 confidential." That's the bottom-line  
5 conclusion.

6 The above part of that that I started  
7 to read is what we were willing to do, and that  
8 is for the several officers that are blacked  
9 out, we can provide you their combination  
10 compensation, list their names, so, it's  
11 persons A, B, C, and D, the combined  
12 compensation is \$100, and how it's allocated to  
13 Granite State, 27 percent of it is Granite  
14 State.

15 And we can do that. And that would  
16 be consistent with these 2009 and 2010 orders  
17 that clearly back then there were these two  
18 orders and another one that went into this  
19 issue at great length and came up with this  
20 allocation system, which looks like what PSNH  
21 has done in their 2019 case.

22 We didn't do it, because we had been  
23 following a different practice that had been  
24 approved, and there was no attempt to avoid it,

1           it's just what had been approved a couple  
2           times.

3                        So, that's what we propose to do.

4                        CMSR. BAILEY: All right. Thank you.  
5           We'll take the matter under advisement and  
6           we'll issue our ruling as soon as -- oh,  
7           Commissioner Giaimo.

8                        CMSR. GIAIMO: I'm wondering, the  
9           nondisclosure of information, who's being  
10          protected? Is it the Company's -- is it the  
11          Company or the individuals that you're  
12          protecting here?

13                       MR. SHEEHAN: The privacy interest  
14          rests with the individual, is that person's  
15          privacy interest in his or her compensation.  
16          That's what's been repeatedly protected over  
17          and over again.

18                       CMSR. GIAIMO: Does the Company also  
19          have a benefit of not having that information  
20          released?

21                       MR. SHEEHAN: There are some  
22          benefits, and they are discussed in the orders.  
23          You know, there is some -- some belief that  
24          keeping compensation information private helps

1 with recruiting, helps with internal office  
2 politics or morale, if you will. There are  
3 other factors.

4 But it starts primarily with the  
5 individual's interest, and there is some  
6 company benefit as well.

7 CMSR. GIAIMO: Would the Company be  
8 able to go and see if any of their sister  
9 utilities are, in fact, supplying this  
10 information or where that is disclosed?

11 MR. SHEEHAN: I can. And as part of  
12 that, I will find out, if it's disclosed,  
13 whether there is a, for example, a Missouri  
14 specific rule that requires it.

15 And one last comment. Mr. Dexter, in  
16 his objection, noted that we've had several  
17 presidents over the last few years, suggesting  
18 that it undercuts the need to keep this  
19 information confidential.

20 I just note that Mr. Leeher was a  
21 president of some years ago, got a new position  
22 with the Company and has since retire. Mr.  
23 Swain was promoted from president here to the  
24 regional president for all of the Midwest. Mr.

1 Sweeney was promoted from president here to the  
2 president of all of the East Region. And then,  
3 Ms. Fleck has been here for the last couple  
4 years.

5 So, it's not a situation of them  
6 "coming and going". They are being promoted up  
7 and getting better jobs within the Company.

8 CMSR. BAILEY: All right. Thank you.  
9 There's one additional Motion for Waiver to  
10 file a clean copy of the tariff. Does anybody  
11 object to that motion?

12 MR. DEXTER: No objection from Staff.

13 CMSR. BAILEY: Okay. All right. All  
14 right, we'll grant that motion. And we will  
15 issue our ruling on the Motion for Protective  
16 Treatment at a later time.

17 All right. Are there any other  
18 preliminary matters that we need to take up?

19 MR. SHEEHAN: None from the Company.

20 CMSR. BAILEY: Okay. Then let's take  
21 everybody's initial position please.

22 Mr. Sheehan.

23 MR. SHEEHAN: Thank you. In this  
24 proceeding, of course, the Company is seeking a



1 increase in its distribution rates, based on a  
2 2018 test year. And the primary driver of the  
3 request is for capital spending since our last  
4 rate case and increases in property taxes.  
5 Those are the two numbers that are the primary,  
6 together, cause of the under earning that we're  
7 experiencing at this time. The other O&M  
8 expenses have been relatively flat in the last  
9 few years.

10 We request these rate changes in  
11 three steps, if you will. The first is a  
12 temporary rate increase of \$2.1 million as of  
13 July 1st. And I understand we have a hearing  
14 scheduled on that temporary rate request in a  
15 couple weeks. The second is a permanent rate  
16 increase request of \$5.7 million, which  
17 includes the temporary rates, which would go  
18 into effect after the close of the rate case  
19 next spring. And the third is a step increase  
20 for the capital expenditures we are doing now  
21 during 2019, which is a planned about \$15  
22 million worth of capital additions.

