

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

Docket No. DG 20-105

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty  
Distribution Service Rate Case

**REBUTTAL TESTIMONY**

**OF**

**WILLIAM J. CLARK**

**AND**

**STEVEN E. MULLEN**

April 29, 2021



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## ATTACHMENTS

<b>Attachment</b>	<b>Title</b>
WJC/SEM-1	Liberty's Response to Staff TS 3-8
WJC/SEM-2	Staff's Response to LU 1-20
WJC/SEM-3	Liberty's Response to Staff TS 3-3
WJC/SEM-4	October 20, 2020, Rebuttal Testimony of Steven E. Mullen in Docket No. DG 20-152

**I. INTRODUCTION AND BACKGROUND**

**Q. Please state your names, positions, and business addresses.**

A. (WJC) My name is William J. Clark and my title is Senior Director, Business Development. My business address is 116 N. Main Street, Concord, New Hampshire.

(SEM) My name is Steven E. Mullen and my title is Director, Rates and Regulatory Affairs. My business address is 15 Buttrick Rd., Londonderry, New Hampshire.

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

A. We are both employed by Liberty Utilities Service Corp., which provides services to Liberty Utilities (EnergyNorth Natural Gas) Corp. (“Liberty” or “the Company”) and Liberty Utilities (Granite State Electric) Corp.

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

A. We are testifying on behalf of Liberty.

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

A. Yes. We both submitted testimony as part of the Company’s July 31, 2020, filing for an increase for distribution rates. Our educational backgrounds, professional backgrounds, and qualifications are contained in those prior testimonies.

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

A. Our testimony provides rebuttal of certain issues described in the testimony filed on behalf of the Commission Staff by Stephen P. Frink. Specifically, we will address Staff’s comments with respect to the Pelham franchise risk sharing adjustment, the Company’s

1 investment in the iNATGAS compressed natural gas (“CNG”) fueling facility, and  
2 certain issues with respect to the Keene franchise.

3 **II. PELHAM FRANCHISE RISK SHARING ADJUSTMENT**

4 **Q. Please briefly describe the risk sharing agreement that arose from a settlement**  
5 **agreement in Docket No. DG 15-362, the Windham and Pelham franchise docket.**

6 A. As discussed in that docket, the Company is serving customers in Pelham via a newly  
7 constructed take station on the Concord Lateral that is owned by Tennessee Gas Pipeline.  
8 Customers in Pelham are served under Managed Expansion Program rates in order to  
9 help pay the cost of the take station. Also in that docket, the Commission approved a  
10 settlement agreement that, in part, included a “risk sharing” mechanism whereby, as  
11 applicable to this rate case filing, the Company is required to prepare a discounted cash  
12 flow (“DCF”) analysis that compares the revenue requirement of the take station with the  
13 anticipated annual revenue from new Pelham customers. If there is a shortage in the  
14 average anticipated annual revenue over a three-year period following the date of  
15 implementation of permanent rates, as compared to the average annual revenue  
16 requirement over the same three-year period, the Company is required to absorb one-half  
17 of that shortfall.

18 **Q. In accordance with the settlement agreement in that docket, what is considered as**  
19 **“anticipated revenue?”**

20 A. The settlement agreement in that docket defined “anticipated revenue” as follows: “For  
21 purposes of this risk sharing section, anticipated revenue will include committed revenue

1 plus Estimated Annual Margin as defined in EnergyNorth's main extension provision in  
2 its tariff."

3 **Q. What is meant by "committed revenue?"**

4 A. "Committed revenue" has consistently been demonstrated over the years with respect to  
5 various tariff provisions as being evidenced by a signed Service Line Agreement  
6 ("SLA").

7 **Q. Did Liberty prepare the required analysis described above?**

8 A. Yes. Attachment SEM-2 to Mr. Mullen's July 31, 2020, direct testimony presented the  
9 required analysis which resulted in an average annual shortfall of revenue as compared to  
10 revenue requirement of \$129,165, with one-half of that amount being \$64,583. The  
11 \$64,583 was included as an adjustment to the Company's calculated revenue  
12 requirement.

13 **Q. Did Staff take issue with that calculation?**

14 A. Yes. Staff recommended removing anticipated revenue from a large industrial customer  
15 as that customer signed an SLA in 2016 and has not yet taken service. In Staff's view, "it  
16 is unreasonable to assume...that Liberty will realize those revenues and projected  
17 revenues should be adjusted accordingly."<sup>1</sup> Staff supported that position by stating "[t]he

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<sup>1</sup> March 18, 2021, Direct Testimony of Stephen P. Frink at Bates 000037, lines 8–10.

1 customer has no financial obligation to take service from Liberty and the customer has  
2 been unable to resolve issues that would allow for gas service from Liberty.”<sup>2</sup>

3 **Q. Did Liberty provide any information in this proceeding that would lead to the**  
4 **conclusion that “the customer has been unable to resolve issues that would allow for**  
5 **gas service from Liberty?”**

6 A. No. To the contrary, Staff was informed in Liberty’s response to Staff TS 3-8 that the  
7 customer “is expected to take service within the next one or two years” once it completes  
8 a necessary project.<sup>3</sup> There is no factual basis for Staff’s statement.

9 **Q. Does the customer still have a valid SLA?**

10 A. Yes.

11 **Q. As the risk sharing provision is forward looking in terms of anticipated revenue, is**  
12 **the customer expected to take service during the relevant future period?**

13 A. Yes. As such, Staff’s recommended adjustment would unfairly penalize the Company for  
14 a customer-related delay and would violate the terms of the DG 15-362 Settlement  
15 Agreement with respect to the use of committed revenue.

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<sup>2</sup> Id., lines 6–8.

<sup>3</sup> See Confidential Attachment WJC/SEM-1.



1 **Q. Is there any language in the Settlement Agreement that establishes a time limit for a**  
2 **customer to take service following its execution of an SLA, or after which**  
3 **anticipated revenue from a customer is no longer considered committed revenue?**

4 A. No. In fact, Staff was asked to identify any reference in the Settlement Agreement, the  
5 Commission's order in DG 15-362, or any other document supporting Staff's position  
6 that provides for such a time limit. Staff did not identify any such reference.<sup>4</sup> As such,  
7 Staff's recommended adjustment is arbitrary and adverse to the stated terms of the  
8 Commission-approved Settlement Agreement. The Company could understand the  
9 reasoning for such an adjustment if the customer had subsequently notified Liberty that it  
10 no longer would be seeking service or if the failure to take service was somehow the fault  
11 of the Company, but neither is the case.

12 **Q. Did Liberty indicate in its original filing in this rate case that the risk sharing**  
13 **calculations would be updated during the course of the proceeding?**

14 A. Yes. Specifically, the Company stated, "It is expected that during the course of this  
15 proceeding additional sales opportunities will materialize, thus reducing the estimated  
16 shortfall."<sup>5</sup>

17 **Q. Have any new customers taken recently taken service?**

18 A. Yes. A commercial customer account signed up to take service on February 23, 2021,  
19 and the meter was activated on April 12, 2021. The annual gross profit margin for the

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<sup>4</sup> Attachment WJC/SEM-2, Staff's response to LU 1-20.

<sup>5</sup> July 31, 2020, Direct Testimony of Steven E. Mullen at Bates II-213, lines 1-3.

1 customer is \$5,424. Adding that revenue to the risk sharing calculation drops the  
2 anticipated revenue shortfall by \$5,424 to \$123,741, with the resulting 50 percent  
3 calculation dropping by \$2,712 to \$61,871.

