

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

**DG 20-152**

**In the Matter of:**  
**Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities-**  
**Keene Division, 2020-2021 Winter Cost of Gas**

**Direct Testimony**

**of**

**Stephen P. Frink**  
**Director – Gas & Water Division**

**October 15, 2020**

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1 **New Hampshire Public Utilities Commission**

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

3  
4 **Keene Division**

5 **DG 20-152**

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

8  
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.

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

2 **A.** The purpose of my testimony is to provide Staff's recommendation on the Liberty Utilities  
3 (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities Keene Division (Liberty-Keene or  
4 the Company) 2020-2021 Winter Cost of Gas (COG) filing.

5 **Q. Please summarize Staff's recommendation.**

6 **A.** Staff recommends that the Commission: disallow recovery of compressed natural gas (CNG)  
7 demand costs incurred prior to commencing CNG service; do not allow recovery of  
8 incremental CNG costs from last winter at this time; and allow recovery of projected  
9 2020-2012 winter CNG costs in setting the 2020-2021 Winter Liberty-Keene COG and Fixed  
10 Price Option. Incremental CNG costs or savings should be tracked and reported in the  
11 Liberty-Keene 2020-2021 Winter reconciliation, and incremental CNG costs determined to be  
12 imprudent should be subject to refund.

13 Accordingly, Staff recommends that the Commission approve Liberty-Keene COG  
14 and FPO rates for the upcoming winter as \$1.0225 per therm and \$1.0425 per therm,  
15 respectively (as compared to the Company's proposed rates of \$1.2100 and \$1.2300). *See*  
16 *Attachment SPF-1.*

17

18 **Liberty Utilities Acquisition of the Keene Propane System**

19 **Q. When did Liberty Utilities (EnergyNorth Natural Gas Corp.) d/b/a Liberty Utilities**  
20 **acquire the Keene propane-air system?**

21 **A.** Liberty Utilities (EnergyNorth Natural Gas Corp) d/b/a Liberty Utilities (Liberty) acquired the  
22 Keene propane-air system on January 2, 2015. Order No. 25,736, issued November 21, 2014,

1 in Docket DG 14-155 approved a settlement agreement allowing Liberty to purchase New  
2 Hampshire Gas Corporation (NHGC), which owned the propane-air distribution system but  
3 not the propane production plant. The purchase included a 12-year lease of the production  
4 plant and an option to extend the lease for up to three additional years.

5 **Q. Would you please summarize Liberty’s position in the NHGC acquisition docket?**

6 **A.** Liberty sought approval to acquire NHGC for \$3,000,000, which was \$289,000 or 11.6% over  
7 NHGC book value as of December 31, 2013. Liberty was not seeking recovery of the  
8 acquisition premium, transaction costs, or transitions costs (as defined by Liberty) related to  
9 the acquisition.

10 Liberty stated that it intended to undertake a number of projects to integrate NHGC  
11 into Liberty’s operations and described its future plans for the Keene operations. In Docket  
12 DG 14-155, on June 6, 2014, Liberty’s president, Richard H. Leeher, testified about the  
13 potential to serve new large customers if Liberty were to convert the Keene propane air  
14 system to a CNG and/or liquefied natural gas (LNG) system (this potential conversion plan is  
15 referred to henceforth as “the Keene conversion”). Mr. Leeher’s pre-filed testimony stated:

16 Following EnergyNorth’s acquisition of the Keene System, EnergyNorth would  
17 evaluate a near term program to convert those customers from propane air to  
18 natural gas. ***Such a conversion, if approved by the Commission***, would have  
19 the desired effect, given the more recent historical pricing experience, of  
20 lowering their existing energy costs, and stimulate surrounding markets  
21 dependent on other competing fuels and market restrictions to seek gas service  
22 as well. Bates p. 156, line 9-14 [Emphasis added]

23  
24 When reviewing the logistics required to provide safe and reliable delivery of  
25 natural gas derived from CNG or LNG, as mentioned below, additional facility  
26 investments will be required above those of a facility connected to a transmission  
27 pipeline. The additional required investments linking Keene’s distribution  
28 system to a natural gas supply source require further investigation. ***Any such***

1           *investments would not be proposed until after closing, and would be subject to*  
2           *Commission review and approval. However if and when such modifications*  
3           *are proposed*, EnergyNorth anticipates that a current customer of the Keene  
4           System will save on the COG portion of their bill compared to the existing  
5           propane COG as discussed further in Mr. DaFonte's testimony. Bates p. 158,  
6           lines 3-11 [Emphasis added].  
7

8           In the same docket, DG 14-155, on June 6, 2014, Francisco DaFonte, Senior Director of  
9           Liberty's Energy Procurement, prefiled testimony stated:

10           Should the Company decide to continue to serve the Keene System with  
11           propane, it may enter into a new propane supply contract that takes advantage  
12           of the additional inventory capacity discussed earlier in my testimony. With the  
13           additional inventory capacity, the Keene System would not be as reliant on spot  
14           propane purchases in the winter period. Bates p. 180, Lines 15-19.

