STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DG 22-___

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty

Revenue Decoupling Adjustment Factor

DIRECT TESTIMONY

OF

ERICA L. MENARD

July 5, 2022

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1 **I. <u>INTRODUCTION</u>**

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

3 A. My name is Erica L. Menard. My business address is 15 Buttrick Road, Londonderry, New
4 Hampshire.

5 **Q. Please state by whom you are employed.**

6 A. I am employed by Liberty Utilities Service Corp. ("LUSC") as Director, Rates and
7 Regulatory Affairs. LUSC provides local utility management, shared services, and support
8 to Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty ("Liberty" or "the
9 Company") and its regulated water, wastewater, natural gas, and electric utility affiliates.

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

11 A. I joined LUSC in March 2022. Prior to joining LUSC, I held various positions at
12 Eversource Energy from 2003 to 2022. Most recently, I was the Manager of Revenue
13 Requirements for New Hampshire responsible for the rate and regulatory filings presented
14 to this Commission. I also held various positions at Eversource responsible for financial
15 planning and analysis of operational and capital expenditures, business planning functions,
16 sales forecasting, and performance management. Prior to my employment at Eversource,
17 I was employed by ICF Consulting in Fairfax, Virginia, from 1997 to 2003 with
18 responsibilities for implementing load profiling and load settlement software for various
19 utilities worldwide. I hold a Bachelor of Arts in Economics and Business Administration
20 from the University of Maine and a Master of Business Administration from the University
21 of New Hampshire.

1 **Q. Have you previously testified in regulatory proceedings before the New Hampshire**
2 **Public Utilities Commission (the "Commission")?**
3 A. Yes, I have.

4 **II. <u>PURPOSE OF THE TESTIMONY AND SUMMARY OF REQUEST</u>**

5 **Q. What is the purpose of your testimony?**
6 A. The purpose of my testimony is to explain that the Company has experienced a revenue
7 under-collection of $4,023,830 through the Revenue Decoupling Mechanism ("RDM")
8 approved in Order No. 26,122 (Apr. 27, 2018), as part of the Company's 2017 rate case,
9 Docket No. DG 17-048. The revenue under-collection relates to the implementation of the
10 RDM tariff that became effective November 1, 2018, and the interaction of the low-income
11 discount rates made available to customers through the R-4 rate tariff and the rates for
12 residential customers taking service under R-3 (without a low-income discount).
13 Inadvertently, the tariff implementing the RDM gave conflicting directions for reconciling
14 revenue targets with actual revenue collections for R-3 and R-4 customer classes for the
15 annual decoupling cycle. These conflicting directives were sorted out and corrected in the
16 Company's 2020 rate case, Docket No. DG 20-105. However, for the first two decoupling
17 cycles -- 2018/2019 and 2019/2020 -- this internal conflict resulted in the inadvertent
18 refund of $4,023,830 to customers through the RDM.

19 To unravel the circumstances that led to the revenue under-collection of $4,023,830, this
20 testimony accomplishes three key objectives, which are: (1) to explain the sequence and
21 chronology of the regulatory processes and approvals that caused the Company to under-

1 collect revenues associated with the low-income discount provided to customers under the
2 R-4 rate tariff; (2) to demonstrate that the Company is owed the amount of $4,023,830
3 from customers as a result of those regulatory processes and approvals; and (3) to explain
4 the reasons that the Commission can and should allow the Company to collect the amounts
5 due from customers over a reasonable time period.

6 This testimony concludes that, by operation of the approved RDM tariff language, revenues
7 associated with the Company's low-income program were refunded to customers as part
8 of the first two annual decoupling cycles of 2018–2019 and 2019–2020, although no refund
9 was actually due. Although the low-income discount is meant to be provided to customers
10 on a revenue neutral basis to the Company, the inadvertent interaction of the newly
11 implemented RDM with the R-4 discount disrupted that revenue neutrality. Therefore, it
12 is reasonable and appropriate for the Company to recover the amounts inadvertently and
13 erroneously returned to customers during the annual decoupling cycles of 2018–2019 and
14 2019–2020, thus restoring revenue neutrality of the low-income program.

15 **Q. Would you please summarize the circumstances that led to the revenue under-**
16 **collection?**

17 A. Yes. As my testimony explains, Liberty proposed a revenue decoupling mechanism in
18 Docket No. DG 17-048. The RDM ultimately approved by the Commission differed from
19 what the Company initially proposed and arose from a settlement reached between the
20 Company and the Office of the Consumer Advocate ("OCA"). The Commission approved

1 the RDM as described in the settlement and directed the Company to submit a compliance
2 tariff to implement the RDM beginning November 1, 2018.

3 The purpose of the RDM is essentially to assure that the Company collects the base revenue
4 requirement approved by the Commission in the Docket No. DG 17-048 rate proceeding,
5 no more and no less, regardless of actual sales volumes. Because the RDM functions to
6 collect the authorized revenue requirement independent of the amount of gas sold, the
7 utility's ability to recover that revenue requirement between rate cases is preserved despite
8 sales declines caused by energy conservation and energy efficiency initiatives. The
9 Company's RDM operates in accordance with approved tariff provisions included as a
10 component of the Company's Local Distribution Adjustment Clause ("LDAC").

11 From a simplified perspective, Liberty's RDM establishes revenue per-customer ("RPC")
12 targets for each rate class, which are referred to as the "allowed" revenue targets. In the
13 annual RDM reconciliation, the allowed revenue target for each rate class is compared to
14 the actual revenues collected from customers in each respective rate class. The difference
15 between allowed revenue targets and actual revenues collected is refunded to, or collected
16 from, customers through the annual reconciliation process. Through this process, the
17 Commission ensures that Company obtains recovery of the total authorized revenue, no
18 more and no less.[1]

[1] This assumes Liberty's customer count does not change. Because Liberty's RDM is based on revenue-per-customer, Liberty's allowed revenue may increase if Liberty's customer count increases, and conversely, may decrease if the customer count falls. Accordingly, Liberty's revenues are "decoupled" from the quantity of gas sold, except that new customers will generate new revenues and a decrease in customers will cause a drop in revenues. Therefore, as part of the reconciliation process, attention is paid to the number of customers taking service in each rate class.

1 In this construct, it is imperative that the allowed revenue targets and the actual revenues
2 collected are stated on a comparative basis for each rate class, e.g., R-3 revenue targets are
3 compared to R-3 actual revenues, so that the differential between the allowed revenue
4 target and actual revenues collected is truly the amount that should be refunded to
5 customers, or recovered back from customers, as part of the annual RDM reconciliation.
6 Assuring that this differential is correctly identified is necessary to assure that the Company
7 is collecting the authorized revenue requirement, no less and no more.

8 This important goal was not achieved under the initially approved RDM tariff, NHPUC
9 No. 10 Gas.[2] It was discovered that the reconciliation of revenues for the R-4 low-income
10 class suffered from a mismatch embedded in the tariff between the allowed revenue target
11 (which was based on the discounted rates) and the actual revenues collected (which was
12 based on non-discounted rates). This improper comparison of the allowed revenue targets

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[2] To avoid confusion, NHPUC No. 8 was the tariff in place at the time the Company filed its rate case in Docket No. DG 17-048; the Commission had NHPUC No. 8 in Docket No. DG 14-180. NHPUC No. 9 was the proposed tariff that accompanied the initial rate case filing in Docket No. DG 17-048, which the Commission suspended at the outset of that docket by Order No. 26,015 (May 8, 2017). After the Commission approved the DG 17-048 Settlement Agreement in Order No. 26,122 (Apr. 27, 2018), the Company's subsequent compliance filing was labelled NHPUC No. 10, *not* NHPUC No. 9, as would have been the custom. The Company essentially skipped NHPUC No. 9 due to the substantial changes in the tariff language that occurred during the course of the DG 17-048 rate case from the proposed and suspended, NHPUC No. 9 to the compliance tariff, labelled NHPUC No. 10. Note that the cover page of the compliance tariff filed on May 18, 2018, acknowledged this sequence:

NHPUC NO. 10 – GAS
LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
D/B/A
LIBERTY UTILITIES
SUPERSEDING NHPUC No. 8 AND IN LIEU OF NHPUC No. 9

NHPUC No. 9 was thus never in effect. Its relevance here is that NHPUC No. 9 contained the Company's initial RDM proposal, which, as described below, was substantially modified prior to being approved and included in NHPUC No. 10. The Commission approved NHPUC No. 11, the tariff currently in effect, in the Company's most recent rate case, Docket No. DG 20-105. NHPUC No. 11 contains adjustments to the RDM language that eliminated the issue addressed in this filing.

1 (discounted) to the actual revenues collected (non-discounted) yielded a refund to
2 customers although no refund was due. This happened because the *discounted* revenue
3 targets were naturally lower than the *non-discounted* revenues collected for the R-4 rate
4 class, indicating that a refund was due to customers when – in fact – the allowed revenue
5 targets were fundamentally out of alignment with the computation of actual revenues
6 collected due to the mis-matched rates used in the calculation (discounted or non-
7 discounted).

8 The RDM tariff should have directed the comparison of *non-discounted* target revenues to
9 *non-discounted* actual revenues (or vice versa, discounted target revenues to discounted
10 actual revenues), so that both sides of the comparison would have treated the R-4 rate
11 discount in the same fashion. Instead, the mismatch made it appear that the actual revenues
12 collected exceeded the allowed revenue target, therefore spurring the refunds to customers
13 when reconciled in those cost of gas ("COG") dockets. For various reasons described
14 below, the mismatch was not easily identified or remedied despite ongoing review and
15 discussion among the parties through the two COG proceedings in 2019 and 2020 where
16 the first two RDM reconciliations occurred.

17 **Q. What are the "conflicting directives" that were inadvertently established in the**
18 **RDM tariff regarding the allowed revenue targets and actual revenues collected?**

19 A. Again, the important factor is that the allowed revenue targets and actual revenue
20 collections may be based either on non-discounted or discounted distribution rates, but the
21 rates ***must be the same*** for both (i.e., one cannot be discounted while the other is non-

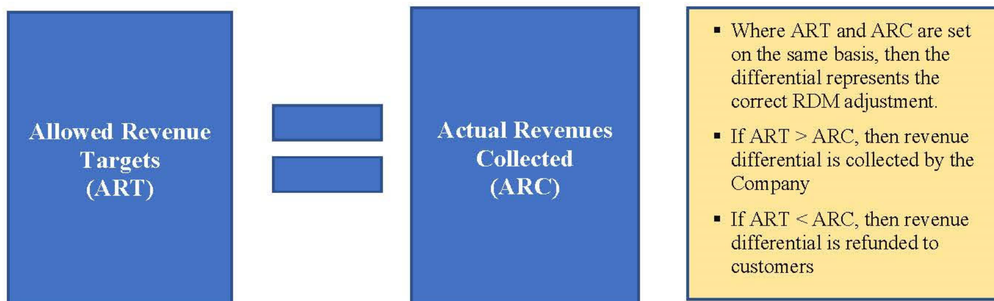
1 discounted, or a mismatch occurs). Through the chain of events that occurred in relation
2 to the Company's RDM tariff, an inadvertent mismatch arose involving *discounted* target
3 revenues and *non-discounted* actual revenues. The mismatch arose from how the tariff
4 language evolved as to whether: (1) the RDM tariff provisions *aggregated* R-3 (non-low-
5 income) customers and R-4 (low-income) customers into a single category for purposes of
6 developing the "allowed revenue target;" or, (2) the RDM tariff provisions created *separate*
7 groups for R-3 and R-4 customers so that they would have separate allowed revenue
8 targets. Where the tariff provisions *separate* these two rate classes, then the low-income
9 discount applies to the allowed target revenues for the R-4 rate class, but not to the R-3 rate
10 class. However, if these two customer groups are treated as *an aggregated whole*, i.e., as
11 a combined residential customer group, then the R-3 and R-4 customers are treated exactly
12 the same for purposes of setting the allowed revenue target. This difference matters
13 because the RDM tariff very explicitly establishes that actual revenues collected are
14 calculated based on the R-3 Rate Class, which are non-discounted revenues. Thus, to
15 maintain comparability, the allowed revenue targets used in the RDM reconciliation should
16 have been likewise *non-discounted*. However, this was not the case. Iterations of the RDM
17 tariff provisions varied between the two approaches and, under the initially approved
18 version of the tariff, the mismatch existed where the R-3 and R-4 rate classes are
19 maintained in separate groups.

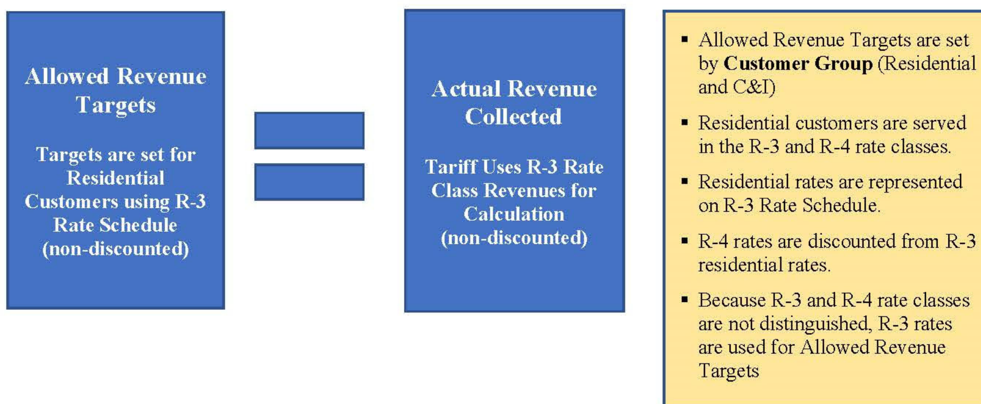
20 During the time the mismatch was unresolved, the Company, following the then-approved
21 tariff language, issued refunds to customers as indicated by the RDM reconciliation
22 process, totaling $4,023,830 over a two-year period. The RDM tariff provisions were

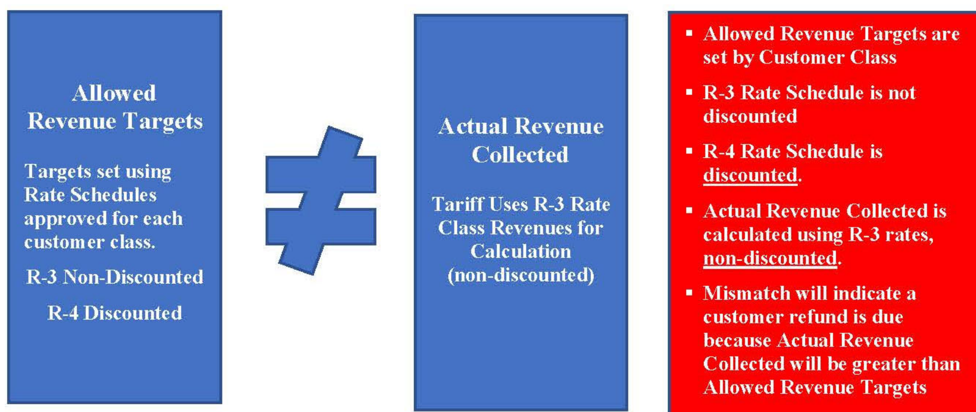
1 revised in the Company's 2020 rate case, Docket No. DG 20-105, and the mismatch was
2 eliminated on a going forward basis. However, the amount of $4,023,830 remains owed
3 to the Company as an under-collection in the RDM. At bottom, the Company provided a
4 low-income discount to the R-4 customer class in the 2018–2019 and 2019–2020
5 decoupling cycles but was prevented from recovering the matching discount revenues from
6 all customers to maintain revenue neutrality. Instead, those revenues were inadvertently,
7 and erroneously, refunded to all customers by operation of the then in effect RDM.