23 The total bill impact of the  
24 temporary and permanent rate increase is about

1           6 percent. The typical customer's bill would  
2 go from \$119 per month to 127. These are all  
3 numbers that are in the filing.

4           And in addition to the rate request,  
5 this case has a few other -- a few other  
6 pieces. We are proposing a decoupling tariff.  
7 It is in all respects, except for weather  
8 normalization, the same as what we proposed in  
9 the EnergyNorth case. We are proposing LED  
10 street lighting tariffs, electric vehicle  
11 charging tariffs.

12           We are proposing an increase in the  
13 veg. management spending recovery, annual  
14 recovery that's built into rates to deal with  
15 the backlog of hazard trees, that you may  
16 recall we discussed during that hearing a few  
17 weeks ago.

18           And we are requesting a mechanism to  
19 address the -- going forward the  
20 nonrevenue-producing capital expenditures we do  
21 and property tax, so that we don't have to come  
22 in for rate cases so often. And as I said,  
23 this case is driven largely by those factors.  
24 And similar to like a CIBS Program or an REP

1 Program, if we had a mechanism that would allow  
2 the parties to look at, for example, property  
3 taxes and nonrevenue-producing capital  
4 expenditures, and allow recovery of those,  
5 similar to a CIBS type program, it would allow  
6 us not to have to come back here what's been  
7 every three years for the last couple rate  
8 cases.

9 I do know that there is a bill, I  
10 don't remember if it's been finalized yet, to  
11 require a property tax mechanism that the  
12 Legislature and Senate passed, I don't know if  
13 the Governor has signed it yet. But that won't  
14 go into effect for at least a year or two. I  
15 can't remember the exact details of that  
16 statute.

17 So, that's what our rate case entails  
18 at a high level. We've already started  
19 discovery with the parties. And we look  
20 forward to hopefully making it through the case  
21 through the following into next year.

22 Thank you.

23 CMSR. BAILEY: Mr. Below.

24 MR. BELOW: Thank you. The City of

1           Lebanon, as a significant C&I customer of  
2           Liberty Utilities, has a general interest in  
3           the case overall. But also a particular  
4           interest in the proposed LED and EV charging  
5           tariffs.

6                         And in particular, I would remind the  
7           Commission that in DE 16-383, Order 26,005, at  
8           Page 10, the Commission noted that the  
9           settlement in that case that the City was a  
10          participant in, that "Liberty will work with  
11          the parties to develop more flexible terms  
12          allowing for alternative fixtures and for  
13          customer installation and maintenance" for LED  
14          outdoor lighting.

15                        And we have been in conversation with  
16          the utility over the past couple years on this  
17          issue. We kind of figured out what we wanted  
18          to do about a year ago, and continue to talk  
19          with the Company.

20                        The City has appropriated and  
21          authorized borrowing funds to proceed with  
22          City-purchased LED fixtures. And we hope to,  
23          we would like to discuss with the parties in  
24          the technical session, whether we might be able

1 to proceed with the LED-2 tariff on a  
2 temporary -- as part of temporary rates,  
3 understanding that it would be fully  
4 investigated and reconciled along with  
5 permanent rates. It's a little bit unusual,  
6 but perhaps something that would make sense in  
7 this situation.

8 Thank you.

9 CMSR. BAILEY: Mr. Emerson.

10 MR. EMERSON: Unless there is an  
11 objection, we would like to have the Executive  
12 Director of CENH give the initial position, Ms.  
13 Madeleine Mineau.

14 CMSR. BAILEY: All right. Would you  
15 identify yourself, Ms. Mineau.

16 MS. MINEAU: I'm Madeleine Mineau.  
17 I'm the Executive Director of Clean Energy New  
18 Hampshire. Thank you.

19 Clean Energy New Hampshire has no  
20 position on the temporary rates, other than to  
21 support the City of Lebanon's request that the  
22 LED-2 tariff be included in the temporary  
23 rates, to make this option available sooner to  
24 the municipalities.

1           Regarding the proposed changes in  
2 permanent rates, we're pleased to see that  
3 Liberty is proposing revenue decoupling. We  
4 think this is an important step in modernizing  
5 utility business models and removing  
6 disincentives to energy efficiency and  
7 integration of distributed energy resources.

