

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

Docket No. DG 20-105

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

**SECOND SUPPLEMENTAL
TESTIMONY OF
HEATHER M. TEBBETTS**

January 13, 2022



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1 **I. INTRODUCTION**

2 **Q. Please state your full name, business address, and position.**

3 A. My name is Heather M. Tebbetts. My business address is 9 Lowell Road, Salem, New
4 Hampshire. I am the Manager of Rates and Regulatory Affairs for Liberty Utilities Service
5 Corp. and am responsible for providing rate-related services for Liberty Utilities
6 (EnergyNorth Natural Gas) Corp. (“Liberty” or the “Company”) and Liberty Utilities
7 (Granite State Electric) Corp.

8 **Q. Did you previously provide testimony in this docket?**

9 A. Yes. I was a co-sponsor of the Direct Testimony and Rebuttal Testimony of Brian R. Frost,
10 Robert A. Mostone, and Heather M. Tebbetts dated July 31, 2020, and April 29, 2021,
11 respectively, which were previously filed in this docket and marked as Exhibits 33 and 48.
12 These testimonies included evidence in support of the first step adjustment provided for in
13 Section 5.1 of Settlement Agreement dated June 29, 2021 (the “First Step Adjustment”),
14 and marked as Exhibit 49.¹ The First Step Adjustment was to allow the Company to begin
15 recovery on August 1, 2021, of the capital costs incurred for the plant additions placed into
16 service in 2020. In response to the Commission’s request in Order No. 26,505 (July 30,
17 2021) (the “Order”) for more information related to the First Step Adjustment, I also
18 submitted supplemental testimony and documentary exhibits on August 31, 2021,
19 confirming the prudence of the underlying projects. My educational background,

¹ The Settlement Agreement was entered into by and between the Company, the Commission Staff (now Department of Energy (“DOE”) Staff), and the Office of the Consumer Advocate (“OCA”) (together, the “Settling Parties”).

1 professional experience, and prior testimony before the New Hampshire Public Utilities
2 Commission (the “Commission”) are provided in Exhibit 33.

3 **Q. What is the purpose of this testimony?**

4 A. The purpose of this Second Supplemental Testimony is to: (1) request collection of the First
5 Step Adjustment beginning February 1, 2022; and (2) propose a mechanism to recover the
6 financial losses to the Company resulting from the unanticipated lag in starting collections
7 for the First Step Adjustment. With respect the First Step Adjustment, the settling parties
8 agreed that it would be capped at \$4 million and the increase would be effective August 1,
9 2021. Although the Order approved most provisions of the Settlement Agreement, the
10 Commission delayed collection of the First Step Adjustment pending the Company’s filing
11 of supporting documentation and a request for an effective date no sooner than 30 days after
12 that filing, stating:

13 [W]e direct Liberty *not to collect* any revenue requirement associated the
14 first step adjustment until it files a related request with the Commission
15 containing the same level of detail as specified in the Settlement Agreement
16 for the second step increase and specifically identifying which projects shall
17 be considered for prudence determinations up to but not in excess of the \$4
18 million dollar cap, the Commission holds a hearing, and the Commission
19 has found the 2020 plant additions necessary to support the revenue
20 requirement cap to be prudently incurred, used, and useful. Upon receipt of
21 the request, the Commission will schedule such a hearing. We direct the
22 Company to request an effective date for the step increase no sooner than 30
23 days from the date the request is filed.

24 Order at 12-13 (emphasis added).

25 As directed, the Company submitted the requested information on August 31, 2021, with a
26 requested effective date of October 1, 2021, allowing for the 30-day interval specified by the

1 Commission for review and approval of the documentation. Intervening circumstances
2 outside of Liberty's control have now resulted in an extended delay in scheduling the
3 hearing to review the filing, causing a material financial impact to the Company.

4 My testimony explains the financial impact, reiterates the importance of implementing the
5 First Step Adjustment as soon as possible, and presents a proposal for the Company to
6 recover the revenue unexpectedly lost as a result of the delay in beginning collection of the
7 step increase from August 1, 2021, to the present. Consideration of this proposal is
8 necessary because, in reaching settlement in Docket No. DG-20-105, all parties made a
9 number of trade-offs and concessions to reach settlement, which for the Company included
10 an expectation of revenues from the First Step Adjustment starting August 1, 2021. The
11 passage of time is causing a material financial impact that undermines the integrity of the
12 settlement and the balance of interests contained therein. Therefore, the Company is
13 respectfully requesting that the Commission consider the Company's proposals in this
14 docket to realign recovery of capital project costs with the purpose and intent of the
15 approved settlement provisions.