4 **Q. Did Staff have any other comments regarding the Pelham and Windham docket?**

5 A. Yes. Mr. Frink criticized the cost and revenue forecasts used in that proceeding as not  
6 being “accurate.” Putting aside the fact that forecasts, by their nature, are estimates,  
7 Staff’s comments ignore the changes in costs and customer circumstances that can  
8 happen over time. Indeed, although the franchise docket was filed in 2015, the Pelham  
9 plant was placed in service and customers began taking service in 2018. However,  
10 recognizing the changes that could occur over time, Staff and the Company agreed to the  
11 risk sharing provision to protect against a situation where either costs changed or the  
12 revenues were slower to materialize than expected. That is the bargain Staff and the  
13 Company agreed to; Staff’s comments are unwarranted.

14 With respect to the Town of Windham, the Company had a signed SLA from a developer  
15 in 2016 for a development that would include 400 individually metered residential units.  
16 Unfortunately, that development did not come to fruition, a fact acknowledged by Staff.<sup>6</sup>  
17 Given that acknowledgement, there are no actual costs or revenues with respect to  
18 Windham against which to compare the original projections, so Staff’s comments that the  
19 cost and revenue projections for Windham were not accurate are also unwarranted.

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<sup>6</sup> Frink Testimony at Bates 000035, lines 16–18.

1    **III.    iNATGAS**

2    **Q.    Did Staff propose an adjustment to Liberty's revenue requirement associated with**  
3    **the iNATGAS investment?**

4    A.    Yes. Staff proposed a reduction to Liberty's revenue requirement of approximately  
5    \$300,000.

6    **Q.    How did Staff justify and determine its recommended adjustment?**

7    A.    Staff stated that the proposed adjustment would put customers in the same position as  
8    they would have been if the actual amount of capital investment had been the same as the  
9    amount that was estimated at the time of the special contract approval in Docket No. DG  
10    14-091.

11   **Q.    Was that the same methodology as Staff's proposed adjustment that was adopted by**  
12   **the Commission in Docket No. DG 17-048?**

13   A.    Yes.

14   **Q.    Does the Company believe such an adjustment to be appropriate or necessary?**

15   A.    No. The Company did not agree that such an adjustment was appropriate or necessary at  
16   that time, nor is it appropriate or necessary now.

17   **Q.    Why is that?**

18   A.    First, as acknowledged by Staff, the Company prepared an updated DCF analysis that  
19   resulted in a positive net present value. Staff reviewed this analysis, did not note any  
20   problems with the calculations, and used it as the basis for its own calculations. Second,

1 Staff does not appear to give any value to the financial protections that were built into the  
2 underlying agreements.

3 **Q. What assumptions did Staff make in its DCF analysis?**

4 A. Staff assumed a strong possibility that iNATGAS will default on the contract and future  
5 revenues will be limited to what can be recovered through the escrow agreement.<sup>7</sup> Using  
6 those assumptions, Staff's DCF analysis ran out for the remaining length 15-year term of  
7 the special contract and assumed no revenue after Year 6.

8 **Q. Is such a scenario likely?**

9 A. No. Staff's assumptions regarding future developments are based solely on speculation.  
10 Second, even in the event of a default by iNATGAS, Staff's analysis ignores the value of  
11 the financial protections that were built into the underlying agreements. If a default were  
12 to occur, Liberty would seek to enforce those financial protections immediately rather  
13 than just let the special contract run its course without any revenue.

14 **Q. What are those protections?**

15 A. Liberty has a Guaranty Agreement, which holds assets of iNATGAS's sister company  
16 (AVSG) and the personal assets of its principal. Under a hypothetical default scenario,  
17 Liberty could access this collateral to recover amounts owed from the annual "Take or  
18 Pay" requirements for the term of the special contract. In addition, in the event of  
19 default, Liberty has the right to purchase the iNATGAS's assets at the facility. If that

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<sup>7</sup> Id. At Bates 000015, lines 2–4.

1        were to happen, Liberty then would have the ability to lease, sell, or otherwise receive  
2        value for the facility. Staff's analysis takes none of this into consideration, but if it is  
3        going to assume default will occur, then it needs to follow that path and determine the  
4        potential financial implications.

5        **Q.    Does AVSG have assets whose value could be accessed in satisfaction of its financial**  
6        **guarantee?**

7        A.    Yes. Attachment WJC/SEM-3 is Liberty's response to Staff TS 3-3, which provides a list  
8        of CNG facilities owned by AVSG in New Hampshire and Massachusetts, with the value  
9        of those assets in excess of the net book value of Liberty's plant investment at the  
10       Concord, New Hampshire, facility.

11       **Q.    What would happen if, through those financial protections or through the potential**  
12       **ownership and/or sale of the facility, Liberty was able to obtain financial remedies**  
13       **in excess of the amount of its investment?**

14       A.    Given the Commission reduction of Liberty's revenue requirement in DG 17-048, and if  
15       Staff's recommendation in this case is adopted, as a matter of equity Liberty should be  
16       allowed to retain a portion of any excess proceeds as it has not been allowed to recover  
17       the full amount of its investment through customer rates.

1 **Q. Staff argues that by including further discussion regarding the prudence of its**  
2 **additional iNATGAS investments, Liberty is attempting to re-litigate issues the**  
3 **Commission decided in DG 17-048. Please comment on that statement.**

4 A. In DG 17-048, the Commission stated, “We will re-evaluate this investment in Liberty’s  
5 next rate case and may consider putting more of the investment in rate base at that time.”<sup>8</sup>

6 This statement was subsequently clarified in Order No. 26,156 (July 10, 2018) and the  
7 words “putting more of the investment in rate base” were replaced with “allowing a  
8 greater level of cost recovery.” As the Commission has fully allowed Liberty’s operation  
9 and maintenance expenses associated with the facility, a greater level of cost recovery  
10 can only come from the capital investments. Thus, it was certainly appropriate for the  
11 Company to include testimony in this proceeding about those additional capital costs.

12 **IV. KEENE-RELATED ISSUES**

13 **Q. Did Staff propose any adjustments related to Liberty’s Keene franchise?**

14 A. Yes. Staff proposed three adjustments. The first two adjustments relate to what is  
15 referred to as “Phase I,” although that title has had different meanings in different  
16 documents, and the third adjustment is a minor adjustment related to production costs.  
17 That third adjustment is addressed in the joint rebuttal testimony of Messrs. Simek and  
18 Sosnick.

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<sup>8</sup> Order No. 26, 122 (April 27, 2018) at 32.

1 **Q. Please describe what “Phase I” refers to and how it has been used differently in**  
2 **different documents.**

3 A. The whole concept of phases first came into the discussion related to potential expansion  
4 of the Keene distribution system, assuming the existence of a permanent facility on  
5 Production Avenue at the site where the temporary CNG is currently located.  
6 Specifically, in joint rebuttal testimony filed in Docket No. DG 17-048,<sup>9</sup> Mr. Clark and  
7 Stephen R. Hall described “growth potential” for the Keene system and described future  
8 areas of potential expansion through five phases.<sup>10</sup> Phase I of that expansion pertained  
9 only to adding a few additional customers between the location of the temporary CNG  
10 facility and the Monadnock Marketplace, where the existing propane-air customers were  
11 to be converted to natural gas, as well as a few customers at the Marketplace. Subsequent  
12 to that testimony, orders by the Commission included the installation of the temporary  
13 CNG facility and related other construction activities as part of “Phase I,” even though  
14 those activities were not expansion-related. Needless to say, those differing definitions of  
15 Phase I have led to differing understandings of issues over years, particularly between the  
16 Company and Commission Staff.

