STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DOCKET NO. DG 20-105

IN THE MATTER OF: LIBERTY UTILITIES (EnergyNorth Natural Gas) CORP. d/b/a LIBERTY UTILITIES

DISTRIBUTION SERVICE RATE CASE

DIRECT TESTIMONY

OF

Stephen P. Frink
Director- Gas and Water Division

March 18, 2021

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1 **New Hampshire Public Utilities Commission**

2 **Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities**
3
4 **DG 20-105**

5 **Testimony of**
6 **Stephen P. Frink, Director, Gas & Water Division**

7
8 **INTRODUCTION & SUMMARY**

9 **Q. Please state your name, occupation and business address.**

10 **A.** My name is Stephen P. Frink and I am employed by the New Hampshire Public Utilities
11 Commission (Commission) as the Director of the Gas & Water Division. My business
12 address is 21 S. Fruit Street, Suite 10, Concord, New Hampshire 03301.

13 **Q. Please summarize your educational and professional experience.**

14 **A.** I joined the Commission in 1990 as a member of the Audit Team and worked as a Utility
15 Analyst, Sr. Utility Analyst, Assistant Finance Director, and Assistant Director of the Gas &
16 Water Division before becoming the Director of the Gas & Water Division in 2018. I have
17 primary responsibility for the administration of the financial aspects of the regulation of the
18 gas utilities in New Hampshire.

19 Prior to joining the Commission, I worked as a Budget/Financial Analyst for the cities
20 of Austin and Dallas, Texas. I have a Bachelor of Arts and a Master's in Business
21 Administration from the University of New Hampshire.

22 **Q. What is the purpose of your testimony in this proceeding?**

23 **A.** The purpose of my testimony is to provide Commission Staff's (Staff) recommendations on

1 five issues related to the Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty
2 Utilities' (Liberty, or the Company) proposal:

3 1. Innovative Natural Gas, LLC d/b/a iNATGAS (iNATGAS) cost recovery;
4 2. Issues related to converting the Keene propane-air system to natural gas (Keene
5 conversion) and cost recovery;
6 3. The Pelham expansion risk sharing adjustment;
7 4. Granite Bridge Project (Granite Bridge) cost recovery;
8 5. Amortization of the Theoretical Depreciation Reserve.

9 **Q. Please summarize Staff's recommendations.**

10 **A.** Staff recommends that the Commission limit recovery of costs associated with the iNATGAS
11 project in the same manner as was approved in the most recent Liberty rate case, in Docket
12 DG 17-048. *See* Order No. 26,122 at 28-32. In that proceeding the Commission determined
13 that a full disallowance of costs associated with the project would be justified under a strict
14 prudence examination but allowed partial recovery as the facilities were in service and used
15 and useful. The Commission was willing to consider additional recovery if customers might
16 benefit from the project. Liberty has not demonstrated any significant benefits to date. In fact,
17 developments since the last rate case indicate that customers will not see a benefit and,
18 therefore, there should be no additional recovery beyond what the Commission approved in
19 the last rate case. Partial recovery is merited as the iNATGAS facilities are still in service and
20 used and useful, albeit on an extremely limited basis.

21 In Liberty's last rate case the Commission established a risk sharing mechanism to
22 ensure ratepayers and shareholders would share equally in any revenue shortfall resulting
23 from the conversion of the Keene system from propane-air to natural gas in Liberty's next rate

1 case. Liberty has converted a limited section of the Keene system and a revenue shortfall now
2 exists, thereby requiring a corresponding reduction to the Company's revenue requirement to
3 reflect the shareholders' share of that shortfall.

4 Liberty began using compressed natural gas (CNG) to provide natural gas to Keene
5 customers in October 2019, and Keene cost of gas (COG) rates have been significantly higher
6 because of the partial conversion. As was done for non-supply related conversion costs, the
7 Commission should ensure that ratepayers and shareholders share equally in the incremental
8 additional CNG supply costs by refunding a portion and limiting future recovery of CNG
9 incremental supply costs to 50 percent, as required by Order No. 26,122.

10 Similarly, when granting Liberty the Pelham franchise, the Commission established a
11 risk sharing mechanism to ensure that ratepayers and shareholders would share equally if
12 there were a revenue shortfall as a result of extending service to Pelham. The Commission
13 determined that such a shortfall should be calculated using actual costs and projected
14 revenues. The projected revenues Liberty used to calculate the revenue shortfall includes
15 revenue from a potential customer that committed to taking service in 2016 and has not done
16 so. Projected revenues should not include revenue from a potential customer that committed
17 to taking service five years ago and has yet to do so. Staff recalculated the Pelham revenue
18 shortfall with a projected revenue calculation that excludes projected sales to that customer.

19 The Commission should deny Liberty's request to recover costs of the Company's
20 efforts to seek approval of the Granite Bridge Project. Recovery of costs sunk in a project
21 that is not in service or "used and useful" is prohibited under RSA 378:30-a, New
22 Hampshire's "anti-CWIP" or construction work in progress statute:

23 Public utility rates or charges shall not in any manner be based on the cost of
24 construction work in progress. At no time shall any rates or charges be based upon

> any costs associated with construction work if said construction work is not completed. All costs of construction work in progress, including, but not limited to, *any costs associated with constructing, owning, maintaining or financing construction work in progress*, shall not be included in a utility's rate base nor be allowed as an expense for rate making purposes until, and not before, said construction project is actually providing service to consumers. (Emphasis added.)

Liberty has abandoned the Granite Bridge Project. The project has not been, and will not be, completed. Granite Bridge is not, and will not be, providing service to consumers.

Liberty should not be allowed to continue to amortize the theoretical depreciation reserve based on the deprecation study provide in Liberty's last rate case. Liberty's deprecation expert who conducted that study and conducted a limited review for this rate case indicates that the next Liberty depreciation study will likely result in either a reserve surplus or much lower reserve deficiency.

<u>LIBERTY PRUDENCE REVIEW</u>

Q. Do the recommended disallowances require a prudence review?

A. A prudence review is necessary only for the disallowance of incremental CNG supply costs for Keene. The Commission has already determined that a full disallowance could be justified for iNATGAS based on its prudence review in Docket DG 17-048. A prudence review is unnecessary for Keene non-supply conversion costs, as those costs are subject to the risk sharing mechanism the Commission established in Docket DG 17-048. A prudence review is unnecessary for the Pelham disallowance, as well, as those costs are subject to the risk sharing mechanism approved by the Commission in Docket DG 15-362. A prudence review is unnecessary to deny recovery of Granite Bridge Project costs because recovery of *any* costs associated with constructing, owning, maintaining, or financing construction work in progress is prohibited by law.

1 **Q. How is prudence determined?**

2 **A.** The Commission addressed how prudence is determined in Liberty's last rate case:

> 3 Many prior Commission decisions give guidance as to the appropriate standard
> 4 to apply when evaluating the prudence of a utility's investment. Pursuant to
> 5 RSA 378:28, the Commission shall not include in permanent rates] any return
> 6 on plant, equipment, or capital improvement or any supply cost, which has not
> 7 first been found by the Commission to be prudent, used and useful. [citing
> 8 Pittsfield Aqueduct Company, Inc. Order No 25,051 at 13 (December 11, 2009).
> 9 When reviewing whether a utility has been prudent in its decision making, we
> 10 "may reject management decisions when inefficiency, improvidence, economic
> 11 waste, abuse of discretion or action inimical to the public interest are shown."
> 12 [citations omitted] One of the critical prudence considerations when evaluating
> 13 actions and decisions, is not to apply the perspective of hindsight, but rather to
> 14 consider the actions in light of the conditions and circumstances as they existed
> 15 at the time they were taken.

16

17 Order No. 26,122 at 22.

18

19 **Q. Have Liberty's investment decisions been questioned in other dockets?**

20 **A.** Yes. In Liberty's very first rate case after its acquisition of National Grid assets in New
21 Hampshire, the Commission, in Order No. 25,797 (June 26, 2015) in Docket DG 14-180,
22 approved a settlement agreement that required an outside consultant to conduct an
23 independent audit to examine Liberty's "financial reporting/accounting [and] customer
24 service areas, including business planning and budget process. Liberty Consulting Group
25 (LCG) conducted the audit and reviewed budget years 2014, 2015 and 2016. LCG issued a
26 final report on August 12, 2016.[1] ***See Attachment SPF-1.***

27 Regarding Liberty's capital planning and spending, LCG found:

> 28 Liberty Utilities – New Hampshire has significant timing issues in providing
> 29 capital expenditure analysis and business case packages for review and approval
> 30 at executive levels. The CapEx budgeting process is one of the most crucial in
> 31 effectively operating capital-intensive utility companies, making insufficiencies
> 32 in this area a significant management issue. Page III-25.

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1 Liberty Consulting Group 'Final Report on A Management and Operations Audit of The Customer Service and Accounting Functions of Liberty Utilities' dated August 12, 2016. Filed on August 15, 2016 in Docket DG 14-180.

> Management did not provide the types of analysis prescribed for growth, discretionary and regulatory supported projects regarding alternatives/options, financial assessment and qualitative evaluation. The capital expenditure policy for business cases is specific in the type of analysis expected. In particular, we did not find alternatives identified and analyzed, and net present value or internal rate of return analysis was not prepared (as required in the Policy) in the business cases that we reviewed. Page III-27.
>
> Recent capital expense variances demonstrate a lack of effective control of capital expenditures. The number, size, and nature of the variances is extraordinary, and present a picture much more of opportunistic than well-planned capital spending. Our review evidenced widespread capital planning problems and capital budget execution. APUC's circumstances heighten the concern further in that utility operations must compete for capital with other demands imposed by a company with an unusually aggressive growth strategy, particularly one that involves acquisitions as a central element. Also discomforting is the repeated emphasis that planning documents show for investments that drive returns, as compared with less detail and emphasis on utility operating metrics. Page III-27.