16 **II. COLLECTION OF THE FIRST STEP ADJUSTMENT**

17 **Q. Did the Settlement Agreement specify August 1, 2021, as the date to start collecting**
18 **the First Step Adjustment?**

19 **A.** Yes. The Settlement Agreement provided that the Company shall be allowed two step
20 adjustments. With respect to the First Step Adjustment, Section 5.1 of the Settlement
21 Agreement states as follows:

1 Step 1 shall reflect an increase to account for certain capital projects placed
2 in service during calendar year 2020 **and shall be implemented on August**
3 **1, 2021**. This first step adjustment reflects adjustments that have been made
4 to the revenue requirement in order to reach settlement. The first step shall
5 be subject to the following conditions:

- 6 i. The revenue requirement for this step shall be capped at a
7 \$4.0 million increase to annual Distribution Revenue.
- 8 ii. The step shall be based on the projects closed to plant in
9 2020, and shall exclude new business/growth-related
10 projects.
- 11 iii. The projects that may be included in the step are identified
12 in the listing attached as Appendix 1.
- 13 iv. Local property taxes shall not be included in the calculation
14 and will be recovered through the Property Tax Adjustment
15 Mechanism in Section 6 of the Settlement Agreement. State
16 utility property taxes for all projects listed in Appendix 1,
17 calculated using the statutory tax rate in RSA 83-F:2, shall
18 be included in the step adjustment calculation, shall count
19 toward the cap, and shall be given first priority of
20 recovery.²

21 **Q. Was the implementation date of August 1 a material factor for the Company in**
22 **agreeing to the terms of the Settlement Agreement?**

23 A. Yes. The Settlement Agreement reflected an agreement among the Settling Parties on the
24 projects and overall costs included in the First Step Adjustment, and an expectation that the
25 Commission's investigation of the First Step Adjustment would occur prior to and during
26 the hearing on the Settlement Agreement as has been the Commission's longstanding
27 practice.³ The Settling Parties agreed that the First Step Adjustment would be

² Settlement Agreement, Exhibit 49, at §5.1 (emphasis added).

³ See *Public Serv. Co. of N.H. d/b/a Eversource Energy*, Order No. 26,433 at 15 (Dec. 15, 2020) ("Step 1 would include calendar year 2019 plant-in-service and would be implemented concurrent with the increase in base rates in this proceeding"); *Liberty Utilities (EnergyNorth Natural Gas) Corp.*, Order No. 26,122 at 51 (Apr. 27, 2018) (approving first step increase to go into effect the same date as the permanent rate increase); *Liberty Utilities (Granite State Electric) Corp.*, Order No. 26,005 at 1 (Apr. 12, 2017) ("The first step adjustment will also take effect May 1, 2017"); and *Unitil Energy Systems*, Order No. 26,007 (Apr. 20, 2017) (approving both permanent rates and the first step adjustment to go into effect May 1, 2017).

1 implemented on August 1, 2021, which was a substantial factor in the Company's
2 acceptance of the financial terms of the Settlement Agreement. This date was negotiated as
3 part of the "give and take" in achieving the Settlement Agreement and a key factor in the
4 overall balance of consideration underlying the Settlement Agreement. Specifically, this
5 date was a material factor because, for each month that implementation of the First Step
6 Adjustment is delayed beyond August 1, 2021, the Company loses revenue in excess of
7 \$300,000.

8 **Q. In approving the Settlement Agreement, did the Commission alter the effective date of**
9 **the rate associated with collection of the First Step Adjustment?**

10 A. Yes. The Order accepted the provision of the Settlement Agreement allowing for and
11 capping the First Step Adjustment at \$4.0 million, but delayed the start of collection
12 beyond August 1, 2021, pending additional information to be filed by the Company.
13 Specifically, as quoted above, although the Order accepted the provision of the Settlement
14 Agreement "allowing for and capping such an adjustment at \$4.0 million," it shifted the
15 rate effective date beyond August 1, 2021, without any modification to the amount allowed
16 for recovery.⁴ The Commission directed Liberty "*not to collect* any revenue requirement
17 associated [with] the first step adjustment until it files a related request with the
18 Commission containing the same level of detail as specified in the Settlement Agreement
19 for the second step increase and specifically identifying which projects shall be considered
20 for prudence determinations up to but not in excess of the \$4 million dollar cap, the
21 Commission holds a hearing, and the Commission has found the 2020 plant additions
22 necessary to support the revenue requirement cap to be prudently incurred, used, and

⁴ Order at 12.