8 **Q. Is it possible to provide a simplified illustration of the mismatch that occurred in the**
9 **tariff provisions?**

10 A. Yes. It is confusing and it has taken the Company some time to run this all to ground.
11 However, the diagram presented below as Figure 1 depicts the mismatch. Figure 1 is also
12 provided in Attachment ELM-1 at Bates 0087, which accompanies this testimony. As this
13 testimony will explain, the approved RDM tariff implementing the RDM as of November
14 1, 2018, encompassed terms that drove a reconciliation consistent with the second scenario
15 shown in Figure 1, below, embedding the mismatch in the computation of the annual
16 reconciliation.







1

1 **Q. What conclusions are demonstrated by this testimony?**

2 A. My testimony supports the following conclusions:

3 - First, the mismatch between "allowed revenues" and "actual revenues" in the
4 annual reconciliation process was the root cause of the inadvertent customer refund.
5 The mismatch was not easily or immediately discernible as part of the initial
6 implementation of the RDM in the first two decoupling cycles. For example,
7 testimony submitted in the first of those COG proceedings by Commission Staff
8 ("Staff")[3] advised a calculation change focusing on the *actual revenues collected*,
9 whereas the mismatch lay in the *allowed revenue target*. The Company made
10 Staff's recommended change in agreement with the parties in that docket, but the
11 change did not correct the underlying, undiscovered mismatch.
12 - Second, it was the approved RDM tariff that directed the flawed method for
13 calculating the allowed revenue target for the R-4 rate class. In performing the
14 reconciliation, the Company followed the tariff provisions precisely; however,
15 reliance on those tariff provisions created the undiscovered and inadvertent
16 mismatch in revenues. Until the tariff terms were revised in the 2020 base-rate
17 proceeding, the mismatch continued to occur.
18 - Third, both the RDM and the low-income discount rate are intended to maintain
19 "revenue neutrality" in terms of recovering the Company's authorized revenue
20 requirement. Specifically, the RDM operates to provide the Company recovery of

[3] Most of the Commission Staff members became part of the new Department of Energy as of July 1, 2021.

1 the authorized revenue requirement (no more and no less), even though sales units
2 may be declining due to conservation and energy efficiency measures. Similarly,
3 the low-income rate mechanism operates to, first, discount the distribution rate for
4 R-4 customers and, second, collect the revenues associated with the discount from
5 all other customers classes, again holding the Company neutral in relation to
6 collecting the authorized revenue. As my testimony explains, the *simultaneous*
7 *operation* of these two mechanisms inadvertently disrupted revenue neutrality
8 when the approved tariff terms for each of these mechanisms were implemented in
9 tandem for the first time.

10 • Fourth, there are precedents in New Hampshire in which similar numerical errors
11 were resolved once the error was discovered. There is no legal or regulatory
12 principle that allows the Commission to deprive the Company of revenues that are
13 due for collection from customers under an approved set of rates and rate tariffs.

14 • Fifth, revenues collected through reconciling mechanisms are not subject to the
15 prohibition on retroactive ratemaking. By their very nature, reconciling
16 mechanisms are designed to allow for the going forward recovery of prior-period
17 over- and under-collections, which is exactly what has occurred here.

18 **Q. What is the Company's request in this proceeding?**

19 A. Based on the information presented in this testimony, Liberty respectfully requests that the
20 Commission authorize the Company to recover the RDM under-collection associated with
21 the low-income discount totaling $4,023,830 over a two-year period through the Revenue

1 Decoupling Adjustment Factor ("RDAF"), which is commensurate with the timeframe of
2 the under-collection itself.

3 **Q. How is the remainder of your testimony organized?**

4 A. Section I above was the Introduction. Section III describes the operation of the RDM in
5 more detail. Section IV describes the operation of the Company's low-income discount
6 rate mechanism for customers eligible to take service under the R-4 rate tariff. Section V
7 explains the sequence and chronology of the regulatory processes and approvals that
8 resulted in the tariff language which caused the Company to under-collect revenues
9 associated with the low-income discount provided to R-4 customers due to operation of the
10 approved RDM. Section VI demonstrates that the Company is owed the amount of
11 $4,023,830 from customers as a result of those regulatory processes and approvals and the
12 implementation of the RDM. Section VII discusses the reasons that the Commission can
13 and should allow the Company to recover the amounts due over a reasonable amortization
14 period. Section VIII summarizes the key elements of this testimony and the Company's
15 request for authorization to recover the existing under-collection.

16 **III. <u>OPERATION OF THE REVENUE DECOUPLING MECHANISM</u>**

17 **Q. Please summarize this section of your testimony.**

18 A. In this section, I provide a brief overview of the intended operation of the Company's
19 Revenue Decoupling Mechanism.

1 **Q. What is revenue decoupling?**

2 A. Revenue decoupling is a ratemaking mechanism that is designed to eliminate the
3 dependence of a utility's revenues on system throughput (sales). Historically, a utility's
4 revenues were a function of its sales. When customers consumed more, revenues
5 increased, and when customers consumed less, revenues decreased. Consumption may be
6 affected by a number of factors including weather, conservation, economic cycles, and
7 other causes. The impetus for implementing revenue decoupling across the country is the
8 drive to reduce energy consumption through energy efficiency initiatives and conservation
9 measures to – in turn – reduce greenhouse gas emissions. In the 2005 through 2010
10 timeframe, energy conservation efforts ramped up significantly due to concerns about
11 global warming and climate change. As a result, utility industry participants focused on
12 the link between revenues and energy consumption and the fact that this linkage had the
13 potential (if not the inevitability) to serve as a disincentive for utilities to invest in energy
14 efficiency and demand management. Revenue decoupling was devised to eliminate those
15 disincentives by allowing a utility to recover the base revenue requirement approved in its
16 most recent base-rate proceeding – no more and no less – despite fluctuations or reductions
17 in sales due to conservation.

18 **Q. How does the implementation of revenue decoupling benefit customers?**

19 A. Revenue decoupling benefits customers because it breaks the link between a utility's sales
20 and revenues and thus removes the utilities' disincentives to invest in energy efficiency.
21 Historically, if a utility invested in energy efficiency or encouraged its customers to do so,
22 it was at its own financial risk because rates are traditionally set per unit of sales to recover

1 the approved revenue requirement over an expected level of sales volumes. If sales
2 volumes fall below the level expected in the design of base rates, the utility does not recover
3 its authorized revenue requirement, regardless of any actions that it may take to manage
4 costs. Therefore, utilities would be naturally disinclined to undertake initiatives like energy
5 efficiency that would have a direct, negative impact on sales volumes. Revenue decoupling
6 eliminates this disincentive and creates a situation in which utilities can support energy
7 efficiency investments without experiencing a detrimental financial impact. "Decoupling
8 eliminates certain perverse incentives for the Company to encourage usage of gas by its
9 customers, by adjusting rates to ensure a certain level of recovery by Liberty." Order No.
10 26,122 at 54 (Apr. 27, 2018) (Order approving Liberty's decoupling mechanism in Docket
11 No. DG 17-048).

12 **Q. What support did Liberty present for its proposal to implement revenue decoupling**
13 **in the 2017 distribution rate case?**

14 A. In its initial filing in Docket No. DG 17-048, the Company submitted the pre-filed, direct
15 testimony of Greg H. Therrien, Assistant Vice President with Concentric Energy Advisors,
16 describing the status of revenue decoupling across the U.S. and presenting the design of
17 the Company's proposed RDM and associated tariff provisions. Specifically, the Company
18 proposed to add tariff provisions that would implement the RDM through Section 17(C.1)
19 of the Local Distribution Adjustment Clause ("LDAC") tariff. The proposed language
20 described the manner in which the Company would annually reconcile Actual Revenues to
21 Target Revenues and then recover or return any difference through the Revenue
22 Decoupling Adjustment Factor ("RDAF") in rates. Proposed Section 17(C.1) also

1 described the documentation that the Company would provide with its annual RDAF
2 filings. The new decoupling language was designed to replace the "Lost Revenue
3 Adjustment Mechanism" or "LRAM" provisions in the LDAC tariff in its entirety. *See*,
4 Exhibit 8 in Docket No. DG 17-048, the Direct Testimony of Gregg H. Therrien, at Bates
5 331 (Attachment ELM-1, Bates 0144). As I will document below, the Commission did not
6 approve the Company's initially proposed RDM design and associated tariff provisions in
7 that proceeding.

8 **Q. Did the Company also submit evidence in its most recent rate case demonstrating**
9 **the benefit of implementing revenue decoupling?**

10 A. Yes. In the Company's most recent distribution rate case, Docket No. DG 20-105, the
11 Company engaged a consultant to study the interrelation between revenue decoupling and
12 energy efficiency penetration. The results indicated that, with surprising consistency, a
13 utility's investment in energy efficiency increased by a significant amount immediately
14 following the implementation of revenue decoupling. The study indicated that this was the
15 case for selected utilities located throughout New England. The study also found that
16 Liberty experienced similar increases in energy efficiency levels after the Commission
17 approved its RDM in 2018. *See*, Exhibit 34 at Bates II-241 in Docket No. DG 20-105, FTI
18 Consulting's July 31, 2020, "Evaluation of the Effects of Revenue Decoupling on Energy
19 Efficiency Program Achievement" (Attachment ELM-1, Bates 0214).

IV. LOW-INCOME DISCOUNT RATE

Q. Please summarize the operation of the low-income discount rate mechanism.

A. The Company's qualifying residential low-income customers take service as part of the R-4 rate class and its applicable tariff provisions ("R-4 customers"). R-4 customers are for all relevant purposes the same as R-3 customers (the company's standard residential rate class) except that R-4 customers have the benefit of paying a distribution rate that is *discounted* as compared to R-3 customers. Prior to November 1, 2020, the low-income program was known as the Residential Low Income Assistance Program ("RLIAP"), which provided a discount of 60% on distribution rates for each month of the year, as compared to R-3 rates. Beginning November 1, 2020, the RLIAP was replaced by the Gas Assistance Program ("GAP"), which functions similarly to the RLIAP but provides for a 45% discount to both R-3 distribution rates and to gas supply rates, instead of the 60% RLIAP discount,[4] but only for the winter months of November through April. Under either the RLIAP or GAP, the revenues equal to the discount are not collected from R-4 customers (because those customers enjoy the benefit of the discount) but are instead collected from customers in all other rate classes to maintain revenue neutrality for the Company. The RLIAP and GAP were both designed to fully reimburse the Company for providing the R-4 discount so that, in the end, the Company received the same distribution revenue from R-3 and R-4 customers.

[4] *See*, DG 21-130, Exhibit 2, at Bates 015–016 (Updated Testimony of Simek/McNamara) (Attachment ELM-1, Bates 0271–0272).

1 In this case, the period during which the RDM under-collection occurred ended on October
2 31, 2019, while the RLIAP was in effect. Therefore, the discussion in this testimony
3 focuses on the RLIAP structure for recovery of the discount provided to the R-4 customers.

4 **Q. How many low-income customers does the Company serve?**

5 A. As of April 2021, the Company estimates that there were 5,320 R-4 customers.[5] The
6 number of R-4 customers fluctuates over time.

7 **Q. Please describe the R-4 rate design.**

8 A. The design for R-4 distribution rates is the same as for R-3 rates insofar as it includes a
9 monthly customer charge and a single volumetric distribution charge that applies to all of
10 a customer's usage in any given month.[6] The R-4 rates are identical to the R-3 rates; the
11 R-4 rates are simply adjusted to apply the low-income discount.

12 **Q. Who pays for the discount provided to the R-4 customers?**

13 A. As I noted above, the low-income discount is socialized among all of the Company's
14 customers, meaning that the revenues associated with the discount are *not* collected from
15 R-4 customers, but are collected from all other customers through the RLIAP component
16 of the LDAC. Each time the Company makes a COG filing, the Company calculates the
17 value of the discount to be provided to R-4 customers during the upcoming period, then
18 calculates an adjustment, or rate factor, that is applied to all other customers that enables
19 the Company to recover the revenues equivalent to the value of the discount over the course

[5] *See*, DG 21-130, Exhibit 2, at Bates 135 (Updated Testimony of Simek/McNamara, Schedule 19) (Attachment ELM-1, Bates 0391). As of May 2022, there were 6,195 R-4 customers.

[6] R-3 and R-4 customers paid the same, non-discounted, cost-of-gas rate under the RLIAP.

1 of the year. In recent COG filings, that calculation has been included as Schedule 19 in
2 the Company's submission.

3 **Q. Please explain how the R-4 discount is recovered.**

4 A. The LDAC is a reconciling mechanism that operates by tariff and is designed to enable the
5 Company to recover certain costs and revenues outside of base distribution rates on a
6 reconciling basis. Costs recovered through the LDAC include costs associated with the
7 Company's energy efficiency programs, allowed rate-case expenses, and environmental
8 costs related to the remediation of the Company's manufactured gas sites. Revenues
9 collected through the LDAC also include the revenues equivalent to the discount provided
10 to R-4 customers (to make the R-4 discount revenue neutral) and collections or refunds of
11 revenue associated with the RDM reconciliation through the Revenue Decoupling
12 Adjustment Factor ("RDAF").

13 **Q. Please provide an example of how the RLIAP discount is recovered through the**
14 **LDAC.**

15 A. Table 1 below shows the Company's calculation of the rate at which the RLIAP was to be
16 recovered for the period November 2018–October 2019, as shown in the Company's
17 September 4, 2018, COG filing.[7] As indicated, the R-4 customer charge is reduced by
18 $9.02 per month, a 60% discount, and the volumetric distribution charge is reduced by
19 $0.3379/therm, which is also a 60% discount. Based on the Company's determination that
20 the average annual usage for this customer class is 771 therms, the expected value of the

[7] *See,* Exhibit 2 in Docket No. DG 18-137, Schedule 19, at Bates 123 (Attachment ELM-1, Bates 0571).

1 annual discount to be provided to each R-4 customer is $368.69. It is this amount that the
2 Company must recover through the LDAC for each R-4 customer. That is, the Company
3 discounts each R-4 customer's bill by $368.69 through the discounted R-4 rate, then
4 collects that same amount through the low-income component of the LDAC that is charged
5 to all other customers.

6 At the time these calculations were submitted to the Commission there were 5,056 RLIAP
7 customers, meaning that the total revenues due to the Company to neutralize the impact of
8 providing the R-4 discount was $1,864,087 (5,056 x $368.69). Annual sales were
9 forecasted to be 184,654,874 therms. Therefore, the rate required to recover the value of
10 the R-4 discount from all other customers was $0.0130/therm ($1,864,087 / 184,654,874
11 therms).

1 **Table 1. Calculation of RLIAP Discount Component of LDAC for**
2 **November 2018 – October 2019**

	Customer Charges	**Volumetric Charges**
R-3 Rates	$15.02/month	$0.5631/therm
Low-Income Discount	60%	60%
R-4 Rates	$6.00/month	$0.2252/therm
Discount Value in Dollars	$9.02/month	$0.3379/therm
Estimated Annual Usage*		771 therms
Discount Value (annually)	$108.24	$260.45
Total Discount Value (per customer, per year, on average)	$368.69	
Number of R-4 Customers	5,056	
Annual Cost of Discount	**$1,864,087**	
Total Annual Sales	184,654,874	
Recovery Rate	$0.0101/therm[4]	
*rounded		

3 Note: Numbers may not foot due to rounding.

4 This recovery rate was approved by the Commission in Docket No. DG 18-137 in its Order
5 No. 26,188 (Nov. 1, 2018) (Attachment ELM-1, Bates 0641–0651) and was included in
6 the LDAC rate beginning November 1, 2018.[8]

[8] Because the recovery of discounts to low-income customers in this manner relies on forecasted billing determinants, it is necessary to reconcile the value of the discounts actually provided to customers to the value of the discounts recovered through the LDAC on an ongoing basis. For purposes of simplicity, Table 1 intentionally omits the recovery that Liberty obtained during this period of $545,077, which was an un-collected balance from a prior period. Inclusion of that amount increases the rate by $0.0029/therm, to $0.0130/therm, which is the actual rate that was approved by the Commission in Order No. 26,188 and subsequently incorporated in the LDAC factor.