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<sup>9</sup> [https://www.puc.nh.gov/Regulatory/Docketbk/2017/17-048/TESTIMONY/17-048\\_2018-01-25\\_ENGI\\_RTESTIMONY\\_CLARK\\_HALL.PDF](https://www.puc.nh.gov/Regulatory/Docketbk/2017/17-048/TESTIMONY/17-048_2018-01-25_ENGI_RTESTIMONY_CLARK_HALL.PDF). At Bates 057–058 and 076–093.

<sup>10</sup> The Company notes that those same five phases were described in the Safety Division’s October 3, 2018, Adequacy Assessment filed in Docket No. DG 17-068.

1 **Q. How did those differing uses of the Phase I terminology arise as issues in this**  
2 **proceeding?**

3 A. During the course of discovery, Staff requested an updated DCF analysis for “Phase I,”  
4 and referred to the expansion-related attachments to the Clark/Hall rebuttal testimony in  
5 DG 17-048. As the “Phase I” attachment to that testimony only included the estimated  
6 costs and revenue associated with potential *additional* customers in that phase (as  
7 opposed to conversion of the existing Marketplace customers), which new customers  
8 were never added due to delays in the in-service date of the temporary CNG facility,  
9 there were no costs or revenues to provide, because the Company never embarked on  
10 “Phase 1” as described.

11 **Q. Did Staff take issue with not receiving an updated DCF analysis?**

12 A. Yes, and that demonstrates how the differing definitions of Phase I have led to  
13 unintended complications. On Bates 000020 of his testimony, Mr. Frink stated that the  
14 Phase I analysis in the Clark/Hall DG 17-048 rebuttal testimony “significantly  
15 understated the projected costs and the projected revenues” of the “Phase I conversion.”  
16 In support of that statement, he compared the \$112,500 estimated cost to connect new  
17 customers with the approximated \$1 million of cost involved with the installation of the  
18 temporary facility, converting the existing customers in the Monadnock Marketplace, and  
19 other associated costs. This is clearly an apples-to-oranges comparison as it applies a  
20 later-determined definition to Phase I as to what was included in that testimony.



1 **Q. Why is it important to understand the history of the Phase I definition?**

2 A. It is important because Phase I's inclusion in the risk sharing mechanism is the basis for  
3 Staff's first two proposed adjustments, one for a reduction of \$21,736 (50% of \$43,472)  
4 to the test year revenue requirement, and the other for a reduction of \$44,148 (50% of  
5 \$88,297)<sup>11</sup> as part of the 2021 step adjustment. The Company obviously does not agree  
6 with those adjustments as the conversion of the Monadnock Marketplace was not  
7 designed to acquire new customers. It was designed to address problematic blowers at  
8 the propane-air plant and be able to retire them from service. In addition, at the time the  
9 Commission clarified that Phase I was to be included in the risk sharing assessment, that  
10 was after it was already apparent that the conversion did not result in new customer  
11 additions. The Company had always intended to include the cost of the temporary CNG  
12 facility and the related conversion costs as part of the first expansion phase that would  
13 take place after the installation of a permanent supply facility. Consistent with that  
14 approach, and given the lack of clarity with respect to the timing and opportunity for cost  
15 recovery related to the activities that have taken place regarding the conversion of the  
16 limited subset of Liberty's customers to natural gas, the costs that were intended to be  
17 included in rate base as of the end of 2020 (the subject of Staff's \$44,148 adjustment

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<sup>11</sup> Although the Company disagrees with both adjustments, Staff made the Company aware that the proposed \$21,736 adjustment amount was not reflected at its 50% value in Ms. Mullinax's testimony although it should have been (Mullinax Testimony at Bates 000006). The Company further notes that even at the incorrect 100% value, the amount in Ms. Mullinax's Table 1 reflects \$43,742 rather than \$43,472. Regarding the second adjustment, although it referenced as a rounded \$44,000 on Bates 000050 of Ms. Mullinax's testimony, Staff made the Company aware that the amount reflected in Ms. Mullinax's Schedule 4 on Bates 000089 was incorrectly included at the full 100% amount of \$88,297.

1 discussed above) have remained in a deferral account on the Company's books and the  
2 Company has not yet sought recovery of those costs because the Company has not begun  
3 what it initially described as Phase 1.<sup>12</sup>

4 **Q. Staff also had comments regarding the recovery of incremental CNG commodity**  
5 **costs. Could you please comment on Staff's position?**

6 A. Yes, although Staff's position is a bit hard to follow. At different places in his testimony,  
7 Mr. Frink states that the incremental CNG costs should be subject to a prudence  
8 determination (Bates 000030, line 9) and that they should be subject to a risk sharing  
9 provision (Bates 000031, lines 14–16). First, with respect to a prudence review, it is  
10 unclear as to whether that is in reference to the prudence of the physical conversion of the  
11 customers in the Monadnock Marketplace and the installation of the temporary CNG  
12 facility, the prudence of the costs associated with those actions, or the prudence of the  
13 CNG commodity costs related to the underlying supply contract. Regarding the  
14 recommendation of a risk sharing provision, it is unclear why there would be a need for a  
15 risk sharing provision as it is assumed a prudence determination would be a prerequisite  
16 to determining the recoverability of incremental CNG costs.

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<sup>12</sup> In reviewing the discovery response Staff used as the basis for its proposed adjustments, it was determined that items that were shown on that response as being included in plant in service as of December 31, 2020, were actually still included in a deferral account as of that date and not yet part of plant in service, consistent with the preceding discussion.

1 **Q. Is the current treatment of CNG supply costs unique from the Company's**  
2 **perspective?**

3 A. Yes. This is a unique situation where the CNG supply costs can be allowed to be  
4 included in a six-month seasonal rate charged to customers, but then following the season  
5 they can either be allowed in full—if the costs turn out below or at propane supply costs  
6 level—or retroactively not allowed in part if they turn out to be higher than propane  
7 supply costs. As described in further detail in Mr. Mullen's rebuttal testimony included  
8 as Attachment WJC/SEM-4, the Commission provided the authority to convert the  
9 customers in the Monadnock Marketplace and recognized that those customers would no  
10 longer have the option to take propane service, so it results in a case of a hypothetical  
11 situation attempting to be applied to reality. It would be beneficial to clear this up going  
12 forward.

13 **Q. Do you have any final comments regarding the Keene franchise?**

14 A. Yes. In Mr. Mullen's October 20, 2020, rebuttal testimony in Keene's Winter 2020/2021  
15 Cost of Gas proceeding,<sup>13</sup> he discussed many Keene-related topics and concluded with  
16 the following:

17 **Q. Does the Company have any other recommendations?**

18 A. Yes. Liberty believes it advisable that the Company, Commission Staff,  
19 and the Office of the Consumer Advocate schedule a meeting in the near  
20 future to make sure everyone gets on the same page in terms of  
21 understanding the numerous Commission rulings with respect to Keene,  
22 the status of the Company's plans with respect to Keene, and other issues  
23 related to the future conversion of the system to natural gas. It has  
24 become obvious that, in some cases, people are talking past each other

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<sup>13</sup> Attachment WJC/SEM-4.

1 with slightly different perspectives on past decisions, meetings,  
2 discussions, and so forth. There have been many developments over the  
3 years, and it would be in everyone's best interest to perhaps clear the air a  
4 little and iron out any differences to improve the path forward.