15           Given the various economics and logistics of LNG and CNG, *the Company will*  
16           *conduct an in-depth analysis before making any decisions as to whether LNG,*  
17           *CNG or a combination of the two is the best-cost future supply option for the*  
18           *Keene System customers.* Bates p. 183, lines 10-13 [Emphasis added]  
19  
20

21           Neither Liberty in Docket DG 14-155, nor thereafter Liberty-Keene, in any docket,  
22           has submitted an in-depth analysis or any evidence or argument in support of an explicit  
23           finding that the Keene Conversion, including the CNG supply contract, would be more  
24           economical for Keene customers than the existing propane service.

25   **Q   Did Liberty or Liberty-Keene seek explicit Commission approval to enter into a CNG**  
26   **supply contract before the contract was signed, or anytime thereafter?**

27   **A.**   No.

28   **Q.**   **Did Liberty or Liberty-Keene provide the Commission with an in-depth analysis as to**  
29   **whether LNG, CNG, or a combination of CNG and LNG is the best-cost future supply**  
30   **option for Keene customers?**

1 A. No, neither Liberty nor Liberty-Keene has filed such a study with the Commission.

2 **Q. Did Liberty-Keene provide the Commission with an in-depth analysis as to why propane**  
 3 **is insufficient or how CNG/LNG might become the best-cost future supply option for**  
 4 **Keene customers?**

5 A. No.

6 **Q. Please list the dockets and orders related to the Keene conversion.**

7 A. See Table 1 below for a list of dockets and orders related to the Keene conversion:

Table 1			
Orders Related to Keene Conversion to Natural Gas			
Docket	Type	Order	Decision
DG 14-155	Acquisition	25,736	Approves Liberty purchase of Keene system
DG 17-048	Rates & Consolidation	26,122	Approves Keene rate consolidation & risk sharing
DG 17-068	Declaratory Ruling	26,065	Finds Tariff allows for use of natural gas
DG 17-068	Declaratory Ruling	26,065	Clarifies safety requirements to serve natural gas
DG 17-068	Declaratory Ruling	26,065	Denies rehearing & further clarify requirements
DG 17-069	Tariff Revision	N/A	Methodology for billing natural gas usage
DG 18-145	Winter COG	26,184	Removes CNG cost from proposed COG rates
DG 19-068	Summer COG	26,241	Declines to address CNG cost concerns in docket
DG 19-153	Winter COG	26,305	Requires tracking of CNG incremental costs
DG 20-041	Summer COG	26,351	Reiterates reporting requirements for new fuels

8  
 9 **Q. Has the Commission determined whether the Keene conversion is prudent?**

10 A. No, as stated in Order No. 26,305 (October 31, 2019) approving the Liberty-Keene 2019-2020  
 11 winter rates:

12 The Commission has yet to find the use of natural gas in Keene to be consistent  
 13 with a least cost supply, or otherwise prudent. See Order No. 26,294 at 11  
 14 (September 25, 2019) (“Liberty must justify the cost-effectiveness and ensure  
 15 the just and reasonable rate impacts for each phase of conversion and expansion  
 16 of the Keene gas system”). In marked contrast, the Commission has found that  
 17 the economic viability and cost structure of Liberty’s conversion/expansion  
 18 plans is unknown. See Order No. 26,122 at 38. The Commission has already

1 imposed specific requirements to protect EnergyNorth's distribution customers  
2 from potential over-capitalization and cross subsidization of the Keene Division.  
3 *See id. at 38-40*; and Order No. 26,294 at 14-15. To date, Liberty-Keene has not  
4 sought recovery of conversion/expansion costs, provided the financial analysis  
5 to demonstrate that ratepayers are not burdened with unfair or unwarranted  
6 costs, or sought a prudence review from the Commission.  
7

8 Accordingly, our approval is contingent on Liberty-Keene tracking the  
9 incremental costs associated with the use of CNG and contingent on the refund  
10 of incremental costs if Liberty-Keene's conversion to CNG, including its CNG  
11 supply contract, is determined to be imprudent. We require this in light of the  
12 Company's recent introduction of CNG into the Keene system, its forecasted  
13 use of CNG this winter, and a projected blended COG that exceeds the projected  
14 COG using propane-air.  
15

16 **Q. When did Liberty-Keene actually provide CNG to any Keene customers?**

17 **A.** On October 4, 2019, Liberty-Keene began providing CNG service to a small number of  
18 commercial customers at the Monadnock Marketplace. To date, those are the only customers  
19 being served with CNG.