1 **Q. Under the base-rate design and tariff provisions approved by the Commission in**
2 **Docket No. DG 17-048, was the Company allowed to collect the same revenue from**
3 **an R-4 customer as it did from an R-3 customer?**
4 A. Yes. As stated above, R-3 customers and R-4 customers are the same for these purposes.
5 Since R-3 and R-4 customers are treated the same for all purposes except for the R-4
6 discount, and since the usage of an R-4 customer is the same as the usage of an R-3
7 customer, then the same distribution revenue is to ultimately be collected from each of
8 these customers. The difference is that a portion of the distribution revenue that the
9 Company would otherwise collect from the R-4 customers instead flows through the
10 LDAC because it is to be collected from all other customers as described above, which is
11 not the case for any part of the revenue collected from R-3 customers. But again, the total
12 revenue that the Company collects from an R-3 customer and an R-4 customer with
13 identical usage should be the same.

14 **Q. Would you please provide an example?**
15 A. Yes. Using the same rates and volume assumptions shown in Table 1 above, I determined
16 that an R-3 customer would generate revenues of $614.27 per year, which the Company
17 would collect entirely through distribution rates. If the same customer took service under
18 the R-4 tariff, the customer would generate only $245.58 in revenue annually, based on
19 application of the R-4 rates which had been discounted by 60%. However, as I explained
20 above, the Company would collect the difference between those amounts ($614.27 -
21 $245.58 = $368.69, in this example) from all customers through the RLIAP portion of the

1 LDAC. When the RLIAP revenues from the LDAC are accounted for, the total revenues
2 for R-3 and R-4 customers should match exactly.

3 **Table 2. Revenue Collection from R-3 and R-4 Customers**

	R-3	R-4	
Customer Rate	$15.02	$6.00	*a*
Volumetric Rate	$0.5631	$0.2252	*b*
Annual Usage*	771	771	*c*
Annual Customer	$180.24	$72.00	*d = a*12*
Annual Volumetric	$434.03	$173.58	*e = b*c*
Recovered through Base Rates	$614.27	$245.58	*f = d+e*
Recovery through LDAC	-	$368.69	*g (see, Table 1)*
Total Revenues	$614.27	$614.27	*h = f+g*
*rounded			

4 Note: Numbers may not foot due to rounding

5 **Q. Why is this example important?**

6 A. This example is important because it illustrates the central assumption embedded in the
7 RDM reconciliation calculations that Liberty performed in accordance with the approved,
8 albeit flawed, tariff. This presumption is that an R-3 customer and an R-4 customer *should*
9 *be expected to generate different* levels of distribution revenue due to the R-4 customer
10 paying only the discounted R-4 rate. This expectation of differing actual distribution
11 revenue levels contributed to the root cause of the under-collection at issue in this
12 proceeding. This difference in revenue is made up through the separate RLIAP provisions
13 of the LDAC tariff, operating separately from distribution rates and separate from the

1 RDM. Thus, the RDM tariff provisions incorporated the expectation of *differing levels of*
2 *distribution revenues* in setting the allowed revenue target for R-3 and R-4 customers. This
3 presumption of expecting different revenue levels from R-3 and R-4 customers obscured
4 the tariff's mismatched interaction of the lower R-4 allowed revenue targets and later use
5 of non-discounted R-3 rates to calculate the actual revenues collected from all R-3 *and* R-
6 4 customers.

7 **V. <u>REGULATORY PROCESSES AND APPROVALS FOR THE RDM</u>**

8 **Q. Did the Company perform its calculations of the RDM in accordance with approved**
9 **tariff provisions in both the 2018–2019 and 2019–2020 decoupling cycles?**

10 A. Yes, the Company conducted its reconciliation in strict compliance with the approved tariff
11 provisions in both proceedings. As shown below, the Company's clear adherence to the
12 tariff provisions and collaboration with parties to the COG proceedings were all undertaken
13 with the expectation that implementation of the RDM would result in the Company
14 recovering its authorized revenue requirement each year thereafter and that the proposals,
15 statements, and agreements by or among the parties clearly reflected the same expectation.
16 Despite those efforts and intentions, and as discussed in this testimony, the result was the
17 inadvertent and improper return of approximately $4 million to customers.

18 **Q. Did the Company propose the RDM in the context of a base-rate proceeding**
19 **resulting in the approval of governing tariffs?**

20 A. Yes. As I previously noted in Section III above, the Company submitted a distribution-
21 rate petition with the Commission on April 28, 2017, commencing Docket No. DG 17-048.

1 In that case, the Company submitted the Direct Testimony of Gregg H. Therrien proposing
2 the design for a new revenue decoupling mechanism as a replacement for the LRAM. The
3 Direct Testimony of David B. Simek presented the proposed NHPUC No. 9 tariff, which
4 included language within the LDAC tariff that set forth the terms of the proposed RDM (at
5 Part 17, Section C.1, Original Pages 35–39) (Docket No. DG 17-048, Exhibit 12)
6 (Attachment ELM-1, Bates 0652–0657 and Bates 0961-0966).

7 **Q. What was the LRAM?**

8 A. The LRAM was a mechanism that allowed the Company to recover distribution revenue
9 that was lost between rate cases as a result of the Company's authorized energy efficiency
10 programs. The LRAM did not enable recovery to account for distribution revenue lost due
11 other factors such as societal energy conservation, weather variations, or changes in
12 economic conditions. In decoupling the Company's distribution revenues from its
13 distribution sales, the RDM is designed to address the impact of conservation and other
14 influences on sales volumes much more broadly than addressed by the LRAM, beyond that
15 directly associated with the Company's energy efficiency programs. Thus, the RDM is a
16 more comprehensive rate mechanism than the LRAM.[9]

[9] In the Energy Efficiency Resource Standard docket, DE 15-137, the Commission required utilities to propose decoupling, or another replacement for the LRAM: "the Joint Utilities (except NHEC) are required to seek approval of a decoupling or other lost-revenue recovery mechanism as an alternate to the LRAM in their first distribution rate cases after the first EERS triennium, if not before." Order No. 25,932 at 60 (Aug. 2, 2016) (Attachment ELM-1, Bates 0717). Liberty elected to propose its decoupling the following year.

A. <u>Intended Operation of the RDM</u>

Q. How is the RDM intended to operate?

A. At its core, the RDM is broadly designed to recover the total revenue requirement authorized by the Commission in a distribution rate proceeding. To accomplish this objective, the RDM measures the difference between the revenue requirement authorized for collection through distribution rates in the most recent rate proceeding and the revenue level actually collected in a given decoupling cycle. Any differences in the revenues allowed and revenues collected, positive or negative, would be reconciled through an "adjustment factor," the RDAF, so that the Company does not collect any more or less revenue than the total revenue requirement authorized by the Commission.

Q. Is a target set for recovery of the authorized revenues through the RDM?

A. Yes. To assure the Company recovers no more and no less than the authorized revenue requirement, a target level of revenues must be set based on the revenue requirement authorized by the Commission. With respect to Liberty's RDM, the target for authorized revenues was set *by customer class* using a Revenue Per Customer ("RPC") approach. Specifically, the number of customers then existing in each rate class was identified, along with the amount of revenue that needed to be collected from each customer (<u>i.e.</u>, the revenue per customer, or "RPC") in the class to produce the class contribution to the overall, total authorized revenue requirement. The RPC remains fixed following the conclusion of the rate case and does not change unless or until the Commission authorizes a change in the authorized revenue requirement, which would normally occur in a step adjustment or subsequent distribution rate case.

1 **Q. How is the RPC used in subsequent periods to operate the RDM?**

2 A. In subsequent periods, the RPC remains fixed (unless or until the Company's revenue
3 authorization changes) but the number of customers the Company serves typically changes
4 from time to time. Under traditional ratemaking, the Company is allowed to keep the
5 revenue produced by new customers taking service under the approved rate tariffs because
6 adding customers inures to the benefit of all customers in future rate cases where fixed
7 costs are spread over a larger base. The RDM is similarly designed to allow the Company
8 to retain the benefits of new customers between rate cases. Under the RPC method,
9 changes in the number of customers increases the Company's revenue but *do not* cause an
10 over- or under-collection in relation to the revenue requirement authorized in the most
11 recent rate proceeding.

12 **Q. Would you please provide an example to illustrate this concept?**

13 A. Yes. Assume that at the conclusion of a rate case, the Commission has determined that a
14 utility's residential class included 10,000 customers and the class contribution to the
15 authorized revenue requirement is $470,000. This would indicate an RPC of $47 per
16 customer (i.e., $470,000 divided by 10,000 customers). In some future period, assume that
17 the residential class has grown to 11,000 customers. The total amount the utility would be
18 *allowed* to collect from that rate class would be the product of the RPC and the updated
19 customer count, or $517,000 (i.e., $47 per customer times 11,000 customers).[10]

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[10] The converse is also true. If the number of customers decreases, the Company's authorized revenue requirement would decrease.

1 In this way, the increase in revenue of $47,000 (or 1,000 times $47 per customer), does not
2 count as an "over-collection" that would then be refunded to customers by operation of the
3 RDM. Instead, the $47,000 becomes part of the "allowed revenue" in the computation of
4 the reconciliation and the Company is able to keep that incremental revenue to offset the
5 costs of adding the new customer until rates are reset in a distribution rate proceeding. In
6 a future rate case, the new customers become part of the customer base and both the costs
7 and revenues flowing from those customers will be counted in the authorized revenue
8 requirement in setting new distribution rates.

9 **Q. Are there alternatives to using the RPC method in establishing the RDM?**

10 A. Yes, the primary alternative is to establish the allowed revenue target on a *company-wide*
11 *basis*, whereby the overall authorized revenue requirement is set for the utility and the
12 RDM operates to collect that total revenue amount regardless of whether the number of
13 customers served by the utility has increased or decreased from the time rates were last set.
14 In this model, the utility gets no credit for adding customers between rate cases. From an
15 industry perspective, this total revenue-requirement method has generally (and widely)
16 been implemented for electric companies, while the RPC method has generally (and
17 widely) been implemented for gas companies. This is because gas utilities are in the
18 business of adding new customers to the distribution system, either through conversion
19 from an alternative fuel within its existing system footprint, or from expanding the system
20 to reach new customers. Total Revenue RDMs do not encourage growth (and, in fact,

1 discourage growth) because revenues received from new customer additions are in effect
2 "refunded" to existing customers through the RDM.[11]

3 **Q. Please explain how the RDM reconciliation is designed to work.**

4 A. The RDM is designed to enable a comparison of allowed, or target, revenues with actual
5 revenues *on a monthly basis*, identifying the differential for each month. At the end of
6 each year, the monthly over- or under-collections are aggregated resulting in a total, net
7 revenue adjustment that is either refunded to customers or collected from customers
8 through the RDAF starting November 1 of the following year.

9 **Q. Would you provide an example to illustrate this concept?**

10 A. Yes. For November 1, 2018, the Company's target revenue from the R-3 rate class, based
11 on the revenue requirement the Commission had just authorized in the recently concluded
12 rate case, was $4,145,546. The customer count for the R-3 customer class at the time of
13 the rate case was 71,747, so that the RPC was computed to be $57.78 per customer
14 ($4,145,546 divided by 71,747).[12] This amount of $4,145,546 represented the contribution
15 of the R-3 rate class to the total revenue requirement authorized in Docket No. DG 17-048.

16 **B. <u>Initial RDM Tariff Provisions</u>**

17 **Q. Now that more experience with the RDM exists, what is the key clarification that**
18 **determined whether the RDM tariff provisions created a mismatch between the**

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[11] *See*, Exhibit 27A in Docket No. DG 17-048 (Rebuttal Testimony of Gregg H. Therrien), at Bates 196 (Attachment ELM-1, Bates 0752).

[12] *See*, Exhibit 3 in Docket No. DG 19-145 (Revised Pages of Simek/McNamara Testimony w/Atts.) (Attachment ELM-1, Bates 1525).

1 **allowed revenue target and actual revenue collections for the R-4, low-income**
2 **eligible rate class?**

3 A. As discussed at the outset of this testimony, the key clarification that is necessary to avoid
4 the inadvertent mismatch is whether: (1) the RDM tariff provisions *aggregate* R-3
5 customers and R-4 customers into a single category for purposes of developing the
6 "allowed revenue target;" or, (2) the RDM tariff provisions create *separate* groups for R-3
7 and R-4 customers so that they would have separate allowed revenue targets. If the tariff
8 *separates* these two groups, then the low-income discount should apply to the allowed
9 target revenues for the R-4 rate class, but not to the R-3 rate class. However, if these two
10 customer groups are treated as *an aggregated whole*, i.e., as a combined residential
11 customer group, then the R-3 and R-4 customers should be treated exactly the same for
12 purposes of setting the allowed revenue target. Since this distinction was not identified
13 until the Company's most recent rate case, Docket No. DG 20-105, the iterations of the
14 tariff provisions varied between these two models without understanding the ramifications.

15 **Q. Please describe the Company's proposed RDM, as submitted in the Company's**
16 **initial rate filing in Docket No. DG 17-048.**

17 A. In its initial filing in Docket No. DG 17-048, the Company submitted Mr. Therrien's pre-
18 filed direct testimony to present the design of the Company's proposed RDM and
19 associated tariff provisions. Specifically, the Company included language in proposed
20 NHPUC No. 9 implementing the RDM through Section 17(C.1) of the LDAC tariff ("Initial
21 Proposed RDM Tariff"). The Initial Proposed RDM Tariff described the manner in which
22 the Company would annually true up "Actual Base Revenue" versus "Target Revenues,"

1 and recover or return the resulting difference through the RDAF in rates. Section 17(C.1)
2 also described the documentation that the Company would provide with its annual RDAF
3 filings.

4 **Q. How did the Company's Initial Proposed RDM Tariff language in Section 17(C.1)**
5 **define the manner in which the allowed revenue target and actual revenue collection**
6 **would be established and reconciled?**

7 A. The Initial Proposed RDM Tariff established the following definitions in Section
8 17(C.1.4):

9 a. **Actual Base Revenue per Customer** is the actual revenue derived from the
10 Company's base rates divided by the Actual Number of Customers for a given
11 season for a Customer Class Group.

12 b. **Actual Number of Customers** is the actual number of customers for the applicable
13 Customer Class Group for the most recently completed Winter Season or Summer
14 Season. Actual Number of Customers shall be calculated by summing the monthly
15 equivalent bills for bills for a given season for a Customer Class Group and dividing
16 by the number of months in each Season.

17 c. **Customer Class** is the group of all customers taking service pursuant to the same
18 Rate Schedule.

19 d. **Customer Class Group** is the group of Rate Schedules combined for purposes of
20 calculating the Revenue Decoupling Adjustment amounts. The three Customer
21 Class Groups are as follows: (1) The Residential Non-Heating Customer Class
22 Group (CG1) shall consist of all customers taking service pursuant to the
23 Company's residential non-heating rate schedule R-1. (2) The Residential Heating
24 Customer Class Group (CG2) shall consist of all customers taking service pursuant
25 to the Company's residential heating rate schedules R-3, and R-4. (3) The
26 Commercial and Industrial Customer Class Group (CG3) shall consist of all
27 customers taking service pursuant to one of the Company's general service rate
28 schedules, G-41, G-42, G-43, G-51, G-52, G-53 and G-54.

