

From: [Schwarzer, Mary](#)
To: [Trottier, Jacqueline](#)
Subject: FW: DG 21-130 Liberty EnergyNorth COG and DG 21-132 Liberty-Keene COG--- Please confirm witness lists and exhibits and exhibit list ASAP
Date: Thursday, October 21, 2021 9:02:34 AM

Hi Jackie:

Please make this as an exhibit (PDF) in BOTH

- DG 21-130 Liberty EnergyNorth and in
- DG 21-132 Liberty Energy-Keene.

(The email chain too). I'll send you exhibit numbers when I can.

Thank you,

Mary

From: Michael Sheehan <Michael.Sheehan@libertyutilities.com>
Sent: Wednesday, October 20, 2021 8:14 PM
To: Schwarzer, Mary <Mary.E.Schwarzer@energy.nh.gov>; Kreis, Donald <Donald.M.Kreis@oca.nh.gov>; Dexter, Paul <Paul.B.Dexter@energy.nh.gov>
Cc: Cheryl Kimball <ckimball@keeganwerlin.com>; Kevin F. Penders <kpenders@keeganwerlin.com>
Subject: RE: DG 21-130 Liberty EnergyNorth COG and DG 21-132 Liberty-Keene COG--- Please confirm witness lists and exhibits and exhibit list ASAP

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Mary,

See our responses to your questions below.

Mike

Michael Sheehan | Liberty Utilities (New Hampshire) | Senior Counsel
P: 603-724-2135 | C: 603-425-8085 | E: Michael.Sheehan@libertyutilities.com

From: Schwarzer, Mary <Mary.E.Schwarzer@energy.nh.gov>
Sent: Wednesday, October 20, 2021 12:58 PM
To: Michael Sheehan <Michael.Sheehan@libertyutilities.com>; Kreis, Donald <Donald.M.Kreis@oca.nh.gov>; Dexter, Paul <Paul.B.Dexter@energy.nh.gov>
Subject: RE: DG 21-130 Liberty EnergyNorth COG and DG 21-132 Liberty-Keene COG--- Please confirm witness lists and exhibits and exhibit list ASAP

Hi Mike and Don

- If by the “R4 issue,” i.e. the “RDAF R3-R4 issue” Liberty and the OCA mean “*whether Liberty’s request to recover the \$ 4 million Liberty has identified as a “mismatch” constitutes retroactive rate making; and if not retroactive ratemaking, whether Liberty should be prohibited from collecting the refund based on the record in relevant dockets,*” then so long as the PUC says that the matter **will be addressed in a subsequent hearing in this docket**, and the \$ 4 million has been taken out of Docket DG 21-130 and the rate request, the Department of Energy will proceed accordingly.

We agree with your high-level definition of the question and that this “matter will be addressed in a subsequent hearing in this docket,” as you state in the highlighted section above. However, we do not agree that with the next phrase that you underlined, that “the \$4 million has been taken out of Docket DG 21-130 and the rate request.” We are agreeing only that the \$4 million issue can go on a separate procedural track in this docket so that a timely order can be issued on the COG, subject to later reconciliation when the issue is resolved.

- If you define the “R4 issue” another way, please let me know **See above.**
- Presumably the PUC could continue to ask the parties to address the \$ 4 million issue at hearing

We agree, and we’ll prepared to do so.

- Questions about the decoupling formula (new and old) and its application and review in this docket remain relevant subjects;
Yes, we agree they are relevant topics. However, remember that the ‘new’ formula is not being applied in this docket because it only goes into effect 11/1/2021, and will be applied in next year’s reconciliation.
- Given the issue of when prudence attaches to cost of gas rates, as it came up in Liberty-Keene Winter COG docket last year, and the complexities of the decoupling formula, process, and the \$4 million issue, and retroactive adjustments, Energy anticipates asking the Public Utilities Commission to provide that for the purposes of hearing and orders in Dkt. No. DG 21-130 and No. DG 21-132, any over/under calculations made in those dockets be explicitly treated as “not prudent” pending future review and reconciliation at a future date, as otherwise a finding of prudence would attach to over/under reconciliation. Will the OCA and Liberty join Energy in this request? It will make Mondays hearings flow more smoothly.

“Prudence” does not attach to rates, as Don suggested. Prudence is a review of the Company’s costs and the Company’s actions incurring those costs, such as the decision to install a new gas main and how well the Company executed on that decision and installed the main. Here, there are no such cost-incurrence by the Company, and thus there is nothing subject to prudence review.

The R-4 issue involves a pass-through mechanism that simply compensates the company for the low-income discount. The Commission will be provided with sufficient evidence as to all other aspects of the COG and LDAC so that it may issue a final order by November 1, and

then the parties can litigate the R-4 issue at a subsequent hearing in this docket. We think the relevant questions in litigating the R-4 issue are (1) how the revenue decoupling mechanism is supposed to work; (2) whether it worked and, if not, why not; and (3) whether the Company is owed money as a result of the proper application of the mechanism.