20 **Q. When did Liberty-Keene sign the CNG supply contract that is in effect?**

21 **A.** Liberty-Keene signed the contract on October 24, 2016, and signed a first amendment on May  
22 22, 2017. There have been no additional amendments of which Staff is aware. The amount  
23 of the CNG demand charges paid by Liberty from August 2017 through September 2019,  
24 prior to commencing CNG service, can be found on Bates page 8, line 10, of Liberty's filing.

25 **Q Does Liberty-Keene claim that the Commission has found the Keene conversion and  
26 CNG supply contract prudent?**

27 **A.** Yes, or so it appears based on Liberty-Keene's response to Staff Data Requests. *See*  
28 *Attachment SPF-2 (Company Response to Staff DR 1-12)*.

29 **Q. What Commission orders or actions does Liberty-Keene cite as having determined that**



1       **the Keene conversion, the CNG supply contract, and CNG rates are prudent?**

2       **A.**     First, Liberty-Keene claims that the Commission allowed a tariff revision designed to  
3       accommodate the Keene conversion to go into effect, and that the tariff was an [implicit]  
4       prudence finding for the Keene conversion and/or CNG supply contract (DG 17-069).  
5       Second, Liberty-Keene claims that an ordering clause in Order No. 26,274, stating “that the  
6       Commission’s Safety Division’s recommendation that Liberty be permitted to initiate the  
7       conversion of the Keene propane-air distribution to compressed natural gas to customers in  
8       the Keene Division for Phase I is approved” was an [implicit] prudence finding for the Keene  
9       Conversion and/or the CNG supply contract (DG 17-068). Third, Liberty-Keene asserts that  
10      Commission’s approval of the Keene 2018 Summer COG that included projected CNG  
11      demand charges and the Keene 2019 Summer COG rates that included projected CNG  
12      demand charges constituted an [implicit] prudence findings.

13      **Q.**     **Please explain Staff’s position that the tariff change was not an implicit or an explicit**  
14      **prudence finding.**

15      **A.**     A finding of prudence is never “implicit”; the purpose of a prudence finding is to analyze  
16      alternatives and explicitly find the expenditures at issue to be just and reasonable. *See* RSA  
17      378:7. There was no finding of prudence. The tariff change merely established a  
18      methodology for billing Keene customers for natural gas usage. (At the time, June 2017,  
19      there was no natural gas service in Keene.) The tariff change was “ministerial”; it would  
20      simply enable the Company to appropriately bill natural gas customers *if*  
21      and *when* Liberty went forward with the Conversion, with or without a prudence finding having been  
22      made. As stated by Liberty/ Liberty-Keene at the prehearing conference on the proposed

1 tariff change rates:

2 From the Company’s perspective, this docket is requesting, in effect, a  
3 **ministerial change in its tariff**, Page 17, really to describe how we will  
4 calculate therms of natural gas to be billed to customers who will be served by  
5 the new CNG facility we are building.

6 We do not consider this to be a change in any rates, fares, charges, or  
7 policies—or prices. We will still charge the same PUC approved per therm rates  
8 for both natural gas and what’s the existing propane/air system.

9 The Company **does not believe this docket should examine the**  
10 **prudence of our decision to convert to compressed natural gas**. That would  
11 be for a rate case or perhaps a cost of gas proceeding where those CNG costs  
12 will likely lie.

13 The Company does not believe this is a proceeding to determine whether  
14 we can serve natural gas. We believe strongly that we have the authority to serve  
15 natural gas of any kind... including natural gas, as our tariff, dating back 150  
16 years, provides for the right to serve gas. And that issue is raised in Docket 17-  
17 068.

18 **Finally, we do not believe this is a proceeding to examine the safety**  
19 **of the CNG facility. The Safety Division always has the right and the**  
20 **authority to inspect, to monitor, and to take steps it believes are necessary**  
21 **to make sure we do that CNG facility properly.....** [City of Keene and  
22 Planning Board approval obtained]....

23 Therefore, the only issue we believe is before the Commission is whether the  
24 language inserting how we will calculate a bill for natural gas is appropriate and  
25 reasonable.

26  
27 (Docket 17-069, Transcript of June 23, 2017 at 5) (Emphasis added). Allowing the proposed  
28 tariff to go into effect did not constitute a Commission decision on the prudence of the Keene  
29 conversion. The Company itself was in agreement on that point, as quoted above.

