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PUBLIC UTILITIES COMMISSION

21 S. Fruit St., Suite 10
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April 13, 2021

Debra A. Howland, Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429

Re: Docket # DG 21-050
Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Keene Division)
Summer 2021 Cost of Gas, Staff's **EXPEDITED** Request to the Commission to Direct
Liberty to produce witnesses on April 19.

Dear Ms. Howland:

Commission Staff (Staff) is writing to ask the Commission to direct Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Keene Division) (Liberty Keene or Company) to produce Steven Mullen and Steve Rokes at the expedited hearing scheduled in the above docket for April 19, 2021. Staff asks the Commission for **expedited review**, because the hearing is Monday. The witnesses were first identified to Staff in data responses filed yesterday.

Both individuals were identified as Company employees who answered Staff's data requests about Liberty's new CNG contract, which will prospectively go into effect on July 1, 2021. See the Company's responses to Staff's technical session questions TS 1-1, TS 1-2 and TS 1-3, filed April 12, 2021 (attached).

These witnesses' testimony is relevant to whether the new contract is "reasonable" in whole or in part. Liberty has argued in a prior docket (DG 20-152) that the Commission's approval of prospective rates renders the underlying CNG contract "reasonable" or perhaps even prudent. Here, Liberty Keene argues that the new contract is like the current CNG contract, which the Company states was found reasonable, and therefore the new contract is reasonable. See TS 1-2. Staff disagrees with these legal positions, and will ask the Commission to find the new contract unreasonable, in part, and reasonable in specific narrow aspects.

The status of the contract is also relevant because in its filing, Liberty highlighted that a new CNG contract would go into effect. Liberty has also agreed that terms in the new contract are rendered "irrelevant" or are "superseded" by the Company's *CNG Skid Operating Procedures* and *Gas Emergency Management Plan—Keene Division*. See TS 1-3 packet, Company response item 5 (attached).

Staff does not anticipate that the identified individuals' testimony will be lengthy. Staff estimates that the Commission might have brief questions for these witnesses too.

As a procedural matter, this morning Staff asked Liberty to make Mr. Mullen and Mr. Rokes available as witnesses. As of 10 a.m. today, Liberty was unable to commit to including those individuals in the Company's list of witnesses. At noon, Staff asked the Company to reconsider, and to reply no later than 3 p.m.. The Company has not responded further. (Informally, at 10 a.m. Liberty agreed to "make every effort" but declined to include Mullen or Rokes in Liberty's official list).

Staff will identify Mr. Mullen and Mr. Rokes, Liberty employees, as Staff (hostile) witnesses in the parties' joint witness list (due tomorrow). However, Staff asks the Commission to direct Liberty to produce these individuals at the April 19, 2021, hearing because Staff has no control over those witnesses.

Note: the attachment "TS 1-3 packet" is necessary because the redacted annotated contract Staff included in the TS 1-3 request was not included in the Company's response. Staff's request, the redacted, annotated, contract, and the Company's responses are contained in the packet.

Pursuant to the Commission's March 17, 2020 secretarial letter, Staff is only making an electronic filing of this request at this time.

Thank you for your time and attention.

Sincerely,

/s/ Mary E. Schwarzer

Mary E. Schwarzer
Staff Attorney

Attach. TS 1-1, 1-2 and TS 1-3 packet
Discovery Service List (electronically)