Please clarify if the revised LDAC filed in DG 21-130 matches the answers provided in DG 21-132 data requests re: “what if the \$4 million is taken out?” If not, please update Liberty-Keene’s response in the DG 21-132 docket.

Confirmed. The revised LDAC proposed in the updated EnergyNorth filing (i.e., without the \$4M) was used in the updated Keene filing.

- In addition to witnesses who provided testimony, Energy would like Liberty to agree to make the following individuals available (hybrid) based on responses to data requests and record requests, and technical session discussion:
 - James Bonner
 - Eric O’Brien
 - Steve Mullen
 - Liberty’s Tech Session Data Requests in DG 21-130 are not yet due and have not been filed, and therefore Energy reserves the right to add to this list based on those responses

We will make these people available.

I’ll look for Liberty’s proposed witness list and exhibit list later today, and any exhibits OCA identifies. Energy can file the lists tomorrow by COB, if agreeable to the parties. Each party filing its own exhibits

Coming shortly.

Mary

From: Michael Sheehan <Michael.Sheehan@libertyutilities.com>

Sent: Wednesday, October 20, 2021 10:09 AM

To: Schwarzer, Mary <Mary.E.Schwarzer@energy.nh.gov>; Kreis, Donald <Donald.M.Kreis@oca.nh.gov>; Dexter, Paul <Paul.B.Dexter@energy.nh.gov>

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Mary,

I’ll circulate draft exhibit and witness lists this afternoon for both hearings. You’ll have the opportunity to add whatever you like.

I planned to identify only those witnesses who filed testimony, but if there is anyone else you’d like to have available, let me know. For EnergyNorth: Simek, McNamara, Gilbertson, Casey. For Keene:

Simek, McNamara, Gilbertson.

I have no objection to marking the 20-105 Settlement, although you can simply ask the Commission to take administrative notice of it. Your call.

I'll be counsel in both hearings. The KW folks will also be appearing at the EnergyNorth hearing. We haven't yet decided who's doing what.

I agree that it's best to focus on 'interim' rates for EnergyNorth based on yesterday's updated filing, and talk about a process to address the R-4 issue later.

As for the LDCAC and Keene, since we have revised the proposed LDAC in the updated EnergyNorth filing to remove (for now) the R-4 issue, we agree that it would be this revised LDAC that would go into effect for Keene, pending resolution of the R-4 issue.

Michael Sheehan | Liberty Utilities (New Hampshire) | Senior Counsel
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From: Schwarzer, Mary <Mary.E.Schwarzer@energy.nh.gov>

Sent: Wednesday, October 20, 2021 8:43 AM

To: Michael Sheehan <Michael.Sheehan@libertyutilities.com>; Kreis, Donald <Donald.M.Kreis@oca.nh.gov>; Dexter, Paul <Paul.B.Dexter@energy.nh.gov>

Subject: DG 21-130 Liberty EnergyNorth COG and DG 21-132 Liberty-Keene COG--- Please confirm witness lists and exhibits and exhibit list ASAP

Hi Mike and Don:

For both of the pending Cost of Gas Dockets, please confirm, by COG that:

- Company's Witness List will include a) all individuals with filed testimony and b) all individual who provided answers to DRs.
 - Please provide the names of Company's witnesses for joint witness list
- Please identify exhibits Company will introduce, and with proposed Exhibit numbers
 - Dept. of Energy anticipated identifying exhibits tomorrow (reviewing yesterday's updated petition, etc.)
 - We think it makes sense to identify the Settlement Agreement in DG 21-105 (Exhibit 49 in that hearing); hope you agree?
 - Does the OCA have exhibits in mind at this time? can you provide a list by COB?
- Don, will the OCA have witnesses? At this time, Energy does not anticipate having a witness
- Mike, please identify whether you will be representing both EnergyNorth and Liberty-Keene, or whether someone else (Steve Mullen, outside counsel from Boston) will be acting in that capacity, or appearing with you as joint counsel

The Liberty-Keene COG shares the same LDAC at issue in the DG 21-130 hearing. Energy anticipates flagging this issue for the PUC however Energy anticipates the parties will defer the \$4 million alleged mismatch issue to the DG 21-130. Do you both agree?

- It seems unlikely that the PUC will have ruled on the motion to bifurcate by the time the hearing starts on 10/25. Given the short time available to the COG hearing itself (1/2 a day) and the need for Winter rates to issue on or before November 1, 2021, parties should consider focusing on “standard interim rate testimony” as updated by Liberty, so an order can issue. It seems likely the hearing will be continued, unless the PUC grants the Motion in Limine. Thoughts?

Thank you both,

Mary