

STATE OF NEW HAMPSHIRE

Intra-Department Communication

DATE: November 18, 2022

FROM: Enforcement Division Audit Staff, NH Department of Energy

SUBJECT: Liberty Utilities (EnergyNorth Natural Gas) Corp.
 DG 20-105 Rate Case Expense Review -updated for Costs Incurred after August 2021
FINAL Audit Report
 A Motion for Confidential Treatment of the Rate Case Expenses was filed on August 30, 2021

TO: Thomas Frantz, Director Regulatory, NH Department of Energy
 Liz Nixon, Director-Electric, Regulatory, NH Department of Energy
 Paul Dexter, Attorney, NH Department of Energy

Background

The Department of Energy Enforcement Division Audit Staff audited rate case expenses filed by Liberty Utilities (EnergyNorth Natural Gas) Corp. (ENG), with a Final Audit report issued on October 11, 2021. That Audit report summarized the filed invoices through August 1, 2021 figures as follows:

<u>Service Provider</u>	<u>Actual Expenses as of 8/1/2021</u>	<u>Estimated Additional per 8/1/21</u>	<u>Total</u>	<u>Actual Expenses as of 8/30/2021</u>
FII Consulting	\$ 385,965.46	\$ -	\$ 385,965.46	\$ 385,965.46
Keegan Werlin	\$ 114,463.50	\$ 70,536.50	\$ 185,000.00	\$ 114,463.50
Management Applications Consulting	\$ 33,245.63	\$ -	\$ 33,245.63	\$ 33,245.63
Concentric Energy Advisors	\$ 48,381.75	\$ -	\$ 48,381.75	\$ 48,381.75
ScottMadden	\$ 34,215.00	\$ -	\$ 34,215.00	\$ 34,215.00
Legal Notices	\$ 466.50	\$ -	\$ 466.50	\$ 466.50
Court Reporter	\$ 3,053.00	\$ 3,100.00	\$ 6,153.00	\$ 3,053.00
Customer Notice	\$ 46,241.00	\$ -	\$ 46,241.00	\$ 46,241.00
Miscellaneous	\$ 159.60	\$ -	\$ 159.60	\$ 159.60
Subtotal	\$ 666,191.44	\$ 73,636.50	\$ 739,827.94	\$ 666,191.44
<u>Staff Consultants</u>				
Blue Ridge Consulting	\$ 62,402.50	\$ 7,597.50	\$ 70,000.00	\$ 64,652.50
J. Randall Woolridge	\$ -	\$ 33,800.00	\$ 33,800.00	\$ -
<u>OCA Consultants</u>				
Exeter Associates	\$ 12,923.70	\$ -	\$ 12,923.70	\$ 12,923.70
Subtotal PUC and OCA	\$ 75,326.20	\$ 41,397.50	\$ 116,723.70	\$ 77,576.20
Grand Total	\$ 741,517.64	\$ 115,034.00	\$ 856,551.64	\$ 743,767.64

The October 2021 Audit report recommended excluding \$12,893 of Keegan Werlin costs and \$34,215 of ScottMadden costs from the Company's submission of \$741,520 (rounded). The recommended reduction of \$(47,108) has not been noted as a credit to the general ledger deferred account 8840-2-0000-10-1930-1754, Rate Case Recovery. Refer to the Audit Issue #1 and Company Response in the prior report. ENG disagreed with the recommended disallowances.

By Order 26,536, issued October 29, 2021, the PUC disallowed recovery of approximately \$7.5 million of expenses associated with the Granite Bridge Project. Liberty requested a rehearing, and by Order 26,558 issued on December 22, 2021, the PUC suspended Order 26,536 pending review of Liberty's motion. On February 17, 2022, the PUC denied the request for rehearing, by Order 26,583. The Company appealed the decision to the NH Supreme Court, which accepted the appeal, and docketed it as 2022-0146. The appeal has yet to be decided.