1 useful.”⁵ This finding did not alter or reject the August 1 effective date for calculating the
2 *amount* of recovery, it merely delayed collection of that amount until the Commission
3 could review the requested documents.

4 **Q. Did Liberty submit a compliance filing as directed in the Order?**

5 A. Yes. The Company submitted its compliance filing on August 31, 2021, and requested
6 approval of a rate to “collect” the First Step Adjustment starting October 1, 2021, which
7 was not less than 30 days later. The filing provided my supplemental testimony and
8 attachments, including the Company’s capital-expenditure policy, comprehensive project
9 documentation, and bill impacts, as required by the Order.⁶

10 **Q. Did the Order suggest that the hearing on the First Step Adjustment would occur**
11 **within 30 days of the Company’s compliance filing?**

12 A. Yes. The Commission stated that “[u]pon receipt of the request, the Commission will
13 schedule such a hearing. We direct the Company to request an effective date for the step
14 increase no sooner than 30 days from the date the request is filed.”⁷ This language
15 suggested an acknowledgement by the Commission that time was of the essence given the
16 financial harm flowing from an extension of the effective date, and an intent to act
17 expeditiously on the First Step Adjustment to minimize the delay past August 1, 2021, as
18 provided in the Settlement Agreement. As stated above, the Company requested an
19 effective date of October 1, 2021, to begin “collection” of the First Step Adjustment,
20 consistent with the Order.

⁵ Id., at 12-13 (emphasis added).

⁶ On August 24, 2021, the Company filed a Motion for Rehearing on Implementation of Step Adjustment. The Commission denied the Motion for Rehearing on September 22, 2021.

⁷ Order at 13 (emphasis added).

1 **Q. Did the Order contemplate a reconciliation process for the First Step Adjustment?**

2 A. Yes. The Commission conditioned the First Step Adjustment “on the same conditions
3 included in section 5.4 of the Settlement Agreement, including that it shall be subject to audit
4 and reconciliation based on the results of the audit, as approved by the Commission.”⁸

5 Section 5.4 states in its entirety as follows:

6 For the second step, if the actual cost of the capital additions is less than the
7 budgeted amounts, the actual amounts shall be used to calculate the step
8 adjustments. If the actual cost of the capital additions exceeds the budgeted
9 amounts for a particular project, the Company may seek recovery of the
10 excess through this step adjustment process, subject to the cap. The
11 Company may otherwise seek recovery in its next rate case for any above-
12 budget investments not approved in a step adjustment described here. The
13 revenue requirement for the step adjustments will be calculated in a manner
14 similar to that used in the Company’s filing seeking approval of the first
15 step adjustment. The step increase shall be subject to Staff audit and
16 reconciliation based on the results of the audit, as approved by the
17 Commission.⁹

18 **Q. Has the unanticipated lag in implementing the First Step Adjustment had a negative
19 financial impact on the Company?**

20 A. Yes, it has had a substantial negative impact. Liberty has not collected any revenue
21 requirement associated with the First Step Adjustment and, therefore, has not collected any
22 revenue to begin recovery of the substantial 2020 capital investments made on projects
23 placed into service through December 31, 2020. The revenue requirement equates to
24 approximately \$300,000 per month, and the delay thus far has extended for over five
25 months (August 1 – January 1). The a hearing on the First Step Adjustment is not

⁸ Id.

⁹ Settlement Agreement, §5.4.

1 scheduled until January 18, 2022.¹⁰

2 **Q. What is the Company's proposal for mitigating this financial impact and restoring, in**
3 **part, the balance of consideration achieved in the Settlement Agreement?**

4 A. The Company accepts that the Commission required additional process so that it could
5 review the project documents prior to authorizing the Company to start collecting the First
6 Step Adjustment.¹¹ Toward that end, the Company promptly submitted its compliance
7 filing in response to the Order containing all the required project documentation to start
8 collecting the First Step Adjustment as of October 1, 2021. With that timing, the parties
9 could easily have addressed how to recover the loss of revenue from the Settlement
10 Agreement for only two months (August and September). Circumstances have now
11 resulted in an extended delay not contemplated in the Order. Although the circumstances
12 are understandable, the financial impact of those circumstances is causing undue harm to
13 the Company, which the Company needs to address.

