Liberty Utilities

EXHIBIT

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DG 17-048

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DG 17-048

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

REBUTTAL TESTIMONY

OF

STEVEN E. MULLEN

January 25, 2018

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ATTACHMENTS

Attachment	Title
Attachment SEM-1-Rebuttal	Staff response to LU 1-4
Attachment SEM-2-Rebuttal	Copy of Schedule DLC-1 from Docket No. DE 16-384 for Unitil Energy Systems, Inc.
Attachment SEM-3-Rebuttal	Staff response to LU 1-6
Attachment SEM-4-Rebuttal	Staff response to LU 1-5
Attachment SEM-5-Rebuttal	Paul Normand response to Staff 7-9
Attachment SEM-6-Rebuttal	Staff response to LU 1-30
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Attachment SEM-8-Rebuttal	Staff response to LU 1-31
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I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Steven E. Mullen. My business address is 15 Buttrick Road, Londonderry, New Hampshire.

Q. By whom are you employed and in what capacity?

A. I am employed by Liberty Utilities Service Corp. ("Liberty") as Senior Manager, Rates and Regulatory. I am responsible for rates and regulatory affairs for Liberty Utilities (EnergyNorth Natural Gas) Corp. ("EnergyNorth" or the "Company") and for Liberty Utilities (Granite State Electric) Corp. ("Granite State").

Q. On whose behalf are you testifying today?

A. I am testifying on behalf of EnergyNorth.

Q. Have you previously submitted testimony in this proceeding?

A. Yes. I submitted prefiled testimony on June 30, 2017, on the subject of the Concord Training Center. My professional background and qualifications are contained in that prior testimony.

Q. What is the purpose of your testimony?

A. My testimony is provided in rebuttal to portions of the November 30, 2017, testimonies of Commission Staff ("Staff") witnesses Al-Azad Iqbal and Stephen P. Frink and Office of the Consumer Advocate ("OCA") witness James J. Brennan. The specific areas addressed in my rebuttal testimony are:

- the portion of Mr. Iqbal's testimony related to the topic of depreciation;
- the portions of the testimonies of Mr. Iqbal and Mr. Brennan that discuss the Concord Training Center; and
- the portion of Mr. Frink's testimony that discusses certain "follow-up" work performed by the Liberty Consulting Group ("LCG"), including both specifics on the work that was performed and the process that was followed during the course of the engagement.

Q. Please summarize your testimony.

A. Staff's recommendations with respect to depreciation should all be rejected, as those recommendations are not based on sound analysis, but instead only seemed designed to change the amount of the existing depreciation reserve imbalance, rather than establishing the correct depreciation lives, rates, and net salvage rates. Regarding the Training Center, both Staff and OCA raise old issues that have already been explored in other proceedings. Further, the extended period of regulatory uncertainty with respect to the Training Center has been untenable and has not served any party well. Finally, the Company finds that the "follow-up" work performed by LCG, while mostly highlighting positive results from a Liberty perspective, had significant shortcomings in the LCG-Staff contracting process, the scope of the actual work performed, and in the apparent failure to consider all available information, including the Company's response to the draft report.

II. DEPRECIATION

Q. What adjustments did Staff make to depreciation?

A. Staff made two types of adjustments that impacted depreciation expense. First, Staff adjusted the average service lives ("ASL") of plant in various Federal Energy Regulatory Commission ("FERC") accounts. Second, Staff recommended an extended 12-year amortization period for a depreciation reserve imbalance, as compared to the three-year period proposed by the Company.

Q. To which FERC accounts did Staff make adjustments to the ASLs?

A. That information was provided in Attachment AI-DEP-2,[1] and the accounts to which Staff adjusted the ASLs as compared to the Company's proposals are summarized in Table 1 below:

[1] Testimony of Al-Azad Iqbal, Bates 000031 – 000033.

TABLE 1

FERC Account	Description	Current ASL	Company Proposed ASL	Staff Proposed ASL (b)
303.00	Capitalized Software	7.0	6.2	**7.0**
381.00	Meters	35.0	32.0	**35.0**
381.10	Meters-Instrument	35.0	32.0	**35.0**
381.20	Meters - ERTs (a)	35.0	15.0	25.0
382.00	Meter Installations	35.0	32.0	**35.0**
391.10	Office Furniture & Equip.-Computers	18.0	10.0	11.0
397.00	Communication Equipment	15.0	10.0	**15.0**
398.00	Miscellaneous General Equipment	15.0	15.0	12.0

(a) Attachment AI-DEP-2 incorrectly showed the Company's proposed ASL for account 381.20 as 32.0 years.

(b) Items in **bold** are those for which Staff recommended retaining the existing ASLs.

