



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

Docket No. DE 16-383

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities
Distribution Service Rate Case

REBUTTAL TESTIMONY

OF

STEVEN E. MULLEN

February 3, 2017

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List of Attachments

Attachment SEM-1	Cannata Response to GSEC 1-12
Attachment SEM-2	Selected Pages of September 24, 2015 Draft LCIRP Meeting Presentation to Staff
Attachment SEM-3	Brennan Response to LU 1-16

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1 **I. INTRODUCTION AND QUALIFICATIONS**

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

3 A. My name is Steven E. Mullen. My business address is 15 Buttrick Road, Londonderry,
4 NH 03053.

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

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

10 **Q. On whose behalf are you testifying today?**

11 A. I am testifying on behalf of Granite State.

12 **Q. Have you previously submitted testimony in this proceeding?**

13 A. Yes. I submitted prefiled testimony as part of the Company’s April 29, 2016, filing for
14 an increase in distribution rates. My professional background and qualifications are
15 contained in the prior testimony.

16 **II. PURPOSE OF TESTIMONY**

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

18 A. My testimony provides comments on and is in rebuttal to certain aspects of the December
19 16, 2016, testimonies of Michael D. Cannata, Jr. and Jay E. Dudley filed on behalf of
20 Commission Staff (“Staff”), and Office of Consumer Advocate (“OCA”) witness James

1 Brennan. With respect to the Staff witnesses, I address positions taken by Staff regarding
2 planned distribution planning policy changes where information was made available to
3 Staff prior to this proceeding and Staff conducted no inquiry regarding the policy change
4 for a significant period of time following notification of those changes. My testimony
5 describes how such passage of time can impact the Company's planning and budgeting
6 processes.

7 Regarding Mr. Brennan's testimony, I address certain characterizations made in his
8 testimony as well as the shortcomings of his benchmark analysis.

9 **Q. Please summarize your testimony.**

10 A. A primary subject of the Dudley and Cannata testimonies relates to changes in actual
11 versus budgeted costs for projects undertaken by the Company. Most of Staff's attention
12 was given to variances in annual budgeted and actual capital spending with very little
13 attention given to the underlying reasons for those variances. An important reason for
14 budget variances was carryover work from one year to another.

15 Carryover work can happen for a variety of reasons, and considerable discussion of
16 carryover work, particularly with respect to certain projects, is included in the transcript
17 of the June 17, 2016, hearing on temporary rates in this proceeding. My testimony
18 addresses how budget variances related to carryover projects can develop due to factors
19 such as the action or inaction of Staff as well as other regulatory delays. The point is not
20 to cast blame; rather it is to explain how, despite the best efforts of the Company,
21 variances can develop in annual capital spending due to factors beyond its immediate

1 control. Those same factors can impact operation and maintenance (“O&M) expenses as
2 well as capital costs.

3 As for Mr. Brennan’s testimony, his benchmark comparisons are unreliable because: (1)
4 he misunderstood the Company’s data; (2) he proceeded with his analysis despite
5 knowing that how the Company recorded its costs as it transitioned from TSAs to
6 performing tasks on its own made comparisons very difficult; and (3) Mr. Brennan’s
7 “peer analysis” did not take into account the many variations between utilities that
8 preclude simple comparisons. In addition, Mr. Brennan’s recommendation that the
9 Commission reject the Company’s proposed step mechanism for future capital projects in
10 favor of some type of performance-based regulation should be disregarded because he
11 provides no specific proposal and no supporting rationale.

12 **III. COMMENTS ON STAFF TESTIMONY**

13 **Q. What is one of the primary issues identified by Mr. Cannata in his December 16,**
14 **2016, testimony?**

15 A. One of the topics Mr. Cannata discussed in his testimony is the Company’s change to its
16 distribution planning criteria.

1 **Q. When did Mr. Cannata first learn of the changes to the Company's planning**
2 **criteria?**

3 A. Mr. Cannata stated that he first became aware of the change to the planning criteria on
4 August 5, 2016, during the discovery portion of this proceeding.¹

5 **Q. When was Staff first made aware of the above changes?**

6 A. Staff was made aware of the changes to the distribution planning changes during the
7 Company's process of drafting its most recent Least Cost Integrated Resource Plan
8 ("LCIRP"). The Company met with Staff on April 24, 2015, and September 24, 2015,
9 provided updates on the status of the LCIRP, and discussed summaries of some of the
10 information to be contained in the LCIRP, which was scheduled to be filed in January
11 2016. Although the purpose of those meetings was not to seek Staff approval of any
12 aspect of the upcoming filing, the meetings served as a way to receive Staff's comments,
13 feedback, and possible objections on various aspects of the LCIRP as it was being
14 developed.