14 Therefore, the Company proposes that it be allowed to begin collecting the First Step
15 Adjustment beginning February 1, 2022. The Company further proposes that the
16 Commission allow collection of the revenue the Company would have collected under the
17 First Step Adjustment had it gone into effect on a timely basis on August 1, 2021. That
18 amount through February 1, 2022, is approximately \$2,000,000 and, as calculated below,
19 the Company proposes to collect that amount over the six months from February 1 through

¹⁰ Because the Commission did not schedule a hearing upon receipt of the August 31, 2021, compliance filing, Liberty filed a letter on October 18, 2021, requesting a hearing to be scheduled. The Commission subsequently scheduled a hearing for December 1, 2021, which the Commission then postponed and rescheduled to December 9, 2021, and a gain to January 18, 2022.

¹¹ Note that these documents were available for the parties to review prior to signing the Settlement Agreement.

1 July 31, 2022, subject to reconciliation.

2 This proposal will not prejudice the rights of any of the Settling Parties, all of whom agreed
3 to implement the First Step Adjustment as of August 1, 2021. Nor will it raise any issues
4 of notice because the August 1, 2021, date was in the settlement agreement filed prior to
5 the July hearing.

6 **Q. Please provide the rate the Company will charge on February 1, 2022.**

7 A. I calculated the rate by dividing \$4 million (the annual amount of the First Step
8 Adjustment) by the projected number of therms that the Company will deliver over the
9 months of February through July 2022. The projected number of therms, 78,107,650, was
10 taken from the Company's filing in Docket No. DG 21-130, the most recent cost of gas
11 proceeding. This calculation yields an increase to current distribution rates of \$0.05121 per
12 therm. As part of the Company's filing for the Second Step Adjustment, to be effective
13 August 1, 2022, the Company will recalculate the rates to ensure that, going forward from
14 that date, the Company will be collecting the appropriate amount for the First and Second
15 Step Adjustments, as approved by the Commission.

16 **Q. Why is allowing recovery of this amount just and reasonable?**

17 A. As part of the settlement negotiation process, the Company substantially compromised the
18 revenue increase it sought in this docket. For example, the Settlement Agreement allows
19 for two step adjustments, whereas the initial filing included three step adjustments, among
20 other concessions.¹² In accepting the settlement provisions by Order dated July 30, 2021,

¹² Order at 8-9.

1 the Commission found the settlement terms to be “just and reasonable,” subject to certain
2 conditions, stating as follows:

3 Although we recognize the proposed Settlement Agreement represents a global
4 settlement of all issues in this proceeding by parties with diverse interests, and
5 we generally agree that the settlement results are just and reasonable and serve
6 the public interest, we approve the Settlement Agreement subject to the
7 following conditions:¹³

8 In accepting the conditions delineated by the Commission and moving forward with the
9 Settlement Agreement, as approved, the Company had a reasonable expectation that it
10 would recover the full amount of the step as if it went into effect August 1, 2021, even
11 though the date for implementing the First Step Adjustment may be delayed until October
12 1, given the express provisions established by the Commission for the filing of project
13 documentation and scheduling of a hearing “no sooner than 30 days from the date the request
14 is filed.”¹⁴ Although the Company recognized that the Commission’s apparent 60-day
15 delay in collection was necessary for the Commission to confirm the prudence of the
16 underlying projects, the Company viewed the impact of the delay as not intending to upset
17 the balance of considerations inherent in the Settlement Agreement, which balancing the
18 Commission acknowledged.

19 Allowing the Company to collect the revenues as if the First Step Adjustment went into
20 effect August 1, 2021, will not harm customers. Customers will ultimately pay the same
21 amount that was provided for in the Settlement Agreement with respect to the First Step
22 Adjustment. Therefore, allowing the Company recovery of the First Step Adjustment
23 beginning August 1, 2021, continues to be a “just and reasonable” result of the Settlement

¹³ Order at 12.

1 Agreement. Conversely, at this point, with the unanticipated loss of revenue between
2 August 1 and at least February 1 escalating the financial impact of the delay, the Company
3 is experiencing financial harm that is unwarranted given the settled resolution of this
4 docket and the Commission's approval of overall the Settlement Agreement as just and
5 reasonable.

6 Lastly, the Company greatly appreciates the Commission's consideration of the requests
7 made herein and respects the Commission's efforts to deal with the circumstances that have
8 affected the timing of recovery of the First Step Adjustment.

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

10 A. Yes.