



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

Docket No. DG 16-XXX

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities  
Fiscal Year 2016 Cast Iron/Bare Steel Replacement Program Results

**DIRECT TESTIMONY**

**OF**

**DAVID B. SIMEK**

April 15, 2016

1 **I. INTRODUCTION**

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

3 A. My name is David B. Simek. My business address is 15 Buttrick Road,  
4 Londonderry, New Hampshire 03053.

5 **Q. Please state by whom you are employed and your position?**

6 A. I am a Lead Utility Analyst for Liberty Utilities Service Corp. (“Liberty”) which  
7 provides service to Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a  
8 Liberty Utilities (“EnergyNorth” or the “Company”). I am responsible for  
9 providing rate-related services for the Company.

10 **Q. Please describe your educational background and training.**

11 A. I graduated from Ferris State University in 1993 with a Bachelor of Science in  
12 Finance. I received a Master’s of Science in Finance from Walsh College in  
13 2000. I also received a Master’s of Business Administration from Walsh College  
14 in 2001. In 2006, I earned a Graduate Certificate in Power Systems Management  
15 from Worcester Polytechnic Institute.

16 **Q. What is your professional background?**

17 A. In August of 2013, I joined Liberty Energy NH as a Utility Analyst and I was  
18 promoted to a Lead Utility Analyst in December 2014. Prior to my employment  
19 at Liberty Energy NH, I was employed by NSTAR Electric & Gas (“NSTAR”) as  
20 a Senior Analyst in Energy Supply from 2008 to 2012. Prior to my position in

1 Energy Supply at NSTAR, I was a Senior Financial Analyst within the NSTAR  
2 Investment Planning group from 2004 to 2008.

3 **Q. Have you previously testified in regulatory proceedings before the New  
4 Hampshire Public Utilities Commission (the “Commission”)?**

5 A. Yes, I have testified on numerous occasions before the Commission.

6 **II. PURPOSE OF TESTIMONY**

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

8 A. The purpose of my testimony is to explain the Company’s revenue requirement  
9 calculation associated with the CIBS main replacement program for the fiscal  
10 year starting April 1, 2015 and ending March 31, 2016 (“FY 2016”) and the  
11 degradation fees imposed by the Cities of Concord and Manchester.

12 **III. REVENUE REQUIREMENT CALCULATION**

13 **Q. Please describe the revenue requirement calculation and the proposed  
14 recovery period.**

15 A. The revenue requirement calculation includes the CIBS program spending  
16 through FY 2016. The Company proposes to recover this revenue requirement  
17 beginning July 1, 2016 through an increase in its base distribution rates.

18 **Q. What amounts are included in the CIBS revenue requirement?**

19 A. The revenue requirement for FY 2016 is calculated in Attachment DBS-1 and is  
20 based on actual spending related to projects set forth in the final FY 2016 CIBS

1 plan submitted to Staff in 2015. Attachment DBS-1 also includes, for illustrative  
2 purposes, a projection of the estimated revenue requirement including CIBS-  
3 eligible expenses that the Company expects to incur in FY 2017. Pursuant to a  
4 Staff request in a prior year's technical session, the Company has also included  
5 Attachment DBS-2, for information purposes only, which provides a calculation  
6 of the total revenue requirement associated with the CIBS program from its  
7 inception in FY 2009. This calculation includes CIBS investment amounts  
8 through June 30, 2009 that became part of the permanent rate base established in  
9 the Company's last distribution rate case, Docket No. DG 10-017.

10 **Q. Please explain how the CIBS revenue requirement is calculated.**

11 A. As shown in Attachment DBS-1, eligible CIBS investments are split into two  
12 categories: mains and services. Recoverable book depreciation expense is  
13 calculated based on these investment amounts using the depreciation rates  
14 established in the Company's last depreciation study (which was filed in Docket  
15 No. DG 08-009). The depreciation expense amount is used to calculate the  
16 deferred tax reserve associated with the effects of the timing difference between  
17 book and tax depreciation. The deferred tax reserve, along with accumulated  
18 book depreciation, reduces the rate base on which the Company is eligible to earn  
19 a return. The adjusted rate base is multiplied by the pre-tax rate of return of 9.9  
20 percent (the Company's current ROR of 6.84% adjusted for current federal and  
21 state income tax rates of 34% and 8.5%, respectively) to arrive at the return on  
22 rate base and taxes. Added to the return and taxes are the actual calculated

1 depreciation expense and property taxes. The property tax rate is calculated  
2 annually and is based on prior calendar year municipal property tax expense as a  
3 percentage of the average of the prior two calendar year's net plant in service.