5 Following the review of Staff's testimony in this rate case proceeding, we believe this  
6 recommendation makes as much sense now as it did then. Topics like what constitutes  
7 Phase I, how any incremental CNG costs should be treated, and related topics all need to  
8 be clarified. Such discussions could go a long way to making sure parties are on the  
9 same page and have consistent understandings as we look toward the future in Keene and  
10 determine what is in the best interest of Liberty's customers. There are still many things  
11 to be determined with respect to the future of the Keene system—siting and cost of a  
12 permanent CNG/LNG facility chief among them—and clarifying existing issues will help  
13 all better understand what lies ahead.

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

15 **A.** Yes, it does.

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty

DG 20-105  
Distribution Service Rate Case

Staff Technical Session Data Requests - Set 3

Date Request Received: 2/8/21  
Request No. Staff TS 3-8

Date of Response: 2/24/21  
Respondent: Steven Mullen

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**REQUEST:**

**Ref. Attachment SEM-2 (Bates II-234). Please:**

- a. Describe the capital costs of \$1,612,698 (direct costs without Take Station) and provide supporting documentation (i.e., work orders, contractor invoices, etc.);
- b. Describe the customer commitments obtained prior to commencing construction and provide supporting documentation (i.e., copies of service agreements, special contracts, etc.);
- c. Provide list of Pelham C&I customers and for each customer provide the date the service agreement was entered into, projected annual revenue when the service agreement was signed, date service began, amount billed in 2019 and in 2020, and if actual 2020 is less than 25% of original projected annual revenue, explain the lower than projected revenue;
- d. Identify each customer that committed to taking service and is not taking service, explain the customer's financial obligation under the terms of the sales agreement and what efforts the Company has undertaken to enforce the agreement;
- e. Recalculate the sharing mechanism to exclude revenue from customers that committed to service prior to commencing construction and have not commenced service.

**RESPONSE:**

- a. Please see Attachment Staff TS 3-8.a.xlsx for a listing of the costs that comprise the \$1,612,698. Given the large number of items in the list of costs, it is impractical and overly burdensome to provide additional supporting documentation for all items as requested. However, the Company can provide documentation for selected items upon request after Staff's review of the attached information.
- b. There were five customer commitments prior to commencing construction. Service Line Agreements ("SLAs") from [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are provided as Confidential Attachments Staff TS 3-8.b.1 through Confidential Attachment Staff TS 3-8.b.4, respectively. The fully executed version of the Service Agreement for the fifth customer, [REDACTED], has not yet been located. However, [REDACTED] committed to take service in April 2016 (see the

April 15, 2016, Rebuttal Testimony of William J. Clark in Docket No. DE 15-362 at Bates 004, lines 8–11: [https://www.puc.nh.gov/Regulatory/Docketbk/2015/15-362/TESTIMONY/15-362\\_2016-04-15\\_ENGI\\_DBA\\_LIBERTY\\_SUPP\\_TESTIMONY\\_W\\_CLARK.PD](https://www.puc.nh.gov/Regulatory/Docketbk/2015/15-362/TESTIMONY/15-362_2016-04-15_ENGI_DBA_LIBERTY_SUPP_TESTIMONY_W_CLARK.PD)

- c. Please see Confidential Attachment Staff TS 3-8.c.xlsx. Any customers where the 2020 revenue was less than 25% of the annual projected revenue is due solely to the date service commenced. See columns AA through AC of the attachment.
- d. As of the date of this response, there are two C&I customers that have signed service agreements but have not yet taken service. The two customers are [REDACTED] and [REDACTED]. [REDACTED] is expected to take service within the next one or two years as it undertakes a [REDACTED] project that has been delayed. [REDACTED] is expected to take service during 2021. [REDACTED] was expected to take service during 2020 but the owner of the building complex wanted to focus on converting the north building first, and the pandemic played a part in the delay. In accordance with Liberty's tariff and the service agreements, neither customer has a financial obligation as services have not yet been installed. If the service had been installed and the customer did not take service within nine months, the customer would be responsible for the cost of installation and removal of the service.
- e. The calculation requested in the question would be contrary to the express terms of the Settlement Agreement in Docket No. DE 15-362 wherein "anticipated revenue" is defined to include "committed revenue." "Committed revenue" has been consistently demonstrated over the years with respect to various tariff provisions as being evidenced by a signed SLA from a customer. The Company has signed SLAs from both customers identified in part d. of this response. Therefore, the requested calculation would be inappropriate and is not being performed nor provided.

The information marked above and embedded throughout Confidential Attachment Staff TS 3-8.b.1, Confidential Attachment Staff TS 3-8.b.2, Confidential Attachment Staff TS 3-8.b.3, Confidential Attachment Staff TS 3-8.b.4, and Confidential Attachment Staff TS 3-8.c.xlsx is "individual customer data ... that can identify, singly or in combination, that specific customer," RSA 363:37, I, and is thus protected from disclosure by RSA 363:38 and RSA 91-A:5, IV. Therefore, pursuant to Puc 203.08(d), the Company has a good faith basis to seek confidential treatment of this information and will submit a motion seeking confidential treatment prior to the final hearing in this docket. Since the confidential information (e.g., customer names, locations, usage) appears throughout the above confidential attachments, it is not possible to effectively redact the confidential information. Therefore, redacted versions of the above attachments will not be provided.

**LIBERTY UTILITIES (ENERGYNORTH NATURAL  
GAS) CORP. D/B/A LIBERTY  
DISTRIBUTION SERVICE RATE CASE**

**DOCKET NO. DG 20-105**

**Staff's Responses to Liberty Utilities' First Set of Data Requests**

Date Request Received: March 25, 2021  
Data Request No.: LU 1-20

Date of Response: April 8, 2021  
Witness: Stephen Frink

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**Request:**

Reference the Direct Testimony of Witness Frink, Bates 000037, lines 4 – 10. Please provide any reference in the DG 15-362 Settlement Agreement, the Commission's order in that proceeding, or any other document that provides a time limit for a customer with a signed service agreement to commence taking service prior to having the service installed for the purpose of determining anticipated revenue.

**Response:**

The Settlement Agreement and Commission Order approving the Settlement Agreement in DG 15-362 is silent on how much time needs to pass before a revenue projection related to a signed service agreement should no longer be considered anticipated revenue if a potential customer has not taken service.

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty

DG 20-105  
Distribution Service Rate Case

Staff Technical Session Data Requests - Set 3

Date Request Received: 2/8/21  
Request No. Staff TS 3-3

Date of Response: 2/24/21  
Respondent: Steven Mullen

---

**REQUEST:**

**Ref. Staff DR TS 1-5.** Please describe AVSG assets and the estimated value.

**RESPONSE:**

AVSG owns and operates seven compressed natural gas vehicle locations listed below:

**AVSG Concord**  
20 Broken Bridge Road  
Concord, NH 03301

**AVSG Lexington**  
Route 128 North  
Lexington, MA 02421  
(617) 242-8755

**AVSG Middleborough**  
12 Harding Street, Rte 44  
Middleboro, MA 02346  
(617) 242-8755

**AVSG Nashua**  
11 Riverside Street  
Nashua, NH 03062

**AVSG Tewksbury**  
20 Main Street  
Tewksbury, MA 01876  
(617) 242-8755

**AVSG Walpole**  
533 High Plain Street



Docket No. DG 20-105 Request No. Staff TS 3-3

Walpole, MA 02081  
(617) 242-8755

**AVSG Worcester**  
20 Quinsigamond Ave  
Worcester, MA 01608  
(617) 242-8755

Liberty does not have access to an estimated value of all the facilities combined, and this information is not available from town assessing databases as the lots are owned by municipalities and the Commonwealth of Massachusetts. However, as a reference, the Nashua facility cost in excess of \$1M when it was constructed approximately seven years ago, so a rough estimate of the value of the facilities, assuming all of them are fairly similar is approximately \$7M.

iNATGAS also has a special contract with Eversource in Worcester, MA, for a facility similar to the Concord facility.