The Company filed its rate case expenses on January 27, 2021, April 27, 2021 and August 2, 2021 in compliance with PUC 1905.01(a). Included in the terms of the settlement agreement was a provision in section 14.1 that Liberty file an accounting of its rate case expenses, with appropriate documentation for review by Staff by August 1, 2021. An update was provided to the PUC on August 30, 2021. Documentation relating to rate case expenses incurred after August 30, 2021 was not provided to the PUC until September 8, 2022.

A Department of Energy Staff letter to the PUC, dated August 12, 2022, recommended disallowing the costs identified by Audit, as well as originally filed costs associated with Concentric Energy, a firm hired by Liberty to review decoupling. The Concentric amount in the original filing was \$48,382.

In the September 8, 2022 letter, the Company notified the PUC that it disagreed with the October 2021 Audit report recommended disallowances, as well as disallowances recommended by the Regulatory division of the Department of Energy. The letter also "*recommends that DOE audit the additional rate case expenses incurred since the October 2021 audit.*"

The PUC issued Order 26,691 on September 29, 2022, which ordered "*that the Department of Energy shall audit the remaining unaudited expenses and file a report on the audit by December 30, 2022...*". The Commission also "*authorized Liberty to recover \$680,770 in approved rate case expenses through the LDAC mechanism, **without interest**, between November 1, 2022 and October 31, 2023.*"

The Commission arrived at the \$680,770 as follows:

Grand Total Rate Case Expenses as filed through August 2021	\$741,520
Less Audit recommended disallowance-Legal	\$ (12,893)
Less Audit recommended disallowance-consulting	<u>\$ (34,215)</u>
Recommended rate case expenses per Audit report 10/11/2021	\$694,412
Less Dept of Energy recommended disallowance-decoupling	<u>\$ (48,382)</u>
Adjusted Rate Case Expenses as of Audited 8/2021 invoices	\$646,030
Plus Updated Rate Case Expenses 9/8/2022:	
Staff Consultant-Blue Ridge Consulting	\$ 2,250
Staff Consultant-J. Randall Woolridge	\$ 33,800
Court Reported – S. Patnaude	<u>\$ (1,310)</u>
Total Rate Case Expenses approved by Order 26,691	\$680,770

Audit requested all invoices, approvals, and general ledger details, of the subsequent rate case expenses, by email to the Company’s attorney, on September 29, 2022. The response was received on October 17, 2022.

The additional expenses identified by ENG in the September 8, 2022 letter were:

Keegan Werlin	\$ 33,943	not included in Order 26,691
Management Applications Consulting	\$ 37,997	not included in Order 26,691
Court Reporter	\$ (1,310)	included in Order 26,691
Blue Ridge Consulting	\$ 2,250	included in Order 26,691
J. Randall Woolridge	<u>\$ 33,800</u>	included in Order 26,691
	\$106,680	

Keegan Werlin \$33,943-should be \$28,030

Keegan Werlin was hired to provide legal services consisting of overall case management, coordination with in-house counsel, review and development of rebuttal testimony, discovery strategy, hearing representation, cross-examination and briefing by two lead attorneys. An associate Attorney and paralegals would be the primary support with responsibility for day-to-day coordination with the Company, discovery review and production, assistance in preparing pleadings, testimony and written briefs, and overall strategic planning and case management.

Within this updated rate case expense detail were seven additional Keegan Werlin invoices. Audit reviewed each to ensure it had not been included within the original rate case expense filing and Audit. None of the invoices below were in the original filing:

Keegan Werlin

<u>Invoice Numver</u>	<u>Date of Service</u>	<u>Invoice Date</u>	<u>Invoice Amount</u>	<u>Granite Bridge</u>	<u>Research MA Step</u>	<u>Other</u>	<u>Adjusted Amount</u>
63423	05/31/2021	10/07/2021	\$ 18,466.00	\$ (2,184.00)	\$ (1,708.00)	\$ -	\$ 14,574.00
63779	07/31/2021	11/02/2021	\$ 2,156.00	\$ -	\$ -	\$ -	\$ 2,156.00
63792	08/31/2021	11/02/2021	\$ 5,264.00	\$ -	\$ -	\$ -	\$ 5,264.00
63939	10/31/2021	11/22/2021	\$ 1,517.00	\$ (1,517.00)	\$ -	\$ -	\$ -
64098	11/30/2021	12/13/2021	\$ 1,792.00	\$ -	\$ -	\$ -	\$ 1,792.00
64390	12/31/2021	03/21/2022	\$ 2,340.00	\$ -	\$ -	\$ -	\$ 2,340.00
64404	01/31/2022	03/22/2022	\$ 2,408.00	\$ -	\$ -	\$ (504.00)	\$ 1,904.00
			\$ 33,943.00	\$ (3,701.00)	\$ (1,708.00)	\$ (504.00)	\$ 28,030.00

Audit reviewed the detailed general ledger account for Rate Case Recovery 8840-2-0000-10-1930-1745, and noted each of the 2021 invoiced amount figures were posted for 12/31/2021. The two invoices dated in March 2022 were posted for May 2022 and April 2022 respectively.

Invoice #63423 related to the rate case, Granite Bridge, and hours identified as researching Massachusetts step adjustments. Invoice #63939 related solely to Granite Bridge, and should be removed, at least until the resolution at the NH Supreme Court. Invoice #64404 included hours identified as time spent on “changes to billing and memo on mistaken billing”. The total recommended disallowance is \$(5,913). **Audit Issue #1**

Audit noted certain dates on which Keegan Werlin attorneys worked on rate case specifics and attended “steering committee” meetings. Audit requested specifics regarding the committee, and was informed by the Company that the committee’s role was to oversee the EnergyNorth rate case. Members of the committee were noted to be:

- President of Operations, Liberty East Region
- President of Operations, Liberty NH
- Vice President of Gas Operations, Liberty NH
- General Counsel, Liberty
- Director of Rates and Regulatory Affairs, Liberty NH
- Director of Regulatory Affairs and Policy, Liberty East Region
- Vice President of Finance, Liberty East Region
- Vice President of Regulatory Strategy, Liberty
- Keegan Werlin, outside counsel

As a result of the recommended adjustments above, the total for Keegan Werlin updated expenses should be reduced from \$33,943 to \$28,030

Management Applications Consulting, Inc. \$37,997

Management Applications Consulting, Inc. additional invoices consisted of work performed on the 12/31/2021 depreciation study.

Invoice #20220414	4 weeks ended 03/25/2022	\$10,552.50
Invoice #20220516	5 weeks ended 04/29/2022	\$20,409.38
Invoice #20220813	5 weeks ended 07/29/2022	\$ 866.25
Invoice #20220906	4 weeks ended 08/26/2022	<u>\$ 6,168.75</u>
		\$37,996.88

Each invoice was reviewed to ensure it represented work associated with the rate case depreciation study. Each supported that task. Audit also verified posting of each invoice to the Rate Case Recovery deferred account 8840-2-0000-10-1930-1745 during 2022.

Court Reporter \$(1,310)

According to the Audit report of the Original Rate Case Expense filing, “two invoices from Steven E. Patnaude, LCR were submitted for services performed on September 3rd and September 16th, 2020 in the amount of \$721, and June 7th and June 8th, 2021 in the amount of \$2,332 totaling \$3,053.

The September 2020 invoice consisted of an original and two copies of a 24-page transcript of the prehearing conference including an appearance fee and an original and two copies of the temporary rate hearing including an appearance fee and a condensed version for the NHPUC file.

The June 2021 invoice consisted of the original and two copies of a 146-page transcript of the Day-1 hearing including an appearance fee and a condensed version for the NHPUC file and an original and two copies of a 196-page transcript of Day-2 session including a half-day appearance fee and a condensed version for the NHPUC file. Audit reviewed the invoices with no exceptions noted.”