30 **Q. Please explain Staff’s position that the Commission’s acceptance, in Order No. 26,274**  
31 **(July 26, 2019) in Docket DG 17-068, of the Safety Division’s conclusion that Liberty-**  
32 **Keene’s revised plans to provide a small number of commercial customers with CNG**  
33 **was “adequate,” was not an implicit or explicit prudence finding.**

34 **A.** A finding of prudence is never “implicit;” the purpose of a prudence review is to analyze

1 alternatives and explicitly find the expenditures at issue just and reasonable. *See* RSA 378:7.  
2 Moreover, Liberty-Keene, having never obtained an assessment that the Keene Conversion  
3 was prudent, remained free to proceed at its own risk, so long as its actions did not create  
4 significant and potentially lethal conditions for its employees or any property nearby.  
5 Liberty-Keene sought a declaratory judgment that “it need not seek permission under RSA  
6 374:22 and 374:26 to distribute natural gas in the City of Keene, because Liberty’s existing  
7 franchise to distribute ‘gas’ already includes ‘natural gas.’” Order No. 26,274 at 1. Nothing  
8 in Order No. 26,274 referenced RSA 378:7 or otherwise addressed whether natural gas or  
9 propane would ultimately provide the most economical fuel for Keene’s customers. Rather,  
10 the Commission’s Safety Division Staff reported that the Company’s amended conversion  
11 plan complied with Commission Order No. 26,065 (granting Liberty its requested ruling and  
12 imposing over 180 recommendations for design, installation, operational and maintenance  
13 changes and other conditions relating to engineering and operational safety). Order No.  
14 26,274 also addressed a pending Motion for Reconsideration and other issues not relevant  
15 here, as they are unrelated to any finding of prudence. Steps the Commission took to assure  
16 itself that Liberty-Keene’s engineering and operational plans were minimally safe, and  
17 finding conditions to proceed (at Liberty-Keene’s discretion) had been met, is not the  
18 equivalent of a prudency finding under RSA 378:7. As anticipated by Liberty-Keene on  
19 June 23, 2017, this docket was a “proceeding to examine the safety of the CNG facility,”  
20 limited to service in the Monadnock Plaza. “Adequate” plans are not equivalent to “prudent”  
21 plans. Even oversight over financial costs is distinct from a finding of prudence. *See* Order  
22 No. 26,065 (cautioning that the declaratory ruling did not include any finding of prudence);

1 DG 17-048 (Liberty rate case which “provided only limited testimony ... as to how the  
2 proposed conversion might be economically just and reasonable” cited in Order No. 26,274).  
3 Utilities are free, absent conditions, to pursue plans without a prudency finding, at their own  
4 risk.

5 The Commission explicitly stated that Order No. 26,065 (the declaratory judgment)  
6 should not be construed to constitute pre-approval of as yet undefined proposals for future  
7 capital projects within Liberty-Keene’s service territory. *See* Order No. 26,274 (Liberty-  
8 Keene to inspect appliances of customers and, if necessary, readjust those appliances for new  
9 conditions, without charge).

10 **Q. Please explain Staff’s position that the Commission orders approving the Keene 2018  
11 and 2019 Summer COG rates were not implicit or explicit prudency findings.**

12 **A.** A finding of prudence is never “implicit”; the purpose of a prudency review is to analyze  
13 alternatives and explicitly find the expenditures at issue to be just and reasonable. *See* RSA  
14 378:7. In contrast, the approved 2018 Keene Summer COG included forecasted CNG costs,  
15 including CNG demand charges (DG 18-052). Liberty-Keene did not seek recovery of CNG  
16 costs previously incurred, and Liberty-Keene remained unable to provide CNG service in  
17 2018. During the 2018 summer period, monthly COG rate adjustments were made to reflect  
18 actual summer costs, which, with the exception of October CNG usage, were exclusively  
19 propane costs.

20 The Company’s 2018-2019 Keene Winter COG included forecasted CNG costs,  
21 including CNG demand charges (DG 18-145). Liberty did not seek recovery of CNG costs  
22 previously incurred in that preceding. Staff testified that the supply plan filed by Liberty-

1 Keene included CNG demand and commodity costs that were substantially higher than  
2 available propane supplies and therefore was not an economic – or least cost – supply plan.  
3 Order No. 26,184, issued October 30, 2018 in DG 18-145, approved the winter rates proposed  
4 by Staff and found, “The record in this case shows that for the upcoming winter, on a fuel-  
5 only per gallon basis, continued use of propane is the lower cost option for service on Liberty-  
6 Keene’s distribution system. We recognize that, while Liberty-Keene forecasted the use of  
7 CNG this winter, the introduction of CNG into the Keene system **will not occur** until after  
8 this winter period.” [Emphasis added.]