29 *Sections (e) and (f), omitted*

30 g. **Benchmark Base Revenue per Customer** is the allowed average revenue per
31 Customer for a given season for a Customer Class Group, reflecting the base

1 revenue from the Company's base rate case or other proceeding that results in an
2 adjustment to base rates. The following are the Benchmark Base Revenue per
3 Customer values as approved by the Commission in Docket No. DG 17-048:

4 *See*, DG 17-048, NHPUC No. 9, Attachment DBS-TARIFF-2, dated 4/28/2017, Original
5 Page 36 (highlighting added) (Attachment ELM-1, Bates 0962).

6 As indicated by the plain language of these provisions, rate classes R-3 and R-4 were
7 clearly and unambiguously ***combined*** as a "Customer Class Group." Further, the
8 Benchmark Base Revenues (or "allowed" or "target" revenues) were set for the "Customer
9 Class Group" on an aggregated basis. This treatment precluded any application of the low-
10 income discount rate in setting the allowed revenue target because the low-income discount
11 rate applies only to the R-4 customer class and would not be applied where the R-3 and R-
12 4 customer classes are aggregated into a single "Customer Class Group."

13 **Q. Did the Revenue Decoupling Adjustment Formulas included in the Initial Proposed**
14 **RDM Tariff also contemplate that the reconciliation would be calculated on the**
15 **basis of the "Customer Class Group?"**

16 A. Yes. The RDAF formulas set forth in proposed DG 17-048, NHPUC No. 9, Attachment
17 DBS-TARIFF-2, dated 4/28/2017, Original Page 37–38 (Attachment ELM-1, Bates 0963–
18 0964) consistently use the term "applicable Customer Class Group" as the basis for each
19 component of the equation, as follows:

20 $ACUSTS^{CG}_{T-1}$:
21 The Actual Number of Customers for the applicable Customer Class Group for
22 the most recently completed Winter or Summer Season (T-1). Actual number
23 of customers for each Winter or Summer Season shall be the average number
24 monthly customers in that season, calculated by summing the number of

1 equivalent bills in each month of the most recently completed Winter or
2 Summer Season, and dividing by the number of months in the Season.

3 $ARPC^{CG}_{T-1}$: The Actual Base Revenue Per Customer for the applicable Customer Class
4 Group for the most recently completed Winter or Summer Season (T-1), as
5 defined in Section 4.0. For purposes of calculating the Actual Base Revenue
6 per Customer, base revenues for Low Income rate class R-4, shall be
7 determined based on non-discounted rate R-3.
8

9 $BRPC^{CG}_{T-1}$: The Benchmark Base Revenue Per Customer for the applicable Customer Class
10 Group as determined in accordance with Section 4.0(A) for the most recently
11 completed Winter or Summer Season (T-1).
12

13 This language precluded any application of the low-income discount rate in setting the
14 allowed revenue target because the low-income discount rate applies only to the R-4
15 customer class and would not be applied where the R-3 and R-4 customer classes are
16 aggregated into a single "Customer Class Group."[13]

17 *See*, DG 17-048, NHPUC No. 9, Attachment DBS-TARIFF-2, dated 4/28/2017, Original
18 Page 36 (highlighting added) (Attachment ELM-1, Bates 0962).

19 **Q. How did the Initial Proposed RDM Tariff describe the operation of the Revenue**
20 **Decoupling Adjustment?**

21 A. The Initial Proposed RDM Tariff described the operation of the annual Revenue
22 Decoupling Adjustment, as follows:

23 Revenue Decoupling Adjustment shall be determined by calculating the
24 difference between the Actual Base Revenue per Customer and the
25 Benchmark Base Revenue per Customer, and multiplying that difference
26 by the Actual Number of Customers for the applicable Customer Class
27 Group. The Revenue Decoupling Adjustment shall equal the sum of the

[13] Note that this language would have avoided the issue raised in this testimony because it specifically precluded use of the R-4 discount when calculating both the benchmark, or allowed, revenue and the actual revenue because it required both sides of the equation to use the non-discounted R-3 rate for R-4 customers.

1 adjustments calculated for each of the three Customer Class Groups and
2 shall include a reconciliation component.

3 *See*, DG 17-048, NHPUC No. 9, Attachment DBS-TARIFF-2, dated 4/28/2017, Original
4 Page 36 (highlighting added) (Attachment ELM-1, Bates 0962).

5 **Q. Was a settlement ultimately reached in Docket No. DG 17-048 on a proposed RDM**
6 **mechanism?**

7 A. Yes. Following the Company's initial filing, substantial discussion occurred in the docket
8 in relation to a range of issues, including the Company's revenue decoupling proposal. In
9 February 2018, the Company reached a settlement with the Office of the Consumer
10 Advocate ("OCA"), a party to the proceeding, which was submitted to the Commission for
11 approval on March 2, 2018 (the "Revised Agreement").[14] Among resolutions to other
12 issues raised in the proceeding, the Settlement Agreement proposed a full decoupling
13 mechanism using the RPC method. Commission Staff did not join the Settlement
14 Agreement.

15 **Q. Did the Revised Agreement adopt the Company's Initial Proposed RDM Tariff, as**
16 **filed, or were changes contemplated in relation to the implementation of the RDM?**

17 A. The Revised Agreement did not adopt the Company's Initial Proposed RDM Tariff
18 provisions, as filed. However, Section II.F of the Revised Agreement did contemplate that
19 the Company would implement a full decoupling mechanism comprised of the following
20 elements: (1) real-time weather normalization, calculated at the individual customer level;

[14] Exhibit 29 in Docket No. DG 17-048, titled *Revised Agreement Regarding Permanent Rates* at Bates 010 (Section II.F) (Attachment ELM-1, Bates 1088). The revised agreement contained minor changes to the original agreement that had been filed a few days earlier.

1 (2) a revenue per customer design, with accrual calculations at the rate class level and
2 billing rates *aggregated into two rates – Residential and Commercial & Industrial ("C&I)*;
3 (3) Managed Expansion Program customers would be subject to decoupling, but the
4 expansion surcharge dollars (i.e., the 30% distribution premium) would be excluded from
5 the decoupling calculation; and (4) special contract customers will be excluded entirely
6 from the decoupling calculation.

7 Thus, the Revised Agreement expressly contemplated that the RDM would take the form
8 of an RPC model, with R-3 and R-4 customers *aggregated* into the "Residential" customer
9 group.

10 More specifically, with respect to the details of applying the RPC method, Section II.F of
11 the Revised Agreement stated that:

> 12 [T]he annual revenue per customer adjustment will be determined by
> 13 calculating the difference between actual annual distribution revenue per
> 14 customer and approved annual distribution revenue per customer for two
> 15 groups of customers: (a) the residential classes and (b) the commercial and
> 16 industrial classes. Approved annual distribution revenue per customer for
> 17 each of these two groups will be based on the approved distribution
> 18 revenues and test year average customer counts for each group. The
> 19 difference in total distribution revenues is calculated using this revenue per
> 20 customer variance multiplied times the actual average annual customer
> 21 count. This amount will be recovered from or refunded to each group over
> 22 the subsequent 12-month period through a uniform charge per therm for
> 23 each group

24 Exhibit 29 in Docket No. DG 17-048, at 11 (highlighting added) (Attachment ELM-1,
25 Bates 1089).

1 Further, the Revised Agreement stated that the new decoupling mechanism would take
2 effect beginning on November 1, 2018. On that date, the RDM would replace the LRAM
3 and the Company would cease any and all recovery of lost revenues attributable to energy
4 efficiency programs outside of the RDM. *Id.* at 11–12.

5 **Q. Did the Commission approve the Revised Agreement?**

6 A. No, not in its entirety. On April 27, 2018, the Commission issued Order No. 26,122, largely
7 rejecting the Revised Agreement and instead authorizing a rate increase based on the
8 Commission's own resolution of the underlying revenue-requirement issues. The
9 Commission's decision on the proposed Revised Agreement also addressed other issues,
10 such as rate design and revenue decoupling. Order No. 26,122, at 8 (Attachment ELM-1,
11 Bates 1125).

12 With respect to revenue decoupling, the Commission approved the revenue decoupling
13 proposal "in concept," subject to certain modifications "for clarity and to facilitate
14 implementation." *Id.* at 45. Noting that the RDM was "slated for November 1
15 [implementation]," the Commission directed Liberty to file illustrative tariffs
16 demonstrating the rates, terms, and conditions required to implement decoupling "in
17 conformance with existing law," within 45 days of the date of the Order. *Id.* at 45–46. The
18 due date for this compliance filing was June 11, 2018.

19 None of the modifications made by the Commission altered the RPC method outlined in
20 Section II.F of the Revised Agreement for implementation of the RDM. *Id.*

1 **C. First Compliance Tariff (June 11, 2018)**

2 **Q. Did the Company comply with Order No. 26,122 in relation to the revenue**
3 **decoupling directives?**

4 A. Yes. On June 11, 2018, the Company submitted a compliance tariff for the Commission's
5 review to implement the RDM (the "First Compliance Tariff") (Attachment ELM-1, Bates
6 1200-1213). Specifically, the Company submitted "Attachment A," which presented
7 revised tariff provisions for Section 17 of the Company's LDAC tariff. The revised LDAC
8 tariff provisions in the First Compliance Tariff established the RDM and introduced the
9 Revenue Decoupling Adjustment Clause ("RDAC") in Section 17(D), comprising the
10 mechanism by which the Company's actual, collected revenues would be reconciled to its
11 authorized, target revenues.

12 **Q. What was the purpose of the RDAC, as stated in the First Compliance Tariff?**

13 A. As indicated in the LDAC tariff submitted in the First Compliance Tariff (June 11, 2018),
14 the purpose of the RDAC was to:

> 15 [A]llow the Company, subject to the jurisdiction of the NHPUC, to adjust,
> 16 on an annual basis, its rates for firm gas sales and firm transportation in
> 17 order to reconcile Actual Base Revenue per Customer with Benchmarked
> 18 Base Revenue per Customer."[15]

[15] First Compliance Tariff, submitted June 11, 2018, at 2 (Attachment ELM-1, Bates 1200-1213).

1 **Q. Did the specific tariff terms of the RDM carry over from the Company's initial**
2 **tariff filed in Docket No. DG 17-048, to the First Compliance Tariff?**

3 A. No. As stated earlier, the decoupling mechanism described in the Revised Agreement
4 made certain changes to the Company's initial decoupling proposal and, thus, those
5 changes had to be incorporated into the language in the First Compliance Tariff.

6 **Q. How were the terms "Actual Base Revenue" and "Customer Class" defined in the**
7 **First Compliance Tariff?**

8 A. In the First Compliance Tariff, the use of the term "Customer Class Group" was
9 maintained, but slight modifications were made to the definitions of "Actual Base
10 Revenue" and "Benchmark Base Revenue Per Customer," in order to address a separate
11 issue under discussion regarding customer counts. These wording changes inadvertently
12 changed the basis of the RPC targets from "Customer Class Groups" to "Customer Class."
13 Specifically, the definitions used in the First Compliance Tariff were as follows:

14 **a. Actual Base Revenue** is the actual revenue derived from the Company's
15 distribution rates for a given Decoupling Year for a Customer Class. The
16 Company will use monthly distribution revenues and Actual Number of
17 Customers to determine the Monthly Actual Base Revenue per Customer.

As compared to the Initial Proposed RDM Tariff:

Actual Base Revenue per Customer is the actual revenue derived from the Company's base rates divided by the Actual Number of Customers for a given season for a Customer Class Group.

18

1 **b. Actual Number of Customers** is the actual number of Equivalent Bills for the
2 applicable Customer Class for the applicable month of the Decoupling Year.

3 **c. Billing Year** is the 12-months commencing November 1 immediately following
4 the completion of the Decoupling Year.

5 **d. Customer Class** is the group of all customers taking service pursuant to the same
6 Rate Schedule.

7 **e. Customer Class Group** is the group of Rate Schedules combined for purposes of
8 calculating the Revenue Decoupling Adjustment billing rates. The two Customer
9 Class Groups are as follows:

10 Residential Customer Class Group (CG1): defined as both Residential Non-Heating
11 Customer Class and Residential Heating Customer Class, shall consist of all
12 customers taking service pursuant to the Company's residential rate schedules.
13 CG1 shall include customers taking service under rate schedules R-1, R-3, R-4, R-
14 5, R-6 and R-7.

15 Commercial and Industrial Customer Class Group (CG2): shall consist of all
16 customers taking service pursuant to one of the Company's general service rate
17 schedules, G-41, G-42, G-43, G-44, G-45, G-46, G-51, G-52, G-53, G-54, G-55,
18 G-56, G-57 and G-58.

19 *Sections f, g, and h, omitted*

20 **i. Benchmark Base Revenue per Customer** is the monthly allowed distribution
21 revenue per Equivalent Bill for a given Decoupling Year for a given Customer
22 Class, reflecting the distribution revenue level and approved equivalent bills from
23 the Company's most recent rate case or other proceeding that results in an
24 adjustment to base rates. Benchmark Base Revenue per Customer will be
25 calculated for each month based on the distribution rates in effect at the start of the
26 Decoupling Year and the calculation will be revised for the remaining months of
27 each Decoupling Year if there is a distribution rate change that occurs following
28 the beginning month of each Decoupling Year.

As compared to the <u>Initial Proposed RDM Tariff</u>:

Benchmark Base Revenue per Customer is the allowed average revenue per Customer for a given season for a Customer Class Group, reflecting the base revenue from the Company's base rate case or other proceeding that results in an adjustment to base rates. The following are the Benchmark Base Revenue per Customer values as approved by the Commission in Docket No. DG 17-048:

1

2 As demonstrated by the highlighted text above, the precise wording of the First Compliance
3 Tariff called for the Benchmark Base Revenue per Customer to be set by *Customer Class*
4 rather than by *Customer Class Group*, thereby separating the R-3 and R-4 customer classes
5 for purposes of setting the allowed revenue target. This change in language inadvertently
6 required the allowed revenue target (or Benchmark Base Revenue per Customer) to be set
7 individually for the R-3 and R-4 customer classes, which thus caused the low-income
8 discount to be included in the target R-4 revenues.

9 **Q. Did the Revenue Decoupling Adjustment Formulas included in the First**
10 **Compliance Tariff follow the changes that were made to the definitions, as**
11 **compared to the Initial Proposed RDM Tariff?**

12 A. Yes. The Revenue Decoupling Adjustment Formulas set forth in the First Compliance
13 Tariff consistently utilize the term "applicable Customer Class" as the basis for each
14 component of the equation, as follows:

$ACUSTS^{CG}_{T-1}$: The Actual Number of Equivalent Bills for the applicable Customer Class for the most recently completed Decoupling Year (T-1)

AR^{CG}_{T-1}: The Actual Base Revenue for the applicable Customer Class for the most recently completed Decoupling Year, (T-1), as defined in Section 4(D). For purposes of calculating the Actual Base Revenue, base revenues for Low Income rate class R-4, shall be determined based on non-discounted rate R-3.

PC^{CG}_{T-1}: The Benchmark Base Revenue Per Equivalent Bill for the applicable Customer Class as determined in accordance with Section 4 (D) for the most recently completed Decoupling Year, stated on a monthly basis (T-1).

1 Moreover, as shown in the highlighted language, the definition of Actual Base Revenue
2 specifically states that base revenues for the low-income R-4 customer class will be
3 determined on the basis of *non-discounted* R-3 rates.

4 Although this language regarding the interplay of R-3 and R-4 revenue was included in the
5 formula definition of Actual Base Revenue in both the Initial Proposed RDM Tariff and
6 the First Compliance Tariff, there was no indication or recognition at this time that there
7 was an embedded mismatch with the "Customer Class" language used in defining the
8 Benchmark Base Revenue target in the First Compliance Tariff. The changes made
9 between the Company's Initial Proposed RDM Tariff and the First Compliance Tariff were
10 made to solve issues unrelated to the low-income discount rate or the specifics of
11 computing revenue decoupling true-ups for the R-3 and R-4 customer classes. Therefore,
12 the mismatch was not identified until it was time to put these definitions into use in the
13 course of performing the first annual reconciliation the following year.