In Liberty's second, and most recent, rate case (DG-17-048), LCG conducted a limited audit to review progress Liberty had made in implementing the recommendations of the August 2016 LCG Audit Report. LCG issued a report on November 1, 2017.[2] ***See Attachment SPF-2.***

Regarding the Phase 1 Keene conversion, LCG found:

> Keene Propane project documentation does not demonstrate improvement in planning and estimating to the 2017 capital budget cycle.
>
> Management provided the Keene Propane business case for 2017. Management initially authorized Keene Propane in June 2016 as an "emergent project," meaning that the Board-approved budget for that year did not initially include it. Management has stated that the New Hampshire Commission Staff requested a delay in the conversion project into 2017. Management then established a new project number and prepared a new business case for 2017, addressing both planned gas-main installation on Production Avenue in Keene and the high-pressure conversion from propane/air to CNG. Page 24 of 31.

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2 Docket DG 17-048 Exhibit 22. Attachment SPF-8 'Liberty Consulting Group "Recommendations Verifications of Liberty Utilities.'

> We expected that 2017 Keene Propane project planning and budgeting would provide an opportunity to examine improvements in management's capital planning and estimating to respond to our Recommendation #2. However, reviewing the business case and capital project expenditure application for Keene Propane for 2017 did not evidence substantial process improvements. First, the business case and application bear the date of January 1, 2017, with approval noted in mid-January 2017. The business case also notes that the annual capital budget approved by the Board of Directors for 2017 did not include the project. Financial notes for the business case provided state that "This blanket project is based on historical spending trends and anticipated a year-ahead activity in this investment category." The Cost Estimate category notes that, "Cost estimates will be calculated on an individual job basis."
>
> We therefore concluded that Keene Propane 2017 documents do not evidence improvements in the timing of the project analysis, in the supporting business case or in the CAPEX application, which occurred well after the start of the capital budget process in late September. The documents also do not evidence more detailed cost estimates for consideration by senior management or the board as part of the capital budget process. Business cases should include long-term revenue requirements analysis of the project's costs and benefits, which should be prepared for senior management and board of director's review on larger discretionary projects. In the case of Keene, business cases were not prepared for consideration in the 2017 capital budget. Page 25 of 31.

Since 2017, the Commission has disallowed cost recovery in three instances pursuant to evaluating the prudence of Liberty investments: 1) the costs incurred to construct the Concord Training Center; 2) the costs incurred to serve iNATGAS; and 3) historical demand costs to provide CNG in Keene.

Q. Please describe and explain each of your recommended disallowances in this docket.

A. Description and explanation of the recommended disallowances related to the iNATGAS special contract and lease, the Keene conversion, the Pelham expansion, and the Granite Bridge Project are provided below.

<u>iNATGAS</u>

1 **Q. Please describe the iNATGAS project.**

2 **A.** iNATGAS, a Massachusetts LLC formed in 2013, constructed a CNG station in Concord
3 designed primarily to serve large commercial and industrial customers' on-site energy
4 requirements, referred to as bulk or thermal CNG, but used also to serve CNG vehicles. The
5 CNG station is located on property leased from Liberty and Liberty delivers CNG to
6 iNATGAS under the terms of a special contract. Under the terms of a lease agreement,
7 iNATGAS is required to make monthly fixed payments to Liberty for the land on which the
8 CNG station is located. Under the terms of the special contract with iNATGAS, Liberty
9 constructed, owns, and operates a CNG station that provides CNG to iNATGAS at a fixed per
10 therm charge for 15 years and requires iNATGAS to pay for a minimum number of therms
11 each year, whether or not those volumes are actually taken. This minimum amount is referred
12 to as a 'take-or-pay' or 'must take' requirement. Liberty petitioned for, and received,
13 Commission approval to enter into the lease agreement and special contract.[3]

14 The project, initially expected to commence operations in November 2014, became
15 operational on December 1, 2016.

16 **Q. On what basis did the Commission approve the lease agreement and special contract?**

17 **A.** Approval was granted in large part because Liberty's investment was expected to be offset by
18 anticipated revenues from iNATGAS:

> 19 Liberty's investment of $2.2 million will be more than offset by the anticipated
> 20 revenues if iNATGAS realizes its projected sales, producing a positive return
> 21 that will help to hold down rates for all Liberty customers. It is an investment
> 22 similar to upfront investments in physical plant Liberty has made to serve other
> 23 large customers. Although the level of risk to Liberty associated with this project
> 24 may be higher than normal because the thermal CNG market is in its infancy
> 25 and there are a finite number of potential customers, those risks are mitigated
> 26 through the "must-take" provision of the special contract, the payment

3 Order No. 25,694 (July 15, 2014) in Docket DG 14-091.

1 guarantees from iNATGAS's president and [Alternative Vehicle Service Group]
2 AVSG, and the $1.22 million escrow account.
3
4 Order No. 25,694 (July 15, 2014) at 8-9.
5
6 In its order the Commission noted that full cost recovery was not guaranteed:

7 We are not required at this time to decide whether or how Liberty's investment
8 in the CNG facilities should be recovered from ratepayers. We note that in
9 approving the Special Contract and Lease Agreement, full cost recovery is not
10 guaranteed and ultimately the investment must be found prudent for such
11 recovery to occur.
12
13 Order No. 25,694 at 9.
14
15 **Q. Did Staff raise concerns at that time regarding Liberty's proposed investment?**

16 **A.** Staff filed a report[4] raising the concern that Liberty's financial analysis did not adequately

17 present the financial risks associated with the iNATGAS project. ***See Attachment SPF-3***.

18 The Staff report states:

19 Where the analysis fails is in not weighing the risk associated with the future
20 revenue streams, which is substantial. Liberty will be serving one customer,
21 iNATGAS, which is new to the thermal CNG market, has no captive customers
22 at present, has limited resources, and faces competition in close proximity (i.e.,
23 the Clean Energy facility in Pembroke). Another concern is that the CNG
24 market, which is just starting to develop using novel technology, is a competitive
25 and limited market generally. [p. 4]
26
27 Staff conducted a financial analysis using Liberty's cost projections, but different revenue

28 streams. One of the three Staff scenarios assumed no sales and no revenues, which would

29 occur if iNATGAS and the guarantors defaulted on the contract. A second scenario assumed

30 revenues at take-or-pay levels for the first five years of the contract. Both scenarios resulted

31 in a negative net present value (NPV).[5] Staff recommended that an escrow fund be

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4 DG 14-091, Exhibit 4, Staff Report on Liberty Utilities iNATGAS Special Contract and Lease Agreement.

5 Net Present Value (NPV) is the difference between the present value of cash inflows and the present value of cash outflows. NPV is used in capital budgeting to analyze the profitability of a projected investment.

1 established to alleviate risk, and iNATGAS and Liberty subsequently entered into an escrow
2 agreement funded by an iNATGAS deposit of $1,224,000.

3 **Q. Did Liberty's iNATGAS cost estimates prove to be accurate?**

4 **A.** No, far from it. The capital cost attributed to iNATGAS in the financial analysis Liberty
5 conducted when seeking approval to enter into the special contract was $2,245,000 while the
6 actual cost turned out to be $4,816,000, more than double the initial estimate.

7 **Q. When did Liberty first seek to recover the cost of its iNATGAS investment?**

8 **A.** In Docket DG 17-048, Liberty's last rate case.

9 **Q. What was the Commission's decision regarding Liberty's iNATGAS investment?**

10 **A.** The Commission found that the analysis on which Liberty had based its decision to enter into
11 the iNATGAS contract and lease was flawed. However, the Commission allowed partial
12 recovery of Liberty's iNATGAS investment pending a re-evaluation in the next rate case:

> 13 We find it troubling that the analysis Liberty presented to us in 2014, under a
> 14 request for fast track review of the proposed special contract (3/22/18 AM, Tr.
> 15 at 27-28) omitted so much material cost information. The fact that this same
> 16 analysis was also presented to senior management for review and approval of
> 17 the project brings into question the prudence of Liberty's decision to proceed
> 18 with the project. Again, prudence is judged on what a reasonable utility
> 19 executive knew or reasonably should have known when making a decision.
> 20
> 21 The record demonstrates that the 2014 DCF [discounted cash flow] analysis was
> 22 flawed and that many costs were missed or underestimated. Including revenues
> 23 from sales scenarios, while omitting the investment needed to realize those
> 24 revenues, is a serious mistake. Liberty's inability to breakdown its estimate of
> 25 "piping, meter set, survey, etc." into its component parts is not acceptable. The
> 26 notion that the "etc." in this lump sum figure was sufficient to cover tree
> 27 removal, asphalt, concrete, canopies, and the labor needed to connect the
> 28 compressors is not credible. A reasonable utility executive being asked to sign
> 29 off on the $2 million-plus venture would have, or should have, required more
> 30 detail.

31
32 Order No. 26,122 (April 27, 2018) at 30.
33
> 34 Full exclusion of the cost of the facility would be justified under a strict prudence

> examination, which focuses on the facts that were known or should have been known at the time of the decision to undertake the project. That said, we are mindful that the iNATGAS facility, like the training center, is in service and appears to be used and useful. In addition, the iNATGAS facility has the potential to provide net benefits to customers in the future, and therefore a complete exclusion of recovery may not be the best overall remedy.
>
> Nevertheless, the plant has been built and, for purposes of the base rates set in this case, we will allow recovery of the plant up to the level of costs presented in DG 14-091 ($2,245,000) plus related O&M expense. We will re-evaluate this investment in Liberty's next rate case and may consider putting more of the investment in rate base at that time. The remedy fashioned here will put ratepayers in the position they were in when this project was approved. Accordingly, we adopt Staff's proposed adjustment.

Order No. 26,122 at 31-32.

Q. Will the iNATGAS facility provide net benefits to customers in the future?

A. That seems highly unlikely as it appears to Staff that iNATGAS and the guarantors may default on the contract within the next year or two. Since beginning operations in December 2016, iNATGAS has seen minimal sales and Liberty has had to access the escrow fund to cover financial obligations related to the iNATGAS contract. In the fifth year of the contract – i.e., 2021 - the iNATGAS financial obligation increases dramatically, as the annual take or pay requirement increases from 500,000 dekatherms to 1,300,000 dekatherms and there is no indication that iNATGAS will be able to generate the level of sales necessary to meet its financial obligations at that time. Assuming iNATGAS's Year Four take-or-pay requirement is paid from the escrow account, there will be only $312,321 remaining in the escrow fund at the end of 2021. ***See Attachment SPF-4 (Staff Technical Session Data Request 3-5).***

In 2014 Liberty performed a DCF analysis of the iNATGAS project that assumed minimum take-or-pay revenues over the 15 years of the contract, which resulted in a positive Net Present Value (NPV) of $6,276,533. In this docket, Liberty updated the analysis using actual costs, which resulted in a positive NPV of $212,274 (Clark/Stevens Testimony, Bates

1 pages II-599 & 601, respectively).