8           We're also pleased to see the LED-2  
9 outdoor tariff. We think it's important to  
10 allow municipalities to financially realize the  
11 savings that are created by converting fixtures  
12 to more efficient options.

13           We're also happy to see that Liberty  
14 is proposing an electric vehicle time-of-use  
15 charging rate. We think this is really  
16 important to encourage the adoption of electric  
17 vehicles, but specifically to modify customer  
18 behavior, to encourage this new load to occur  
19 at off-peak times, so that we can minimize the  
20 need for expensive additional investment in  
21 infrastructure to accommodate this load, and  
22 also reduce the operation of expensive peaking  
23 generation.

24           We're very interested and continue to

1 review the proposed changes in interconnection  
2 tariffs and fee structure, and to develop our  
3 position on this issue. But we can say that,  
4 in general, we do support predictability up  
5 front in this fee, rather than a variable fee  
6 based on project review time.

7 We look forward to working with  
8 Liberty and the other parties in this rate  
9 case.

10 CMSR. BAILEY: Mr. Kreis.

11 MR. KREIS: Thank you, Commissioner  
12 Bailey.

13 The Office of the Consumer Advocate  
14 looks forward to participating vigorously in  
15 both the temporary and permanent phases of this  
16 rate proceeding. We commend Liberty for doing  
17 what I believe the statutes contemplate, which  
18 is file the request for temporary rates and the  
19 request for permanent rates at the same time,  
20 so that the request for temporary rates can be  
21 evaluated in the context of the Company's  
22 request for permanent rates.

23 Like Clean Energy New Hampshire, we  
24 are very pleased that the permanent rate case

1 filing includes a request for revenue  
2 decoupling. There are other interesting rate  
3 design issues that we look forward to exploring  
4 in detail. We also intend to give the  
5 Company's basic revenue requirement request  
6 some rigorous scrutiny on behalf of residential  
7 utility customers.

8 But, overall, we're relatively  
9 optimistic that we can come to some agreements  
10 with the Company about where the Company's  
11 permanent rates ought to go from here. And so,  
12 we, as I said, look forward to participating  
13 vigorously in the docket.

14 I don't have a position yet about  
15 rates that have to do with electric vehicles.  
16 I have to say, we're still thinking about what  
17 we think the answer ought to be on behalf of  
18 residential utility customers, given the ever  
19 present issues of rate equity and good rate  
20 design.

21 With respect to the notion of  
22 including the proposed LED street lighting  
23 tariff in the permanent rate determination, I  
24 would urge both the Commission and the parties



1 to read the decision of the Supreme Court of  
2 New Hampshire in *State versus New England*  
3 *Telephone & Telegraph Company*. It was reported  
4 at Page 394 of Volume 103 of the New Hampshire  
5 Reporter. And it goes through, in fairly brief  
6 fashion, the reasons that we have a statutory  
7 scheme that includes authorization for  
8 temporary rates. And the purpose of a  
9 temporary rate phase of a rate case is to avoid  
10 a situation where a utility is suffering, even  
11 on a temporary basis or on a limited basis,  
12 confiscatory rates.

13 And there's a countervailing section,  
14 which is RSA 370 -- I always forget which  
15 section we're talking about here. It's Section  
16 30 of RSA 378 that requires utilities to post  
17 bond in certain circumstances. And those two  
18 statutes operate as sort of counterparts to  
19 each other, where the temporary rate statute  
20 protects the shareholders and the bond statute  
21 protects customers from suffering ill effects  
22 if the -- depending on how the permanent rate  
23 proceeding works out with respect to what the  
24 utility's ultimate revenue requirement is.

1 I think that engaging in innovative  
2 rate design projects as part of the temporary  
3 rate phase of a rate case steps totally outside  
4 that rubric and would set a difficult, possibly  
5 troubling precedent. And so, we look with a  
6 great deal of skepticism about that particular  
7 idea.

8 Much as we look at the overall  
9 possibility of a more enlightened and  
10 forward-thinking LED street lighting tariff as  
11 a good idea, and we look forward to working  
12 with all of the parties on that.

13 I think, by way of preliminary  
14 positions, that's all I have to say. And we  
15 look forward to participating vigorously.