The Updated Rate Case Expense filing consists of:

Patnaude Steven E. Patnaude, LCR

<u>Invoice</u>	<u>Date of</u>	<u>Invoice</u>	<u>Invoice</u>
<u>Numver</u>	<u>Service</u>	<u>Date</u>	<u>Amount</u>
2021-027	6/7/21, 6/8/21	08/02/2021	\$ (2,332.00)
2021-033	07/13/2021	08/20/2021	\$ 1,022.00
			<u>\$ (1,310.00)</u>

Audit questioned why the first invoice was eliminated from the updated filing. It had been included within the Original filing. The Company noted that “Upon review of the invoices, the Company determined that the June 7, 2021 and June 8, 2021 hearings for which Mr. Patnaude provided transcripts were related to cost recovery of \$7.5 million for the Granite Bridge project. Therefore, the Company removed this invoice amount from the rate case expenses.” Audit concurs with the subsequent determination and removal of the expense. The reclassification of the court report invoice \$(2,332) was credited on 6/30/2022 to the Rate Case Recovery general ledger account 8840-2-0000-1930-1745, and offset as a debit to 8840-2-9823-69-5200-9230, Outside Services-Legal.

Invoice #2021-033 was for an original and 2 copies of a 147-page transcript of the hearing held on July 13, 2021 in DG 20-105. The docket book supports the date and hearing content. Audit verified the rate case expense posting to the deferred account 8840-2-0000-10-1930-1745 as of 9/30/2021.

Blue Ridge Consulting, Inc. \$2,250

Blue Ridge Consulting, Inc. was hired by the (former PUC Commission Staff, now Department of Energy Staff) to provide Revenue Requirement consulting services for the ten months commencing in November 2020 through August of 2021. The updated invoices were reviewed:

Blue Ridge Consulting Services, Inc.				
12437	June 2021	08/19/2021	\$	731.25
12438	July 2021	08/19/2021	\$	1,518.75
			<u>\$</u>	2,250.00

Both invoices were debited to the Rate Case Recovery deferral account 8840-2-0000-10-1930-1745 in August 2021.

J. Randall Woolridge, Ph.D. \$33,800

The original August 2, 2021 filing letter which included all the invoices as of August 1, 2021, did not include any invoices from J. Randall Woolridge. Dr. Woolridge is a consultant hired for the (former) PUC Staff. The Updated filing reflected one invoice, #12496 dated 12/17/2021 for work performed from November 2020 through April 2021, in the amount of \$33,800. The debit to the deferred account was noted for 8/31/2022, with the credit posting to 8810-2-0000-20-2001-2320, Accounts Payable. Audit requested clarification of where the invoice was booked prior to the 8/31/2022 entry, as the invoice itself was submitted from the Department of Energy Business Office on 12/17/2021. The Company indicated that the 12/17/2021 was unintentionally overlooked, and when the Department of Energy Business Office contacted them on 8/8/2022 about the unpaid invoice, the invoice was researched and found not to have been paid. It was processed immediately thereafter. Audit did verify the dates and details of the unpaid invoice with the Department of Energy Business Office, who verified that the subsequent August 2022 request for payment was made. The payment was received by them on 8/15/2022.

Conclusion

	<u>Updated Filing</u>	<u>Audited Update</u>
Keegan Werlin	\$ 33,943	\$ 28,030.00 Audit Issue #1
Management Applications Consulting	\$ 37,997	\$ 37,996.88 no exception
Court Reporter	\$ (1,310)	\$ (1,310.00) included
Blue Ridge Consulting	\$ 2,250	\$ 2,250.00 included
J. Randall Woolridge	<u>\$ 33,800</u>	<u>\$ 33,800.00</u> included
	\$106,680	\$100,766.88