9 The approved 2019 Keene Summer COG included forecasted CNG costs, including  
10 CNG demand charges for that period (DG 19-068). Liberty did not seek recovery of CNG  
11 costs previously incurred. Liberty commenced CNG service in October 2019 and monthly  
12 COG rate adjustments were made to reflect actual summer costs, to only include one month of  
13 CNG charges. At the Keene 2019 Summer COG hearing (DG 19-068), the Company witness  
14 agreed with Staff that the CNG costs for Summer 2018 was not an issue as there had been no  
15 CNG costs during the prior summer and the 2018 Summer COG rates had been had been  
16 adjusted accordingly:

17 Q And you are seeking to recover demand costs in this cost of service?

18 A (Gilbertson) Correct. Correct.

19 Q So, the price customers will be paying for the use of the CNG this summer is  
20 a higher price per therm than the alternative supply, which is the spot purchases  
21 of propane?

22 A (Gilbertson) Right. So, and I did address this in the testimony, that with CNG,  
23 the cost of -- the overall cost of gas per therm for sendout it doesn't include the  
24 injection costs, you know, those are other things that go into the rate, but just for  
25 the sendout gallons is, with CNG, is \$1.07, \$1.07 for the whole portfolio. If you  
26 pull the CNG out completely, the overall cost of propane or therms for the  
27 portfolio is \$1.06. There is -- it's a little higher. And I have that if -- I figured

1 you'd ask. So, if you -- and it is addressed in the testimony. If you want that, I  
2 have that for you.

3 Q Thank you. I appreciate your being prepared for that question. But I do believe  
4 this was an issue that was in your winter cost of gas filing for Keene, you  
5 included CNG rates in your original filing?

6 A (Gilbertson) Correct.

7 Q And those rates were significantly higher than spot propane, the price of the  
8 spot propane purchases, is that correct?

9 A (Gilbertson) I actually don't remember what the differential was.

10 Q And Staff filed testimony, and do you recall what Staff's position was on that?

11 A (Gilbertson) I believe we took it out for the CNG.

12 Q Right. Ultimately, the Company was not able to do the conversion of the  
13 customers. And so, it was basically a nonissue?

14 A (Gilbertson) Correct.

15 Q But Staff, prior to that -- the determination that the Company wasn't going to  
16 go forward with the CNG, subject to check, was that ratepayers shouldn't be  
17 paying for an uneconomic dispatch of CNG?

18 A (Gilbertson) I believe that was the position, yes.

19 Q Okay. Thank you. And although in this filing, basically we're seeing the same  
20 thing, although with a much smaller discrepancy between the average cost of  
21 CNG and the average cost of spot propane purchases?

22 A (Gilbertson) Correct. [Hearing Transcript April 23, 2019, p. 28]

23  
24 The Commission did not dismiss Staff's concern that the use of CNG could result in  
25 higher costs than would be case absent CNG in approving the 2019 Keene Summer COG, as  
26 Liberty-Keene claims in Staff 1-12 /1-4. Instead the Commission stated, "We decline to  
27 address Staff's concerns with regard to CNG costs that may exceed the cost of alternative  
28 fuels *at this time*. *Staff is free to raise the issue in future dockets*, including in the  
29 Company's next rate case." Order No. 26,126 (May 1, 2018) at 5 [Emphasis added]

30  
31 **Liberty-Keene 2020-2021 Winter COG**

32 **Q. Please describe how Liberty-Keene's proposed 2020-2021 winter rates were calculated.**

33 **A.** As is typically done in COG dockets, Liberty-Keene reconciled last winter's gas costs and

1 revenues to determine if there was an over- or under-collection, developed a sales forecast and  
2 supply plan for the upcoming winter. In COG dockets, the over- or under-recovery is then  
3 added or subtracted from the projected winter supply costs and divided by projected therm  
4 sales to determine the rate. This year, for the first time, the Company also included a portion  
5 of the 26 months of CNG demand costs incurred prior to October 2019 in calculating the  
6 proposed rate, and a proposal to recover the full 26 months of CNG demand costs incurred  
7 prior to October 2019 in the ensuing three year period.

8 **Q. What sources of supply were used last year (2019-2020) and in the supply plans for this**  
9 **winter, Winter 2020-2021?**

10 **A.** Propane and CNG.

11 **Q. Does Staff have any concerns regarding propane supply costs?**

12 **A.** No.

13 **Q. Does Staff have any concerns regarding the 2020-2021 winter sales projection in light of**  
14 **the COVID-19 pandemic?**

15 **A.** No, the Company considered the impact of the COVID-19 pandemic in its forecast and the  
16 forecast reflects recent monthly sales data that reflect increasing sales approaching  
17 pre-pandemic levels. In response to a Staff data request the Company calculated what the  
18 cost per therm would be if the current Winter 2020-2021 sales forecast was reduced by 10  
19 percent, and the impact on projected gas costs was minimal, an increase of approximately one  
20 percent.