Q. Did Staff explain how its recommended ASLs for each of those accounts were derived?

A. Other than a brief discussion of FERC accounts 381[2] and 382, including the subaccounts in account 381, Staff's testimony contained no discussion supporting the proposed changes to accounts 303, 391.1, 397, and 398. In response to a discovery request,[3] Staff provided a two-sentence description of how the recommended ASLs were determined, but the predominant recommendation was to leave the ASLs unchanged as determined in the prior study that was based on plant in service as of December 31, 2006. For those FERC accounts, other than account 381.2 (see below) where Staff recommended a change to the ASL, specifically 391.1 and 398, Staff provided no explanation about how

[2] For readability purposes, the extra zeroes in the account numbers have not been included in the text of this testimony.

[3] See Attachment SEM-1-Rebuttal, Staff's response to LU 1-4.

its recommended ASLs were determined. In summary, Staff's explanation for leaving various ASLs unchanged was simply its conclusion that there was an "absence of any compelling reason" to change the ASLs from 2006, despite the fact that Company witness Paul Normand of Management Applications Consulting provided the reasoning based on the 2017 work he performed, coupled with his experience and judgment. Thus, Staff's recommendations are arbitrary and not based on any independent analysis.

Q. What was Staff's reasoning for the proposed changes to the ASLs for meter-related accounts 381 and 382?

A. Staff correctly noted that when the prior depreciation study was performed in Docket No. DG 08-009, which was based on 2006 plant data, the items in accounts 381, 381.1, 381.2, and 382 were all combined into one account: account 1360. That account combination is understandable, as account 1360 was based on the Commission's gas chart of accounts, which had been in use since 1939, so a more detailed breakdown was not provided in that former chart of accounts. In the current study performed by Mr. Normand, the data was segregated for better classification and examination purposes based on the Company's accounting records.

Q. Does the more detailed segregation allow for a better analysis of meter-related items for depreciation purposes?

A. Yes. As a specific example, account 381.2 includes encoder receiver transmitters ("ERTs"), which allow for remote meter reading. Those electronic devices have a shorter life than the meters, so it is logical to segregate the ERTs into a separate subaccount and depreciate them over a shorter life. Based on his analysis and experience, Mr. Normand proposed a 15-year life.

Q. What was Staff's rationale for proposing a 25-year life for ERTs?

A. Staff's recommendation was not based on analysis related to the actual useful life of the ERTs. Rather, Staff's recommendation was based on a gradual approach of shortening the life from the current 35-year ASL that was a result of the former grouping of meter-related assets. According to Staff, "[t]his will help to smooth out the reserve variance."[4] Further, "Staff and the Company can revisit this issue and adjust the ASL accordingly in future studies."[5]

Q. Please describe the shortcomings of Staff's recommendation.

A. First, the purpose of preparing a periodic depreciation study, as described in Mr. Normand's testimony, is:

> …to develop depreciation accrual rates reflective of engineering judgment, current industry and specific company experience, and current projections for the future, relative to the particular depreciable assets under study. The objective of depreciation as an element of the cost of service is to provide for the appropriate and equitable recovery of the investments in depreciable assets over a life term that assures the full recovery of the investments less estimated net salvage.[6]

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4 Iqbal testimony at Bates 000006, line 6.

5 Id. at lines 6-7.

6 Testimony of Paul M. Normand at Bates 398, line 17 through Bates 399, line 1.

Staff's recommended 25-year ASL did not involve any engineering judgment, current industry and specific company experience, or projections for the future relative to the ERTs. While Staff appears to acknowledge that the current 35-year ASL being used for the ERTs is much too long—hence, Staff suggests adjusting the ASL in future studies—Staff's recommendation defeats the purpose of performing a depreciation study periodically in order to adjust the recovery of assets to better reflect their useful lives. In fact, rather than "smooth[ing] out the reserve" as Staff suggests, a phrase the Company views as unclear as used in this context, Staff's recommendation will actually exacerbate the current depreciation reserve imbalance problem that the Company is attempting to address in this proceeding. That is, by further extending the period of time by which the ASL for the ERTs significantly exceeds their actual useful life, the current depreciation reserve deficit for that class of assets will continue to grow rather than diminish. That totally defeats the purpose of performing a periodic depreciation study.

Q. Was Staff asked to provide the analysis supporting its proposed changes to the ASLs of the various FERC plant accounts?

A. Yes, but Staff did not provide any detailed analysis. Rather, Staff's analysis for five of the eight accounts for which it proposed changes consisted of its statement that it did not see a compelling argument to change the ASL, so Staff recommended keeping the current ASL in place, even though the plant information supporting the current ASL was from 2006 and earlier years. Again, reverting back to an analysis performed on data that is more than a decade old defeats the purpose of preparing a periodic depreciation study. At no point in its testimony did Staff question the validity of the work performed by Mr. Normand.