1 **Q. What happened next, after the filing of the First Compliance Tariff on June 11,**
2 **2018?**

3 A. As noted above, the Company submitted the First Compliance Tariff on June 11, 2018.
4 Liberty contacted Commission Staff a week after the filing to arrange a meeting to discuss
5 the compliance filing and obtain Staff's comments, as directed by the Commission. After
6 the first agreed meeting date had to be cancelled, Staff did not provide Liberty with
7 additional dates on which it could meet. Over the succeeding months, Liberty asked Staff
8 for status updates on Staff's review of the compliance filing but received no substantive
9 responses.[16]

10 On September 24, 2018, the Commission issued a letter stating it "has reviewed the
11 illustrative tariff and believes additional information is needed concerning three issues."
12 All three stated issues related to the Company's proposed "real-time weather
13 normalization" proposal.

14 On October 1, 2018, the Company submitted a response to the Commission relating
15 exclusively to the three issues raised on "real-time weather normalization" (Liberty
16 Response to September 24 Secretarial Letter) (Attachment ELM-1, Bates 1214–1229).

17 **Q. Did the Company submit revisions to the First Compliance Tariff before its**
18 **implementation on November 1, 2018?**

19 A. Yes. On October 1, 2018, in addition to submitting a response to the September 24

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[16] Source: *Liberty Response to September 24 Secretarial Letter*, October 1, 2018, at paragraph 6 (Attachment ELM-1, Bates 1216).

1 Secretarial Letter, the Company submitted a "Revised Proposed Section 17" of the
2 Company's tariff in clean and redlined form. None of the changes made to the First
3 Compliance Tariff in this filing pertained to the definitions or formula section specific to
4 the treatment of the R-4 Customer Class for purposes of determining Benchmark or Actual
5 Base Revenue.

6 The Commission conducted a hearing on the proposed "Revised Proposed Section 17"
7 RDM tariff provisions and related matters on October 19, 2018.

8 On October 22, 2018, the Company submitted a second "Revised Proposed Section 17," to
9 incorporate edits proposed by Commission Staff (Attachment ELM-1, Bates 1230–1265).
10 Again, none of the changes made to the First Compliance Tariff pertained to the definitions
11 or formula section specific to the treatment of the R-4 Customer Class for purposes of
12 determining Benchmark or Actual Base Revenue.

13 On October 31, 2018, the Commission issued a Secretarial Letter approving the Company's
14 "Second Revised Proposed Section 17" as the RDM Tariff (Attachment ELM-1, Bates
15 1266–1267).

16 On November 2, 2018, the Commission issued Order No. 26,187 (Attachment ELM-1,
17 Bates 1268–1283), formally approving the Second Revised Proposed Section 17. I will
18 hereinafter refer to this as the "Approved RDM Tariff." In Order No. 26,187, at page 5,
19 the Commission reviewed the history of changes to the proposed RDM tariff provisions,
20 stating that:

1 > On June 11, 2018, Liberty submitted an illustrative tariff to implement
2 > decoupling, including real-time weather normalization, as directed in the
3 > April Order at 45-46. Liberty submitted an updated version on October 22,
4 > after receiving input from Staff and the OCA. At the October 19 hearing,
5 > Liberty agreed to make additional changes suggested by the Commission.

6 Further, the Commission approved the proposed RDM tariff provisions, stating:

7 > We reviewed Liberty's illustrative tariff filed on June 11 as well as the
8 > revised version filed October 22. We find that the October 22 tariff
9 > adequately describes the decoupling mechanism, including the real-time
10 > weather adjustment, **and we approve it.** We require Liberty to file a
11 > compliance version of this tariff within 15 days of this order.

12 Order No. 26,187, at 10 (emphasis added).

13 The Company submitted the <u>Approved Decoupling Tariff</u> on November 16, 2018
14 (Attachment ELM-1, Bates 1284–1329), in accordance with Order No. 26,187. The
15 Company did not propose or make any changes to the RDM tariff provisions in the
16 Approved Decoupling Tariff and the Approved Decoupling Tariff became the operative
17 set of terms and conditions governing the RDM and RDAC computations.

18 **D. <u>First RDAF Reconciliation (Docket No. DG 19-145)</u>**

19 **Q. What is a "Decoupling Year" and what period was covered in the first "Decoupling**
20 **Year"?**

21 A. The "Decoupling Year" is the 12-month period for reconciliation of target revenues and
22 actual revenues collected (per the tariff, from September through August annually). As
23 stipulated to in the Settlement Agreement, and as approved by the Commission, the first

1 Decoupling Year ran from November 2018 to August 2019.[17] The first reconciliation was
2 performed on the basis of actual data ending August 31, 2019, and projected data for
3 September and October 2019. Actual data for September and October 2019 was included
4 in the reconciliation for the subsequent Decoupling Year.

5 **Q. When did the Company reconcile the first Decoupling Year?**

6 A. In September 2019, the Company submitted its annual Cost of Gas filing to set gas factors
7 for the 2019–2020 COG year. The Company included the 2018–2019 RDM reconciliation
8 in this COG filing. The Commission docketed the filing as Docket No. DG 19-145.
9 Including the reconciliation with the COG proceedings made sense because any revenues
10 recovered or refunded through the RDAF would become part of the LDAC, which has long
11 been adjusted as part of the fall COG filing.

12 **Q. What are the key comparative elements of the annual revenue adjustment**
13 **calculation that drive the results of the RDM reconciliation?**

14 A. There are two key comparative elements driving the results of the RDM reconciliation.
15 First, the "Benchmark Base Revenue" is the revenue-per-customer or "RPC" target
16 authorized by the Commission for each rate class in the distribution rate proceeding. In
17 Section 4(a) of this testimony, I provided an example that illustrates how this value is
18 calculated.

17 *See*, Order No, 26,122 (April 27, 2018) (Attachment ELM-1, Bates 1118-1199); Order No. 26,187 (November 2, 2018) (Attachment ELM-1, Bates 1268–1283); and original and revised settlement agreements as filed on February 27, 2018, and March 2, 2018, in DG 17-048 (Attachment ELM-1, Bates 1079–1117). The RDM took effect on November 1, 2018. In the Approved Decoupling Tariff, NHPUC No, 10 Gas Tariff, First Revised Page 35, at Section D.4.f, the ***first*** "Decoupling Year" is defined as November 1, 2018, through August 31, 2019, and each subsequent Decoupling Year is the 12 months commencing September 1 through August 31 of the next year.

1 Second, is Actual Base Revenue per Customer ("Actual Base Revenue"). The Actual Base
2 Revenue constitutes the Company's actual revenue collections, which, according to the
3 tariff, would be determined using "the actual revenue derived from the Company's
4 distribution rates for a given Decoupling Year," as well as the actual number of customers
5 that the Company served in a year.[18] Put another way, the Actual Base Revenue was
6 designed to equal the Company's actual revenues for a given class during a year, divided
7 by the actual number of customers served in the rate class during the same year.

8 **Q. Does Actual Base Revenue include revenues from components charged to customers**
9 **as part of the LDAC?**

10 A. No. LDAC charges are not "distribution rates" and the tariff language specifically
11 established that the revenue comprising the Actual Base Revenue would be generated
12 exclusively by distribution rates.

13 **Q. Earlier in your testimony, you explained that the Company is reimbursed for the**
14 **revenues associated with extending the low-income discount to the R-4 rate class**
15 **through the LDAC. That being the case, is the RDM designed to count the R-4**
16 **reimbursement revenues collected through the LDAC in the RDM?**

17 A. No, the Approved Decoupling Tariff specifically states that "[f]or purposes of calculating
18 the Actual Base Revenue, base revenues for Low Income rate class R-4, shall be
19 determined based on non-discounted rate R-3."[19] As a result, the revenues associated with

18 *Id.*

19 Second Revised p. 37.

1 extension of the low-income discount rate to the R-4 customer class are already accounted
2 for by virtue of the fact that the formula equation states that, for purposes of calculating
3 the Actual Base Revenue, base revenues for Low Income rate class R-4 shall be determined
4 based on non-discounted rate R-3.

5 **Q. When did the Company first calculate the Benchmark Base Revenue?**

6 A. The Benchmark Base Revenue targets were submitted to the Commission in September
7 2018, in advance of the implementation of the RDM on November 1, 2018, as part of the
8 Company's COG filing in Docket No. DG 18-137.[20] The filed Benchmark Base Revenue
9 targets for the R-3 and R-4 classes are shown below in Table 3.

10 **Table 3. Benchmark Base Revenue Targets Submitted in Docket No. DG 18-137**

	R-3				R-4		
	Customers	Target Revenue	Benchmark RPC		Customers	Target Revenue	Benchmark RPC
January	76,501	$6,925,912	**$90.53**		5,629	$191,604	**$34.04**
February	70,269	$6,006,068	**$85.47**		5,175	$163,736	**$31.64**
March	71,991	$5,267,976	**$73.18**		5,301	$153,105	**$28.88**
April	75,178	$3,465,023	**$46.09**		5,515	$109,479	**$19.85**
May	68,613	$2,308,483	**$33.65**		5,072	$66,579	**$13.13**
June	73,366	$1,894,274	**$25.82**		5,405	$56,646	**$10.48**
July	74,096	$1,686,231	**$22.76**		5,462	$50,195	**$9.19**
August	70,010	$1,601,723	**$22.88**		5,162	$48,023	**$9.30**
September	70,749	$1,797,279	**$25.40**		5,214	$51,492	**$9.88**
October	71,998	$2,621,900	**$36.42**		5,293	$74,427	**$14.06**
November	68,057	$4,000,612	**$58.78**		5,032	$112,783	**$22.42**
December	74,878	$5,910,427	**$78.93**		5,519	$166,171	**$30.11**

11

[20] *See*, September 4, 2018, Initial Filing of Winter 2018/2019 Cost of Gas and Summer 2019 Cost of Gas, Docket No. DG 18-137, Testimony of Simek/McNamara, Schedule 19, Bates 122 (Attachment ELM-1, Bates 1412).

1 **Q. Why were the R-4 Benchmark Base Revenue targets lower than the R-3 Benchmark**
2 **Base Revenue targets?**

3 A. The Benchmark Base Revenue targets were developed in strict accordance with the
4 definitions set forth in the Approved Decoupling Tariff, following these three steps:

5 1. LDAC Tariff, Section 17, Paragraph D.4.i, states that:

6 Benchmark Base Revenue per Customer is the monthly allowed distribution
7 revenue per Equivalent Bill for a given Decoupling Year for a given Customer
8 Class, reflecting the distribution revenue level and approved equivalent bills from
9 the Company's most recent rate case or other proceeding that results in an
10 adjustment to base rates. Benchmark Base Revenue per Customer will be
11 calculated for each month based on the distribution rates in effect at the start of
12 the Decoupling Year and the calculation will be revised for the remaining months
13 of each Decoupling Year if there is a distribution rate change that occurs following
14 the beginning month of each Decoupling Year.

15 2. LDAC Tariff, Section 17, Paragraph D.4.d, states that:

16 Customer Class is the group of all customers taking service pursuant to the
17 same Rate Schedule.

18 3. The "distribution rates in effect at the start of the Decoupling Year" for the R-4
19 customer class are set forth in the R-4 Rate Schedule. The R-4 Rate Schedule
20 establishes the distribution rates applicable to the low-income customer class. The
21 R-4 Rate Schedule states that customers are subject to "Delivery Charge" for all
22 therms used, which is discounted by 60% from the "Delivery Charge" for the R-3
23 Rate Schedule (i.e., all therms sold at $0.2201 rather than $0.5502).

24 The R-4 Rate Schedule for the R-4 customer class reflects discounted "delivery charges,"
25 set in the Company's most recent distribution rate proceeding. Thus, by definition of the
26 Approved Decoupling Tariff, the R-4 Benchmark Base Revenues were to be set on a
27 discounted basis.

1 **Q. Did the Company's approach adhere to the RDM tariff provisions in the Approved**
2 **Decoupling Tariff?**

3 A. Yes. Strictly adhering to the approved tariff provisions produced Benchmark Base
4 Revenue targets for the R-4 class that were 60% lower than the R-3 revenue target for the
5 same month.[21] This is because the Approved Decoupling Tariff required the Company to
6 set the Benchmark Base Revenue target for the R-4 rate class, reflecting the "distribution
7 revenue level and approved equivalent bills" associated with the Company's most recent
8 rate case. These rates are discounted for the R-4 class, as expressly shown in the R-4
9 Rate Schedule. Thus, the Company established the Benchmark Base Revenue for the R-4
10 customer class at the 60% discount to the R-3 customer class level.

11 **Q. In preparing the first reconciliation in September 2019, did the Company recognize**
12 **that there was a potential mismatch between the Benchmark Base Revenue target**
13 **and the Actual Base Revenue?**

14 A. Yes. As the Company was preparing the filing according to the tariff provisions, the results
15 showed a relatively large over-collection of base revenues, which was not expected and
16 appeared unusual. As the Company examined what could be causing the unusual
17 differential, the Company identified that there was a mismatch occurring between the
18 Benchmark Base Revenue targets and the Actual Base Revenue computation, which would
19 make it appear that a refund was due to customers when it was not. Therefore, as part of
20 the Company's initial filing in Docket No. DG 19-145, the Company explained that a

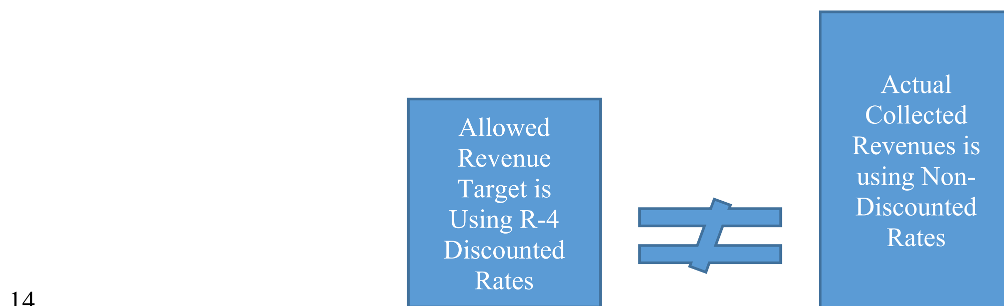
[21] Because of differences in consumption between R-3 and R-4 customers, the R-4 revenue targets are close to, but not exactly, 60% less than the R-3 revenue targets for each same month.

1 mismatch of revenues was occurring.[22] Specifically, Company Witnesses David Simek
2 and Catherine McNamara explained as follows:

> 3 The approved Benchmark Base Revenue per Customer calculation uses
> 4 low-income residential heating revenue (rate R-4) in the calculation
> 5 while the Actual Base Revenue per Customer calculation uses the
> 6 residential heating rate (rate R-3) to calculate the rate R-4 revenue. In
> 7 other words, the formulas in the tariff use the R-4 rate to calculate the
> 8 benchmark R-4 revenue per customer and use the R-3 rate to calculate
> 9 the actual R-4 revenue per customer.

10 **This statement summarized the issue succinctly and correctly.**

11 Illustratively, the Company attempted to alert the parties to the mismatch caused by the
12 lack of a comparative basis between the Benchmark Base Revenue target and Actual Base
13 Revenue, as defined in the tariff.