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

Docket No. DG 20-152

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities – Keene Division  
Winter 2020/2021 Cost of Gas Filing

**REBUTTAL TESTIMONY**

**OF**

**STEVEN E. MULLEN**

October 20, 2020

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### ATTACHMENTS

Attachment	Title
SEM-1	Liberty's Response to Staff 1-10
SEM-2	Liberty's Response to Staff 1-4 (original response)
SEM-3	Liberty's Revised Response to Staff 1-4
SEM-4	Liberty's Response to Staff 1-12
SEM-5	Timeline of Events
SEM-6	Liberty's Response to Staff TS 1-9

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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        (EnergyNorth Natural Gas) Corp. (“EnergyNorth” or “the Company”) and Liberty  
9        Utilities (Granite State Electric) Corp. (“Granite State”) in New Hampshire, Liberty  
10       Utilities (Peach State Natural Gas) Corp. in Georgia, and Liberty Utilities (St. Lawrence  
11       Gas) Corp. in New York.

12   **Q.    Please state your professional experience and educational background.**

13   A.    In 2014, I was hired by Liberty as the Manager, Rates and Regulatory, and was promoted  
14        to Senior Manager in August 2017 and to my current position of Director in July 2018.  
15        In addition to managing the Rates and Regulatory Affairs department, I am responsible  
16        for the development of regulatory strategy, interacting with regulators and other parties  
17        on behalf of Liberty, reviewing and preparing testimony and other aspects of regulatory  
18        filings, and internal approval of rate changes for EnergyNorth and Granite State, among  
19        other duties.

20        From 1996 through 2014, I was employed by the New Hampshire Public Utilities  
21        Commission (“Commission”) in various roles. Through 2008, I held positions first as a

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1 PUC Examiner, then as a Utility Analyst III and Utility Analyst IV. In those roles, I had  
2 a variety of responsibilities that included field audits of regulated utilities' books and  
3 records in the electric, telecommunications, water, sewer, and gas industries; rate of  
4 return analysis; review of a wide variety of utility filings; and presenting testimony  
5 before the Commission. In 2008, I was promoted to Assistant Director of the Electric  
6 Division. Working with the Electric Division Director, I was responsible for the day-to-  
7 day management of the Electric Division, including decisions on matters of policy. In  
8 addition, I evaluated and made recommendations concerning rate, financing, accounting,  
9 and other general industry filings. In my roles at the Commission, I represented  
10 Commission Staff in meetings with utility officials, outside attorneys, accountants, and  
11 consultants relative to the Commission's policies, procedures, Uniform System of  
12 Accounts, rate cases, financing, and other industry and regulatory matters.

13 From 1989 through 1996, I was employed as an accountant with Chester C. Raymond,  
14 Public Accountant, in Manchester, New Hampshire. My duties involved preparation of  
15 financial statements and tax returns, as well as participation in year-end engagements.

16 I graduated from Plymouth State College with a Bachelor of Science degree in  
17 Accounting in 1989. I attended the NARUC Annual Regulatory Studies Program at  
18 Michigan State University in 1997. In 1999, I attended the Eastern Utility Rate School  
19 sponsored by Florida State University. I am a Certified Public Accountant and have  
20 obtained numerous continuing education credits in accounting, auditing, tax, finance, and  
21 utility related courses.

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

2    A.    I am testifying on behalf of EnergyNorth’s Keene Division in support of its Winter  
3       2020/2021 Cost of Gas filing and in response to the testimony filed by Staff witness  
4       Stephen P. Frink on October 15, 2020. My testimony addresses the issues raised in Mr.  
5       Frink’s testimony including the recoverability of Compressed Natural Gas (“CNG”) demand  
6       charges incurred during the period August 2017 through September 2019,  
7       proposed deferral of the difference between CNG and propane commodity pricing, and  
8       other issues.

9   **Q.    Did any additional Staff witnesses file testimony?**

10   A.    Yes. The Commission’s Director of its Safety Division, Randall Knepper, filed  
11       testimony focusing on Liberty’s discovery responses that described certain delays and  
12       obstacles encountered on its path to eventually providing natural gas service to a limited  
13       number of commercial customers in the Monadnock Marketplace. It appears that Staff  
14       misinterpreted the Company’s responses regarding “delays and obstacles.” This will be  
15       addressed later in my testimony.

16   **Q.    How did Staff appear to misinterpret those responses?**

17   A.    In defense of the CNG demand charges incurred during the August 2017 through  
18       September 2019 time period, the Company answered discovery questions that attempted  
19       to put a timeline behind the events that occurred during that period in support of having a  
20       contract in place for CNG supply and related demand charges. The responses were  
21       intended to be a simple recitation of historical events to shed some light on the events that



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transpired, when they occurred, whether they were expected, and the duration of those events. The responses were not intended to place blame for those delays. Indeed, the reasons for the delay are not relevant to the current issues. The Company was simply providing insight into its decision making and the conditions that existed before and after the execution of the CNG supply contract.

**II. ITEMS AT ISSUE IN THIS PROCEEDING**

**Q. What particular items are at issue in this Winter 2020/2021 Cost of Gas proceeding?**

A. Other than the propane-related supply costs, which do not appear to be at issue, there are two items at issue. The first is whether the Company should be allowed to recover CNG demand charges that were incurred during the period August 2017 through September 2019. The second topic is whether the full current costs of CNG should be recovered over the winter period or whether the incremental cost of CNG as compared to propane should be deferred for future determination as to recovery.

**Q. What is the Company's position on each of those issues?**

A. The Company's position with respect to the demand charges incurred during months prior to the commencement of natural gas service is that they should be recoverable because, based on the information that was known to the Company at the time the contract and subsequent amendment were executed, it was reasonable and prudent for the Company to enter into the contract and the Commission approved the CNG contract and its demand charges in May 2018. Regarding the incremental cost of CNG, the CNG costs only relate to a limited number of customers for whom the Commission has

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1 previously approved conversion from propane-air to natural gas. Thus, the Company  
2 should not be prevented from recovering the current costs to provide natural gas service  
3 to those customers.

4 **Q. Is the conversion of the entire Keene system from propane-air to natural gas at issue**  
5 **in this proceeding?**

6 A. No. This is strictly a proceeding to determine the cost of gas rate to be charged to Keene  
7 customers over the upcoming November 1, 2020, through April 30, 2021, winter period.  
8 However, both Staff witnesses did discuss the future conversion of all customers  
9 throughout their testimony.

10 **Q. Why do you think that is?**

11 A. Staff continues to link the temporary CNG installation to the conversion of the entire  
12 Keene system. As such, Staff continues to comment on the lack of a plan for Liberty-  
13 Keene to convert the entire system. It is vital for everyone to understand that the  
14 temporary CNG facility is just that—temporary—and was installed to allow the  
15 Company to shut down the troublesome blowers that were responsible for the December  
16 2015 incident that resulted in customer outages, community concerns, and safety  
17 concerns going forward. Other than the fact that the temporary CNG installation did  
18 allow for the conversion of a small number of customers, it was never a part of the plan  
19 to convert the entire system, nor was it intended to be the starting point of the full system  
20 conversion. Of course, now that the temporary CNG facility is in place, those converted  
21 customers will have to be included in any future plan to convert the entire Keene system

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1 and eventually connected to the permanent facility once it has been sited, approved, and  
2 is operational.