Q. One of the accounts for which Staff recommended retaining the current ASL was account 303, Capitalized Software. Do you have any comments on that recommendation?

A. Yes, I have several comments. First, Staff failed to understand, or take into account, that the current seven-year ASL was based on data from 2006 and years prior, and the software on the books at that time was owned by the Company's prior owner. As part of the acquisition that closed in mid-2012, EnergyNorth was required to install its own computer systems and software platforms, so the data on which Staff relies is irrelevant and outdated.

Second, in this proceeding, the Company proposed to use different "buckets" for software having three, five, and ten-year ASLs, rather than the one-size-fits-all approach of having one ASL applicable to all capitalized software. This differentiated approach makes sense because certain types of software applications, by their nature, will have varying useful lives. The 6.2-year ASL included in Mr. Normand's testimony and attachments is a weighted average rate determined by using the December 31, 2016, balances of the items in each of the buckets. Since the weighted average will change as the plant balances in each bucket change over time, the Company is seeking approval of the three different ASL buckets as included and described on Bates 421 and 436 of Mr. Normand's Attachment PNM-2.

Q. Is such a multi-ASL approach for software currently in place at any other New Hampshire utilities?

A. Yes. Unitil Energy Systems, Inc. ("UES") currently uses the same three, five, and ten year ASLs for amortizing its capitalized software. Please see Attachment SEM-2-Rebuttal for a copy of a schedule provided in UES' most recent rate case, Docket No. DE 16-384, for support of this point. In that docket, UES stated that it was using the same ASLs as determined in its prior rate case, so the multiple ASLs for capitalized software apparently have been in place for some time. In DE 16-384, Staff recommended no adjustments to those ASLs. In this current proceeding, however, Staff indicated that,

> In the limited time to respond to this question, Staff was unable to find any particular instance where the Commission specifically approved depreciation rates for multiple ASLs for capitalized software. Given that each depreciation study is based on a particular company's experience and rationale to predict future life expectancy, the decision could vary from company to company.[7]

As shown in Attachment SEM-2-Rebuttal, however, the use of multiple ASLs for capitalized software is not a new concept, and support for that concept is as recent as a case that was concluded less than a year ago.

[7] See Attachment SEM-3-Rebuttal, Staff's response to LU 1-6.

Q. Please continue with your comments regarding Staff's proposal to retain the current seven-year ASL for capitalized software.

A. My third comment regarding Staff's recommendation is that a significant portion of the software assets used by the Company are also used by Granite State. In Granite State's recent rate case, Docket No. DE 16-383, a settlement was reached that included an agreement on depreciation and amortization rates. As part of that agreement, capitalized software in account 303 is to be amortized over a five-year period. In this proceeding, EnergyNorth has proposed to use the five-year ASL for those same software assets to align the service lives.

Q. Why were EnergyNorth and Granite State using different ASLs for the same assets?

A. That was a product of the different timing of each company's prior depreciation studies. The current proceeding is an opportune time to align the amortization lives of the like assets.

Q. Did Staff compare EnergyNorth's existing and proposed ASLs to those in use at other New Hampshire utilities?

A. No, Staff did not.[8] This response was surprising because at the time Staff was also in the process of filing testimony in another ongoing gas distribution rate case for Northern Utilities, Inc., Docket No. DG 17-070, which Staff filed on December 20, 2017. Mr. Normand also completed the Northern Utilities depreciation analysis. In my experience, the depreciation rates and lives of other utilities are typically reviewed as part of

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8 See Attachment SEM-4-Rebuttal, Mr. Iqbal's response to LU 1-5.

depreciation analysis, as a check when comparing existing and proposed ASLs, especially when the same consultant performed the depreciation analysis for both New Hampshire utilities that are going through a gas distribution rate case at the same time.

Q. Did you compare Staff's recommended ASLs for similar FERC accounts in the Northern rate case to the ASLs recommended by Staff in this proceeding?

A. Yes. For those accounts for which Staff recommended different ASLs for Northern as compared to EnergyNorth's filing, I found Staff's recommendations to be puzzling and, in some cases, contradictory. Table 2 below provides a comparison of the ASLs for certain FERC accounts for EnergyNorth and Northern, including Staff's recommendations:

TABLE 2

		EnergyNorth			Northern	
			Company	Staff	Company	Staff
FERC Account	Description	Current ASL	Proposed ASL	Proposed ASL	Proposed ASL	Proposed ASL
381.00	Meters	35.0	32.0	35.0	30.0	30.0
382.00	Meter Installations	35.0	32.0	35.0	33.0	33.0
391.10	Office Furniture & Equip.-Computers	18.0	10.0	11.0	12.0	11.5
397.00	Communication Equipment	15.0	10.0	15.0	11.0	11.0