21 **Q. Does Staff have any concerns regarding CNG supply costs Liberty is seeking to recover?**

22 **A.** Yes.

1 **Q. What are the CNG costs the Company is seeking to recover in this proceeding?**

2 **A.** Liberty-Keene is seeking to recover CNG costs for three distinct periods.

- 3 • CNG demand costs incurred prior to commencing CNG service (August 2017 through
- 4 September 2019)
- 5 • CNG demand and commodity costs incurred last winter (2019-2020)
- 6 • Projected CNG demand and commodity costs for the upcoming winter (2020-2021)

7 **Q. Why does Liberty-Keene believe it should be allowed to recover CNG demand costs**  
8 **incurred prior to providing CNG service?**

9 **A.** In its responses to Staff data requests, Liberty/Liberty-Keene argues it was expecting to put  
10 the CNG facility online in 2017 and, therefore, it was prudent to have a contract in place. The  
11 Company claims there were unknown obstacles and delays involved with getting the CNG  
12 installation finalized to the satisfaction of all parties but that the Company needed to be ready  
13 “at any point” during the period from August 2017 through September 2019 to commence  
14 CNG service.

15 As I understand Liberty-Keene’s prefiled testimony and data responses, Liberty  
16 testified that the Commission recognized that the Company planned to begin providing CNG  
17 in the fall of 2017, and left open the possibility that CNG could flow during the 2017–2018  
18 winter. Liberty cited Order No. 26,067 at 5-6 (Oct. 31, 2017), “We recognize that while  
19 Liberty-Keene is forecasting the use of CNG this winter, the introduction of CNG into the  
20 Keene system will not occur by the proposed effective date of these rates (November 1) due  
21 to the safety requirements laid out in our order in DG 17-064 [sic, 17-068]. Thus, we will not  
22 approve the proposed 2017–2018 winter COG rates as filed and will require Liberty-Keene to



1 refile COG rates that remove any costs of CNG.”

2 Liberty-Keene testified that the Commission approved the inclusion of CNG in the  
3 summer 2018 Keene cost of gas rate, Order No. 26,126 (May 1, 2018), and claims that since it  
4 had to be ready to serve customers when that took place, it was reasonable to incur the  
5 demand charges beginning in the fall of 2017.<sup>1</sup>

6 **Q. Is the Company’s claim of unexpected obstacles and delays valid?**

7 **A.** No. The “unknown obstacles and delays” identified in the Company’s response to Staff Data  
8 Request 1-4 were foreseeable and should have been addressed by the Company in advance of  
9 contracting for CNG supply. *See Attachment SPF-3 (Company Response to Staff DR 1-4).*

10 **Q. What obstacles did the Company identify?**

11 **A.** The Company identified the following: Liberty filing for Commission permission to provide  
12 natural gas in Keene; the Commission requiring the Company to file comprehensive safety  
13 engineering and operations plans on how it would safely provide CNG; the Commission  
14 requirement that the Commission's Safety Division (Safety Division) find the Company’s  
15 plans adequate, and Commission accepting the Safety Division findings.

16 **Q. Please explain what the Company identified as the “request for permission to provide  
17 natural gas” obstacle.**

18 **A.** According to Liberty-Keene, it filed a petition with the Commission for a Declaratory Ruling  
19 (filed April 24, 2017 and revised on April 26, 2017) because of Staff. Differences of opinion  
20 and a variety of perspectives are foreseeable. Moreover, the nature of Liberty’s franchise is

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<sup>1</sup> Liberty-Keene filing, Bates pages 8-9.

1 unrelated to a finding of prudence.

2 Liberty-Keene's current petition states that "Staff advised that the Company is  
3 required to: (1) file reports required by RSA 374:5,2 and (2) file a petition under RSA 374:22  
4 and RSA 374:26, the franchise statutes, for permission to distribute natural gas because,  
5 according to Staff, the conversion from propane to natural gas constitutes a 'change in the  
6 character of service.'"

7 Based on representations made by Liberty when acquiring the Keene system,  
8 referenced above, Staff reasonably expected Liberty to perform an in-depth analysis regarding  
9 converting any or all of the Keene system from propane-air to natural gas and to share that  
10 analysis with the Commission. Staff's concern that providing natural gas in place of propane-  
11 air service constituted a change in the character of service was a valid concern and an in-depth  
12 analysis would have identified it as such. Or if not, if the analysis had been shared with the  
13 Commission, Staff would have raised the issue at that time, as Staff did at the March 27, 2017  
14 meeting reference in DG 17-068 petition. Liberty should have considered and addressed that  
15 issue before beginning conversion efforts and well in advance of signing a CNG supply  
16 contract.