4 **Q. What is the CIBS revenue requirement for fiscal year 2016?**

5 A. As shown on Attachment DBS-1, page 1, the cumulative CIBS revenue  
6 requirement for FY 2016 is \$2,069,876 (line 35(h)), which corresponds to a  
7 \$214,434 revenue deficiency, as provided on line 39(h).

8 **Q. Please explain how you calculated the FY 2016 revenue requirement.**

9 A. Page 1 of Attachment DBS-1 provides detail as to how the Company derived the  
10 FY 2016 revenue requirement. Lines 1(h) and 2(h) represent the FY 2016 CIBS  
11 program investment related to mains and services, respectively. These current  
12 year amounts are added together and reduced by the CIBS Base Amount of  
13 \$514,244. For FY 2016, the net incremental amount of CIBS additions, after the  
14 CIBS Base Amount and a reduction of \$48,350 which was double-counted in  
15 FY2014, is \$3,496,272, as shown on line 6(h). This amount is then added to the  
16 cumulative incremental CIBS program additions from July 1, 2009 to March 31,  
17 2015 of \$17,113,015, as shown on line 7(g), to derive the cumulative incremental  
18 CIBS program additions through March 31, 2016 of \$20,609,287 as reported on  
19 line 7(h).

20 On lines 10(h) through 20(h) of page 1, the Company shows the calculations for  
21 book and tax depreciation, and the resulting deferred tax reserve. Because the

1 CIBS program spending is expected to be 100 percent tax deductible, as discussed  
2 later in my testimony, the cumulative tax depreciation on line 11(h) is equal to the  
3 cumulative incremental CIBS program spending of \$20,609,287 from line 7(h).  
4 When compared to the accumulated depreciation of \$1,895,914 on line 14(h), the  
5 resulting timing difference between book and tax depreciation is \$18,713,373, as  
6 shown on line 17(h). This amount is then multiplied by the Company's current  
7 effective tax rate and the deferred tax reserve of \$7,412,367 is shown on line  
8 20(h). On lines 23(h) through 27(h), the Company calculates rate base by  
9 reducing the amount of cumulative incremental CIBS spending of \$20,609,287 by  
10 \$1,895,914 for accumulated depreciation and \$7,412,367 for deferred tax  
11 reserves, resulting in a year end rate base of \$11,301,006 (line 27(h)). The  
12 Company then multiplied the rate base amount times the pre-tax ROR of 9.9  
13 percent, which resulted in the return and taxes amount of \$1,115,409 on line  
14 32(h). On lines 33(h) and 34(h), the Company added book depreciation of  
15 \$464,177 and property taxes of \$490,290. The resulting FY 2016 cumulative  
16 revenue requirement is \$2,069,876, as shown on line 35(h). From this amount,  
17 the Company deducted the prior year revenue requirement of \$1,855,442, as  
18 shown on line 37(h), to arrive at a revenue deficiency of \$214,434 on line 39(h).

19 **Q. Please explain the rate design the Company intends to use to recover the**  
20 **proposed increase in the revenue requirement.**

21 A. The Company will design rates that will result in an increase in annual revenues  
22 of \$214,434. Specifically, the cumulative revenue requirement for fiscal year

1 2016 amounts to \$2,069,876, or \$214,434 more than the \$1,855,442 which is  
2 currently being billed, and as shown on Attachment DBS-1, page 1, line 35(g).  
3 Consistent with past adjustments, the Company will increase all rate components  
4 on an equal percentage basis.