For example, based on the results of Mr. Normand's depreciation study in this proceeding and his professional experience and judgment, he proposed a reduction in the ASL for account 381, Meters, from 35 years to 32 years. Staff proposed retention of the current 35-year ASL. In the Northern case, however, Staff proposed no change to the ASL and was content to leave the ASL at the current 30-year life, which is even shorter than what was proposed by EnergyNorth. Similarly, the Company proposed a change in the ASL for account 382, Meter Installations, from 35 to 32 years. In the Northern case, however, Staff did not recommend any change to Northern's existing and proposed ASL of 33 years. It is difficult to understand why Staff is recommending longer ASLs for accounts 381 and 382 for EnergyNorth, as compared to Northern. Similarly, for account 397, Communication Equipment, Mr. Normand recommended a reduction in the ASL from 15 years to 10 years, again based on the results of his analysis. In Northern's rate case, Staff was supportive of Northern's 11-year ASL, which is much shorter than its recommendation of a 15-year ASL for EnergyNorth.

Q. What was Staff's recommendation with respect to account 398, Miscellaneous Equipment?

A. Staff recommended a shorter 12-year ASL, as compared to the Company's 15-year ASL, with a resulting minimal increase to annual depreciation expense. However, as Staff's testimony did not offer any analysis to support that recommendation, similar to the accounts described above, Staff's recommendations for all of the accounts should be disregarded in their entirety.

Q. What was Staff's proposal with respect to amortization of the $10 million depreciation reserve imbalance?

A. Staff proposed using an extended 12-year amortization period, as compared to the three-year period proposed by the Company.

Q. What was Staff's justification for the proposed longer amortization period?

A. Staff offered little in the way of explanation, other than to refer to the testimony of the Company's witness, Paul Normand. However, in making that recommendation, Mr. Normand also stated that,

> *The Company's proposed amortization factors consider many additional aspects that go well beyond a depreciation study to consider.* The depreciation study itself continues to recommend a two cycle amortization of the variances *without any consideration for the impact to the reserve variances from the last ten years*.[9] (emphasis added).

This means that Mr. Normand's recommendation was based on looking at the topic of depreciation in isolation, whereas the Company's proposal took into account the entirety of the filing, including circumstances regarding the length of time over which the depreciation reserve imbalance has accumulated, along with the period of time over which the imbalance should be addressed. Over the past seven-and-a-half years the depreciation reserve imbalance has changed from a $12.4 million surplus to the present $10 million deficit through credits provided to offset depreciation expense. Extending for another 12-years the time to address this situation would create intergenerational inequity because one group of customers received the benefit of significant credits over the initial seven-and-a-half years, but present customers will have to pay higher rates to recover the accumulated deficit. The reason for preparing periodic depreciation studies is to reexamine and realign depreciation lives, rates, and net salvage rates. It thus does not

9 See Attachment SEM-5-Rebuttal, Mr. Normand's response to Staff 7-9.

make sense to unnecessarily prolong the required correction, to the point where, for some accounts, the reserve deficit will continue to grow, particularly using Staff's recommendations. Staff's recommendation on this topic should also be disregarded.

III. CONCORD TRAINING CENTER

Q. Please summarize the positions of Staff and OCA with respect to the Concord Training Center.

A. Staff and OCA both took the position that the Company should not receive any recovery of the capital costs of the Training Center. Both witnesses had similar arguments in that, in their view, the Company did not adequately explore alternatives or the costs of building the Training Center prior to construction.

Q. Have those issues previously been addressed by the Company in this case or in other proceedings?

A. Yes. Those topics were addressed at length in the February 3, 2017, joint rebuttal testimony of Mark E. Smith and Steven E. Mullen in Docket No. DE 16-383[10] and in the June 30, 2017, testimony I filed in this current proceeding.

Q. Considering the positions taken by Staff and the OCA in their current testimony, do you have extensive rebuttal to offer at this time?

A. My rebuttal to those issues, as they are not new, was already provided in my June 30, 2017, testimony, although it was apparently largely ignored by both witnesses. Rather

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[10] Docket No. DE 16-383 was a distribution rate case for Granite State.

than submit additional, repetitive rebuttal testimony here, my rebuttal at this time largely refers back to that earlier testimony. The topics of alternative training methods, alternative sites, the costs of the facility, etc. were all covered in that testimony, as required by the Commission's secretarial letter (see footnote 12 below). Further, as explained in my June 30, 2017, testimony, the Training Center has significant benefits. Staff, while providing a reference to the multiple pages of that testimony discussing those benefits, discounted them in its testimony. OCA claimed that the benefits were not relevant. This is in spite of LCG's specific reference to the benefit of using the Training Center as a contingency site for the Call Center in the event of a loss of the Londonderry office.[11] Yet, despite the benefits, some acknowledged by Staff's consultant, Staff and OCA have taken the position that the Company should not receive any cost recovery. Their position is unreasonable.