3 **Q. Does the Company plan to provide Staff and the Commission with plans related to**  
4 **the conversion of the entire system, including the location and specifications for the**  
5 **permanent facility, the details concerning the phases of converting the system, etc.?**

6 A. Absolutely. The Company has not finished the analysis on converting the entire system  
7 because a final location for the permanent CNG/LNG facility has not yet been  
8 determined. That analysis will also take into account the results of the recent condition  
9 assessment of the existing propane-air facility, which Liberty does not own. The lease  
10 for the Keene facility expires in March 2026 and can be extended for up to three years.  
11 Development of the plan for the permanent CNG/LNG facility must consider the final  
12 location of that facility, the condition of the existing propane-air system, and the time  
13 constraints imposed by the existing lease. Please see Attachment SEM-1, a copy of the  
14 Company's response to Staff 1-10, for more information on this topic.

15 **Q. What were Staff's recommendations in this proceeding?**

16 A. As discussed in the testimony of Mr. Frink, Staff's recommendations were as follows:

- 17 • Disallow recovery of compressed natural gas (CNG) demand charges incurred
- 18 prior to October 2019;
- 19 • Do not allow recovery of CNG 2019–2020 winter incremental costs in 2020–2021
- 20 winter rates;
- 21 • Allow recovery of projected CNG costs in 2020–2021 winter rates on the
- 22 condition of potential refund of incremental CNG costs, pending a prudency
- 23 determinate in a future docket;
- 24 • Approve a COG rate of \$1.0225 per therm (which reflects the above);
- 25 • Approve a FPO rate of \$1.0425 per therm (which reflects the above);

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- 1                   • Require Liberty to notify FPO customers of the difference between the FPO rate  
2                   offer and the approved rate.

3                   I note that the last three recommendations stem directly from the first two.

4       **Q. Did Mr. Knepper have any recommendations in his testimony?**

5       A. No. Mr. Knepper's testimony was simply a defense of the Safety Division's October 3,  
6                   2018, Adequacy Assessment and the length of the related review.

7       **Q. Through its discovery responses in this proceeding, was the Company attempting to**  
8                   **take issue with the results of the Safety Division's review?**

9       A. Absolutely not. The Company simply provided the historical progression of events that  
10                  bring us to the present circumstances. That being said, it is important to know this  
11                  history as it relates to the CNG supply contract to understand the reasons that demand  
12                  charges were incurred during a period of time before commencement of natural gas  
13                  service. In addition, in reviewing the text of the response, the Company acknowledges  
14                  that some necessary clarifying language should have been included in the response.

15       **Q. Please explain.**

16       A. One particular sentence that was contained in Liberty's response to Staff 1-4 with which  
17                  Staff took issue referred to the Safety Division's interpretation of the demarcation point  
18                  between the applicability of certain safety standards reads as follows:

19                       This interpretation was not expected by the Company and  
20                       resulted in the entire CNG skid having to be modified to  
21                       meet the different standards and also necessitated significant  
22                       revisions to the Company's documentation, including the  
23                       documentation of the owner of the CNG skid.

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1 In retrospect, given that the response was attempting to describe the timeline of events  
2 that transpired in support of its request to recover the earlier demand charges, the  
3 sentence should have included the following clarifying language:

4 This interpretation was not expected by the Company *at the*  
5 *time it entered into the CNG supply contract, nor at the time*  
6 *of the amendment to that contract*, and resulted in the entire  
7 CNG skid having to be modified to meet the different  
8 standards, and also necessitated significant revisions to the  
9 Company's documentation, including the documentation of  
10 the owner of the CNG skid.

11 I take responsibility for the lack of clarity in that response as I was the respondent. A  
12 revised discovery response has been submitted that includes the above italicized  
13 language. I have included the original response to Staff 1-4 as Attachment SEM-2 and  
14 the revised response as Attachment SEM-3.

15 **Q. Before you address each of Staff's recommendations, do you have a general**  
16 **comment regarding the status of discovery responses in this docket?**

17 A. Yes. Both Mr. Frink and Mr. Knepper commented with respect to the fact that discovery  
18 questions that were posed on October 7 and 8 had not yet been answered. The Company  
19 notes that its responses were provided in accordance with the procedural schedule which,  
20 due to the short time period for this proceeding and Staff's desire to file testimony, called  
21 for responses by October 19, after the filing of Staff's testimony. The Company  
22 recognizes the short time period for the consideration of this docket and the complicating  
23 factors introduced by the inclusion of CNG costs and appreciates the efforts of all  
24 involved in the proceeding.

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1    **III.    AUGUST 2017 THROUGH SEPTEMBER 2019 CNG DEMAND CHARGES**

2    **Q.    In determining whether Liberty should recover the demand charges that were**  
3       **incurred during the period August 2017 through September 2019, what is the main**  
4       **question the Commission needs to answer?**

5    A.    The Commission should apply the typical prudence standard of review and thus ask,  
6       based on the information that was known to Liberty at the time Liberty executed and later  
7       amended the CNG contract, whether the decision to enter into that supply contract was  
8       prudent.

9    **Q.    When was the contract originally executed?**

10   A.    The original multi-year contract was signed on November 4, 2016, and covered the term  
11       of May 1, 2017, through April 30, 2020.<sup>1</sup>

12   **Q.    Was any supply service provided under that original multi-year agreement prior to**  
13       **the amendment?**

14   A.    No.

15   **Q.    When and why was the contract amended?**

16   A.    The contract was amended on May 22, 2017, to change the contract term to cover the  
17       period July 2017 through June 2021. The contract was amended to recognize that natural

---

<sup>1</sup> There was a prior six-month contract signed on October 24, 2016, that covered the period December 1, 2016, through May 31, 2017, under which the Company took service. That contract was terminated on May 22, 2017, the same date the multi-year contract was amended.

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1 gas service would not be starting as early as May 2017 and, therefore, the contract term  
2 was modified.

3 **Q. Why was the contract executed months ahead of providing service?**

4 A. It is standard practice to issue a Request for Proposals and enter into supply contracts  
5 months ahead of providing service for planning and logistical reasons, including the fact  
6 that the temporary CNG facility still had to be brought to Keene and connected to the  
7 Company's distribution system.

8 **Q. Why was it necessary to enter into a multi-year contract rather than an annual**  
9 **contract?**

10 A. Due to the fact that the CNG installation to serve the Marketplace is only a temporary  
11 facility and the CNG skid is not owned by Liberty, potentially changing suppliers each  
12 year and incurring mobilization fees would be a much more expensive and challenging  
13 proposition than contracting for the several years that was expected to cover the interim  
14 period before a permanent CNG/LNG facility would be in place and ready for operation.

15 **Q. Did Staff's testimony look back to determine what information was known to the**  
16 **Company at the time the contract was executed or amended?**

17 A. No. Rather, Staff appears to be taking a retrospective approach in analyzing whether  
18 entering into the contract was prudent. That is not the way prudence is determined.

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1     **Q.     Please explain why the Company incurred CNG demand charges during this period**  
2           **that preceded the commencement of CNG service to customers in the Monadnock**  
3           **Marketplace (“the Marketplace”).**

4     A.     The Company’s original plan was to convert customers in the Marketplace in time to  
5           serve them with natural gas for the 2017/2018 winter period. As such, the Company  
6           needed to enter into a CNG supply contract in anticipation of providing natural gas  
7           service during that winter period, and also complete the other tasks necessary to serve  
8           CNG to the Marketplace (prepare the distribution piping for CNG, prepare plans to  
9           convert the Marketplace customers to CNG, etc.).