15 **Q. Did the information provided at those meetings include any information regarding**
16 **the Company's changes to the planning criteria as compared to the planning criteria**
17 **previously used by the Company's prior owner, National Grid?**

18 A. Yes. For example, Attachment SEM-2² is a copy of the information provided during the
19 September 2015 meeting that covered the Company's changes to its planning criteria.

¹ Attachment SEM-1, Cannata response to data request GSEC 1-12.

² Copy of cover page and relevant pages from September 24, 2015, presentation.

1 **Q. Did Staff raise any questions regarding the changes to the planning criteria during**
2 **or after those meetings?**

3 A. No. Although the primary nature of the meetings was to keep Staff informed about the
4 status of developing the LCIRP, the Company was open to receiving comments and Staff
5 was free to make comments on any of the material presented during the meetings.

6 **Q. When was the LCIRP filed?**

7 A. Granite State filed the LCIRP on January 15, 2016. The next activity in the docket was
8 the Commission's Order of Notice dated August 3, 2016.

9 **Q. When did the Company first receive any inquiry regarding its distribution planning**
10 **criteria?**

11 A. Staff's first questions on the distribution planning criteria were received in late July 2016
12 during the fourth round of discovery in this rate case proceeding. This was the first time
13 the Company was aware of Staff's skepticism of the new planning criteria, many months
14 after first being informed.

15 **Q. Given the technical nature of the distribution planning criteria, could Staff have**
16 **sought assistance from consultants in understanding the potential impact of the**
17 **changes to the criteria prior to that time?**

18 A. Yes. The Commission periodically retains experts under general consulting contracts to
19 assist Staff with technical subjects as the need arises. To my knowledge, no consultants
20 were contacted regarding the Company's change to its planning criteria prior to Mr.
21 Cannata's involvement in this rate case.

1 **Q. Why is knowing this timeline of events relevant to this rate case?**

2 A. The sequence of events is important in demonstrating how the passage of time can impact
3 the Company's planning and budgets and result in the types of budget "overruns"
4 testified to at length by Mr. Dudley. I repeat that this is not to cast blame, but to
5 demonstrate how events beyond its control can impact the Company's planning and
6 budgeting. The Company is now facing criticism of the changes in planning criteria —
7 changes that have been in place for some time — which could directly impact the
8 potential scale and timing of projects. If the Commission accepts Mr. Cannata's
9 recommendation that Liberty not continue with its new planning criteria, the likely
10 domino effect is that: a) a project's scope may change due to reverting to the Grid
11 criteria; b) a planned project could be pushed from Year 1 to Year 2, for which the budget
12 has already been approved, thereby creating a budget "overrun" for that project in Year 2
13 and an "underrun" in Year 1 when the spending was originally planned; and c) it could
14 result in Year 1's capital dollars being shifted to other projects that may now be brought
15 forward from Year 2, again resulting in an "overrun" for the moved projects in Year 1
16 and an "underrun" in Year 2. Further, as projects are pushed into the future the
17 associated costs will undoubtedly change. Any change to planned capital projects will
18 have a corresponding impact on planned O&M spending.

1 **Q. Are there other ways that Staff's actions or inactions have impacted the costs**
2 **incurred by the Company and ultimately its customers in this proceeding?**

3 A. Yes. Staff's use of consultants in this proceeding and the management of their
4 underlying contracts have also caused uncertainty and will be a topic of discussion in
5 determining the total rate case expenses to be recovered from customers.

6 **Q. What are your concluding comments with respect to Staff's testimony?**

7 A. There are many factors that impact a utility's capital and O&M spending in any given
8 year, some of which are within a company's control and others that are not. My point is
9 not to criticize but to flatly point out the reality that comes with being a regulated utility.
10 It is important to recognize all of the factors that can be at play when a utility's costs, and
11 changes in those costs, are being reviewed.

12 **IV. COMMENTS ON OCA WITNESS BRENNAN'S TESTIMONY**

13 **Q. What was Mr. Brennan's approach to analyzing Granite State's rate case filing?**

14 A. Mr. Brennan attempted to develop some benchmark comparisons and then derive
15 conclusions from those comparisons.

16 **Q. Do you have any overall comments regarding the validity of Mr. Brennan's analysis**
17 **and his resulting conclusions?**

18 A. Yes. Mr. Brennan's benchmark comparisons suffer from a number of flaws. First, Mr.
19 Brennan misunderstood much of the data he was presented and did not take advantage of
20 opportunities to develop a better understanding. Second, despite being informed that
21 some costs were incurred under Transition Services Agreements ("TSAs") with National

1 Grid and were recorded in different FERC accounts than when those same services were
2 later performed by the Company, a fact that would undermine the meaningfulness of any
3 comparisons over a number of years, Mr. Brennan chose to nevertheless proceed with his
4 analysis. Finally, a significant portion of Mr. Brennan's testimony includes a "peer
5 analysis" he performed using information from FERC Form 1s for other electric utilities
6 across the region and the country without examining how those other utilities are either
7 similar or dissimilar to Granite State. Thus, it is impossible to derive meaningful
8 conclusions from that analysis.