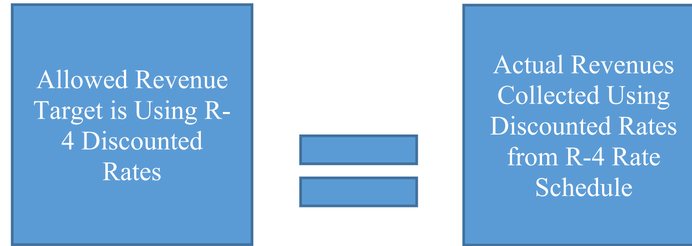
14 

[22] Docket No. DG 19-145, Initial Filing of September 3, 2019, Initial Testimony of Simek/McNamara at 9–10, Bates 012 (Attachment ELM-1, Bates 1494).

1 **Q. How did Company Witnesses Simek and McNamara address this situation in their**
2 **testimony submitted in Docket No. DG 19-145?**
3 A. In view of the relatively large revenue refund that resulted from strictly following the
4 definitions and formulas in the Approved Decoupling Tariff, Company Witnesses Simek
5 and McNamara developed an alternative RDAF calculation that would eliminate the
6 mismatch by placing the Benchmark Base Revenue targets and Actual Base Revenue
7 computation on the same, comparative basis. The Company then presented the two
8 alternative computations in the reconciliation of the 2018–2019 Decoupling Year.

9 The first computation used the values derived from the definitions and formulas in the
10 tariff, which meant that the R-4 discounted "delivery charge" was used to develop the
11 Benchmark Base Revenue targets and the non-discounted R-3 rates were used to calculate
12 the Actual Base Revenue collections for the R-4 customer class. This configuration is
13 illustrated above and adhered strictly to the tariff provisions.

14 The second computation was developed to reflect the "intent" or proper operation of the
15 RDM mechanism, meaning that they calculated both the Benchmark Base Revenue targets
16 and the Actual Base Revenue collections *on a comparative basis*, using the R-4 customer
17 class (discounted) delivery rates for the Benchmark Base Revenue targets and the actual
18 R-4 revenues for the Actual Base Revenues. This computation reduced the refund due to
19 customers for the first decoupling year to a level that would be more reasonably expected
20 for an RDM reconciliation. Illustratively, this alternative configuration was:

1 

2 **Q. What were the specific results of the two alternative computations?**

3 A. The results of the two computations showed that adhering to the tariff formula significantly
4 overstated the size of the RDAF reconciliation, as shown in Table 4, below. When the
5 Benchmark Base Revenue target is calculated using discounted R-4 rates and is reconciled
6 against Actual Base Revenues calculated using the same discounted rate, the results
7 indicate that the Company over-collected its authorized revenues for this class by only **18**
8 **percent**, or about $29,000, which would be returned to customers through the RDAF.
9 Conversely, when the non-discounted R-3 rates are used to impute actual revenues and are
10 compared to the discounted R-4 revenue targets as called for in the tariff equation, the
11 calculation indicates that revenues were over-collected by **67 percent**, or about $268,000.

12 **Table 4. Proposed Alternatives for RDAF Calculation for R-4**[23]

	Comparative Inputs	Tariff Formula	
Customers	5,946	5,946	*a*
Benchmark RPC	$22.31	$22.31	*b*
Allowed revenue	$132,655	$132,655	*c = a*b*
Customer charge	$6.01	**$15.02**	*d*
Customer revenues	$35,735	$89,309	*e = a*d*

[23] The variation in the RPC figures between Table 3, the initially approved RPCs, and Table 4, the RPCs used the following year during the first reconciliation arises from the distribution rate adjustment that occurred as a result of the Cast Iron/Bare Steel filing earlier in 2018, Docket No. DG 19-054. *See,* Order No. 26,266 (June 28, 2019).

Sales volumes	566,467	566,467	*f*
Volumetric rate	$0.2228	**$0.5502**	*g*
Sales revenues	$126,209	$311,670	*h = f*g*
Actual base revenues	$161,944	$400,979	*i = e+h*
RDAF by dollars	($29,289)	($268,324)	*j = c-i*
RDAF by percent	18%	67%	*k = j/i*

1 **Q. Did these alternative computations reveal a mismatch embedded in formula for the**
2 **RDM reconciliation?**

3 A. Yes. These alternative computations revealed, for the first time, that an inherent mismatch
4 was created by the approved tariff language and that, by its operation, the tariff terms were
5 effectively causing the Company *to provide the low-income discount twice*. However, at
6 this juncture, the "mismatch" appeared to result from the fact that the delivery rates charged
7 to customers by virtue of the approved R-4 rate schedule were discounted, but the formula
8 for computation of the Actual Base Revenues in the Approved Decoupling Tariff expressly
9 called for use of the non-discounted R-3 revenues to calculate the Actual Base Revenues
10 for purposes of the RDM reconciliation. Thus, focus was centered on the use of the R-3
11 revenues for computation of the Actual Base Revenue collections, which appeared
12 anomalistic given that the development of Benchmark Base Revenue targets is the first step
13 of the sequence, and the targets were set on a discounted basis.

14 Therefore, with the alternative computation, Company Witnesses Simek and McNamara
15 suggested that the actual (discounted) revenues for the R-4 customer class should be used
16 to compute the Actual Base Revenues for the reconciliation rather than the actual (non-
17 discounted) revenues for the R-3 customer class, which was not discounted.

Q. Did participants to the 2019 COG proceeding agree with the Company's recommendation to use the discounted R-4 rates to calculate the Actual Base Revenue collections for the RDM reconciliation?

A. No. During a technical session conducted on September 23, 2019, Commission Staff presented its opinion to the Company that the use of the (discounted) R-4 rates to calculate the Benchmark Base Revenue targets and the (non-discounted) R-3 rates to calculate Actual Base Revenue collections was correct, essentially because the tariff said so. Accordingly, Staff recommended that the Company use the "Tariff Formula" version of the calculations shown in Table 4, subject to a handful of additional minor updates.

Based on discussion with Commission Staff and other parties at the Technical Session, the Company agreed to revise and resubmit its initial filing, adjusting the schedules and testimonies to follow the Tariff Formula.[24] Although this approach appeared to perpetuate the mismatch between discounted allowed-revenue targets and non-discounted actual revenue collections, this approach did, in fact, follow the express provisions of the Approved Decoupling Tariff. Therefore, it became difficult for the Company to insist on a method that differed from the approved tariff provisions, despite the fact that the Benchmark Base Revenue targets and the Actual Base Revenue collections did not appear to be set on a comparative basis by the terms of the Approved Decoupling Tariff. However, Liberty submitted its revised filing on October 7, 2019.

[24] Docket No. DG 19-145, Revised Pages of Simek/McNamara at 8–9 (Attachment ELM-1, Bates 1504–1505).

1 On October 8, 2019, Commission Staff submitted pre-filed testimony presenting its 2 "analysis of the [Revenue Decoupling Adjustment] related tariff issue the Company raised 3 in its initial filing."[25] In relation to the mismatch suspected by the Company, Staff 4 summarized its critique of the Company's initial filing, as follows:

5 - "Liberty believed that the calculations of actual revenue and allowed 6 revenue for R-4 customers were not aligned with each other. Staff 7 disagreed and explained the reasons to the company in a technical 8 session."

9 **Q. What reasoning did Staff provide for its recommendation?**

10 A. Staff emphasized that the Company had erred in concluding that there was a mismatch 11 embedded in the RDM reconciliation, stating:[26]

> 12 Since the Company is already made whole for the discount offered to low- 13 income (R-4) customers after revenue collected from the RLIAP charge is 14 collected, Liberty's initial "adjustment" for R-4 customers overestimated 15 compensation due to the Company by approximately 2.1 million dollars. 16 Staff's analysis is consistent with the relevant tariff language which states 17 that "For purposes of calculating the Actual Base Revenue, base revenues 18 for Low Income rate class R4, shall be determined based on non-discounted 19 rate R-3" when calculating the AR_{T-1} (Actual Base Revenue for the 20 applicable Customer Class for the most recently completed Decoupling 21 Year. See Tariff page 37). The intent of RDAF and tariff language match 22 perfectly in this context.

23 Thus, Staff's conclusion was that the Company should not be making an "adjustment" to 24 create a comparative basis for allowed revenue targets and actual revenue collections by 25 discounting the Actual Base Revenue collections (AR_{T-1}) to match the discounted

25 Testimony of Al-Azad Iqbal, Exhibit 5 in Docket No. DG 19-145 at 1 (Attachment ELM-1, Bates 1538).

26 *Id.* at 3.

1 Benchmark Base Revenue target. Instead, Staff insisted that the Company should be
2 following the Tariff Formula, which required the use of the R-3 rates when calculating the
3 Actual Base Revenue collections for R-4 customers.[27]

4 **Q. Was Staff's reasoning correct, arriving at the right resolution of the issue?**

5 A. No, it was not. At the time, it was difficult for all parties involved to overcome the fact
6 that the Company was operating in accordance with an Approved Decoupling Tariff and
7 the "Tariff Formula" approach followed the approved tariff provisions precisely. In
8 addition, perception of the mismatch was obscured by the fact that the Company was
9 recovering the low-income discount through RLIAP, and these revenue collections were
10 excluded from the RDM reconciliation. This fact is what appears to have obscured Staff's
11 recognition of the apparent mismatch.

12 As shown in the statement quoted above from Staff testimony, it appeared to Staff that the
13 Company's "adjustment" to place the Benchmark Base Revenue target and Actual Base
14 Revenue collections on a comparative basis by discounting the R-3 revenues was resulting
15 in "overestimated compensation" or double recovery of the low-income discount by $2.1
16 million. Stated another way, Staff's testimony indicates it viewed that, by discounting the
17 R-3 revenues to calculate the Actual Base Revenue collections, the RDM was *erroneously*
18 *giving the low-income discount amount back to the Company twice*, i.e., through the RDM
19 reconciliation and through the RLIAP, thereby justifying the return of $2.1 million to
20 customers. But, in fact, the $2.1 million revealed by using the "Comparative Inputs"

[27] *Id.* at 3.

1 belonged to the Company because the alternative analysis proved that the tariff provisions
2 were compelling the Company *to give customers the low-income discount twice.*

3 **Q. Is the Company contending that the provisions of the Approved Decoupling Tariff**
4 **were flawed?**

5 A. Yes. Adhering to the express language of the Approved Decoupling Tariff resulted in a
6 miscalculation of the RDM reconciliation. The provisions of the Approved Decoupling
7 Tariff inadvertently operated to require the Company to calculate the Benchmark Base
8 Revenue target for R-4 customers using the <u>discounted rate</u> shown in the R-4 Rate
9 Schedule, as approved in the most recent distribution rate case. These targets are lower
10 than the targets for R-3 customers by the amount of the low-income discount, or 60%.
11 Conversely, the provisions of the Approved Decoupling Tariff required the Company to
12 use the <u>non-discounted</u> R-3 customer revenues to calculate the Actual Base Revenue
13 collections, as succinctly described in Staff's testimony. As a result, discounted target
14 revenues are compared to non-discounted actual revenues, falsely indicating the need for a
15 refund to customers as part of the RDM reconciliation. Thus, the Company was effectively
16 providing the same discount twice, once in the reduced rates charged to the R-4 customers
17 per the R-4 Rate Schedule and a second time through the refund of revenues in the annual
18 RDM reconciliation for 2018–2019 and 2019–2020.

19 **Q. Would you provide examples that demonstrate these mechanics?**

20 A. Yes, I have provided a series of simple calculations that demonstrate the problem with
21 Staff's recommendation to adhere to the Tariff Formula. First, for reference, assume that

1 in some month the Company serves 5,000 R-3 customers whose Benchmark RPC is
2 $45/customer, meaning that the allowed revenue is $225,000. If the customer charge is
3 $15/month, the volumetric charge is $0.50/therm, and monthly usage is 60 therms, the
4 revenues for the class will be $225,000, meaning that there will be no RDAF adjustment.

5 **Table 5. Indicative RDAF Calculations for R-3 Customers**

Benchmark RPC	$45	*a*
Customers	5,000	*b*
Authorized revenues	$225,000	*c = a*b*
Customer charge	$15.00	*d*
Customer revenues	$75,000	*e = b*d*
Volumetric charge	$0.5000	*f*
Monthly use per customer	60	*g*
Volumetric revenues	$150,000	*h = f*g*
Actual base revenues	$225,000	*i = e+h*
RDAF adjustment	$0	*j = c-i*

6 **Q. What does this result tell us about the R-4 customers?**

7 A. When the calculations are expanded to recognize all of the Company's actual revenues,
8 including the recovery of the RLIAP discount through the LDAC, the result should be the
9 same if Staff's contention is correct. Recall that in Section IV, Table 2, I demonstrated
10 how the Company's revenue collections for an R-4 customer should be the same as the
11 revenue for an R-3 customer with identical usage, once the LDAC revenues are considered.

1 **Q. Would you provide an illustration of the perception that Staff held in relation to the**
2 **first RDM reconciliation?**

3 A. Staff's position, as I understand it, was that it is permissible to use the non-discounted
4 Actual Base Revenue collections for these calculations because the revenues collected
5 through the LDAC to recover the R-4 discount constitutes the "make whole" payment that
6 is necessarily equal to the reduction in the authorized revenue from the lower Benchmark
7 Base Revenue target. The example below reflects what I believe was Staff's perception. I
8 have adjusted the calculation shown in Table 5 above by reducing the Benchmark Base
9 Revenue target by 60% to make it applicable for reconciling the R-4 class, and also by
10 calculating the value of the RLIAP payment from the LDAC.

11 **Table 6. Indicative RDAF Calculations for R-4 Customers**

Benchmark RPC	$27	*A*
Customers	5,000	*B*
Authorized revenues	135,000	*c = a*b*
Customer charge	$15.00	*D*
Customer revenues	$75,000	*e = b*d*
Volumetric charge	$0.5000	*F*
Monthly use per customer	60	*G*
Volumetric revenues	$150,000	*h = f*g*
Actual base revenues for ratemaking	$225,000	*i = e+h*
RDAF adjustment	($90,000)	*j = c-i*
<u>LDAC recovery</u>		
Value of customer charge	$6.00	*k = d*(1-60%)*
Customer revenues	$30,000	*l = b*k*
Value of volumetric charge	$0.20	*m = f * (1-60%)*

Volumetric revenues	$60,000	*n = g*m*
Total RLIAP recovery	$90,000	*o = l+n*
Total revenues	$225,000	*p = i+j+o*

1

2 **Q. What is the result?**

3 A. From these calculations, it appears that the 60-percent reduction in the Benchmark Base
4 Revenue target creates a negative RDAF adjustment – a refund of revenues to customers –
5 of $90,000, but that this amount is offset precisely by the Company's recovery of the
6 RLIAP. If these calculations were accurate, the Company would collect $225,000, the
7 same as was shown in the example for the R-3 customer.

8 **Q. What is the inherent flaw in Staff's perceived solution?**

9 A. The flaw is the assumption that the Company actually received all of the Actual Base
10 Revenue. However, using the R-3 rates to calculate the Actual Base Revenue collections
11 does not mean that the Company actually collected those revenues. In actuality, the
12 Company collects only 40 percent of the revenues shown above at lines *e* and *h*. In Table
13 7 below, I have added a new line "p" to include an adjustment for the value of the discount
14 that the Company provides to its R-4 customers.