17 Furthermore, the Company, not Staff, elected to pursue a Declaratory Ruling based on  
18 Staff's interpretation of the applicability of the statutes. Ultimately, Staff took no position in  
19 DG 17-068 and Order No. 26,065 (October 20, 2017) affirmed Liberty's legal authority to  
20 offer CNG/LNG service in Keene, so long as it did so with "adequate" safety:

21 While we agree with Liberty that it has the legal authority to offer CNG/LNG service  
22 in Keene, it is critical that any new CNG/LNG installations be accomplished safely.  
23 We note that CNG/LNG installations of the type contemplated by the Company

1 include technology and piping that requires much higher operating pressures than are  
2 found in New Hampshire gas distribution systems. Pursuant to RSA 374:1 (utilities  
3 must provide safe and adequate service), RSA 374:3 (Commission’s general  
4 supervision of utilities), RSA 374:4 (Commission’s duty to keep informed), and  
5 related statutes, the Commission has the authority and responsibility to ensure that all  
6 utility installations are safely and reliably engineered in conformance with all  
7 applicable standards, and that public utilities like Liberty meet their duty to provide  
8 safe and adequate service under RSA 374:1. To that end, pursuant to RSA 374:1,  
9 RSA 374:3, and RSA 374:4, with respect to the system conversion in Keene, we order  
10 Liberty to provide all final plans for engineering, construction, installation, testing,  
11 operations, public awareness, maintenance, emergency response, procedures, and  
12 schematics, including qualifications and training of personnel, in sufficient detail as  
13 requested by the Commission’s Safety Division. Further, before gas flows through  
14 these installations, we must receive a report from the Safety Division assessing the  
15 adequacy of the Company’s plans and the satisfactory completion of a physical  
16 inspection of all installations.

17  
18 Order No. 26,065 at 3-4.

19 **Q. Please explain what the Company identified as “filing of comprehensive plans” obstacle.**

20 **A.** The plans Liberty-Keene submitted to the Safety Division failed to meet the applicable safety  
21 standards for utility CNG installations. As a result, the plans required significant additions  
22 and revisions. Liberty’s response to Staff DR 1-4 states, “The Company understands that this  
23 CNG installation was the first of its kind in New Hampshire and required significant research  
24 and investigation.” That significant research and investigation should have been conducted  
25 by the Company prior to submitting CNG plans to the Safety Division and well before signing  
26 a CNG supply contract; instead Company plans required extensive work by the Safety  
27 Division. The testimony of Staff witness Randall Knepper provides a more detailed  
28 explanation as to reasons for the delay related to the Company filing of comprehensive plans  
29 for Phase I, the Monadnock Marketplace.

30 **Q. Please explain what the Company identified as “Commission accepting the Safety**

1        **Division findings” obstacle.**

2        **A.**     The Safety Division Adequacy Assessment of the Proposed Compressed Natural Gas  
3        Installation (Safety Report) by Liberty dated October 3, 2018 found that the draft and  
4        finalized document had numerous inconsistencies and further corrections were necessary.  
5        The Safety Report concluded that if all the issues were addressed by Liberty, Staff would  
6        likely conclude that the CNG facilities would meet applicable safety requirements, but could  
7        not without Liberty formally incorporating the necessary enhancements as identified the  
8        Safety Report. The Safety Report recommended that the Commission condition its  
9        acceptance of Liberty's plans as “adequate” on Liberty's fully integrating the Safety Division's  
10       proposed enhancements and do so by Commission order.

11                The Safety Report make clear that as of October 3, 2018, there was more work to be  
12        done before Liberty could safely begin providing CNG in Keene. The Commission  
13        subsequently issued Order No. 26,274 (July 24, 2019), which accepted and approved the  
14        Safety Division’s recommendations.

15                Since the conversion could not safely occur during cold weather, the earliest Liberty  
16        could have begun providing CNG would have been the following summer. Therefore,  
17        Commission acceptance and approval as adequate on July 24, 2019 did not materially delay  
18        the provision of CNG.

19        **Q.     What is your recommendation regarding recovery of CNG demand costs incurred prior**  
20        **to commencing CNG service?**

21        **A.**     The Commission should disallow recovery CNG demand costs incurred prior to commencing  
22        CNG service. (August 2017 through September 2019).

1 **Q. What is the basis for disallowance of CNG demand costs incurred prior to commencing**  
2 **CNG service?**

3 **A.** Liberty should not have entered into a CNG supply contract 26 months in advance of being  
4 able to provide CNG service. Entering a supply contract with significant demand charges  
5 years in advance of being able to use the supply was a mistake. Ratepayers should not be  
6 responsible for costs that were not prudently incurred and for 26 months the CNG contract  
7 Liberty-Keene entered into was not “used and useful.” Rates that include CNG demand costs  
8 that served no purpose would not be just and reasonable.