Q. Do you have any general comments about the regulatory review that has taken place to date with respect to the Training Center?

A. Yes. Addressing the topic of the Training Center over the last few years has been exasperating. As noted in my June 30, 2017, testimony, this is the fourth docket where the Training Center has been a topic of discussion and review. None of the issues that are included in the current testimonies of Staff and OCA are new, and have been either addressed or subject to review in those prior dockets. The underlying documents concerning cost approvals, alternatives explored, training costs, etc. have not changed

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11 See Bates 000089 of Attachment SPF-8 to the testimony of Stephen P. Frink.

and, practically speaking, no new evidence or revelations arose in this current docket. As of March 31, 2018, the Training Center will have been in service for <u>three years,</u> yet despite that passage of time, there still has been no closure. As it currently stands, the status of the affiliate lease agreement between EnergyNorth and Granite State that was filed in May 2016 in Docket No. DA 16-560 still remains in limbo without a recommendation from Staff, although the terms of the lease and its financial implications to both companies have been reviewed in Docket Nos. DA 16-560, DE 16-383, and DG 17-048. My June 30, 2017, testimony was specifically filed to address issues in a May 24, 2017, secretarial letter issued in DA 16-560,[12] yet Staff and the OCA both apparently chose to largely ignore that testimony. That testimony included a discussion of the costs of the facility, including unexpected costs. Staff's and OCA's review of the Training Center has been a regulatory form of "kick the can," which is unproductive and inefficient from a regulatory and operating perspective. As the years have progressed and issues surrounding the Training Center remain open, the Company has nevertheless proceeded to act in a prudent manner in owning and operating the facility, controlling its costs, and making full use of the facility for purposes beyond technical training of union personnel. Both EnergyNorth and Granite State have continued to adhere to the terms of the lease agreement that was filed with the Commission in accordance with RSA 366:3, and that has been in effect since its execution in May 2016.

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[12] The May 24, 2017, secretarial letter consolidated DA 16-560 into DG 17-048, and required the Company to address certain statutory requirements and pricing provisions found in Chapter Puc 2100. Although those topics were addressed in my June 30, 2017, testimony, no questions were asked during discovery nor were those topics even discussed in Staff's testimony in this proceeding.

Q. Has Staff's position with respect to the Training Center vacillated over time?

A. Yes, which has led to further frustration. Staff filed testimony in the DE 16-383 proceeding recommending that Granite State not be allowed to recover its lease expense paid to EnergyNorth for its use of the Training Center. However, despite that position, and despite having since received rebuttal testimony from Granite State on that issue, during the May 26, 2017, prehearing conference in the current proceeding, Staff put forward the following position:

> The Concord Training Center, in particular, is of concern to the Staff, *not necessarily in concept*, as much as it is in the amount of the Training Center, as we understand its current cost versus its projected cost when it was first mentioned to the Staff several years ago.[13] (emphasis added).

That position certainly led the Company to believe that Staff was not opposed to the construction and existence of the Training Center, but continued to have questions about some of the capital costs. The Audit Staff, in consultation with the Gas Division, conducted an audit of the capital costs and made certain recommendations that were included in their Final Audit report.[14] Although the Company did not agree with all of the Audit Staff's recommendations, including some that were related to the installation of additional safety features such as safety rails and stair grip tape, the Company agreed to reduce the capital costs by $166,627. Having read Staff's testimony in this proceeding, it appears that Staff has now changed its position again and the work of the Audit Staff was

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13 Transcript of May 26, 2017, prehearing conference at 10.

14 See Bates 128 – 129 of Attachment JPL/DMH-06 included with the testimony of Staff witnesses Jayson P. Laflamme and Donna H. Mullinax.

for naught. Having to deal with such uncertainty and changing positions over a period of years and dockets is inefficient.

Q. Your June 30, 2017, testimony in this proceeding included an invitation for the Commission, Staff, and the OCA to visit the Training Center. Have any visits taken place?

A. Yes. An offer was extended to Staff and OCA during the course of this proceeding, and on August 28, 2017, representatives of Staff visited the facility. During that visit, one of the Company's technical trainers was on hand to provide explanations of some of the training equipment and methods used at the facility.

Q. Did Staff question any of the expenditures or otherwise have any critical comments during that visit?

A. No. To the contrary, Staff seemed appreciative of the opportunity to tour the facility and for having a technical trainer on hand for providing relevant training detail. There was even inquiry regarding whether there was the ability to expand the facility in the future, if need be. While Liberty certainly appreciated the positive impressions left by that visit, it is all the more frustrating to then receive testimony from Staff stating that the facility should not have been built and that the Company should not be allowed any cost recovery for the facility.