10          As described in detail in the Company’s responses to Staff 1-4 (see Attachment SEM-3)  
11          and Staff 1-12 (see Attachment SEM-4), there was a series of events that took place in  
12          advance of providing natural gas service that delayed the date for converting customers in  
13          the Marketplace and the commencement of natural gas service, which events the  
14          Company could not reasonably be expected to have anticipated when it signed the CNG  
15          contract in May 2017. Among the delays encountered were the following:

16                 •     An unexpected, and ultimately denied assertion by Staff that the Company needed  
17                         to file for and receive franchise approval to provide natural gas service in the  
18                         Company’s Keene service territory, despite the existence of the Company’s  
19                         franchise dating from 1860 to provide “gas” within Keene and the history of  
20                         having distributed several forms of “gas” over the ensuing 150 years. Liberty  
21                         filed a petition asking the Commission to declare Liberty already had the



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franchise rights to serve natural gas, Docket No. DG 17-068, and was ultimately successful. This unexpected issue, and resulting docket, was the seminal event that delayed CNG service and caused the Company to incur the contracted demand costs for two years prior to the commencement of natural gas service;

- The initial six-month period of time from the filing of the Company's request for a declaratory ruling regarding the need for franchise approval was pending at the Commission until the order granting Liberty's requested relief;
- A recommended change in the demarcation point within the CNG facility at which the Safety Division's jurisdiction began, which gave rise to the need for substantial modifications to the facility, causing delays. Until that change in demarcation point, Liberty reasonably believed the demarcation point was at a different location within the CNG facility, and thus the CNG facility would not need these modifications;
- Motions for rehearing and reconsideration of the Commission's initial ruling in favor of Liberty in Docket DG 17-068, which needed to be ruled on by the Commission.

**Q. Why is understanding these various delays important to the determination as to whether or not the August 2017 through September 2019 CNG demand charges should be recoverable?**

**A.** The time frame of the above delays mirrors the time period over which the CNG demand changes were incurred prior to the commencement of the provision of natural gas service to the Marketplace customers, for which the conversion from propane-air to natural gas

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1 was ultimately approved by the Commission and the Safety Division. Rather than repeat  
2 information that was already detailed in discovery responses, please refer to Attachments  
3 SEM-3 and SEM-4 regarding the overlap of the incurrence of demand charges with the  
4 procedural delays that were encountered. To provide a picture of the overlap, please refer  
5 to the timeline presented in Attachment SEM-5.

6 **Q. Did Staff claim that Liberty has not previously sought approval of the CNG supply**  
7 **contract?**

8 A. Yes. Mr. Frink explicitly put forth that position on lines 25 through 27 on Bates 000004  
9 of his testimony where he stated Liberty did not seek explicit Commission approval to  
10 enter into a CNG supply contract either before the contract was signed or anytime  
11 thereafter.

12 **Q. Does the Company agree?**

13 A. No. Staff is mistaken both as to the need to seek prior Commission approval to execute  
14 the contract, and as to the fact that the Company has requested and received approval of  
15 the contract in past Cost of Gas proceedings. On this latter issue, Mr. Frink contradicts  
16 himself later in his testimony (Bates 000010 through Bates 000012) where he discusses  
17 the Commission's approval of CNG costs in Keene's Summer 2018 and Summer 2019  
18 Cost of Gas filings.

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1    **Q.    Does the Company need to seek explicit Commission approval of each supply or**  
2    **capacity contract it enters into?**

3    A.    No. Rather, the Company includes the supply and/or capacity costs for each contract as  
4    part of its Cost of Gas proceeding. They are described in testimony and in the various  
5    schedules filed with cost of gas proceedings. These contracts and their costs are elements  
6    of the final cost of gas rate for which the Company seeks approval. That is exactly how  
7    the costs of propane supply contracts have always been approved; CNG should be no  
8    different.

9    **Q.    Is there a recent decision by the Commission that supports the Company’s position**  
10   **that specific approval of each supply or capacity contract is not required?**

11   A.    Yes, in Order No. 26,409 (October 6, 2020) in Docket No. DG 17-198, the Commission  
12   ruled that both a supply and capacity contract for which Liberty had sought specific  
13   approval in the Granite Bridge docket “were discussed and approved in Liberty’s 2018  
14   cost of gas docket, DG 18-137,” and, therefore, no further Commission approval was  
15   necessary. Since no further approval was necessary, and the Company’s requests to  
16   approve those contracts were the last issues remaining in the docket, the Commission  
17   stated:

18                   We note that the two contracts that Liberty sought approval  
19                   for in this docket were discussed and approved in Liberty’s  
20                   2018 cost of gas docket, DG 18-137. Having denied  
21                   Liberty’s Motion to Amend Petition, and recognizing that  
22                   Liberty has withdrawn its request for approval of the Granite  
23                   Bridge Project, there are no issues that remain, accordingly,  
24                   we close this docket.

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1 Order No. 26,409 at 14. That ruling is particularly of note because, even though the costs  
2 of those contracts were included in the underlying gas cost schedules and were part of the  
3 proposed cost of gas rates, the order in Docket DG 18-137 did not mention the contracts  
4 at all – they were approved by implication. Order No. 28,188 (Nov. 1, 2018).

5 **Q. Do similar circumstances exist with respect to the CNG supply contract at issue in**  
6 **this proceeding?**

7 A. Yes. CNG costs resulting from the supply contract were expressly “discussed and  
8 approved” in the Keene Division Summer 2018 Cost of Gas docket, DG 18-052, and  
9 were also expressly discussed in the order which approved a summer Cost of Gas rate as  
10 just and reasonable.

11 **Compressed Natural Gas.** Liberty stated that plans to use  
12 Compressed Natural Gas (“CNG”) to serve a portion of the  
13 Keene system starting in late June or early July, and the costs  
14 presented in this case included CNG costs. Liberty stated  
15 that the cost of the CNG was lower than the spot price of  
16 propane. Exh. 1 at 10.

17 Order No. 26,126 at 4-5 (May 1, 2018).

18 **Q. Is Mr. Frink attempting to draw a distinction with CNG and the need for explicit**  
19 **Commission approval?**

20 A. Apparently so. Mr. Frink referred back to Docket No. DG 14-155, the docket in which  
21 Liberty’s acquisition of what is now its Keene Division was approved. In that docket,

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1 Company witnesses described in general terms the Company's eventual plan to explore  
2 converting the entire Keene system to natural gas.

3 **Q. Has the Company submitted a plan for such conversion of the entire Keene system?**

4 A. No, it has not.

5 **Q. Why is that?**

6 A. As the Company has consistently stated in many dockets, conversion of the entire system  
7 can only take place after a permanent CNG/LNG facility that is capable of supplying  
8 natural gas to the entire Keene system is sited, approved, and operational. Please see  
9 Attachment SEM-1 for further information.

10 **IV. DEFERRAL OF DIFFERENCES IN CNG AND PROPANE COMMODITY**

11 **PRICING FOR CUSTOMERS IN THE MONADNOCK MARKETPLACE**

12 **Q. What limited conversion of the Keene System has taken place to date?**

13 A. The only conversion of customers in Keene from propane-air to natural gas that has  
14 occurred to date is the conversion of a small number of commercial customers in the  
15 Monadnock Marketplace.

16 **Q. Did that occur with Commission oversight?**

17 A. Yes.

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1     **Q.     Did the Commission approve the conversion of those customers and the Safety**  
2           **Division’s recommendation which allowed natural gas to flow to those limited Keene**  
3           **customers?**

4     A.     Yes. In Order No. 26,274 at 14 (Aug. 26, 2019) in Docket No. DG 17-068, the  
5           Commission stated:

6                     Accordingly, we grant Liberty the permission and approval  
7                     to undertake the conversion of the Keene system, subject to  
8                     the conditions set forth herein.