5 **Q. How was the statutory tax rate of 39.61% on Attachment DBS-1, page 1, line**  
6 **18, column g, calculated?**

7 A. The statutory rate of 39.61% was calculated by using a 34% federal tax rate and  
8 an 8.5% tax rate for the State of New Hampshire  $(.34 + .085 - (.34 \times .085) =$   
9  $.3961)$ .

10 **Q. How was the common equity pre-tax rate of 7.659% on Attachment DBS-1,**  
11 **line 56(e) calculated?**

12 A. The common equity pre-tax rate of 7.659% was calculated by dividing the 9.25%  
13 rate of return on common equity, authorized in DG 14-180, by .6039  $(1 - .3961$   
14  $[statutory tax rate - see previous question])$  and multiplied by 50% (ratio of debt  
15 to equity in DG 14-180)  $[.0925 / .6039 \times .50 = .07659]$ . See Order No. 25,797 at  
16 4 (June 26, 2015).

17 **Q. Can you explain the repairs tax deduction as it applies to projects completed**  
18 **under the CIBS program?**

19 A. In 2009, the Internal Revenue Service issued guidance under Internal Revenue  
20 Code ("IRC") Section 162 regarding the eligibility of certain repair and  
21 maintenance expenses for an immediate deduction for income tax purposes, but

1 capitalized by the Company for book purposes. This tax deduction has the effect  
2 of increasing deferred taxes and lowering the revenue requirement that customers  
3 will pay under the CIBS program. Based on IRC §263(a) and §162, repairs  
4 resulting in the replacement of less than 20 percent of an original unit of property  
5 qualify for a repairs tax deduction. A gas company's gas subsystem is considered  
6 a "unit of property" for the purposes of the repairs tax deduction. Replacement  
7 pipe cannot be more than 2 additional inches in diameter from the original pipe,  
8 and to the extent that a length of replacement pipe is longer than the pipe being  
9 retired, the increase in length must be no more than 5 percent of the subsystem for  
10 it to be eligible for the repairs tax deduction.

11 Based on these criteria, the projects included in the CIBS program are considered  
12 repairs by the Company and are expected to be fully deducted from the tax return  
13 for the year that they occur. Therefore, in computing the revenue requirement, the  
14 Company is currently reflecting tax deductibility of 100 percent for all CIBS jobs.  
15 This tax deductibility results in a greater deferred tax reserve which reduces the  
16 rate base and resulting revenue requirement charged to customers.

17 **Q. How are book depreciation expense and property tax expense calculated?**

18 A. Book depreciation expense is calculated on page 2 of Attachment DBS-1. The  
19 actual spending for mains and services is referenced on page 1, lines 1 and 2,  
20 respectively. These amounts are reduced on a pro rata basis by the CIBS Base  
21 Amount. The net amounts for mains and services are shown on lines 3 and 24

1 and are used to calculate book depreciation expense for each vintage year. Lines  
2 5 through 17 and 26 through 38 show the calculation of book depreciation  
3 expense using the depreciation rates set in the Company's last approved  
4 depreciation study. FY 2016 book depreciation expense of \$332,487 and  
5 \$131,690 for mains and services is shown on lines 14(h) and 35(h), respectively.  
6 These amounts, when combined, equal \$464,177 as shown on line 42(h), which is  
7 carried forward to page 1, line 13(h). Cumulative book depreciation expense of  
8 \$1,365,646 and \$530,268 for mains and services are shown on lines 17(h) and  
9 38(h), respectively. Line 44(h) is the sum of these two lines, amounting to  
10 \$1,895,914, which is then used on page 1, line 14(h).

11 Property taxes are calculated on page 3 of Attachment DBS-1. Net plant is  
12 calculated using plant in service as reported on the Company's Annual Report  
13 (Form F-16G) less the reserve for accumulated depreciation and amortization. An  
14 average of the most recent two years of net plant is then calculated on lines 6  
15 through 8. Line 10(k) shows the property tax expense for the prior calendar year.  
16 The property tax expense rate of 2.62% shown on line 12(k) is calculated by  
17 dividing line 10(k) by the average net plant shown on line 8(k). This property tax  
18 rate is then carried forward to page 1, line 34 and is multiplied by net plant in  
19 service found on page 1, line 25(h), resulting in the property tax amount of  
20 \$490,290 on page 1, line 34(h).