1 **Table 7. Indicative RDAF Calculations for R-4 Customers**

2 **Adjusted for Actual Revenues**

Benchmark RPC	$27	*A*
Customers	5,000	*B*
Authorized revenues	135,000	*c = a*b*
Customer charge	$15.00	*D*
Customer revenues	$75,000	*e = b*d*
Volumetric charge	$0.5000	*F*
Monthly use per customer	60	*G*
Volumetric revenues	$150,000	*h = f*g*b*
ABRC revenues for ratemaking	$225,000	*i = e+h*
RDAF adjustment	($90,000)	*j = c-i*
<u>LDAC recovery</u>		
Value of customer charge	$6.00	*k = d*(1-60%)*
Customer revenues	$30,000	*l = b*k*
Value of volumetric charge	$0.20	*m = f * (1-60%)*
Volumetric revenues	$60,000	*n = g*m*b*
Total RLIAP recovery	$90,000	*o = l+n*
Adjustment for actual revenues	($90,000)	*p = -(e+h)*(1-60%)*
Total revenues	$135,000	*q = i+j+o+p*

3

4 **Q. What is the result?**

5 A. Tracking the Company's actual revenues through the various reconciliations in this manner
6 reveals the source of the over-refund. Because of the mismatch in the rates used to
7 calculate the Benchmark Base Revenue targets and the Actual Base Revenue collections,
8 the Company will over-refund the R-4 class each month in an amount that is equal to the
9 value of the discount that is provided to low-income customers.

1 **Q. Is this what you meant earlier in your testimony when you indicated that**
2 **calculations flowing from the terms of the Approved Decoupling Tariff effectively**
3 **provided the R-4 discount twice?**

4 A. Yes. The Company provides the low-income discount a first time in the form of the
5 reduced rates at which it provides service to the R-4 customers. Then, the discount was
6 essentially provided a second time through the RDM reconciliation because the Benchmark
7 Base Revenue target includes a discount that is not reflected in the Actual Base Revenue
8 collection, and therefore are set too low. The two discounts are offset by the RLIAP
9 revenues the Company receives through the LDAC, but that revenue is received only once.

10 **Q. Why did the Company agree to an incorrect solution in the 2018–2019 COG**
11 **proceeding?**

12 A. The Company did not know for sure at that time that the approach recommended by
13 Commission Staff was, in fact, wrong. Again, the Company, Commission Staff, and other
14 parties were attempting to construe the relevant provisions of the Approved Decoupling
15 Tariff and it was difficult to come to the conclusion that the tariff provisions were just
16 wrong. The Company and all other parties to the proceeding were dealing with a subtle
17 flaw embedded deep within a new and complex mechanism. The Company was also
18 engaging in good faith and with an open mind with the parties in an effort to identify
19 compromises to disputed issues knowing that the RDM was of a reconciling nature and,
20 thus, any necessary adjustments could be taken into account in future reconciliations.[28] At

[28] The Commission also recognized that the decoupling mechanism may need adjustments as the parties worked through its complexities. In approving the RDM, the Commission stated: "The settlement would have required Liberty

1 the time the Company revised its 2018–2019 COG filing, the Company had become
2 convinced that following the provisions of the Approved Decoupling Tariff was
3 appropriate and, certainly, that was the position of Commission Staff and other parties as
4 well. When the Commission issued Order No. 26,306 approving the Company's revised
5 filing, the Commission noted OCA's "appreciation" for Staff's effort in identifying the
6 apparent "inaccuracies" in the Company's previous submission. All parties were acting in
7 good faith to examine and resolve the first annual RDM reconciliation.[29]

8 **Q. Is that to say that the Company has no responsibility for the accuracy of the filings**
9 **it puts before the Commission?**

10 A. No, it does not mean that. The Company is certainly responsible for each of its filings and
11 neither the Commission nor any other party is responsible for validating the accuracy of
12 any of the Company's submissions. In this instance, though, the circumstances around this
13 filing are sufficiently unusual as to merit mention here. The mechanism is complex and
14 there were several tariff iterations. As a result, the true nature of the mismatch was not
15 identified by any party.

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to file its next rate case using an historic test year no later than December 31, 2020, to reset test year revenues in light of the decoupling mechanism. 3/6/18 AM, Tr. at 57. We agree that such a reset is well advised and we adopt such a requirement in this order." Order No. 26,122 at 46.

[29] The Commission again recognized that the RDM may need further adjustment: "We also approve the Company's LDAC rates, including but not limited to the RDAF, as presented in the initial filing and revised in the October 8 filing, as just and reasonable. Because actual costs and revenues are reconciled every year, any adjustments needed as a result of further inquiry into the matters addressed in this order, including final audits, can be made in Liberty-EnergyNorth's COG filing for 2020-2021." Order No. 26,306 at 7.

1 **Q. What was the total apparent overcollection caused by the mismatch embedded in**
2 **the RDM reconciliation for the period November 2018–August 2019?**
3 A. The total over-collection inadvertently returned to customers was $1,932,205.

4 **Q. How is that amount calculated?**
5 A. In its most recent COG filing with the 2020/2021 decoupling reconciliation, the Company
6 submitted schedules with corrected calculations that provide the basis for comparison.
7 Those schedules indicated that, for the period 2018–2019, the Company refunded a total
8 of $7,016,791 through the RDM. Correction of the RDAF calculation to eliminate the
9 mismatch I have discussed above indicates that the refund should have been $5,084,568.[30]
10 The difference is $1,932,205.

11 **Q. Aside from the calculations shown in those schedules, is there any way to validate**
12 **the accuracy of the assertion that the amount of $1,932,205 was, in fact, an over-**
13 **refund to customers?**
14 A. Yes. As shown in the examples I have provided earlier in my testimony, particularly the
15 example portrayed in Table 7, the error embedded in the RDM reconciliation mechanism
16 will result in an over-refund equal to the value of the discount provided to the R-4
17 customers. This mathematical exercise demonstrates that the over-refund would be
18 expected to be roughly 1.5 times the amount of the revenue from the R-4 customers at R-
19 4 rates -- and this is exactly correct. The provided schedule indicates that, for this period,

[30] *See,* Docket No. DG 21-130, Exhibit 2 (Updated Testimony of Simek/McNamara, at Bates 014–015 and supporting attachments, Schedule 19, at Bates 128–131) (Attachment ELM-1 at Bates 0270–0271 and Bates 0384–0387, respectively).

1 the allowed base revenues for the R-4 class, calculated using R-4 rates, is $1,228,492. The
2 over-collection of $1,932,205 is approximately 1.57 times that amount. Since some
3 variation in the ratio is to be expected from the uncertainty of changes in month-to-month
4 consumption that affect the relationship between Benchmark Base Revenue targets and the
5 R-3 and R-4 rates, this result strongly supports my conclusion.

6 **Q. Did the Company follow the specific terms of the Approved Decoupling Tariff**
7 **during this entire period?**

8 A. Yes, the Company adhered to the specific terms and formulas of the Approved Decoupling
9 Tariff through the entire effort to develop and produce the 2018–2019 RDM reconciliation
10 for examination by Commission Staff and other parties. As I explained earlier in my
11 testimony, the Company calculated the RDM reconciliations in full compliance with every
12 aspect of the tariff. However, a methodological flaw was inadvertently embedded in the
13 terms of the Approved Decoupling Tariff, NHPUC No. 10, ultimately causing the results
14 of the computations to be incorrect.

15 **E. <u>Independent RDM Review</u>**

16 **Q. Was the Company taking other steps to evaluate the RDM around this time?**

17 A. Yes. Liberty hired an outside consultant to conduct an audit of the RDM. Results of that
18 audit were reported on August 8, 2019 (the "Audit Report").[31]

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[31] The Audit Report was provided during the course of discovery and was attached to OCA witness Mr. Iqbal's direct testimony in Docket No. DG 20-105, marked as Exhibit 39, beginning at Bates 030 (Attachment ELM-1, Bates 1572).

1 **Q. Why did the Company commission the audit?**

2 A. The Company commissioned the audit because of unexpected financial results from the
3 RDM. As the Audit Report explains, the Company experienced revenues that were $1.4
4 million lower than had been expected during the first seven months in which the RDM was
5 in operation.[32] The revenue shortfall was attributable to several factors, including changes
6 to customers counts arising, in part, from the reclassification of certain large customers
7 after RDM was implemented; effects associated with an adjustment mechanism designed
8 to account for changes in weather; and changes in customer consumption, among others
9 factors.

10 **Q. Did the advisors evaluate the Company's calculation of the Benchmark Base**
11 **Revenue targets?**

12 A. Yes. The advisors evaluated the Company's calculation of the Benchmark Base Revenue
13 targets and determined that the Company's calculations were accurate.[33] The advisors did
14 not make any reference to potential mismatches between the Benchmark Base Revenue
15 targets and the computation of Actual Base Revenue collections. The reason for their
16 omission is that the mismatch was a very subtle error, embedded within a new, complicated
17 tariffed mechanism, which made it extremely difficult to identify and diagnose, even by
18 experts. It was only in the course of actually preparing the RDM reconciliation that the
19 nuances of the calculation began to emerge.

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[32] Audit Report, at 1.

[33] Audit Report, at 4.

1 **F. Second RDM Reconciliation (Docket No. DG 20-141)**

2 **Q. When did the Company next reconcile the RDM?**

3 A. In September 2020, when the Company made its next COG filing in a proceeding docketed
4 Docket No. DG 20-141, the Company presented its RDM reconciliation for the 2019–2020
5 RDM cycle (September 2019–August 2020). In this filing, the same mismatch existed
6 between the Benchmark Base Revenue targets and the rates used to calculate the Actual
7 Base Revenue collections and, again, the magnitude of the refund indicated a problem with
8 the computations embedded in the tariff. However, several dynamics were occurring
9 contemporaneously with this filing that precluded additional discussion in the 2020 COG
10 docket on the anomaly existing within the Approved Decoupling Tariff.

11 For example, the COVID-19 pandemic caused distraction and disruption beginning in
12 March 2020 and through the time of the Company's filing in September 2020. In addition,
13 the Company was preparing to file a new base-rate case and the expectation of all parties
14 involved was that the RDM tariff provisions would be revisited in that proceeding, which
15 did ultimately occur. The Company's base-rate filing was submitted to the Commission
16 on July 31, 2020.

17 On September 1, 2020, the Company submitted its Winter 2020–2021 and Summer 2021
18 Cost of Gas Filing to the Commission. The Commission approved the Company's
19 requested COG, including the second reconciliation of the RDM, in Order No. 26,419 (Oct.
20 30, 2020) (Attachment ELM-1, Bates 1611–1621) without any discussion on the embedded
21 tariff flaw.

1 **Q. What was the total amount of the over-refund from the mismatch for the period**
2 **September 2019 to August 2020?**

3 A. The amount of the over-refund for the second Decoupling Year was $2,092,605, which
4 was similar to the over-refund that occurred for the first RDM reconciliation in Docket No.
5 DG 19-145. This would be expected because the value of the low-income discount would
6 not be expected to vary materially from year to year, as it applies to base distribution rates.[34]
7 This means that the total over-refund was $4,024,810 as of this time.

8 **Q. Have you validated this result in the same manner in which you validated the**
9 **estimate of the over-refund paid between November 2018 and August 2019?**

10 A. Yes. During this period, the allowed revenue for the R-4 class, calculated using R-4 rates,
11 was $1,329,427. The ratio of the over-refund to this amount is 1.57, exactly as it was for
12 the prior year, thereby validating the nature of the error that occurred.

13 **G. Liberty Rate Case (Docket No. DG 20-105)**

14 **Q. At what point did the Commission consider changes to the Company's tariff related**
15 **to the operation of the RDM?**

16 A. The provisions of the RDM were revisited during the course of the Company's most recent
17 rate case, Docket No. DG 20-105, which was filed on July 31, 2020. There were at least
18 two drivers that prompted this discussion in Docket No. DG 20-105. First, the Company
19 recognized that an issue existed with the RDM, even if it was not yet definitively clear as

[34] *See*, Docket No. DG 21-130, Exhibit 2 (Updated Testimony of Simek/McNamara, at Bates 014–015 and supporting attachments, Schedule 19, at Bates 128–131) (Attachment ELM-1 at Bates 0270–0271 and Bates 0384–0387, respectively).

1 to what that issue was. By the time the rate case was concluded, the Company knew the
2 refunds it was issuing were larger than should be expected and the Audit Report
3 simultaneously identified a number of issues that Liberty was not aware of. At the same
4 time, the financial impacts were continuing.

5 Second, the parties to the rate case agreed that the proceeding, which was the first rate case
6 since the RDM was implemented, created a timely opportunity to consider refinements and
7 improvements, as referenced by the Commission in the Order that approved the RDM in
8 2018, cited above. In particular, a settlement that was agreed to by the Company, Staff,
9 and the OCA and filed with the Commission on June 30, 2021, indicated that clarifications
10 of the sections of the Company's tariff that pertain to decoupling would be a priority
11 (Attachment ELM-1, Bates 1622–1670).

12 **Q. Did the Company subsequently file a Revised RDM Tariff in compliance with the**
13 **Commission's directives in Docket No. DG 20-105?**

14 A. Yes, on August 13, 2021, the Company filed an updated tariff in compliance with directives
15 set forth by the Commission in Order No. 26,505 (Attachment ELM-1, Bates 1671–1829).
16 The parties to the settlement in Docket No. DG 20-105 jointly developed the tariff changes
17 for the specific purpose of alleviating the embedded mismatch discovered in relation to the
18 reconciliation of the RDM. These directives were set forth in the Commission's final
19 decision approving tariff changes in Order No. 26,505, issued on July 30, 2021
20 (Attachment ELM-1, Bates 1830–1846).

1 **Q. Were any other changes made that related to ratemaking for the Company's low-**
2 **income customers?**
3 A. Yes. It was at this time that the Company replaced RLIAP with the GAP, a change that
4 included a reduction in the twelve-month discount to distribution rates provided to low-
5 income customers from 60% to a six-month winter period discount of 45% applied to
6 distribution and gas supply rates.

7 **VI. <u>REQUEST FOR RECOVERY OF THE UNDER-COLLECTION</u>**

8 **Q. Please summarize this section of your testimony.**
9 A. In this section of my testimony, I explain why the Commission should approve the
10 Company's recovery of the missing revenues. These reasons include the fact that the over-
11 refund was the result of a good-faith error on a complex issue; that allowing for the
12 recovery would be consistent with the clear intent of the decoupling mechanism to allow
13 the Company to recover its authorized revenue requirement each year; and that there have
14 been instances in New Hampshire in which errors of this sort have been corrected long
15 after the fact.

16 **Q. At what point did the Company determine it necessary to make a request to address**
17 **the under-collection existing in the RDM?**
18 A. As the Company approached preparations of the 2020–2021 COG filing in Docket No. DG
19 21-130, the Company finally had all the information necessary to ascertain that, in effect,
20 there were "missing" revenues that should have been collected over the two-year period
21 2018 through 2020. The 2020–2021 COG filing was submitted on September 1, 2021, and

1 the Company included a request for recovery of the $4 million in that proceeding because
2 the COG process was the most appropriate venue for doing so. Further, because the RDM
3 and other reconciliation mechanisms have generally been implemented through the LDAC,
4 it made sense to recover this amount through the LDAC as well.

5 **Q. In the course of updating the tariff and replacing RLIAP with GAP, did the**
6 **Company also address the revenue mismatch?**

7 A. Yes, as Company Witnesses Simek and McNamara explained in their Direct Testimony in
8 the Company's most recent COG filing, the Company will no longer be using different
9 rates to calculate the Benchmark Base Revenue targets and the Actual Base Revenue
10 computation.[35]

11 **Q. Did the Commission cite this heightened certainty as a factor in any of the other**
12 **decisions reported in the order that approved the RDM in 2018?**

13 A. Yes. In its order resolving the 2017 rate case, the Commission reviewed the positions of
14 the parties regarding the Company's cost of capital and found that parties' consensus of a
15 Return on Equity ("ROE") of 9.4% for ratemaking purposes was reasonable "with one
16 important change." The Commission cited as evidence of that reasonableness the
17 agreement of all parties that the 9.4% rate was appropriate, particularly given their sharp
18 disagreements on other issues.[36] Notwithstanding this consensus among the parties, the

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[35] *See*, Docket No. DG 21-130, Updated Testimony of Simek/McNamara, Exhibit 2, Bates 014–015 (Attachment ELM-1, Bates 0270–0271).