“Included” indicates that the referenced amounts were specifically authorized by PUC Order 26,691 on 9/29/2022 to be part of the overall rate case expense recovery total of \$680,770. Recovery was noted for inclusion via the Local Distribution Adjustment Charge (LDAC), from November 1, 2022 through October 31, 2023. The LDAC for the 2022 through 2023 period was docketed as DG 22-045. Therefore, the recommended additional rate case expenses should be:

$$\$28,030 + \$37,997 = \$66,027$$

The Schedule 6 RCE and recoupment in DG 22-045 reflects Schedule 6 as originally filed in September 2022, and as updated in October 2022:

	<u>Schedule 6</u> <u>9/2022</u>	<u>Schedule 6</u> <u>10/2022</u>	<u>change</u>
Prior Period RCE Under-collection, including INTEREST	\$ 72,693	\$ 129,039	\$ 56,346
RCE DG 17-048	\$ (4,836)	\$ (4,836)	\$ -
RCE DG 20-105	\$ 848,198	\$ 680,768	\$ (167,430)
Projected RCE and Recoupment	<u>\$ 843,362</u>	<u>\$ 675,932</u>	<u>\$ (167,430)</u>
Projected INTEREST	\$ 21,445	\$ 17,048	\$ (4,397)
Total Projected Recovery 11/22-10/23	<u><u>\$ 937,500</u></u>	<u><u>\$ 822,019</u></u>	<u><u>\$ (115,481)</u></u>

The filing clearly includes interest, which was *expressly not allowed* per Order 26,691. As a result, the adjusted ending balance of **\$822,019 is overstated by at least \$17,048**. Any interest included in the Prior Period under-collection is not known. However, it is unclear what caused a \$56,346 increase to the prior period under-collection. **Audit Issue #2**

Order 26,692, also issued on 9/29/2022 in the Winter 2022/2023 Cost of Gas and Summer 2023 Cost of Gas docket, referenced the reduction of the allowable rate case expenses of \$680,770 as defined in Order 26,691, and also directed Liberty to update its LDAC schedules by removing costs related to the Concord Gas Holder, the RDAF under-collection, and to update the rate case expense recovery as directed 26,691 Order. Such update was required not later than October 7, 2022. The Company filed updated schedules via electronic mail on 10/7/2022.

The reader is reminded that none of the recommended disallowances from the October 2021 Audit report has been credited to the deferred account, nor the recommended disallowance of the Concentric amount noted by Department of Energy Staff.

Audit Issue #1
Overstatement of Projected Rate Case Expense

Background

The Company included updated rate case expense totals related to invoices from Keegan Werlin totaling \$33,943.

Issue

Audit reviewed all invoices, and recommends disallowing:
Invoice #63423 related to the rate case, Granite Bridge, and hours identified as researching Massachusetts step adjustments \$3,701

Invoice #63939 related solely to Granite Bridge, and should be removed, at least until the resolution at the NH Supreme Court \$1,708

Invoice #64404 included hours identified as time spent on “changes to billing and memo on mistaken billing” \$ 504

The total recommended disallowance is \$5,913.

Recommendation

Audit recommends that the above legal costs be credited to the deferred account and debited to an expense account. They should be excluded from the total Keegan Werlin subsequently filed amount of \$33,943, resulting in an updated Keegan Werlin rate case expense recovery of \$28,030.

Company Comment

The Company agrees to make the recommended adjustments identified by Audit in the amount of \$5,913.

Audit Conclusion

Audit appreciates the Company comment and requests a copy of the adjusting entry as soon as it is posted to the general ledger.

Audit Issue #2
Overstatement of Projected Rate Case Expense

Background

The Company included updated rate case expense totals within the LDAC portion of the DG 22-045 Winter Cost of Gas docket, as directed by Order 26,691.

Issue

The LDAC filing schedule 6 in DG 22-045 includes interest in an unknown amount in the beginning balance, as well as projected interest of \$17,048.