2 As explained above, Staff believes there is a strong possibility that iNATGAS will
3 default on the contract and future revenues will be limited to what can be recovered through
4 the escrow agreement. Using Liberty's updated DCF analysis and adjusting revenues to
5 reflect actual payments and future payments available from the escrow fund produces a
6 *negative* NPV of $3,038,053. ***See Attachment SPF-5.***

7 **Q. Should the Commission put more of the iNATGAS investment in rate base at this time?**

8 **A.** No. Unlike the last rate case, when there was only one year of history on which to evaluate
9 the potential return on investment, we now have four years of experience and an even stronger
10 indication that Liberty's flawed analysis resulted in a poor investment decision. Adding more
11 of the facilities to rate base would increase rates and cause financial harm to ratepayers.

12 **Q. Should there be a full exclusion of the iNATGAS facility costs at this time?**

13 **A.** No. Even though the Commission has determined that a full exclusion of the cost of the
14 facility would be justified under a strict prudence examination, the facility is still in service
15 and, to a limited degree, used and useful.

16 **Q. What remedy would be fair Liberty shareholders and ratepayers?**

17 **A.** The same remedy approved by the Commission in its initial ruling on the recovery of
18 iNATGAS costs. The Commission allowed recovery of the iNATGAS costs up to the level of
19 costs presented in Docket DG 14-091 ($2,245,000) plus related O&M expenses, in order to
20 put ratepayers in the position they were in when the iNATGAS project was approved.

21 **Q. What adjustment is necessary to apply the same remedy?**

22 **A.** The Liberty revenue requirement should be reduced by $301,747, calculated using the
23 iNATGAS rate base approved for recovery in the last rate case (DG 17-048, Order No.

1 26,122, Appendix 2) and updated to reflect the fourth contract year (beginning December 1,
2 2020), depreciation and tax rates, and approved rate of return. ***See Attachment SPF-5.***

3 **Q. Please comment on Liberty's testimony stating that the additional iNATGAS costs were**
4 **prudent?**

5 **A.** Liberty is attempting re-litigate costs the Commission ruled on in the last rate case when
6 Liberty made the same or similar claims. Based on the lengthy record developed in that
7 proceeding, the Commission found that a full exclusion of the costs was justified but
8 nonetheless provided for partial recovery. There have been no changes in the capital costs
9 that Liberty is again seeking to recover.

10 In the last rate case, the Commission also ruled that in the Company's next rate case
11 the Commission would re-evaluate to determine if more of the iNATGAS costs should be
12 added to rate base. The iNATGAS facilities had been in operation for only a short time and
13 although iNATGAS sales and revenue during that period were limited, the possibility existed
14 that iNATGAS sales and revenues could increase significantly and justify adding more of the
15 costs to rate base. Annual sales and revenues over the ensuing three years have been minimal
16 and it is difficult to see how iNATGAS will be able to meet its take-or-pay requirements
17 going forward.

18 In the prior rate case the Commission determined that the appropriate remedy was to
19 put ratepayers in the position they were in when the iNATGAS project was approved, and that
20 is an appropriate remedy here. There may be a time where iNATGAS facilities are no longer
21 in service or used and useful and therefore will be fully excluded from rate base, or that the
22 project will generate significant revenues to justify full inclusion in rate base, but now it not
23 that time.

1

2 **KEENE CONVERSION**

3 **Q. Please describe the Keene conversion.**

4 **A.** Liberty acquired the Keene propane-air system in January 2015 with plans to convert the
5 system to a CNG and/or liquefied natural gas (LNG) system (this potential conversion plan is
6 referred to henceforth as "the Keene conversion"), if economically feasible.

7 Conversion requires siting a natural gas supply source on or in close proximity to the
8 Keene distribution system; sectionalizing portions of the existing system; measuring gas
9 quality; converting or replacing customer appliances; developing new operating and
10 procedure plans, emergency response plans, public awareness plans, and new operator
11 training and qualification; and contracting and scheduling natural gas supplies.

12 Given the various economics and logistics pertaining to the provision of LNG and
13 CNG to customers, the Company testified when seeking to acquire the Keene system that it
14 intended to conduct an in-depth analysis before making any decisions as to whether LNG,
15 CNG, or a combination of the two would be the best-cost future supply option for the Keene
16 System customers.[6]

17 In December 2015, an operational incident occurred in the Company's existing
18 propane-air facility triggering an emergency response. Liberty implemented a number of
19 safety measures to reduce the risk of another incident, one measure being to undertake Phase
20 1 of its five phased conversion plan.

21 Phase 1 was to serve approximately 15 to 20 existing customers located in the

6 DG 14-155. Liberty testimony of Richard H. Leehr (President) and Chico DaFonte (Senior Director of Energy Procurement).

Monadnock Marketplace and additional customers along a new main connecting the plaza with a temporary CNG facility.[7] Liberty planned to commence natural gas service in 2016 but did not do so until October 2019. The capital investment required to provide natural gas to the Monadnock Marketplace was $1,090,871. The Phase 1 conversion has not resulted in any customer additions. ***See Attachment SPF-6 (Staff TS DR 1-6)***.

Q. Was the Phase 1 conversion justified for safety reasons?

A. No. The Phase 1 conversion was not justified for safety reasons, as it addressed a relatively small safety risk at a very high cost.

Following the 2015 operational incident at the propane-air facility, Liberty implemented a number of measures that significantly reduced the risk of a similar incident occurring in the future. The Commission opened an investigation into the incident in Docket IR 15-517, and a Safety Division Report on the incident filed in that docket describes the measures Liberty considered and implemented.[8] ***See Attachment SPF-7.***

The Phase 1 conversion was also addressed in the Keene 2016-2017 Winter COG (Docket DG 16-812) when Liberty sought to recover the cost of one of the measures that Liberty had implemented - namely, around-the-clock staffing of the Keene production plant. Staff filed a memorandum on the treatment of Keene productions costs.[9] ***See Attachment SPF-8***.

Staff recommended that the Commission deny the request for recovery of around-the-clock staffing, as the costs were not justified given the small reduction in risk:

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7 DG 17-048. Liberty rebuttal testimony of William J. Clark and Stephen R. Hall, Attachment WJC/SRH-4, describes the five phases and provides growth estimates, the timeframe for construction, maps and construction cost estimates, and a DCF analysis.

8 *Docket IR 15-517 NHPUC Safety Division Investigation Report [dated] March 31, 2016 of December 19, 2015 Operational Event [in the] Liberty Utilities—Keene, NH Division*. Attachment Staff 3-3.2 (pages 100-103).

9 *Docket DG 16-812, Exhibit 3, Staff Recommendation filed December 22, 2016.*

> On February 21, 2016 another malfunction occurred with the blowers requiring manual resetting at the Keene facility. The system automatically went into Atmospheric Safe Mode without operator intervention, as designed. The malfunction was corrected in less than 10 minutes.
>
> Since the December 19, 2015, incident Liberty has implemented 12 Keene production plant enhancements (DR 2-7).
>
> In weighing the operational risk to the reliable and safe operation of the Keene plant, the Company found the risk of a similar incident to be very small ***(Company response to DR 2-8): 'While the Company has implemented a broad range of safety and operational enhancements to the system, there remains a residual risk of another incident similar to the incident that occurred on December 19, 2015. We believe this risk to be very small***; nonetheless, the Company also believes that it must take whatever steps are reasonably justified to ensure the safety of our customers, employees, and the Keene community.' Exhibit 3, Bates p. 3 of 9. [Emphasis Added]

In Liberty's last rate case (Docket DG 17-048), the Commission found that the Phase 1 conversion was not justified for safety reasons:

> As for the Keene production costs of $148,410, we find that Liberty failed to justify those costs in this proceeding. Liberty made many significant enhancements to address the risk of a similar event and did not provide evidence that the incremental costs of manning the plant were reasonable or justified. Accordingly, we deny recovery of those costs.
>
> ***Because we find around-the-clock staffing of the Keene production plant is not just and reasonable, we reject the Company's argument that the current cost of converting a small portion of the Keene system to CNG is necessary for reliability and safety reasons*** or is economically justified on its own terms. Furthermore, Liberty testified that the conversion could lead to additional growth, and it is therefore appropriate to include the cost of the initial conversion to CNG in the risk sharing mechanism delineated above. Order No. 26,122 at 41. [Emphasis Added.]

Despite the Commission's ruling that the Phase 1 conversion was not justified for reliability and safety reasons, Liberty continues to argue the point. The Commission has since affirmed its decision.

In Docket DG 17-068, Liberty argued that the Phase 1 conversion is distinct from the other phases of the Keene conversion in that it was necessary for reliability purposes while the

other phases were for system expansion and would be justified on an economic basis. The Commission rejected that argument:

> "…we reject Liberty's argument that "conversion" costs are distinct from "expansion costs," as addressed in the directives of Order No. 26,122. The interchangeability of "conversion" and "expansion" costs was a settled issue in that proceeding and the time has run for Liberty to pursue rehearing on that point." Order No. 26,294 at 12.

In Docket DG 20-152, the 2020-2021 Keene Winter COG proceeding, Liberty again argued that the Phase 1 conversion was necessary for safety concerns. The Commission did not reverse its earlier finding in the two subsequent orders in that docket, although a third order is pending.[10]

Q. Was the Phase 1 conversion justified on an economic basis?

A. No. In Docket DG 17-048, Liberty provided a DCF analysis for each of the five phases of conversion, including the timing of each and a combined DCF analysis. The Phase 1 analysis significantly understated the projected costs and overstated projected revenues.[11]

The projected cost of the Phase I conversion used in the DCF analysis, filed in Docket DG 17-048 on January 25, 2018, was $112,500, even though on December 12, 2016 Liberty estimated the cost to convert the Monadnock Marketplace to be $1,050,000 (excluding land). The actual conversion cost was $1,090,871 (excluding land).[12] ***See Attachment SPF-9 (Staff DR 4-1 in DG 16-812) and Attachment SPF-10 (Staff DR 5-4).***

The projected revenue used in the analysis included sales to potential customers located along the new gas main installed to serve the Monadnock Marketplace. However,

10 Order Nos. 26,421 issued October 30, 2020 and 26,428 issued December 2, 2020.
11 Docket DG 17-048 Exhibit 24A. Rebuttal Testimony of William J Clark and Stephen R. Hall, Attachment WJC/SRH-4, Bates page 79.
12 Liberty response to Staff DR 4-1 in DG 16-812 and Staff DR 5-4 in DG 20-105, respectively.