Q. What was Staff's specific recommendation regarding cost recovery related to the Training Center and training costs in general?

A. Staff's concluding remarks on the topic state, "Staff recommends that the [C]omission deny recovery of training center costs bur (sic) allow recovery of training costs unrelated to the training center."[15] In making that recommendation, however, Staff did not identify any particular costs for which it was recommending recovery or non-recovery. It also leaves open to question whether this recommendation covers capital costs, operating costs, or both. As for "training costs unrelated to the training center," that can be interpreted to mean that if Liberty had somehow used other means to replace all of the training that took place at the Training Center, including training beyond technical training of union employees, Staff would recommend recovery of those costs, whatever they turned out to be. Staff's recommendation contradicts its previous positons, disregards previously filed testimonies and responses, and raises more questions than it answers.

IV. LIBERTY CONSULTING "FOLLOW-UP" REPORT

Q. Please provide some context for the "follow-up" work performed by the Liberty Consulting Group for this rate proceeding.

A. The Settlement Agreement in Docket No. DG 14-180, EnergyNorth's prior distribution rate case, included a provision for a targeted audit of the Company's customer service and finance and accounting functions. LCG was hired by the Commission to perform

[15] Iqbal testimony at Bates 000027, lines 15 – 17.

that audit, and issued a final report in August 2016. The "follow-up" work to be performed as part of this rate case was to provide an updated status of the recommendations and conclusions contained in that report with respect to customer service, planning, and budgeting.[16]

Q. What was your role in relation to LCG's follow-up work?

A. I was the Company's primary point of contact for the LCG engagement. All communications and responses were coordinated through me.

Q. At whose request did LCG perform this follow-up work?

A. That is unclear. According to Staff, "In conjunction with this proceeding, the Commission asked Liberty Consulting to review and report on the progress made by Liberty in implementing the LCG recommendations,"[17] although it appears the work was conducted at the request of Commission Staff.

Q. Did the Company request information from Staff that could shed light on what sort of "follow-up" information the Commission was seeking?

A. Yes. Since the communications pertained to a contract for which the Company's customers would ultimately be paying, Liberty requested copies of the communications between Staff, LCG, and the Commission to attempt to gain a better understanding of what information the Commission was seeking.

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16 For ease of reference, the initial LCG report and the "follow-up" report will hereinafter be referred to as the "August 2016 Report" and the "November 2017 Report," respectively.

17 Testimony of Stephen P. Frink at Bates 000031, lines 18 – 20.

Q. Did Staff provide any of the requested information?

A. No. Staff objected to the two relevant discovery requests and included in the basis for the objection that the requested information was "not relevant to the contents of any of the testimony submitted by Staff's witnesses in this docket,"[18] despite Staff's clear statement that the Commission had requested the additional work of LCG.

Q. Why does it matter whether it was the Commission or Commission Staff that requested the work?

A. Staff's statement in testimony makes it seem as though the Commission was the driving force behind the follow-up work. If that is the case, then the Company would have expected Commission Staff would have provided a complete summary of the entire November 2017 Report in its testimony, to fully inform the Commission of the current status of the various recommendations included in the August 2016 Report. However, Staff only discussed one unfavorable conclusion and paid little to no attention to the November 2017 Report's positive comments related to the review of customer service and planning and budgeting issues discussed in the August 2016 Report.

Q. What were the results of the follow-up work performed by LCG?

A. Overall, the results were quite good, but this is not apparent after reading Staff's testimony. The November 2017 Report reached favorable conclusions regarding Customer Service, but Staff chose not to even mention these positive findings in

[18] See Attachments SEM-6-Rebuttal and SEM-7-Rebuttal, Staff's responses to LU 1-30 and LU 1-33, respectively.

testimony. Similarly, regarding planning and budgeting, again the Company fared quite well in the November 2017 Report but, other than one passing sentence in Staff's testimony, one would have to refer to the entire 31-page report, which was attached to Staff's testimony as Attachment SPF-8, to ascertain the information. In fact, when Staff was asked why a summary of all aspects of the November 2017 Report was not provided, to fully inform the Commission, its response was essentially that the Commission could read the full report on its own as it was attached to Staff's testimony.[19] Staff's selective testimony gives the impression that Staff was more interested in telling a particular narrative in its testimony, so positive results were not included, and other less favorable results were highlighted, in order to advance that predetermined narrative.

Q. Did the Company have any other concerns with the scope of the current "follow-up" work?

A. Yes. Although LCG was apparently engaged to discern the current status of the topics for which there were recommendations in the August 2016 Report, the November 2017 Report inordinately focused on old projects that began as early as 2014 and were already included in the scope of the review for the August 2016 Report. The November 2017 Report did not examine whether the Company was following the recommendations of the August 2016 report in subsequent projects.