9 **Q. In what ways did Mr. Brennan apparently not understand some of the Company's**
10 **information?**

11 A. On Bates 129-130 of his testimony, Mr. Brennan discussed his difficulty tracing all
12 account balance items from the Company's rate case filing to the FERC Form 1. This
13 created what he called "distortions in trend analysis, which is a crucial analytical step in
14 utility financial analysis." Bates 130, lines 2-3. The Company explained that the same
15 data was used to prepare the FERC Form 1 and the rate case filing, which data originated
16 from the Company's general ledger, but that due to differences in presentation some
17 amounts were necessarily grouped differently in the various reports. The OCA and Staff
18 were given the same spreadsheet model that provided the necessary details to trace
19 amounts from the trial balance to the rate case filing. The Commission's Audit Staff
20 went through the same tie-out exercise and did not state an inability to track the various
21 account balances from one report to another. Further, I personally offered to make
22 myself available to Mr. Brennan to assist him with tying out any amounts with which he

1 was having difficulty, yet Mr. Brennan did not avail himself of that opportunity. Thus,
2 Mr. Brennan's difficulty understanding some of the data he was analyzing raises
3 questions about the reliability of his review.

4 Mr. Brennan's testimony also discussed certain "acquisition adjustments" that occurred
5 during 2012 and 2013, and confused those with an "acquisition adjustment" that appears
6 in the 2015 FERC Form 1 (and prior years). Supporting information was provided and it
7 was explained that none of the entries impacted the Company's rate case filing. Despite
8 that, Mr. Brennan claimed that the "accounting changes...add[ed] complexity to the
9 analytical process." Bates 132, lines 6-7. In fact, the "accounting changes" had no
10 impact on his analysis because none of the balance sheet accounts impacted by those
11 entries entered into Mr. Brennan's analysis.

12 **Q. Please explain the difference in accounting for costs incurred under the TSAs versus**
13 **how the same types of costs were accounted following termination of the TSAs.**

14 A. When various tasks were being performed by National Grid, the costs for those services
15 were appropriately recorded as "Outside Services," an administrative and general
16 ("A&G") account, even though some of the tasks that were being performed were in the
17 nature of operation and maintenance ("O&M") expenses. As certain TSA-performed
18 services gradually transitioned to the Company over the years 2012 through 2014, the
19 costs of those services likewise shifted from being recorded as A&G costs (under the
20 TSAs) to O&M costs (when performed by Granite State). This appropriate change in
21 how the Company recorded the same underlying activities would obviously lead to
22 inconclusive trend analyses when examining costs over a number of years.

1 **Q. Was Mr. Brennan aware of this difference?**

2 A. Yes. He discussed this accounting difference on Bates 130-131 of his testimony and
3 described it as a “hurdle,” but nonetheless proceeded with his analysis without making
4 any adjustments to overcome that hurdle.

5 **Q. Bates 132-149 of Mr. Brennan’s testimony included many charts related to the peer
6 analysis he performed. What are your comments on that analysis?**

7 A. Although Mr. Brennan obviously spent substantial time gathering the information, the
8 analysis only consists of a summary of FERC Form 1 data for various utilities. A
9 comparison of FERC Form 1 data can have some limited use, but in order to properly
10 understand and compare the data for subjects such as growth in net plant and O&M
11 spending, it is important to take into consideration many other factors for each utility,
12 such as:

- 13 • Service territory (urban, rural, combination);
- 14 • Timing of most recent significant upgrades;
- 15 • Historical capital spending;
- 16 • Extent of overhead vs. underground distribution;
- 17 • Growth experienced within the service areas;
- 18 • Age of the distribution system and associated equipment;
- 19 • Whether a utility is stand-alone or part of a holding company structure; and
- 20 • Whether services are performed internally or by outside contractors.

21 Understanding the influence of each of these factors on capital and O&M spending is
22 crucial to being able to draw meaningful conclusions from data gathered from FERC

1 Form 1 reports. Such analysis is lacking in Mr. Brennan's testimony. As a result, it is
2 difficult to rely on his conclusions.

3 **Q. Do you have any final comments regarding Mr. Brennan's testimony?**

4 A. Yes. At the very end of his testimony, Mr. Brennan recommended that the Commission
5 reject the Company's proposed step mechanism for future capital projects. He further
6 recommended that some type of performance-based regulation should be used for
7 recovery of distribution plant asset costs. When asked for further details about his
8 position regarding the use of performance-based regulation, Mr. Brennan stated that it
9 was beyond the scope of his testimony, although he cited a reference provided in his
10 testimony on that very subject. Mr. Brennan's recommendation on the topic of
11 performance-based regulation should thus be rejected as unsupported.³

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

13 A. Yes, it does.

³ Attachment SEM-4, Brennan response to LU 1-16.

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