1 none of those potential customers have been added.

2 **Q. Was the Phase 1 conversion prudent?**

3 **A.** No. When Liberty made the decision go forward with the Phase 1 conversion, it was aware,
4 or should have been aware, that the project would do little to improve safety, would be
5 extremely costly, would produce little or no additional revenue or savings, and, therefore, was
6 not economical.

7 Based on the Company's analysis and supporting numbers, converting existing
8 customers from propane-air to natural gas would not generate additional revenue and the
9 limited number of potential customers along the new main would not generate sufficient
10 revenue to justify the estimated capital investment required to pursue further conversion. An
11 estimated $1 million investment (including $418,384 for the cost of land) to serve
12 approximately 20 customers was not a prudent decision by any measure.

13 The Phase 1 financial analysis was flawed, the cost estimate in the economic analysis
14 did not reflect the cost estimate provided by Liberty engineers months before, and did not
15 include the cost of land required to undertake the conversion. Liberty expected Phase 1
16 construction to be completed in the summer of 2017, construction of Phase 2 to begin in
17 spring of 2019, construction of Phases 3 and 4 to begin in spring 2020, and construction of
18 Phase 5 to begin in spring of 2021. The DCF analysis had an expected completion date for
19 Phase 1 that had already passed so the projected cost estimate would not have included the
20 allowance for funds used during construction (AFUDC) or delay in the projected revenue
21 stream.

22 An independent audit of Liberty's decision to go forward with the Phase 1 conversion
23 provides further evidence that the decision was not prudent. As stated earlier, LGC reviewed

1 Liberty's planning and budgeting and issued a report in August 2016 that identified a number
2 of issues and recommended corrective actions. In a follow-up report issued in November
3 2017, LGC examined the Company's decision to go forward with the Phase 1 conversion and
4 found that planning and budgeting for the project was lacking (LCG report, p. 25):

5 We expected that 2017 Keene Propane project planning and budgeting would
6 provide an opportunity to examine improvements in management's capital
7 planning and estimating to respond to our Recommendation #2. However,
8 reviewing the business case and capital project expenditure application for
9 Keene Propane for 2017 did not evidence substantial process improvements.
10 First, the business case and application bear the date of January 1, 2017, with
11 approval noted in mid-January 2017. The business case also notes that the annual
12 capital budget approved by the Board of Directors for 2017 did not include the
13 project. Financial notes for the business case provided state that "This blanket
14 project is based on historical spending trends and anticipated a year-ahead
15 activity in this investment category." The Cost Estimate category notes that,
16 "Cost estimates will be calculated on an individual job basis."
17
18 We therefore concluded that Keene Propane 2017 documents do not evidence
19 improvements in the timing of the project analysis, in the supporting business
20 case or in the CAPEX application, which occurred well after the start of the
21 capital budget process in late September. The documents also do not evidence
22 more detailed cost estimates for consideration by senior management or the
23 board as part of the capital budget process. Business cases should include long-
24 term revenue requirements analysis of the project's costs and benefits, which
25 should be prepared for senior management and board of director's review on
26 larger discretionary projects. In the case of Keene, business cases were not
27 prepared for consideration in the 2017 capital budget.
28
29
30 **Q. Could the Commission find that the Keene conversion is prudent but that the Phase 1**
31 **conversion was imprudent?**
32 **A.** Yes. Liberty has not demonstrated that the Keene conversion is prudent but could do so in a
33 future docket. Liberty testimony in the Keene 2020 Winter COG provided an update on
34 status of the Keene conversion: [13]
35 Q. Does the Company plan to provide Staff and the Commission with plans

13Rebuttal Testimony of Steven E. Mullen in Docket No. DG 20-152. Bates page 10.

1 related to the conversion of the entire system, including the location and
2 specifications for the permanent facility, the details concerning the phases of
3 converting the system, etc.?
4
5 A. Absolutely. The Company has not finished the analysis on converting the
6 entire system because a final location for the permanent CNG/LNG facility has
7 not yet been determined. That analysis will also take into account the results of
8 the recent condition assessment of the existing propane-air facility, which
9 Liberty does not own. The lease for the Keene facility expires in March 2026
10 and can be extended for up to three years.
11
12 Development of the plan for the permanent CNG/LNG facility must consider
13 the final location of that facility, the condition of the existing propane-air system,
14 and the time constraints imposed by the existing lease.
15
16 A comprehensive analysis on further Keene conversion submitted to the Commission and
17 subject to a prudence review might result in a Commission finding that moving forward with
18 the Keene conversion is in the public interest. That would not negate a Commission finding
19 that beginning the Phase 1 conversion in 2016 was not prudent based on the incomplete and
20 flawed analysis in making that decision years in advance of any future Commission decision
21 determining the Keene conversion is prudent. The Phase 1 conversion has resulted in higher
22 COG rates for all Keene customers and will result in higher distribution rates for all Liberty
23 customers in other franchise areas, as well, even under the Keene risk sharing mechanism.

24 **Q. Has the Commission expressed concerns regarding the economic feasibility of the Keene**
25 **conversion?**

26 **A.** Yes. The Commission's level of concern was such that it established the risk sharing
27 mechanism to limit the financial harm to ratepayers if Liberty proceeded with the Keene
28 conversion:

29 "…we see little difference between consolidating the Keene Division and adding
30 a new franchise territory like Hanover and Lebanon which we have authorized
31 to be included in Liberty's general distribution rates under certain conditions.
32 *See Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*,
33 Order No. 26,109 (March 5, 2018). We note Liberty's testimony that "prior to

1 completing the business plan, [Liberty] will need to perform a detailed
2 engineering design for the distribution system and supply facility that will be
3 used to plan the construction and expansion of the system." Exh. 24 at 59. Given
4 the unknowns regarding the economic viability and cost structure of Liberty's
5 Keene Division expansion plans, we will apply the risk-sharing provisions
6 imposed on Liberty within the context of its Hanover and Lebanon CNG/LNG
7 expansion effort outlined in Order No. 26,109. We apply those more robust
8 provisions, with some modification, in preference to the settlement agreement's
9 provisions. Order 26,122, p. 38.
10

11 **Q. Please summarize the risk sharing mechanism established by the Commission.**

12 **A.** The risk sharing mechanism requires Liberty to reduce its revenue requirement by 50 percent
13 of any revenue shortfall in the first distribution rate case filed within five years following
14 construction of each phase and by 100 percent of the revenue shortfall if a second distribution
15 rate case is filed within the five years following construction. The revenue requirement is to
16 be determined by updating the original DCF analysis for each phase. The cost of land on
17 which the new Keene CNG/LNG production plant is located is to be included in the updated
18 DCF analysis.

19 The risk sharing mechanism is very similar to that which the Commission approved as
20 a condition in granting Liberty its Hanover and Lebanon franchise request. While the
21 Commissioners saw little difference between the Keene conversion and adding a new
22 franchise territory such as Hanover and Lebanon, there was one significant difference in that
23 Liberty had already commenced construction on the first phase of the Keene conversion. The
24 Hanover/Lebanon risk sharing mechanism required Liberty to obtain a certain level of
25 customer commitments before commencing construction and the Keene risk sharing
26 mechanism exempts the Phase 1 conversion from that requirement.

27 **Q. Did Liberty update the Keene Phase 1 conversion DCF analysis in its filing to determine**
28 **if there is a revenue shortfall, as required?**

1 **A.** No. Liberty's filing in this docket did not include an updated DCF analysis as required and
2 Liberty refused to do so in response to a Staff data request:

3 REQUEST: Ref. Mullen Testimony, BP II-222. Order 26,294 requires the cost
4 of construction for the Monadnock Marketplace to be included as part of the risk
5 sharing mechanism. Please calculate the revenue shortfall as required and
6 provide the updated DCF analysis in excel in "live format."
7
8 RESPONSE: Although the Monadnock Marketplace construction costs (Phase
9 1) are to be included in the risk sharing mechanism, Order No. 26,294 did not
10 require a DCF analysis of Phase 1. This is likely because the Commission
11 approved Phase 1 without the requirement that Liberty demonstrate customer
12 commitment for 50% of the Phase 1 costs: "With one limited exception, prior to
13 beginning construction of any phase of the conversion/expansion, Liberty is
14 required to secure a customer commitment level that will produce at least 50
15 percent of the revenue requirement associated with the new facilities needed for
16 that phase from those customers within 10 years calculated on a present value
17 basis." Order No. 26,294 at 14. The Commission described the "limited
18 exception" in footnote 3: "As noted below, Liberty was not required to
19 demonstrate that it had customer commitments to satisfy 50 percent of the
20 revenue requirement prior to the initiation of construction for the Monadnock
21 Marketplace." Thus, preparing a DCF analysis for Phase 1 was not required and
22 not included with the filing in this docket. ***See Attachment SPF-11 (Staff DR
23 1-3).***
24
25 **Q. Is Liberty's reading of the Commission Order correct?**

26 **A.** No. In Docket DG 17-048, Liberty filed a separate DCF analysis for each of the five phases
27 of the Keene conversion and testified that the Phase 1 conversion was already under way.
28 Since Phase 1 construction was already underway the Commission exempted Liberty from the
29 requirement that the Company secure customer commitments before commencing
30 construction on Phase 1. That "one limited exception" identified by the Commission pertains
31 to the start of construction for the Phase 1 conversion. Liberty's claim that the preparation of
32 a DCF analysis for Phase 1 was not required contradicts the unambiguous language in the
33 order:

34 "Liberty must reduce its revenue requirement by 50 percent of any revenue
35 shortfall in the first distribution rate case filed within five years ***following***

> ***construction of each Phase*** and by 100 percent of any revenue shortfall in the second distribution rate case filed within the five years ***following the construction of each Phase***." (Emphasis added.) Order No. 26,122 at 39.