1 **Q. What is the average bill impact of this year's CIBS revenue requirement?**

2 A. Page 4 of Attachment DBS-1 shows the average bill impacts of the CIBS  
3 program. The annual CIBS-related increase for FY 2016 for an average  
4 Residential Heating customer using a total of 800 therms per year is \$1.00, as  
5 shown on line 22(h). The annual CIBS-related increase for FY 2016 for an  
6 average Residential Heating customer using a total of 800 therms per year would  
7 have been \$1.18 if the return on equity did not change from 9.67% to 9.25% in  
8 DG 14-180.

9 **IV. DEGRADATION FEES**

10 **Q. Please provide an update on the litigation with the Cities of Concord and**  
11 **Manchester over the Company's challenge to the Cities' road opening fee**  
12 **ordinances.**

13 A. The trial court issued an order in July 2015, which struck down the penalty  
14 provisions in each ordinance for excavating new pavement, but otherwise upheld  
15 the ordinances. Both parties appealed to the New Hampshire Supreme Court.  
16 The parties attempted mediation in January 2016, but were unsuccessful. The  
17 Company expects the Supreme Court to issue a briefing schedule soon and the  
18 case will be briefed and argued in the summer and fall.

1 **Q. How will the Company address any refunded road degradation fees if it**  
2 **prevails in its litigation against the Cities of Concord and Manchester?**

3 A. During fiscal years 2011 through 2016, the Company included a total of  
4 \$1,018,481 in degradation fees as part of the costs of the CIBS program as shown  
5 in Table 1 below.

6 **Table 1**

<u>Period</u>	<u>City of Concord</u>	<u>City of Manchester</u>	<u>Total</u>
Fiscal 2011	\$19,856	\$275,035	\$294,891
Fiscal 2012	\$37,960	\$39,885	\$77,845
Fiscal 2013	\$9,747	\$382,335	\$392,082
Fiscal 2014	\$48,350	-0- (1)	\$48,350
Fiscal 2015	\$75,541	-0- (1)	\$75,541
Fiscal 2016	\$129,773	-0- (1)	\$129,773
Total	<u>\$321,226</u>	<u>\$697,255</u>	<u>\$1,018,481</u>

7 (1) Excludes FY 2014 through FY 2016 accrued Manchester degradation fees in the amount  
8 of \$246,449, \$236,710 and \$202,250, respectively from the calculation of the revenue  
9 requirement.

10 If the Company prevails in the litigation, the Company will reflect the refunds it  
11 receives from Concord and the accrual reversal for Manchester in the revenue  
12 requirement calculation in the fiscal year (or years) in which those refunds are  
13 received. Customers will receive the benefit of those refunds through a reduction

1 to rate base (and corresponding decrease in return and taxes) and a reduction in  
2 ongoing depreciation expense and property tax expense in the same year that the  
3 Company is reimbursed by the communities. Attachment DBS-3 shows the  
4 illustrative calculation of the estimated impact on the revenue requirement of such  
5 a refund. Based on degradation fees paid to date and included in the cumulative  
6 CIBS investment, the impact on the revenue requirement in the year such fees are  
7 refunded to the Company is estimated at approximately \$102,171 as shown on  
8 page 1, line 32(b) of Attachment DBS-3. It is estimated that the Concord and  
9 Manchester degradation fees to be incurred during the FY 2017 construction  
10 season will be \$120,750 and \$441,650, respectively.

11 **Q. If the Company does not prevail in the litigation, what impact will that have**  
12 **on customers?**

13 A. If the Company does not prevail in the litigation, the Company will pay the City  
14 of Manchester FY 2014 through FY 2016 degradation fees of \$685,409. These  
15 amounts have an estimated revenue requirement of \$68,758 as shown on page 1,  
16 line 32(b) of Attachment DBS-4. The annual CIBS-related increase for an  
17 average Residential Heating customer using a total of 800 therms per year is  
18 \$0.32, as shown on page 4, line 17(b) of Attachment DBS-4.

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

20 A. Yes it does.