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August 12, 2022

Daniel C. Goldner, Chairman
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301

Re: DG 20-105; Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty;
Petition for Permanent Rates; Department of Energy Recommendation for Recovery of
Rate Case Expenses

Dear Chairman Goldner:

On August 30, 2021, Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty (Liberty) filed a Motion for Recovery of Rate Case Expenses, seeking authority to collect \$856,865 of actual and estimated rate case expenses through its Local Distribution Adjustment Clause (LDAC) beginning November 1, 2021. This amount had been agreed to in a settlement agreement approved in part in DG 20-105 in PUC Order No. 26,505, subject to audit and update for actual invoices.

When Liberty made its LDAC filing on September 1, 2021, in DG 21-130, the rate case expense figure for which recovery was sought was \$785,177. DG 21-130, Exhibit 2 at Bates 126, Line 2. In Order No. 26,541 at 8-9, the Commission did not approve recovery of these expenses in the LDAC, noting that the Department of Energy had not yet submitted a recommendation concerning rate case expense recovery in DG 20-105, and the expenses had not yet been determined to be just and reasonable, and in the public interest, and otherwise conforming to the requirement of Chapter Puc 1900.

This letter is the Department's recommendation on these rate case expenses. The Department of Energy's Audit Division issued a final report on these rate case expenses dated October 11, 2021.¹ The Audit Report recommended approval of recovery of \$694,412 in rate case expenses, which was essentially all the rate case expenses proposed for recovery by Liberty, except the Audit recommended non-recovery of \$12,893 in legal expenses paid to Keegan Werlin, and \$34,215 in consulting services paid to ScottMadden. These costs were related to recovery of development costs for Liberty's Granite Bridge project, not the rate case, and thus were not eligible for recovery as rate

¹ The Final Audit Report is attached to this letter. Although the Final Audit Report is labeled Confidential, based on Liberty's Motion for Confidential Treatment dated August 30, 2021 which concerned hourly rates for consultants and tax identification numbers, the Audit Report not contain any such information.

case expenses. Audit Report at 12-14. Liberty disagreed with the Audit report noting that in DG 17-198 the Commission stated that costs recovery for capital projects and supply planning costs (like Granite Bridge) are appropriately reviewed in a full rate case.² Liberty amended its rate case filing in DG 20-105 to include a review of the Granite Bridge development costs project, which the PUC did review.³

The Final Audit report also shows \$48,382 paid to Concentric Energy Advisors, Inc. for consulting services related to a review of Liberty's decoupling mechanism.

Based on the above, the Department recommends that the PUC allow recovery of all the rate case expense presented in the Final Audit Report (updated for any actual invoices received since the audit was completed) except for:

1. Legal and consulting costs associated with recovering Granite Bridge development costs:

In the Puc 1900 rules covering rate case expenses, a full rate case is defined as a proceeding in which a revenue requirement is established, and rates are set to meet that revenue requirement. Puc Rule 1604 sets out the information that a utility must file in support of a rate case. This information centers on per books test year information concerning rate base, revenues, and expenses, as well cost of service studies to examine class allocation and rate design.

The Granite Bridge development costs are unrelated to any of the financial information examined in a rate case because Granite Bridge was never put in service, it is not in rate base, it does not serve any Liberty customers, and does not produce or support any utility sales or revenues. The Granite Bridge development costs that Liberty sought to recovery in DG 20-105 were proposed for inclusion in its Local Distribution Adjustment Clause (LDAC) not, the base distribution rates that were being set in DG 20-105. The Granite Bridge development costs and the costs incurred to pursue LDAC recovery are fundamentally different from the typical rate case expenses that are incurred to present and examine utility's cost of service and revenue requirement. Typical rate case expenses (for which recovery under the Puc 1900 rules is contemplated) include consultants who examine the depreciation of utility plant in service, rate design to recover a utility's cost of service, and the cost of debt and equity needed to fund plant in service and utility operations; not costs for a capital project that was never put in service.

2. Decoupling related Consulting Costs:

² See Order No. 26,409 at 13, DE 17-198 (October 6, 2020).

³ In Order No. 26,536 issued October 29, 2021, the Commission denied recovery of these Granite Bridge development costs and Liberty appealed this order to the NH Supreme Court, where the appeal is pending. *See* NH Supreme Court, Case No. 2022-0146.

Concentric Energy Advisors, Inc. (Concentric) was retained in 2019 to review the Company's decoupling mechanism because the mechanism was passing back more money to customers than Liberty believed was warranted. Concentric reviewed the decoupling mechanism and reported its findings to Liberty. Concentric did not identify the flaw in the mechanism that Liberty now claims caused an approximately \$4 million under-recovery over two years and for which Liberty now seeks recovery. *See* Testimony of Erica Menard in DG 22-041 at Bates 4, 66-67.

Without conceding that a flaw actually exists in Liberty's decoupling mechanism (examination of that alleged flaw is on-going in DG 22-041) the Department contends that ratepayers should not be required to pay for the costs of Concentric's review, which failed to identify this alleged significant flaw.

Consistent with the Commission's *Temporary Changes in Filing Requirements* (March 17, 2020) this letter is being filed only in electronic form.

Sincerely,

/s/ *Paul B. Dexter*

Paul B. Dexter
Staff Attorney/Hearings Examiner

Cc: Service List