The Commission confirmed that point in response to a Liberty request for clarification filed in Docket DG 17-068. Liberty requested clarification of the Commission's directive that it file a detailed report that includes all project costs to date and cost estimates for the overall conversion in its entirety, including the revenue requirement analysis that is required as part of the risk-sharing mechanism established in Docket DG 17-048. Liberty also requested clarification of the directive in Order No. 26,122 (April 27, 2018), issued in Docket DG 17-048, which requires the Company to provide updated DCF analyses prior to the initiation of construction of each Keene system conversion and expansion phase. Liberty asked whether the Commission intended that to be a new requirement or merely a restatement of the requirement set forth in Order No. 26,122. The Commission order clarifying its directives clearly states that the Phase 1 conversion is subject to the risk sharing mechanism:

> "We confirm that the risk-sharing mechanism applies separately to each phase of Liberty's planned conversion/expansion of the Keene system. The requirement to obtain at least 50 percent of the revenue requirement associated with the investment before construction begins does not apply to Phase I, as that phase was already under construction to serve the Monadnock Marketplace. ***Although the customer commitment requirement does not apply to the start of construction for the Monadnock Marketplace, the cost of that phase is to be included as part of the risk sharing mechanism.***"

Order No. 26,294 at 15. (Emphasis added.)

Q. Have you updated the Phase 1 DCF analysis?

A. Yes. I have updated the original Phase 1 DCF analysis to reflect Liberty's approved rate of return, tax rates (income and property), actual costs and the average annual projected revenue requirement and revenue for years 2 through 4. I used the updated rate of return and tax rates

1 provided by the Liberty in its updated Pelham DCF analysis that was a condition of the
2 Commission granting Liberty the Pelham franchise.[14]
3 The updated Keene Phase 1 DCF analysis does not include the cost of the land on
4 which the CNG facilities are located because Liberty is not seeking recovery of that cost at
5 this time. The Phase 1 conversion was completed in October 2019 and a portion of the costs
6 are in rate base as of December 31, 2019, with the balance to be added to rate base in as of
7 December 31, 2020. I have attached an updated DCF analysis for the Phase 1 costs included
8 in rate base as of December 31, 2019 (permanent rates), and an updated DCF analysis for the
9 additional Phase 1 costs to include in rate base as of December 31, 2020 (2021 step increase).
10 ***See Attachment SPF-12.***
11 **Q. What was the result of the updated DCF analysis?**
12 **A.** There is a revenue shortfall and the revenue requirement needs to be adjusted accordingly.
13 The Phase 1 conversion cost is $1,090,871; $359,889 of that cost was added to rate base in as
14 of December 31, 2019 and $730,981 was added to rate base in as of December 31, 2020. The
15 revenue shortfall related to the $359,889 increase in rate base is $43,472, and the revenue
16 shortfall related to the $730,981 increase in rate base is $88,297.
17 The Keene risk sharing mechanism requires that the revenue requirement be reduced
18 by 50 percent of the shortfall. Thus, the applicable reduction to the revenue requirement for
19 permanent rates is $21,736 (50% of $43,472), and the reduction to the revenue requirement
20 for the 2021 step adjustment is $44,148 (50% of $88,297). ***See Attachment SPF-12.***
21 **Q. How are the Keene risk sharing revenue adjustments to be recovered?**
22 **A.** The Keene risk sharing mechanism requires the direct cost of the Keene distribution system

14 Order No. 25,987, issued February 8, 2017 in Docket DG 15-362.

1 be recovered through distribution rates and that the revenue requirement associated with the
2 CNG facilities and customer conversions be recovered through the Keene COG.[15] The Phase
3 1 conversion costs include new mains to connect the CNG facilities to the Monadnock
4 Marketplace and the adjusted revenue requirement associated with the cost of mains is to be
5 recovered through distribution rates. The other Phase 1 costs consist of CNG facilities and
6 the converting customer appliances and the adjusted revenue requirement associated these
7 costs is to be recovered through Keene COG rates.
8 The permanent rate adjusted revenue requirement of $21,736 should be recovered as
9 follows: $19,891 through distribution rates and $1,845 through Keene COG rates. The 2021
10 step adjustment revenue requirement of $44,148 should be recovered as follows: $4,352
11 through distribution rates and $39,787 through Keene COG rates.
12 The amounts to be recovered through the Keene COG should be allocated between the
13 summer and winter periods as a fixed amount until Liberty's next rate case.
14
15 **KEENE INCREMENTAL CNG SUPPLY COSTS**
16 **Q. Did the Keene Phase 1 conversion negatively impact Keene supply costs?**
17 **A.** Yes, Liberty has paid an additional $178,190 in supply costs from October 2019 through
18 December 2020 as a result of the Phase 1 conversion. The additional supply costs are tracked
19 and reported in the Keene COG summer and winter filings as incremental CNG costs.
20 **Q. Please describe incremental CNG costs.**
21 **A.** Other than in Keene, the Liberty distribution system has direct access to natural gas supplies
22 transported on interstate pipelines. To provide natural gas service in Keene, CNG or LNG has

15 Order No. 26,122 at 39.

1 to be trucked to Keene. Following its decision to begin the Phase 1 conversion, Liberty
2 contracted for delivered CNG supplies in 2016 and began providing natural gas on October 4,
3 2019. Customers receiving natural gas service can no longer receive propane-air service
4 (without re-converting customer appliances and parts of the distribution system).

5 The CNG contract includes both fixed and variable charges and to date the average per
6 therm CNG supply cost has greatly exceeded what the average per therm supply cost would
7 have been absent the conversion. The Commission has required Liberty to track the
8 incremental CNG supply cost or saving and in Order No. 26,428 ruled:

9 "…whether incremental CNG costs should be recovered requires a
10 consideration of delivery and supply factors, as well as a prudence review of
11 the Keene conversion itself, matters that are to be addressed in Liberty's
12 pending rate case, in Docket No. DG 20-105. Accordingly, we will consider
13 incremental CNG costs and savings as part of that docket."
14

15 **Q. Have incremental CNG supply costs been recovered from ratepayers?**

16 **A.** A portion of those costs have been reflect in, and recovered through, Keene COG rates. The
17 Commission deferred recovery of $132,533 of incremental CNG costs incurred during the
18 2019-2020 winter period for which Liberty sought recovery in its 2020-2021 Keene winter
19 COG filing. Table 2 details the incremental CNG supply costs incurred between October
20 2019 and December 2020 and the amount that has been deferred pending a prudence review:

Table 2			
Incremental CNG Supply (Savings)/Cost			
COG Period	Year	Amount	Deferred
Summer	2019	3,954	
Winter	2019-20	132,533	132,533
Summer	2020	16,835	
Winter *	2020-21	24,868	
Total		178,190	132,533
* First two months (November-December)			

21

1 **Q. Are incremental CNG supply costs recovered from ratepayers subject to refund?**
2 **A.** Most, but not all. In the Keene 2020 Summer COG proceeding Staff did not specifically
3 request the Commission to reserve the right to seek a refund of the 2019 incremental CNG
4 costs pending a future prudence review of those costs and the approved Keene 2020 Summer
5 COG rates provided for recovery. Subsequent Keene COG orders have provided for a refund
6 of incremental CNG supply costs pending the prudence review being conducted in this
7 proceeding.
8 **Q. Are incremental CNG supply costs incurred to date, but deferred, eligible for recovery?**
9 **A.** Yes, pending a prudence review and Commission decision in this proceeding.
10 **Q. Why is it necessary consider delivery costs regarding the prudency of a supply cost?**
11 **A.** It is necessary to do so because the conversion may have resulted in operating and
12 maintenance (O&M) savings that would offset the incremental supply costs.
13 **Q. Are there O&M savings related to the Phase 1 conversion?**
14 **A.** No. The propane-air plant has not reduced operations and will need to continue to operate
15 unless the system is fully converted or utility service is discontinued. Liberty continues to
16 operate the propane-air production plant and is now also operating and maintaining CNG
17 facilities.
18 Liberty did not identify any O&M savings from the Phase 1 conversion in its filing but
19 attempted to do in response to Staff data request TS 8-1. ***See Attachment SPF-13 (Staff DR***
20 ***TS 1-8).*** The claimed savings are primarily labor costs for work that is no longer required as
21 a result of the Phase I conversion. However, because the employees that had performed that
22 work are simply performing other duties, such as receiving CNG deliveries, the labor costs for
23 those employees were and are reflected in Liberty's current and proposed rates. Liberty did

1 identify annual O&M saving of $8,206 related to work performed by contractors no longer
2 needed but those savings are more than offset by the $12,819 cost of outside services required
3 to operate and maintain the new CNG facilitates. ***See Attachment SPF-14 (Staff DR 1-7)***.

4 **Q. Would increased usage of CNG produce incremental supply savings?**

5 **A.** Possibly. To the extent that CNG and propane supply costs include fixed charges, increased
6 usage would reduce the average per them cost for that portion of the CNG supply cost,
7 although that could be offset by a corresponding increase in the average per therm cost of
8 propane as propane fixed costs would be spread across fewer therms.

9 Incremental savings would most likely arise from a difference in variable costs, which
10 consist primarily of the commodity cost. Both CNG and propane are unregulated
11 commodities and as such commodity prices are volatile and the cost differential between
12 CNG and propane can vary greatly.

13 **Q. How should incremental CNG supply costs be treated?**

14 **A.** Incremental CNG supply costs should be treated in the same manner as non-supply related
15 Keene conversion costs, consistent with the Keene risk sharing mechanism established by the
16 Commission in Docket DG 17-048. The Commission established the risk sharing mechanism
17 to ensure that ratepayers and shareholders share equally in the financial risks of the Keene
18 conversion in the first rate case following each phase of conversion. To accomplish that goal,
19 the Commission should require Liberty to refund 50 percent of incremental CNG supply costs
20 that have been recovered from ratepayers (excluding October 2019) and limit future recovery
21 of CNG incremental supply costs to 50 percent until the next delivery rate case. If there are
22 CNG incremental supply savings during that period, Liberty should be allowed to recover
23 those savings from ratepayers up to the amount of the of refunded incremental CNG supply

1 costs.