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[19] See Attachment SEM-8-Rebuttal, Staff's response to LU-1-31.

Q. Why do you think LCG was engaged to review old projects that were already part of the scope of the review of the August 2016 Report?

A. It appears that Staff was interested in having LCG review those old projects for the purpose of determining possible areas for cost disallowance.

Q. Why is this problematic?

A. Two of the projects reviewed by LCG, the Training Center and the iNATGAS facility, had already been reviewed at length by the Commission's Audit Staff as part of its audit in this proceeding. Since that work had already been performed, it was duplicative and a waste of time, effort, and customer money for LCG to review the same documents, which were already reviewed by the Audit Staff, with the Audit Staff's observations and findings included in its own Audit Report. In an attempt to avoid this wasted effort, at the beginning of LCG's follow-up engagement, the Company suggested that LCG leverage the examination work already performed by the Audit Staff. However, LGC did not agree and, to the best of the Company's knowledge, LCG never reached out to the Audit Staff to discuss the work that had already been performed.

Q. In its testimony, did Staff make use of LCG's work with respect to those old projects?

A. Apparently not. With respect to the Training Center, Staff took the position that the facility should not have been built in the first place., Therefore, all of the work that LCG did with respect to the details of the Training Center costs seems to have been for naught and was wasted effort. Staff also ignored the work of the Audit Staff in reviewing the

Training Center costs. The iNATGAS facility shares a similar story. Staff's position regarding the facility was essentially derived through discovery responses, rather than through any work performed by LCG or the Audit Staff.

LCG's conclusions regarding the capital expenditure documentation for the Training Center and for the iNATGAS facility are issues that were already known and involved processes that have been addressed by the Company.[20] As those old projects occurred during the time period reviewed as part of LCG's prior work, no new revelations could be gained as to whether the Company had improved its planning and budgeting processes in subsequent years, and this point was acknowledged by LCG in its November 2017 Report.[21] Including those old projects in the scope of the "follow-up" work was puzzling at the beginning of the engagement and, given Staff's failure to refer to LCG's work on those projects, it remains just as puzzling now. With that in mind, while the Company does not fault LCG for completing work it was engaged to perform, it seems that the contract involved work for which the Company should be reimbursed, in order to save its customers from having to pay for this duplicative, unnecessary, and apparently wasted effort as part of rate case expenses.

[20] See the Joint Rebuttal Testimony of Tisha A. Sanderson and Steven E. Mullen that is being contemporaneously filed with this testimony for further discussion of the documentation and improvements made to the documentation processes. See also Bates 104 – 108 of Mr. Frink's Attachment SPF-8.

[21] See Bates 102 – 103 of Mr. Frink's Attachment SPF-8.

Q. Did the Company obtain a copy of LCG's contract for this engagement?

A. Yes. The Company requested a copy of all Staff's consultants' contracts for this engagement.[22] Although Staff considers the provision of consultant contracts to Staff following request to be "the ordinary course of Commission business,"[23] the Company believes that "the ordinary course of business" should be altered.

Q. Please explain.

A. The Commission and Commission Staff should, as an ordinary business practice, automatically provide a copy of any consultant contract to any utility, for which the utility and/or its customers will ultimately be responsible for paying the bill. As the process now works, the Commission and Commission Staff hire consultants, the consultants perform work and provide invoices to Staff for review, and then the invoices are sent to the utilities for payment. The utilities are typically not involved in the Request for Proposal or contracting processes, so unless a copy of a contract is specifically requested, the utility is not aware of the specific terms and conditions, scope, billing rates, tasks to be performed, etc. As the utilities will then seek to recover the costs of such consultants, it is important that the utilities can verify the costs incurred on each invoice that is approved for payment, otherwise they would be subject to non-recovery. While one would expect that such review would be performed by Staff, there have been instances where costs included on invoices were either for other topics or entirely for

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[22] The Company needed to make a similar request for all consultant contracts in Docket No. DE 16-383, Granite State's most recent distribution rate case.

[23] See Attachment SEM-6-Rebuttal.

another entity. It should not take a request by a utility for a copy of the consultant's contract to be provided prior to the engagement commencing.

Q. Does Liberty have concerns with the comment process that was conducted following LCG's issuance of its draft follow-up report?