16 CMSR. BAILEY: Mr. Dexter.

17 MR. DEXTER: Thank you.

18 So, Staff has begun its review of the  
19 filing. But it is preliminary at this point,  
20 so I do have some preliminary positions. And  
21 I'll start first with the temporary rates, and  
22 we're going to meet in a technical session  
23 soon, but to address Mr. Below's proposal,  
24 which surfaced recently.

1           Fundamentally, I think I agree with  
2           the Consumer Advocate. But I think there might  
3           be some extenuating circumstances in this case  
4           that would allow Staff to keep an open mind and  
5           listen to what the City of Lebanon has to say.

6           First, as I understand it, the LED-2  
7           rate is lower than the existing LED street  
8           lighting rate. So, it would represent a lower  
9           rate to the City of Lebanon, and that gives  
10          Staff some comfort.

11          Secondly, this is an issue that  
12          received a lot of review in the rate case three  
13          years ago. And Attorney Below pointed to the  
14          Commission's order in that case, indicating  
15          that a rate providing for customer-owned  
16          fixtures would be developed.

17          And thirdly, this is a situation  
18          where the proposed LED rate really allows for a  
19          new innovation, sort of a new use, which is  
20          different, I think, from just a typical  
21          distribution rate.

22          So, for those reasons, we're  
23          interested to hear further from the City on  
24          that issue that's been raised for the temporary

1 phase.

2 With respect to the permanent case,  
3 based on Staff's preliminary review, we have  
4 some concerns with the Company's proposal.  
5 First falls in the area of Company payroll  
6 expenses. The rate case includes approximately  
7 a three-quarters of a million dollar adjustment  
8 for vacancies that occurred during the test  
9 year, and additional positions that the Company  
10 projects to be filled in 2019. And Staff  
11 believes that an adjustment like that is in  
12 opposition to the recently established  
13 precedent from the gas case, DG 17-048, which  
14 was Liberty's affiliate. So, we will look at  
15 that and compare their proposal to what we  
16 believe is the existing precedent.

17 The Company mentioned "property  
18 taxes" several times today, and it's mentioned  
19 on their website as a primary cause for the  
20 rate increase. Our preliminary review of the  
21 property tax situation, just looking at the  
22 FERC Form 1 from this year and last year,  
23 doesn't show a big increase. In fact, it shows  
24 a slight decrease. So, we want to look at that

1 more. Either we're missing something or -- or  
2 something. I'm not sure what's going on there.  
3 But, obviously, it's of concern to the Company,  
4 property tax increases, and we want to make  
5 sure that they actually are experiencing  
6 significant increases. I know their  
7 schedule -- their filing contains a schedule  
8 town-by-town. So, I don't think it will be  
9 hard to get to the bottom of that.

10 Liberty's rate request is founded on  
11 a 10 percent return on equity, which is higher  
12 than what was approved in either their most  
13 recent electric case or their most recent gas  
14 case. Both of those were done by settlement.  
15 We will be looking at the rate of return to see  
16 if it should be more in line with what was  
17 recently approved for both the electric and the  
18 gas affiliate.

19 Same thing with capital structure.  
20 The Company has proposed a capital structure  
21 with a higher equity proportion than what was  
22 approved via settlement in the most recent  
23 Granite State Electric and EnergyNorth cases.

24 We also have some concerns about the

1 rate recovery mechanisms. We understand that  
2 the 2019 step adjustment has become fairly  
3 routine. But the proposal to go beyond that is  
4 something that will require scrutiny by the  
5 Staff. Not to say that we won't also be  
6 looking at the 2019 step adjustment.

7 \$15 million in capital expenditures is a lot of  
8 money for 2019, and we will be looking at that  
9 carefully.

10 In addition to those specific issues,  
11 Staff will look at all the typical rate case  
12 issues, including decoupling, depreciation,  
13 allocations from the corporate headquarters,  
14 pensions, benefits, rate design, including the  
15 electric vehicle rate, and whatever other  
16 issues come up as a result of our review of the  
17 binders that were submitted.

18 So, we look forward to using the  
19 12-month suspension period to its fullest. And  
20 that concludes my comments.

21 CMSR. BAILEY: All right. Thank you,  
22 everyone.

23 At this point, we will adjourn the  
24 hearing and leave you to your technical

1 session. Thank you.

2 *(Whereupon the prehearing*  
3 *conference was adjourned at*  
4 *10:48 a.m., and a technical*  
5 *session was held thereafter.)*

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