2 **Q. What is the amount of incremental CNG supply charges to be refunded or recovered**
3 **and how would that be accomplished?**

4 **A.** Incremental Summer CNG costs subject to refund (for summer 2020) total $16,835 and have
5 been recovered from customers (see Table 2, above), $8,418 should be refunded though the
6 Keene 2021 Summer COG rates by crediting that amount to the prior period over- or under-
7 recovery used in determining the 2021 Keene summer rate.

8 Incremental Winter CNG supply costs as of December 31, 2020 have totaled
9 $157,401, with $24,868 recovered from customers (see Table 2, above). Fifty percent of the
10 incremental winter CNG supply cost is $78,701 so if there are other incremental costs during
11 the 2020-2021 winter period a $53,832 ($78,701 less $24,868) charge would be recovered
12 through the 2021-2020 Keene Winter COG rates by adding that amount to the prior period
13 over- or under-recovery used in determining the winter rate. The appropriate winter refund or
14 charge will be determined as part of the 2020-2021 winter reconciliation of actual costs and
15 revenues.

16 **Q. How should CNG incremental supply cost/savings be treated when setting Keene COG**
17 **rates?**

18 **A.** Fifty percent of net incremental CNG supply costs or savings should be included in Keene
19 COG rates, based on actual and projected incremental CNG supply costs.

20 The three following scenarios illustrate how the Keene COG mechanism would work
21 until re-evaluated in Liberty's next distribution rate case.

22 First scenario: Liberty files its Keene 2021 summer COG and projected incremental CNG
23 costs are $10,000, the 2021 summer rates would include a $13,418 credit (50% of actual

1 incremental summer CNG supply costs of $16,835 plus projected incremental costs of
2 $10,000.)
3 Second scenario: Liberty files its Keene 2021 summer COG and projected CNG savings are
4 $10,000, the 2021 summer COG rates would include a $3,418 credit (50% of actual
5 incremental summer CNG supply costs of $16,835 less projected incremental savings of
6 $10,000).
7 Third scenario: Liberty files its Keene 2021 summer COG and projected CNG savings are
8 $20,000, the 2021 summer COG rates would include a $1,583 charge (50% of projected
9 incremental savings of $20,000 less actual incremental CNG supply costs of $16,835).
10 **Q. Do you have any other proposed adjustments related to the Keene COG?**
11 **A.** Yes. As directed by the Commission in Docket DG 17-098 Liberty has ordered that Keene
12 production should be recovered through Keene COG rates (instead of through delivery rates).
13 Liberty's test year in this docket included Keene production costs of $211,562, which
14 includes vendor costs, some of which are non-recurring or infrequent. Before being shifted to
15 COG recovery, the $211,562 Keene production costs should be adjusted to 1) remove non-
16 recurring expenses; and 2) amortize infrequent expenses.
17 **Q. What should the Keene production expense be?**
18 **A.** The Keene production cost should be $206,248, a reduction of $5,313 from Liberty proposal.
19 ***See Attachment SPF-15.***
20 The production costs should be allocated between the summer and winter periods at a
21 fixed amount and reset in Liberty's next distribution rate case.
22
23 **PELHAM FRANCHISE RISK SHARING MECHANISM**

1 **Q. Please describe the Pelham risk sharing mechanism.**

2 **A.** Order No. 25,987 (February 8, 2017) in Docket DG 15-562 approved a settlement agreement
3 and franchise requests for Pelham and Windham. The settlement agreement delineates a
4 number of conditions upon which those franchise petitions were granted, including a certain
5 level of committed revenues before commencing construction, reporting requirements and a
6 risk sharing provision.

7 **Q. Please describe the condition requiring committed revenue before commencing**
8 **construction.**

9 **A.** Construction would not commence unless the sum of the revenue from committed
10 commercial and industrial (C&I) load for the first six years, plus the revenue from committed
11 residential load for the first eight years was at least 25% of the cost of construction, excluding
12 overheads, for the project.

13 **Q. Please describe the reporting requirements.**

14 **A.** Liberty would file: (1) annual updated Pelham and Windham DCF analyses in January of
15 each year following the first full year of commencement of service; (2) a comparison of the
16 original and updated DCFs; (3) a comparison of original and projected customer conversions;
17 and (4) a comparison of current gas prices and price of alternative fuels.

18 **Q. Please describe the risk sharing provision.**

19 **A.** The risk sharing provision requires Liberty to reduce any Pelham revenue deficiency by one
20 half in the first rate case following the in-service date of Phase 1 of the Pelham build-out, if
21 the rate case is filed within five years of the in-service date. The revenue deficiency would be
22 calculated as the difference between the anticipated average annual revenue from Pelham
23 customers over the three years following implementation of permanent rates, and the average

1 annual revenue requirement of the Pelham costs over the same period. For purposes of the
2 risk-sharing provision, anticipated revenue would include committed revenue.

3 **Q. What was the purpose of the Pelham reporting requirement in the approved settlement**
4 **agreement?**

5 **A.** The reporting was intended to assist Liberty, the Commission and any other interested parties
6 in evaluating the Company's forecasting of costs and revenues associated with new expansion
7 projects. See Docket DG 15-362, Transcript of October 25, 2016 at pp. 32 and 65

8 **Q. Were Liberty's cost and revenue forecasts for the Pelham and Windham projects**
9 **accurate?**

10 **A.** No. When petitioning the Commission for the Windham franchise the Company projected
11 revenues that produced a positive return on the projected costs. Liberty's revenue cost and
12 revenue projection were based a Service Line Agreement signed by a developer that had
13 planned to build a large housing development that would produce over 140% of the projected
14 revenues used in the DCG analysis. Liberty did not extend service into Windham within two
15 years of acquiring the franchise and Liberty's authority to operate and serve customers in
16 Windham expired by statute on February 8, 2019.[16] The fact that Liberty did not extend
17 service to Windham indicates that the developer did not go forward with the project or chose
18 not to use natural gas.

19 The Pelham project cost estimates included a one-time payment to an interstate
20 pipeline to build a gate station necessary to serve Pelham, and Liberty's cost to install mains
21 and services to serve customers. More than 70% of the projected, committed revenues (that

16 Order 26,399 (August 28, 2020) in DG 15-362 and DG 16-852 recognized the expiration of Liberty's franchise authority in Windham, Hanover, and Lebanon.

1 is, from customers that had signed a Service Line Agreement with Liberty) came from one
2 large industrial customer that was expected to commence service as soon as Liberty extended
3 service.[17] The interstate pipeline was able to build the gate station slightly below the
4 estimated costs. However, Liberty's actual costs exceeded projected costs by over 15 percent
5 to serve only 52 customers out of the projected 122 customers.[18] In this docket, Liberty
6 provided an updated DCF analysis. Bates II-234. The updated projected revenues are
7 approximately 40 percent below original projected revenues (updated average projected
8 annual revenues of $242,261 for years 4-6 compared to $393,025). The higher actual costs
9 and lower projected revenues in the updated DCF analysis results in a negative NPV of
10 $859,770 compared to a positive NPV of $18,395 in the original Liberty analysis filed when
11 seeking the Pelham franchise.

12 **Q. How did actual revenues for 2019 and 2020 compare to projected revenues for those**
13 **years?**

14 **A.** Actual distribution revenues were far below both the original and updated revenue
15 projections, as seen in Table 3:

16

Pelham Distribution Revenue		
	2019	2020
Original Projected	$393,025	$393,025
Updated Projected	$242,261	$242,261
Actual	$72,168	$151,544

17 **Q. Why were actual revenues so much less than projected revenues?**

18 **A.** The potential large industrial customer that committed on July 6, 2016 to taking service when
19 it became available accounts for approximately 25 percent of the updated revenue projection.

17 DG 15-362 Hearing Transcript of October 25, 2016. P. 48.
18 Docket DG 15-362, Liberty's Pelham Annual Report, January 2021.

1 This customer has yet to take service.

2 **Q. Is it reasonable for the updated projected revenues to include revenues from a**
3 **prospective customer that agreed to take service in 2016 and has yet to take service?**

4 **A.** No. While it may have been reasonable to expect that the customer would take service within
5 a relatively short period of time after Liberty extended service to Pelham, there have been
6 issues preventing the customer from taking service. The customer has no financial obligation
7 to take service from Liberty and the customer has been unable to resolve issues that would
8 allow for gas service from Liberty. It is unreasonable to assume in the DCF analysis
9 presented here that Liberty will realize those revenues and projected revenues should be
10 adjusted accordingly.

11 **Q. Please describe the Liberty adjustment related to the Pelham risk sharing.**

12 **A.** Liberty calculated the adjustment by updating the original DCF analysis using actual costs
13 and projected revenues, including projected revenue for the prospective large industrial
14 customer that has yet to take service. The Liberty risk sharing calculation identified a revenue
15 shortfall of $129,165, requiring a $64,583 reduction in the revenue requirement.[19]

16 **Q. What is Staff's recommendation regarding the Pelham risk sharing adjustment?**

17 **A.** The projected revenues derived from the Company's updated DCF analysis should <u>not</u>
18 include revenue from the potential customer that committed to taking service in 2016 and has
19 yet to do so.

20 **Q. What should the adjustment required under the Pelham risk sharing mechanism be?**

21 **A.** The Pelham adjustment should be a $95,837 reduction to the revenue requirement, based on
22 an updated DCF analysis using project revenues that do not include projected revenues for the

19 Attachment SEM-2, Bates page II-234.

1 potential large industrial customer that committed to taking service in 2016 and has yet to take
2 service. ***See Attachment SPF-16.***
3

4 **GRANITE BRIDGE PROJECT COST RECOVERY**

5 **Q. Please describe the Granite Bridge Project.**

6 **A.** The Granite Bridge Project, as proposed, consisted of two distinct capital projects that Liberty
7 planned to build -- a 27-mile pipeline extending from Exeter to Manchester, and a two-billion-
8 cubic-foot LNG storage tank with associated facilities to be located in Epping.

9 **Q. What is the status of the Granite Bridge Project?**

10 **A.** Liberty has abandoned the project -- both the pipeline and the LNG storage facilities.

11 **Q. How much did Liberty spend on the projects?**

12 **A.** According to Liberty, Granite Bridge Project development costs totaled approximately $9.1
13 million.[20]

14 **Q. How much of the Granite State Project costs is Liberty seeking to recover from**
15 **ratepayers?**

16 **A.** Liberty has requested that the Commission allow recovery of $7.5 million of Granite Bridge
17 Project costs.