9   \* \* \*

10                    FURTHER ORDERED, that the Commission’s Safety  
11                    Division’s recommendation that Liberty be permitted to  
12                    initiate the conversion of the Keene propane-air distribution  
13                    system to compressed natural gas to customers in the Keene  
14                    Division for Phase I is approved;

15    **Q.     Did the Commission recognize that, once those customers were converted to natural**  
16           **gas, they needed to be supplied with natural gas and propane would no longer be an**  
17           **option?**

18    A.     Yes. In that same order, the Commission stated:

19                    The gas supply and production facilities and the distribution  
20                    system used to provide natural gas to Keene customers will  
21                    be separate and distinct from the system used to provide  
22                    propane-air. Once a customer begins receiving natural gas,  
23                    that customer will no longer be able to receive propane-air  
24                    as a fuel source.

25            *Id.* at 13. Those statements are important because they indicate the Commission’s  
26            recognition of the reality that, following conversion, serving the customers in the

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1 Marketplace with propane is not possible. Thus, what necessarily follows is that the  
2 Marketplace customers must to be supplied with natural gas.

3 **Q. Given those comments, is it unfair to deny Liberty current recovery of the full cost**  
4 **of providing CNG supply to those customers?**

5 A. Yes. If the Commission recognized that these customers can only be served with a  
6 particular commodity following the approved conversion, the Company should be  
7 allowed to recover that cost.

8 **Q. Did Staff previously raise the issue of the difference in commodity pricing between**  
9 **CNG and propane in another docket?**

10 A. Yes. As Mr. Frink noted in his testimony, this issue was raised by Staff in the Keene  
11 Summer 2019 Cost of Gas proceeding, Docket No. DG 19-068. While Mr. Frink  
12 correctly pointed out that the Commission did not dismiss Staff's concern about the price  
13 differential in that proceeding, what is equally important is that it also did not address  
14 Staff's position when it approved the Summer 2019 COG rates nor did it condition its  
15 approval on a later determination regarding the full system conversion to natural gas.

16 We decline to address Staff's concerns with regard to CNG  
17 costs that may exceed the cost of alternative fuels at this  
18 time. Staff is free to raise the issue in future dockets,  
19 including in the Company's next rate case.

20 Order No. 26,241 (April 29, 2019) at 5.

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1    **V.    OTHER TOPICS ADDRESSED BY STAFF**

2    **Q.    Are there topics in Staff’s testimony where the Company’s position is inaccurately**  
3    **portrayed?**

4    A.    Yes. One topic relates to whether the Commission has already found the Keene  
5    conversion prudent. Staff’s testimony reads as though the Company views the  
6    conversion of the entire Keene system has already been found prudent. In support of that  
7    position, Mr. Frink attached a copy of a discovery response, Staff 1-12, to his testimony  
8    as Attachment SPF-2. The first sentence of that response clearly limits the Company’s  
9    views of what the Commission has decided to be prudent:

10                    The Company disagrees with the statement that “the  
11                    prudence of the CNG conversion, including the CNG supply  
12                    contract, has not been determined,” *at least with respect to*  
13                    *the limited number of customer conversions that have*  
14                    *taken place to date.* (emphasis added)

15                    For some reason, Staff did not include the limiting language above in its testimony. I can  
16                    assure the Commission that the status of the Keene conversion has been discussed  
17                    extensively within the Company and there is not one person who thinks the Commission  
18                    has already decided the prudence of the entire Keene conversion.

19    **Q.    On the subject of prudence, did Staff also misconstrue the Company’s view as to the**  
20    **impact of individual events such as the Commission’s allowance of the revised tariff**  
21    **pages detailing natural gas to go into effect as part of Docket No. DG 17-069?**

22    A.    Yes. Staff mistakenly understood the items identified in the Company’s response to Staff  
23    1-12 as each being presented by the Company as an indication of prudence. Rather, it is



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1 the collective nature of the various items described in that response that leads Liberty to  
2 the conclusions it has with respect to prudence and various approvals.

3 **Q. Did Mr. Knepper’s testimony include any particular comments you would like to**  
4 **address?**

5 A. Yes. On Bates 000006 of his testimony Mr. Knepper stated that the Company’s response  
6 to Staff 1-4 “unfortunately depicts safety issues as ‘obstacles and delays.’” That is  
7 patently not true. While it is true that the Safety Division’s review and the difference in  
8 interpretation with respect to the appropriate demarcation point were included in that  
9 response, the Company was merely laying out the events that transpired over the past few  
10 years in relation to the timing of the execution of the CNG supply contract. Obstacles  
11 can take many forms, whether they are timing obstacles, procedural obstacles, physical  
12 obstacles, economic obstacles, etc. As the Commission is aware, safety is priority  
13 number one for Liberty. That is why the installation of the temporary CNG supply was  
14 engineered in the first place – to allow the Company to retire the troublesome blower  
15 system that has caused several incidents. Liberty does not view safety issues as  
16 obstacles. The Company and its CNG supplier had carefully assessed the installation  
17 plan for the CNG skid (see the response to Staff TS 1-9 included as Attachment SEM-6).  
18 The obstacle/delay encountered with respect to the safety aspects is the contribution of  
19 time to the resulting delay in being able to commence providing natural gas service to the  
20 customers in the Monadnock Marketplace.

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1   **VI.   CONCLUSION**

2   **Q.   What is the Company’s position with respect to the topics that are at issue in this**  
3   **proceeding?**

4   A.   Based on the information that was available to the Company at the time the CNG supply  
5   contract was initially executed and subsequently amended in 2017, it was prudent to enter  
6   into the CNG supply contract. Thus, the demand charges that were incurred during the  
7   period August 2017 through September 2019 should be recoverable. In this proceeding,  
8   the Company has proposed to begin recovery over a three-year period which is already  
9   longer than the period of time over which the costs were incurred. For the purpose of  
10   trying to resolve this issue, the Company would be willing to consider a longer recovery  
11   period, for example, five years, which for the purpose of this proceeding would reduce  
12   the amount for which the Company is seeking recovery over the 2020/2021 winter period  
13   from approximately \$72,000 to approximately \$43,000.

14   With respect to Staff’s recommendation that the cost difference between CNG and  
15   propane be deferred until a ruling on the prudence of conversion of the full Keene system  
16   to natural gas, it is patently unfair to not allow the Company to recover the current costs  
17   to serve customers who have been converted to natural gas, which customers’  
18   conversions were approved by the Commission, particularly considering the Commission  
19   recognized that propane service is no longer an option for those customers. That is, as  
20   the Commission stated, “Once a customer begins receiving natural gas, that customer will  
21   no longer be able to receive propane-air as a fuel choice.”

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1    **Q.    Does the Company have any other recommendations?**

2    A.    Yes. Liberty believes it advisable that the Company, Commission Staff, and the Office  
3           of the Consumer Advocate schedule a meeting in the near future to make sure everyone  
4           gets on the same page in terms of understanding the numerous Commission rulings with  
5           respect to Keene, the status of the Company’s plans with respect to Keene, and other  
6           issues related to the future conversion of the system to natural gas. It has become  
7           obvious that, in some cases, people are talking past each other with slightly different  
8           perspectives on past decisions, meetings, discussions, and so forth. There have been  
9           many developments over the years, and it would be in everyone’s best interest to perhaps  
10          clear the air a little and iron out any differences to improve the path forward.

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

12   A.    Yes, it does.