A. Yes. Those concerns started with, and are the same as the concerns, from the August 2016 Report. Following completion of its draft reports, LCG provided the Company an opportunity to comment on factual issues and identify any confidential matters. In both instances, the Company provided comments and other feedback.[24] LCG was then free to take into account or not take into account any of the comments as it saw fit. However, neither of the final reports identified EnergyNorth's comments (as is the practice with the Audit Division's audit reports, see below) and did not provide any explanation as to why LCG accepted or rejected EnergyNorth's comments. While EnergyNorth fully understands that the reports are LCG's work product and LCG can write its reports the way that it wants, there is a lack of transparency as to the Company's comments and responses to the reports. The reader does not know the Company's views on certain topics and why LCG may have rejected them, which are important to consider regardless of whether LCG agrees with those views. In the Company's opinion, readers would be better served from being able to read the Company's response to certain items in the body

[24] The Company's response to the August 2016 Report were submitted on August 25, 2016, in Docket No. DG 14-180. The Company's comments on the draft November 2017 Report were simultaneously provided to LCG and Staff on November 20, 2017.

of the LCG reports, so they could develop their own assessments, having read both sides of an issue, particularly where they may be a difference of opinion.

Q. Were you able to assess LCG's consideration of the Company's comments to the draft report?

A. Yes. After receiving a copy of the final version of the November 2017 Report when it was attached to Staff's testimony,[25] I examined LCG's final report and performed a page-by-page comparison to determine how and if the Company's comments were taken into account. Attachment SEM-9-Rebuttal is a document containing all 36 of the Company's comments to the draft report, with references to the Bates numbering of Staff's Attachment SPF-8. The items that are highlighted in yellow—20 of them—are comments that were ignored or disregarded without comment by LCG in preparing its final report and by Staff in preparing its testimony. Again, while the Company certainly understands that LCG and Staff may not agree with the Company's comments, a quick read of them will reveal to the reader that many are quite substantive and directly challenge statements made in the final report.

Q. How are the Company's views taken into account when an audit is performed by the Commission's Audit Staff?

A. For each issue identified by the Audit Staff, the Company is allowed to provide its response, which sometimes includes additional explanatory information, and that

[25] Another shortcoming of the process for the current LCG engagement is that the Company was not provided with a copy of the final version of the report until it was attached to Mr. Frink's testimony.

response becomes part of the final report. As the audit report remains the work product of the Audit Staff, the Audit Staff provides its final comments on each issue after taking the Company's comments into account. The Audit Staff's final comments are also part of the final audit report and in many cases the Audit Staff will agree with the Company's comments. Using such a process better informs the reader as to the details of a particular topic as the comments are all contained in one document.

Q. How have the Company's comments and responses been handled with regard to the August 2016 and November 2017 reports issued by LCG?

A. With respect to the August 2016 Report, the Company filed comments that appear in a separate document. As for the November 2017 Report, Staff informed the Company that the way to file comments that could be publically viewed would be through rebuttal testimony.[26] That does not seem to be a process that serves anyone well.

Q. Why is it important that the Company's comments be included in the same document as the LCG reports?

A. Including the Company's comments is important because it is too easy for the reader to only pay attention to the LCG reports and ignore the Company's comments, regardless of whether they are aware that the comments exist. The testimony put forth by Staff and the OCA in this case is a perfect example. Both Staff and OCA cited recommendations and what appear to be conclusions from LCG's August 2016 Report, but neither

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26 See Attachment SEM-10-Rebuttal, a copy of an email exchange between, Liberty, LCG, and Staff over the period of November 1, 2017, though November 9, 2017.

acknowledged that the Company provided comments that in many cases established that the Company had either already addressed the issue, was in the process of addressing the subject areas, or disagreed with the recommendation or conclusion. Rather, the testimony of both witnesses leaves the reader with the incorrect impression that the circumstances are essentially unchanged. While OCA did not have the benefit of having read the November 2017 Report prior to filing testimony, OCA was aware that LCG had been engaged to perform “follow-up” work to its August 2016 Report. Staff chose to recite certain recommendations from the August 2016 Report, without acknowledging that the Company had provided a response, essentially giving the appearance that it was necessary for the “follow-up” work to be performed to see what, if anything, had changed.

Q. What are your final comments with respect to the LCG “follow-up” review?

A. Overall, the Company fared very well in LCG’s assessment of how recommendations in its August 2016 report were addressed by the Company, although Staff failed to acknowledge those positive results. LCG obviously performed the work that it was contracted to do. However, in the Company’s view, some of the contracted work strayed from the stated purpose of “follow-up” work, was not relied on or referenced in Staff’s testimony, and was duplicative of work already performed by the Audit Staff, and, therefore, represents an inefficient use of time and funds. The Company and its customers should not be held responsible for the resulting costs of that work.

Further, the process for the Company to provide comments on the draft report suffered from a lack of transparency and necessitated the need for rebuttal testimony to give a full airing of the Company's comments. The Commission should take note of the Company's comments in Attachment SEM-9-Rebuttal to have a more complete picture of the circumstances surrounding some of the statements made and conclusions reached by LCG. The Commission and Staff should also take the discussion about transparency in the comment process into account with respect to future consultant engagements involving Liberty or any other utilities.

Q. Does this conclude your testimony?

A. Yes, it does.