Recommendation

The Company must deduct all interest from the LDAC filing and stop accruing interest on rate case expenses, as noted in Order 26,691, page 3:

*“**ORDERED**, that Liberty is authorized to recover \$680,770 in approved rate case expenses through the LDAC mechanism, **without interest**, between November 1, 2022 and October 31, 2023;”* (emphasis added)

The Company is also reminded of *“Puc 1907 Expenses Not Allowed. Expenses not recoverable as rate case expenses shall include: Puc 1907.01 (f) interest charges on rate case expenses”*.

Company Comment

The Company is not clear as to the reference from Audit related to the LDAC filing schedule 6 in DG 22-045 including interest in an unknown amount in the beginning balance. The interest calculated on Page 2 of Schedule 6 relates to recoupment amounts and the interest associated with the over/under collection of the approved recoupment recovery over the November 2021 through October 2022 LDAC billing period.

The approved rate case expense from Docket No. DG 20-105 in Order No. 26,691 in the amount of \$680,768 is shown on line 3 of Schedule 6, Page 1. Per Puc 1907.01 (f), this amount does not include any interest accrued on the rate case expenses incurred.

The Company’s tariff allows for interest to be calculated on the over/under recovery balance once recovery of the expense through the LDAC charge begins as defined on Page 70 of Tariff NHPUC No. 11, LDAC section F.7.

*“**Reconciliation Adjustments: Account 1930-1745 shall contain the accumulated difference between revenues toward Rate Case Expenses as calculated by multiplying the Rate Case Expense Factor (“RCEF”) times the appropriate monthly volumes and Rate***

Case Expense allowed, plus carrying charges added to the end-of-month balance. The carrying charges shall be calculated beginning on the first month of the recovery period by applying the monthly prime lending rate, as reported by the Federal Reserve Statistical Release of Selected Interest Rates to the average monthly balance.”

The \$17,048 of projected interest is related to the projected over/under collection over the November 2022 through October 2023 LDAC billing period and will be reconciled with actual collections and interest calculation once the recovery begins.

Audit Conclusion

Audit reviewed the tariff page 70, which does not deal with the LDAC.

Per the PUC.NH.GOV online tariff effective 11/1/2018, page 40, LDAC Section 17 F.7 does reflect:

“Reconciliation Adjustments: Account 1930-1745 shall contain the accumulated difference between revenues toward Rate Case Expenses as calculated by multiplying the Rate Case Expense Factor (“RCEF”) times the appropriate monthly volumes and Rate Case Expense allowed, plus carrying charges added to the end-of-month balance. The carrying charges shall be calculated beginning on the first month of the recovery period by applying the monthly prime lending rate, as reported by the Federal Reserve Statistical Release of Selected Interest Rates to the average monthly balance. At the end of the recovery period, any under or over recovery will be included in an active LDAC component, as approved by the Commission.”

Per updated proposed and redlined tariff pages filed in DG 20-105, on August 16, 2022, third revised page 43

“1930-1745 Rate Case Expense/Temporary Rates Reconciliation Adjustment: This account shall be used to record the cumulative difference between the recovery and actual amounts of third party incremental expenses associated with the Company’s Rate Case initiatives and the difference between the final and temporary distribution rates. Entries to this account shall be determined as outlined in the Local Distribution Adjustment Charge, 17(F).”

A non-compliance letter was sent to the Company on 9/15/2022 which addressed other tariff pages that needed revisions.

The Order specifically disallowing any interest was issued 9/29/2022.

Audit suggests that the Company also update the tariff page 43 to eliminate the reference to interest on rate case expense recovery, as the Order disallowing interest is more current than the existing and proposed tariff pages.

The reader is also reminded that the referenced interest of \$17,048, as stated above, is the *estimated* interest the Company calculated for the upcoming LDAC recovery period of November 2022 through October 2023. It is that amount which should not be collected. The overcollection should be adjusted to zero in the next proposed 2023-2024 LDAC filing.