18 **Q. Is it within the Commission's power to grant recovery of costs associated with the**
19 **abandoned Granite Bridge Project?**

20 **A.** No. State law prohibits recovery. RSA 378:30-a states as follows:

21 > Public utility rates or charges ***shall not in any manner*** be based on the cost of
22 > construction work in progress. At no time shall any rates or charges be based
23 > upon any costs associated with construction work if said construction work is

20 Docket No. 17-198, Supplemental direct testimony of DaFonte, Killeen, and Mullen, Bates page 30.

1 not completed. ***All costs of construction work in progress, including, but not***
2 ***limited to, any costs associated with constructing, owning, maintaining or***
3 ***financing*** construction work in progress, shall not be included in a utility's
4 rate base ***nor be allowed as an expense for rate making purposes*** until, and
5 not before, said construction project is actually providing service to consumers.
6 (*emphasis added*)

7

8 **Q. Were the Granite Bridge Project costs 'construction work in progress' that would have**
9 **been capitalized and added to rate base if the project had been constructed and had**
10 **actually provided service to customers?**

11 **A.** Yes, assuming the costs were prudent. In response to OCA data request 4-17, Liberty
12 confirmed that the $7.5 million in costs the Company is seeking to recover would have been
13 capitalized if the Granite Bridge Project had been placed into service. ***See Attachment SPF-***
14 ***17 (OCA DR 4-17).***

15 **Q. Why does Liberty believe it should be able to recover Granite Bridge Project costs from**
16 **ratepayers?**

17 **A.** Liberty gives five reasons:

18 - Costs were necessary to determine feasibility of the other supply delivery options.
19 - Costs positioned the Company to negotiate better terms for other options.
20 - Ratepayers are the sole beneficiaries of the better terms that were negotiated.
21 - Recovery would be consistent with a termination or exit fee if the Granite Bridge
22 Project costs had been allowed for recovery.
23 - Recovery would incent utilities to continue seeking the least-cost option, regardless of
24 whether that option were sponsored by the utility or a third-party.

25 **Q. Are Liberty's arguments as to why the Commission should allow the Company to**
26 **recover Granite Bridge Project costs from ratepayers relevant?**

1 **A.** No. Liberty's reasons for abandoning the Granite Bridge Project and its arguments for
2 recovery of costs incurred in support of that project are irrelevant, given the clear prohibition
3 in RSA 378:30-a of cost recovery through rates for a project that is not actually providing
4 service to consumers. Thus, there is no need to discuss the merits of Liberty's arguments.
5 Nonetheless, an explanation of why Liberty's arguments are inapt is provided in an
6 attachment. ***See Attachment SPF-18.***
7

8 **DEPRECIATION**

9 **Q. What is a theoretical depreciation reserve?**

10 **A.** The theoretical depreciation reserve is an estimate of the accumulated depreciation based on
11 the current plant balances and depreciation parameters (service life and net salvage estimates)
12 at a specific point in time. The difference between a theoretical depreciation reserve and the
13 actual deprecation reserve on a company's books is called a reserve imbalance. The reserve
14 imbalance is equal to the portion of the depreciable cost of plant that will not be allocated to
15 expense through future whole life depreciation accruals based on current forecasts of service
16 life and net salvage.

17 **Q. Is a theoretical depreciation reserve the "correct" reserve?**

18 **A.** No, the theoretical reserve is an estimate at a given point in time based on the current plant
19 balances and current life and net salvage estimates. It can provide a benchmark of a
20 Company's reserve position, but it should not be thought of generally as the "correct" reserve
21 amount. It serves as a guide to, not a prescription for, adjustments to the accumulated
22 (booked) depreciation reserve.

23 **Q. Can the theoretical depreciation reserve change from one study to the next?**

1 **A.** Yes. The reserve imbalance generally change from study to study as more information
2 becomes available. Indeed, this was the case for Liberty when a reserve "surplus" of $12.4
3 million was estimated based on the Depreciation Study filed in Docket DG 08-009 and a $9.9
4 million reserve "deficiency" was estimated based on the next Depreciation Study filed in
5 Docket DG 17-048.

6 **Q. Order No. 26,122 in Docket DG 17-048 required Liberty to re-examine the depreciation**
7 **reserve in its next rate; what did the re-examination entail?**

8 **A.** Liberty contracted with Management Applications Consulting, Inc. (MAC) to review the
9 growth in the Company's plant as it relates to depreciable plant with the goal of quantifying
10 the change in reserve imbalances since the Company's last depreciation study.(MAC
11 performed the Liberty depreciation study filed in Docket DG 17-048). A report of MAC's
12 recent review is provided at as Attachment SEM-3 Bates II-235.

13 **Q. What was MAC's estimate of the change in the reserve deficiency?**

14 **A.** MAC estimated the reserve deficiency to have increased from $9.9 million to $16.3 million.

15 **Q. Does MAC explain the significant change in the estimated depreciation reserve?**

16 **A.** MAC identifies to two key reasons. First, the depreciation rates for mains and service
17 (comprising approximately 80 percent of total depreciable plant) are likely over stated. MAC
18 expects a new depreciation study of Liberty's plant will result in longer service lives for
19 mains and service (and thus lower depreciation rates).

20 Second, the cost of removal for mains and services is likely overstated. Liberty
21 assumes a 10 percent cost of removal and no salvage value of mains and services, meaning
22 the depreciation over the life of the mains and services are 110 percent of the cost of the
23 mains and services. Liberty makes significant investments in mains and services each year

1 and overstating the cost of removal results in large amounts of unrecovered dollars being
2 identified but not recovered in the short term.
3 **Q. If a new depreciation study results in longer service lives and lower cost of removal for**
4 **mains and services, how would that impact the reserve imbalance?**
5 **A.** The depreciation rates for mains and services would be lower and since those accounts make
6 up approximately 80 percent of depreciable plant, this could have a profound impact on the
7 reserve, reducing or eliminating the deficiency and very possibly resulting in a reserve
8 surplus.
9 **Q. When should Liberty undertake a new deprecation study?**
10 **A.** As soon as possible, Liberty's depreciation consultant recommends a new depreciation study
11 be prepared in early 2021 when 2020 data is available.[21]
12 **Q. Pending a new depreciation study, how should the reserve deficiency currently being**
13 **amortized over six years be treated?**
14 **A.** The annual amortization of reserve deficiency should stop.
15 **Q. What is amount of annual amortization of the reserve deficiency in the test year?**
16 **A.** The amount of the reserve imbalance annual recovery in the test year is $1,535,588.
17
18 **<u>RATE PLAN & STEP ADJUSTMENT</u>**
19 **Q. Please describe Liberty's proposed rate plan.**
20 **A.** Liberty proposes a multi-year rate plan that provides for annual step adjustments to recover
21 non-growth related capital investments through 2022. The first step adjustment would
22 recover 100 percent of non-growth capital investment in 2020 with the rate increase to take

21 Liberty testimony, Attachment SEM-3, page 3 of 5 (Bates p. II-237).

1 effect when new permanent rates go into effect. Subsequent step adjustment would recover
2 80 percent of the non-growth capital investment in the prior year with new rates would go into
3 effect July 1.

4 **Q. Does Staff support Liberty's proposed rate plan.**

5 **A.** Conceptually, Staff supports a step adjustment to recover 2020 non-growth capital
6 investments but does not support the proposed subsequent step increases.

7 **Q. Why does Staff 'conceptually' support the first step adjustment under Liberty's multi-**
8 **year rate plan?**

9 **A.** In its filing, the Company estimated $37.6 million of non-growth capital spending in 2020 and
10 promised to provide documentation during this proceeding that supporting the actual cost of
11 these investments.[22] Based on estimated spending, Liberty calculated that the first step
12 adjustment would be a $5,680,641 million.[23]

13 If the Company had provided more complete and timely documentation, Staff could
14 have conducted an audit and review of the anticipated investments to determine whether costs
15 were prudent and consisted of non-growth investments prior to submitting testimony.

16 **Q. What documentation is needed for Staff's review?**

17 **A.** Documentation with the same level of detail that Liberty committed to provide in the
18 settlement agreement approved for Granite State Electric in Docket DE 19-064 for electric
19 step increases:

20 In these filings, Liberty shall provide the amount of the investments to be
21 included in the step increases (by project) and detailed project descriptions
22 including the initial budget, the final cost, and the date each project was booked
23 to plant in-service. In addition, for each project Liberty shall provide all
24 Company project documents including, but not limited to, Business Cases,

22 Direct testimony of Frost, Most one and Tebbetts. Bates page II-182, lines 1-6.
23 Attachment DBS/KAS-2, Schedule Step-EN. Bates pages II-154 & 155.

1 Capital Project Expenditure Applications, Change Order Forms, Project Close
2 Out Reports, and work orders.
3

4 **Q. Did Liberty provide the documentation necessary for Staff's review?**

5 **A.** Liberty provided a list of 2020 non-growth capital projects in response to a Staff data request.
6 Later, Staff informally requested additional information and on March 10, 2021, and Liberty
7 provided a 127 page supplemental response to Staff TS data request 3-31 that states:

8 SUPPLEMENTAL RESPONSE: In response to an informal inquiry from Staff,
9 in this supplemental response the Company explains the variances between
10 budget amounts and actual spending amounts (as of 12/31/2020) for the ten
11 projects identified by Staff on Attachment Staff TS 3-31.xlsx. In addition, and
12 as noted below, the Company is providing project documentation in support of
13 these costs, including business cases, capital expenditure forms and/or change
14 order forms as available. ***See Attachment SPF-19 (DR Staff TS 3-31).***
15

16 Staff has commenced an audit and review of the material provided in Liberty's supplemental
17 response but lacks sufficient time to complete its review prior to the deadline for filing Staff
18 testimony. Staff expects to complete its review prior to hearing and will seek permission
19 from the Commission to file supplemental testimony if it believes further adjustments to the
20 proposed step adjustment, beyond the Keene risk sharing adjustment detailed in the Keene
21 Conversion section above, is necessary.