[36] Order No. 26,122, at 42 (Attachment ELM-1, Bates 1159).

1 Commission reduced the Company's ROE to 9.3% "to account for the decrease in risk [it]
2 will experience under the approved decoupling mechanism."[37]

3 **Q. Were there any other issues the Commission resolved in Order No. 26,122 that were**
4 **based on its finding that the Company would recover its authorized revenue**
5 **requirement with decoupling in place?**

6 A. Yes. The Commission approved a proposed rate design that significantly reduced customer
7 charges, seemingly based in large part on Staff's recommendation that "decoupling greatly
8 increases the Company's ability to recover its fixed costs and therefore, we are comfortable
9 with the significant decreases…."[38]

10 **Q. Do these or other elements of the record in Docket No. DG 17-048 make clear the**
11 **Commission's and the parties' expectations regarding decoupling as it relates to the**
12 **Company's recovery of its authorized revenue each year?**

13 A. Yes. The descriptions of the RDM and its design put forward by the parties repeatedly and
14 consistently reflect their expectation that, with the RDM in place, the Company would earn
15 its authorized revenue requirement each year.

16 **Q. Would you cite some instances of statements made by the parties that support your**
17 **conclusion?**

18 A. The Company's original RDM proposal in Docket No. DG 17-048 indicated that
19 authorized revenues should be reconciled on a per-customer basis via the RPC calculation

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[37] _Id._ at 43.

[38] _Id._ at 48.

1 to ensure recovery of the authorized revenue amount, as I describe above. Staff's
2 recommended modifications would have resulted in an RDM that accomplished the same
3 objective, although Staff recommended an alternative to the RPC method and a few other
4 modifications.[39] The OCA also initially recommended an alternative to the RPC method
5 that would have again achieved the same objective, before later entering the Settlement
6 Agreement with Liberty, which used the RPC calculations to recover the authorized
7 amount.[40]

8 **Q. Did Liberty collect its revenue requirement each year once decoupling was**
9 **implemented in November 2018?**

10 A. No. An error in the manner in which the RPC and reconciliation calculations were
11 implemented prevented it from doing so, as I explain in the previous section of my
12 testimony.

13 **Q. Does it matter that the Company's decision to change its calculations in the 2019**
14 **COG docket, which first created the shortfall, was the recommendation of another**
15 **party in that proceeding?**

16 A. Yes, I think it does. It is not my position that the Company should be automatically granted
17 recovery solely because the change in the calculation was recommended by another party,
18 nor does the Company abdicate its responsibility for the accuracy of the work product it

[39] *See*, Exhibit 18 in Docket No. DG 17-048, Direct Testimony of Al-Azad Iqbal, at Bates 010 (Attachment ELM-1, Bates 1856).

[40] Exhibit 14 in Docket No. DG 17-048, Testimony of Ben Johnson, Ph.D., at Bates 14 (Attachment ELM-1, Bates 1937).

1 submits to this body, but I also think that the Commission should recognize that the manner
2 in which the RDAF calculations were implemented is the result of a collaborative effort
3 which, in this instance, resulted in an error, which I think justifies affording Liberty some
4 flexibility. Moreover, it is my understanding that this Commission has a strong preference
5 for engagement and collaboration by and among the parties that appear before it and
6 denying recovery in this instance could have the effect of chilling collaboration in future
7 proceedings.

8 **Q. Is that to say that you think that fairness is an important consideration in this case?**
9 A. I do. I am quite confident that fairness is a primary consideration in every decision this
10 Commission renders – indeed, all decisions affecting rates are decided on the "just and
11 reasonable" standard of RSA 378:7 – and so my assertion is not to suggest that the
12 Commission's thinking about fairness as it considers Liberty's request would represent a
13 major departure from the normal manner in which the Commission adjudicates cases.
14 Rather, I make the observation because it seems to me that this case involves unusual
15 circumstances and I think consideration of the fact that the Company seems to have acted
16 correctly at every turn matters as does the fact that all the parties who have been involved
17 in defining the RDM clearly intended for the Company to receive the money in dispute in
18 this proceeding. Granting the Company's request is the only "just and reasonable"
19 outcome here.

1 **Q. Please explain your basis for that conclusion.**

2 A. As I discuss at length earlier in my testimony, the records of the various proceedings in
3 which the RDM was considered, approved, and subsequently reconciled are riddled with
4 instances in which the parties clearly agree that the intent of the RDM is to allow the
5 Company to recover the amount of revenue the Commission authorized. Now that the
6 issue associated with the rates mismatch has been identified, evaluated, and fixed, it is
7 beyond dispute that the calculations that were part of the prior RDAF tariff language,
8 before it was fixed during the 2020 rate case, precluded that from happening. Those tariff
9 changes, as well as the associated discussion during the recent rate cases, are themselves
10 indicative of a clear consensus among the parties that the kind of mismatch that plagued
11 early iterations of the RDM was neither intended nor desirable.

12 **Q. Are you aware of any precedents for an after-the-fact correction to mitigate an**
13 **unintended numerical error in New Hampshire that has resulted in the**
14 **reconciliation of significant revenues?**

15 A. Yes. I am aware of several instances in which that has happened. For instance, in the
16 course of preparing its COG filing for Docket No. DG 18-137, the Company discovered
17 that it had over-collected several years earlier, during Winter 2014/15, on Energy
18 Efficiency-related costs that it had recovered through the LDAC.[41] The impact on rates
19 when the Company returned the money was significant, lowering the LDAC by
20 $0.0163/therm for Winter 2018/19, which resulted in savings to the average customer of

[41] *See,* Exhibit 3 in Docket No. DG 18-137, the Amended Technical Statement of David B. Simek and Catherine A. McNamara, at 1 (Attachment ELM-1, Bates 2032).

1 more than $10 per month. The Commission accepted and approved the correction years
2 after-the-fact.

3 In two dockets of the Company's electric affiliate, Liberty Utilities (Granite State Electric)
4 Corp. ("Granite State"), Granite State notified the Commission that it intended to
5 investigate the beginning balances of several reconciling charges all the way back to the
6 time Liberty acquired Granite State from National Grid in 2012. Granite State believed
7 that the beginning balances that were being carried through these yearly reconciliation
8 filings, and that were continuations of beginning balances inherited from National Grid,
9 were inaccurate. The Commission encouraged the Company to pursue that investigation
10 and to include the Commission's Audit Division in the work.

> 11 Liberty plans to perform a complete audit of its over/under collected balance
> 12 of transmission costs and stranded costs, starting with Liberty's acquisition
> 13 of National Grid in 2012. According to Liberty, it will review revenues,
> 14 expenses, and associated interest to determine an accurate over/under
> 15 collected balance for use in next year's filing, including balances inherited
> 16 from National Grid. Liberty testified that it had performed a similar review
> 17 for its gas distribution affiliate, EnergyNorth Natural Gas, concerning
> 18 over/under collections of gas costs.

19 Order No. 26,140 at 5 (May 1, 2018).

> 20 Staff indicated full support of an audit of over/under collected balances by
> 21 both Liberty and Commission Audit Staff, to achieve an accurate balance
> 22 to be used in next year's filing.

23 Id. at 7.

> 24 We support the goal of determining the correct over/under recovered
> 25 balances for both transmission and stranded costs that the Company and
> 26 Staff can agree on, to use as a starting point for next year's filing.

27 Id. at 9.

1 As a result of those investigations, Granite State discovered that the beginning balances
2 related to reconciling energy service costs were off by $9 million, and the Commission
3 approved the return of that $9 million to customers over a two-year period.

> 4 Liberty testified that the ESAF and ESCRAF included several significant
> 5 prior period adjustments which had been over-collected by more than $5
> 6 million. The adjustments were made to address issues that were discovered
> 7 during an internal review of these accounts. Returning those over-
> 8 collections to ratepayers serves to reduce the rates proposed in this case.
>
> 9 ***
>
> 10 Staff recommended that the Commission Audit Staff conduct an audit of the
> 11 reconciliation accounts that feed into the ESAF and the ESCRAF, including
> 12 a review of the various prior period adjustments that were made to these
> 13 accounts, as described in this case.
>
> 14 ***
>
> 15 We authorize the Commission Audit Staff to conduct an independent audit
> 16 of the ESAF and the ESCRAF and related accounts and balances in such
> 17 timeframe as to allow the results of the audit to be reflected in next year's
> 18 reconciliation filing.

19 Order No. 26,150 at 6, 7, and 8 (June 25, 2018).

> 20 Liberty testified that in 2018, the Company had uncovered several prior
> 21 period adjustments that amounted to a significant over-collection. Half of
> 22 the over-collection, or approximately $4.6 million, is included in the
> 23 reconciliation for the energy service period beginning August 1, 2019.
>
> 24 ***
>
> 25 … we approve the inclusion of the proposed reconciliation in rates,
> 26 conditioned on Liberty further reconciling the results with Staff's audit.

27 Order No. 26,264 at 8 (June 24, 2019).

1 Granite State also discovered that the beginning balances related to the transmission and
2 stranded costs were off by $900,000 in Granite State's favor, and the Commission approved
3 Granite State's recovery of that $900,000.

4 Q. And then Line 2 has a footnote that -- I'm sorry. Line 2 has a figure of
5 another $901,710. That would be an additional under-collection; is that
6 right?

7 A. (Simek) Correct.

8 Q. And the footnote references the accounting records and the audits. Could
9 you just explain a little bit more what that means.

10 A. (Simek) Yes. In last year's hearing, we were ordered to work with PUC
11 Audit Staff to actually calculate what our beginning balances should be for
12 this filing and going forward. And in doing so, the outcome of the audit
13 shows that the May 18 beginning balance is consistent with what was
14 audited and that it should have been adjusted by the 901,710.

15 Transcript of 5/9/19 hearing, at 21–22; *see* Schedule DBS-3, Bates 046;

16 Liberty stated that, over the course of the past year, it completed an audit of
17 its over/under collection balance of transmission costs (and stranded costs)
18 starting with Liberty's acquisition of Granite State Electric Company from
19 National Grid in 2012, as required by Order No. 26,140 (May 31, 2018).
20 According to Liberty, the over/under collection balances for stranded costs
21 and transmission costs presented in its filing reflect Liberty's books and
22 records.

23 Order No. 26,243 (Apr. 30, 2019).

24 These investigations of Granite State's beginning balances back to the 2012 transition from
25 National Grid followed similar work performed on several COG accounts for EnergyNorth:

26 Q. And, were there any findings from that audit?

1 2 3 4
> A. (Simek) The major finding that came out of that audit is related to the beginning balances, the difference between the beginning balances that the Company shows on its General Ledger and the beginning balances that we had showed in our filings for the three regulatory accounts.

5 6 7 8
> This has been an issue that's been ongoing back to National Grid days. But I had committed to Audit Staff to have this issue resolved by the end of this month. So, going forward, we will be having the filings' beginning balances and the General Ledger will tie.

9 Transcript of April 23, 2015, hearing in Docket No. DG 15-091 (Summer 2015 COG) at
10 16–17.

11 **Q. Are there instances involving other utilities that you are aware of?**

12 A. Another probative example occurred in Re Northern Utilities, 80 NH PUC 721(Nov. 6,
13 1995), in which Northern Utilities made a retroactive billing adjustment: "The
14 undercollection occurred because Northern's Rate Department had inadvertently failed to
15 change billing rates on the January 1, 1995 effective date the Commission had authorized
16 Northern to collect the Business Profits Tax in its rates." *Id.* at 721. The new rate should
17 have been in effect for a six-month period of time. In response to learning of this
18 adjustment, the Commission opened a docket "to consider utility authority to bill
19 customers retroactively." *Id.* After receiving comment from many parties, the
20 Commission ruled as follows:

21 22 23 24 25
> [U]tilities are entitled to collect their tariffed rates though they ought to collect them in a timely manner. When a utility erroneously fails to bill the tariffed rates on the effective date authorized, then, depending on the circumstances, corrective billing is the appropriate remedy in an amount and manner approved by the commission.

26 80 NH PUC at 723.

1 **Q. In each of your examples, rates were changed to reconcile for events in some past**
2 **period. Are these therefore instances of retroactive ratemaking?**
3 A. No, there was no concern regarding "retroactive ratemaking" in these cases because the
4 Commission was not retroactively changing rates, it was allowing the utility to collect the
5 previously approved rates that were not timely collected in the normal course. The same
6 is this case with Liberty's requested recovery of the existing RDM under-collection. Each
7 of these instances involves an update that corrects an error or resolves and ambiguity in
8 ways that result in outcomes that align with the intent of the original ratemaking order.
9 Here, the parties all agreed that the RDM should facilitate the Company's ability to earn
10 its authorized revenue each year and that reconciliation via the RDAF is the means to that
11 end. The computation error that was unknowingly embedded in the RDAF mechanism
12 was obviously contrary to that intent and the resolution that the Company is proposing
13 aligns perfectly with that intent. Importantly, the ratemaking will not change. The only
14 change is a correction to the process that allows the Company to collect the approved
15 revenue through the approved rates.

16 **Q. Over what period does the Company propose to recover these costs?**
17 A. The Company proposes to recover the $4 million over two decoupling years, beginning
18 with the 2022–2023 decoupling year.

1 **VII. SUMMARY AND CONCLUSIONS**

2 **Q. Can you summarize your testimony in this proceeding?**

3 A. Certainly. As noted throughout this testimony, the Company has experienced a revenue
4 under-collection of $4,023,830 through the Revenue Decoupling Mechanism ("RDM")
5 approved in Order No. 26,122 (Apr. 27, 2018), as part of the Company's 2017 rate case,
6 Docket No. DG 17-048. The revenue under-collection relates to the implementation of the
7 RDM tariff that became effective November 1, 2018, and the interaction of the low-income
8 discount rates made available to customers through the R-4 rate tariff and the rates for
9 residential customers taking service under R-3 (without a low-income discount).
10 Inadvertently, the tariff implementing the RDM gave conflicting directions for reconciling
11 revenue targets with actual revenue collections for R-3 and R-4 customer classes for the
12 annual decoupling cycle. While these conflicting directives were sorted out and corrected
13 in the Company's 2020 rate case, Docket No. DG 20-105, for the first two decoupling
14 cycles -- 2018/2019 and 2019/2020 -- this internal conflict resulted in the inadvertent
15 refund of $4,023,830 to customers through the RDM.

16 Further, my testimony concludes that, by operation of the approved RDM tariff language,
17 revenues associated with the Company's low-income program were refunded to customers
18 as part of the first two annual decoupling cycles of 2018–2019 and 2019–2020, although
19 no refund was actually due to customers. Therefore, it is both reasonable and appropriate
20 for the Company to recover the amounts inadvertently and erroneously returned to
21 customers during the annual decoupling cycles of 2018–2019 and 2019–2020, thus
22 restoring revenue neutrality of the low-income program.

1 My testimony, and the supporting materials that accompany it, explains at length the
2 sequence and chronology of the regulatory processes and approvals that caused the
3 Company to under-collect revenues associated with the low-income discount provided to
4 customers under the R-4 rate tariff, while also demonstrating that the Company is owed
5 the amount of $4,023,830 from customers as a result of those regulatory processes and
6 approvals. The fact remains that the under-recovery was the result of a good-faith error on
7 a highly complex issue, and that allowing for recovery now would be entirely consistent
8 with the clear intent of the decoupling mechanism and the Commission's precedent in other
9 instances in which errors of this sort have been corrected long after the fact. The
10 Commission can and should allow the Company to collect the amounts due from customers
11 over a reasonable time period, which the Company suggests would most appropriately be
12 two decoupling years, consistent with the timeframe of the under-recovery.

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

14 A. Yes.

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