9 **Q. What is your recommendation regarding recovery of 2019-202 winter CNG costs?**

10 **A.** Liberty should recover CNG costs from last winter to the extent that those costs do not exceed  
11 what it would have cost to serve Keene if the Company had used propane. Liberty should not  
12 recover the incremental cost of CNG through this winter’s supply rates.

13 **Q. What is the basis for not allowing full recovery of last winter’s CNG costs at this time?**

14 **A.** CNG costs were significantly more expensive than the propane supply options that would  
15 have been available if Liberty had not converted a portion of its system to CNG. There  
16 should be no recovery of incremental CNG costs pending a Commission decision as to  
17 whether the conversion, and timing of the conversion, and any CNG contracting costs not  
18 directly related to supply, were prudent.

19 **Q. Is the issue of the prudence of the Keene conversion currently before the Commission?**

20 **A.** Yes, in Docket DG 20-105, Liberty’s request of an increase in distribution rates puts the issue  
21 of the prudence of the Keene conversion squarely before the Commission. Staff intends to  
22 file a recommendation in that proceeding regarding Keene conversion costs and saving.

1 There may be operation and maintenance savings related to the conversion that offset or  
2 exceed incremental CNG supply costs in the future, and if new distribution rates reflect such  
3 savings it would be appropriate to include those savings in determining incremental CNG  
4 supply cost or savings in subsequent COG filings.

5 **Q. What is your recommendation regarding recovery of projected 2020-2021 winter COG**  
6 **costs?**

7 **A.** Projected CNG costs for this winter should be included in setting the 2020-2021 winter rates,  
8 conditioned on a full or partial refund of incremental supply costs pending a Commission  
9 decision on the prudence of the Keene conversion.

10 **Q. If the Commission approves a lower FPO rate than what Keene customers were offered,**  
11 **should a new notice be issued and the enrollment period reopened?**

12 **A.** No. It is Staff's belief that customers that have enrolled, or will be enrolling, in the 2020-  
13 2021 FPO program are seeking price certainty to avoid market risks and would make the same  
14 decision if the offering had been at Staff's proposed COG and FPO rates.

15 **Q. Should customers that enroll in the FPO program at the offered rate be charged that**  
16 **rate?**

17 **A.** No, assuming the Commission approves a rate below what the Company offered customers.  
18 The FPO program provides customers the option of locking in a rate that protects against rate  
19 increases due to fluctuations in energy prices. In this instance, the change in rates is due not  
20 to changes in energy prices but results from Liberty seeking to recover incremental CNG  
21 costs. Ratepayers, regardless of whether an FPO or non-FPO customer, should not be  
22 responsible for supply costs that have not been determined as having been prudently incurred.

1 Staff recommends that customers that enrolled in the FPO program should be charged  
2 \$1.0425 per therm, and notified that the Commission approved a lower rate than the Company  
3 originally identified.

4 **Q. Please summarize Staff's recommendation.**

5 **A.** In summary, Staff recommends that the Commission:

- 6 • Disallow recovery of compressed natural gas (CNG) demand charges incurred prior to  
7 October, 2019;
- 8 • Do not allow recovery of CNG 2019-2020 winter incremental costs in 2020-2021  
9 winter rates;
- 10 • Allow recovery of projected CNG costs in 2020-2021 winter rates on the condition of  
11 potential refund of incremental CNG costs, pending a prudency determinate in a future  
12 docket;
- 13 • Approve a COG rate of \$1.0225 per therm (which reflects the above);
- 14 • Approve a FPO rate of \$1.0425 per therm (which reflects the above);
- 15 • Require Liberty to notify FPO customers of the difference between the FPO rate offer  
16 and the approved rate.

17 **Q. Has the discovery process been completed?**

18 **A.** No. In this expedited COG docket, Liberty has not responded to the October 6, 2020,  
19 Technical Session Data Requests (issued October 8, 2020), and I reserve the right to revise  
20 my testimony in light of additional information the Company may provide.

21 **Q. Is there anything else you would like to add?**

22 **A.** Yes. Staff will be evaluating the prudency of Liberty's Keene conversion in the Liberty rate

1 case (DG 20-105) as to whether and, if so, to what extent Liberty should be allowed to  
2 recover incremental CNG costs. Staff's recommendation in this preceding is that Liberty not  
3 be allowed to recover those costs until a more complete record is developed in DG 20-105 for  
4 the Commission's consideration in deciding the issue.

5           Regardless of whether or not the Keene conversion is ultimately determined to have be  
6 prudent, entering a supply contract years in advance of being able to use that supply was not a  
7 prudent decision and the CNG demand costs incurred prior to commencing natural gas service  
8 in Keene should be disallowed.

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

10 **A. Yes.**