22 **Q. Why is Staff opposed to the additional step adjustments in Liberty's rate plan?**

23 **A.** For a two reasons. First, the plan could negate the protections afforded ratepayers under the
24 risk sharing mechanism the Commission established for Keene and Pelham, and, second,
25 annual step adjustments act as disincentive to control capital spending.

26 **Q. Please explain how future step increases could affect the Keene and Pelham risk sharing**
27 **requirements.**

28 **A.** The Commission established the risk sharing mechanisms to ensure the financial risk

associated with those investments would not fall entirely on ratepayers. The balancing requires shareholders to absorb 50 percent of a revenue deficiency in the first rate case following the in-service date of the project and 100 percent of the revenue deficiency in the second rate case if filed within five years of the in-service date.

The Pelham project was placed into service in January 2018 and Keene in 2019. This is the first rate filing since those projects were placed in service and both resulted in a revenue deficiency and cost sharing. Under the risk sharing mechanism, half of the revenue deficiency associated with the two projects is being recovered through rates to be determined in this preceding. If Liberty files another rate case before 2024 and a Pelham and/or Keene revenue deficiency exists at that time, none of the deficiency associated with those projects would be included in rates. Liberty's rate plan would likely put off Liberty's next rate case and thus allow the Pelham risk sharing mechanism to expire and possibly the Keene risk sharing mechanism, as well, depending on when Liberty files its next rate case following the last step adjustment under the proposed rate plan. Rather than shareholders absorbing 100 percent of a deficiency, ratepayers would be responsible for the entire deficiency.

Q. Please explain how annual step adjustments act as a disincentive to control capital spending.

A. Recovery of capital investments does not begin when a project is placed in service; recovery begins when the utility seeks recovery through a rate filing and the Commission determines the costs are prudent and approves recovery. That regulatory lag serves as an incentive for utilities to control capital expenditures.

Q. Does Staff have concerns regarding Liberty's capital spending?

A. Yes. In Liberty's first rate filing (in Docket DG 14-180), rate base was $179 million and has

nearly doubled to $356 million in the six years since that docket was initiated and Liberty filed its petition in this docket . In Docket DG 17-198, Liberty planned to spend well over $400 million on two new projects, which would have doubled rate base yet again if the proposed Granite Bridge Project had been built and recovery of the associated costs were permitted. And rate base will double over the next five years under Liberty's five year capital budget which totals over $400 million at this time. ***See Attachment SPF-20 (Staff TS DR 3-9)***.

Q. Are there other concerns Staff has with annual step adjustments?

A. Yes. Liberty's aggressive capital spending has contributed to its frequent requests for rate increases, in-spite of annual step increases for capital spending on Cast Iron & Bare Steel main replacements through 2019, and several capital projects that were not found to be prudent and full recovery disallowed.

Liberty's proposed rate plan would allow only a few months for review and hearing of each proposed project, as prior year costs would need to be finalized before filed for review and new rates effective July 1. Given the number and cost of capital projects in Liberty's five year capital budget, and past issues that have arisen in review of Liberty capital investments, the allotted time between capital projects and the anticipated requests for step adjustments would be insufficient to provide notice, review filings, permit the preparation of party testimony, conduct hearings, and issue orders.

OTHER MATTERS & GENERAL COMMENTS

Q. Do Liberty's quarterly rate of return (ROR) reports accurately reflect earnings?

A. Not necessarily, as ROR reports are based on actual books and records with only limited

1 adjustments. The quarterly ROR reports do provide a reasonable measure of Liberty's
2 earnings in relation to its allowed rate of return. Currently, the ROR reports include the full
3 cost of the iNATGAS project in rate base but do not account for the iNATGAS adjustment to
4 revenue approved in the last rate case (Order No. 26,122 in Docket DG 17-048). Therefore,
5 revenue in the ROR reports since that order have been understated by approximately
6 $400,000.

7 **Q. What change does Staff recommend for Liberty quarterly ROR reporting?**

8 **A.** The Liberty ROR reports should include a revenue adjustment that adds the amount of the
9 revenue requirement that Liberty shareholders are to absorb related to the iNATGAS and
10 Pelham and Keene risk sharing disallowances.

11 **Q. Does Staff have concerns regarding Liberty's estimated rate case expenses?**

12 **A.** Yes. Liberty's last rate filing included estimated rate case expenses of $600,000, and
13 $530,000 of rate case expenses were approved for recovery. In that filing the Company hired
14 outside consultants to perform a number of tasks, including preparation and presentation of a
15 full depreciation study and design and presentation of a decoupling mechanism. With the
16 exception of cost of capital, all issues in that docket were fully litigated. Total rate case
17 expenses approved for recovery were $530,000 (Order No. 26,122, p. 52, Docket DG 17-
18 048]. The Liberty filing in this docket includes estimated rate case expenses of $1,100,000
19 (Attachment DBS/KAS-3, Bates page II-156). The current filing does not include a full
20 depreciation study or a proposal for a revenue decoupling mechanism. What it does include is
21 outside legal service of $360,000, whereas Liberty has used in-house counsel in prior rate
22 cases. It is difficult to understand why Liberty has hired outside counsel at such a substantial
23 cost when in-house counsel has represented the Company unassisted in prior rate filings.

1 **Q. Please compare the Liberty and Staff proposed adjustments to the annual revenue**
2 **requirement.**
3 **A.** In its initial filing Liberty proposed a $13.5 million increase in the annual revenue
4 requirement in permanent rates and a $5.7 million increase in a step adjustment to become
5 effective when permanent rates go into effect. Liberty has since revised its requested rate
6 increases to $4.9 million and $5.6 million, respectively.
7 Staff proposes a $2.2 million decrease in the annual revenue requirement in permanent
8 rates and a $5.6 million increase in the step adjustment to become effective when permanent
9 rates go into effect. Staff's proposed step increase is subject to change because the projects to
10 be recovered through the step adjustment are still under review. The difference between the
11 10.51 percent return on equity (ROE) proposed by the Company and the 9.00 percent
12 proposed by Staff accounts for much of the difference. For example, a 10.51 percent ROE is
13 well above 9.30 percent approved for Liberty in 2018 and that the 9.30 percent the
14 Commission recently approved for New Hampshire's largest electric utility.[24] If Liberty used
15 a 9.30 percent ROE in calculating the annual revenue requirement, its request would be
16 reduced by $2.0 million. Likewise, if Staff used a 9.3 percent, ROE, its recommended
17 revenue increase would be higher by $1.5million.
18 **Q. Will Liberty see a decrease earning if the Commission approves Staff's proposed**
19 **reduction to Liberty's annual revenue requirement?**
20 **A.** No. It is important to keep in mind that decoupling revenue per customer targets changed
21 when the temporary rates were set at current rates, reducing the amount of revenue Liberty

24 Order No. 26,433 issued on December 15, 2020 in Docket DE 19-057. Public Service Company of New Hampshire d/b/a Eversource Energy, Petition for Permanent and Temporary Rates, Order Approving Settlement and Permanent Rates.

1 would otherwise have been required to refund customers through the Revenue Decoupling
2 Adjustment Factor (RDAF). The LDAC rates currently in effect include a RDAF credit of
3 $4,965,231. That change provides a $5 million increase in test year earnings and was the
4 primary reason why temporary rates were set at current rates, rather than the $6.5 million
5 temporary rate increase proposed in Liberty's initial filing.

6 Taking into account the $5 million increase related to the decoupling change, Staff
7 proposed $2.2 million reduction for permanent rates and $5.6 million increase for the step
8 increase, if the Commission approves Staff's recommendations Liberty will see an $8.4
9 million increase over test year earnings when permanent rates go into effect.

10 **Q. Staff recommendations will help balance shareholder and ratepayer risks.**

11 **A.** Unless a capital project is abandoned or found to be imprudent and cost recovery denied, a
12 utility shareholder can expect to earn a reasonable return on the investment, regardless of
13 whether the project ultimately proves to be economical. Largely, utilities are "gambling" with
14 ratepayer money when investing in projects.

15 The LCG testimony on behalf of Staff in DG 17-198 compared customers and
16 shareholder risks associated with the Liberty's proposed Granite Bridge Project.

17 Q. How do you view the distribution of risk and reward in the Company's
18 proposal?
19
20 A. The Company's proposed distribution of risk and reward skews heavily
21 toward Liberty Utilities, which will earn returns whether or not its cost estimates
22 (albeit presumably subject to prudence review) or its growth forecasts prove
23 accurate. Customers take installation cost and growth risk, in return for barely
24 positive benefits even if those estimates and forecasts prove accurate.
25
26 The LCG testimony quantified the risks for the proposed LNG facilities (Granite Bridge
27 Project consists of two distinct projects) and found that shareholders could expect a six-fold
28 benefit over what customers could realize over the 20 years.

1 The updated Pelham DCF analysis provides another example of the risk imbalance on
2 capital investments. Liberty's initial DCF analysis for the Pelham franchise produced a
3 positive NPV of $18,395 over ten years on a $2.6 million investment, a negligible return for
4 ratepayers. Liberty's updated Pelham DCF analysis shows a negative NPV $859,770.
5 Without the Pelham risk sharing mechanism approved by the Commission, Liberty
6 shareholder would see an annual return of 9.30 percent on the Pelham investment (under the
7 currently approved ROE). In addition, the full cost of the project, including the shareholder's
8 return would be borne by ratepayers.

9 Other examples of Liberty capital investments that have harmed ratepayers include the
10 construction of the Liberty training center, facilities to serve iNATGAS and the Keene Phase
11 1 conversion.

12 As explained earlier in my testimony, Staff has concerns regarding Liberty aggressive
13 capital spending. That concern is greatly heightened as government, industry, investors and
14 individuals increasingly are moving away from fossil fuels to address climate change.
15 Investing in projects such as the Granite Bridge Project, at an estimated cost of over $400
16 million, with service lives in excess of 50 years could well lead to stranded costs and further
17 financial harm both ratepayers and shareholders.

18 As described earlier in my testimony, prior Commission orders have balanced
19 shareholder and ratepayer risks through disallowances and risk sharing provisions.
20 Commission approval of Staff's recommendations in this docket, including not approving
21 Liberty's proposed multi-year rate plan, would be consistent with those prior orders and result
22 in a more equitable sharing of the risk and consequences of Liberty's aggressive capital
23 spending.

1 **Q. Does that conclude your testimony?**

2 **A.** Yes.

3