

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

Docket No. DE 21-087

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty
Energy Service for the Period February 1, 2022 – July 31, 2022

SUPPLEMENTAL TESTIMONY

OF

JOHN D. WARSHAW

December 21, 2021



1 **I. INTRODUCTION AND QUALIFICATIONS**

2 **Q. Mr. Warshaw, please state your full name, business address and position.**

3 A. My name is John D. Warshaw, and my business address is 15 Buttrick Road,
4 Londonderry, New Hampshire. I am the Manager of Electric Supply for Liberty Utilities
5 Service Corp. (“LUSC”), which provides services to Liberty Utilities (Granite State
6 Electric) Corp. d/b/a Liberty (“Granite State,” “Liberty,” or “the Company”). I oversee
7 the procurement of power for Energy Service for Granite State as well as the procurement
8 of Renewable Energy Certificates (“RECs”).

9 **Q. Did you previously submit testimony in this proceeding?**

10 A. Yes. On December 17, 2021, I submitted testimony that included details about the energy
11 service procurement, resulting rates of the procurement and RPS.

12 **II. OVERVIEW**

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

14 A. The purpose of this testimony is to explain how Liberty procured the renewable energy
15 credits (“RECs”) required to meet its 2020 obligations under New Hampshire’s
16 Renewable Portfolio Standard (“RPS”), RSA 362-F. Specifically, I describe Liberty’s
17 purchase of Class III RECs, which were complicated by confusion regarding the
18 Alternative Compliance Payment (“ACP”) amount and Commission changes to the 2020
19 Class III obligation that became effective after the Company had already made its
20 required purchases. I explain that while these issues created cost increases, those
21 increases related to the ACP issue will be absorbed by Liberty and customers will be held
22 harmless. Finally, I discuss briefly how the Class III RECs that the Company currently

1 has on hand after meeting its 2020 RPS obligations, which have been “banked” pursuant
2 to RSA 362-F:7, may impact purchasing decisions for 2021 and beyond and explain that
3 we will make an additional filing in January to propose an approach to resolve any
4 outstanding issues regarding the Class III RECs.

5 **Q. Please describe the REC classes.**

6 A. There are five separate REC classes, which are differentiated by both the age of the
7 resource and the technology used to generate energy – and, in so doing, “generate” RECs:
8 Class I RECs are created by most types of renewable generation. Within that class is a
9 subset that has its own RPS requirement, Class I Thermal RECs, that includes
10 geothermal, solar-thermal, and other technologies that utilize renewable, thermal energy.
11 Class II RECs are created by output from solar generators, Class III RECs are from
12 biomass and methane technologies, and Class IV RECs are from small hydroelectric
13 facilities. See RSA 362-F:4. Detailed descriptions of the classes are available at the
14 Commission’s website.¹

15 **Q. How much of each type of REC did the Company buy?**

16 A. The RPS defines how many RECs of each type Liberty must procure each year,
17 expressed as a percentage of its consumption. For 2020, the Company was required to
18 purchase RECs equivalent to 14.7% of its consumption. The composition by class is
19 shown below:²

¹ https://www.puc.nh.gov/sustainable%20energy/renewable_portfolio_standard_program.htm

² *Id.*

Table 1. 2020 RPS Obligations

Class I (non-thermal)	8.9%
Class I (thermal)	1.6%
Class II	0.7%
Class III	2.0%
Class IV	1.5%
Total RPS	14.7% ³

Given the Company's actual retail sales of 445,643.131 MWh for 2020, its total REC obligation, inclusive of all classes, was 65,508 RECs.

Q. Is there anything unusual about these obligations?

A. Yes, the Class III obligation of 2.0% reflects an adjustment by the Commission in Order No. 26,472 (Apr. 20, 2021), which reduced the 2020 Class III obligation from 8.0% to 2.0%, a major revision that was implemented after the obligation year. I discuss this change and its impact later in my testimony.

Q. When did the Company make its purchases to meet its 2020 obligations?

A. The majority of RECs that Liberty used to meet its 2020 obligations were contracted for over a roughly eighteen-month period beginning in January 2020 and ending in June 2021. Liberty also used excess RECs banked from its 2019 RPS obligation. Purchases were executed via a number of contracts with renewable generators, the majority of which, both in terms of the number of contracts and the volumes and costs transacted, were entered into in July 2020. Notably, those contracts frequently call for delivery of the applicable RECs at a later date.

³ These data were retrieved from the Commission website, which appears to include an arithmetic error that indicates, incorrectly, that the total obligation for 2020 is 20.7%. I believe that amount was the total obligation before the Commission ordered the adjustment to the Class III obligation that I discuss below.

1 **Q. Is this approach consistent with the Company's procurement practices from**
2 **previous years?**

3 A. Yes.

4 **Q. Please summarize the purchases the Company made for each class.**

5 A. In total, the Company purchased slightly more than 85,000 RECs at a cost of roughly
6 \$ [REDACTED] million.

7 **Q. Was this amount sufficient to meet Liberty's 2020 obligation?**

8 A. No. The Company met part of its Class I, Class I Thermal, and Class IV obligations
9 through the ACP. In total, the Company used the ACP to meet the remaining 2020
10 obligations, at a cost of about \$ [REDACTED].

11 **Q. What was the Company's total spend for REC compliance, then, including**
12 **payments to the ACP?**

13 A. About \$ [REDACTED] million.

14 **Q. Was this the amount that Liberty sought to recover from its customers in the June**
15 **2021 filing in this docket?**

16 A. No. Subsequent to having made all its purchases, the Company determined that it had
17 inadvertently purchased its Class III RECs at a price higher than the ACP. Because
18 Liberty does not believe it is appropriate for its customers to bear extra costs as a result, a
19 downward adjustment was made to reduce the amount it will recover through rates.

1 **Q. What was the 2020 Class III ACP at the time Liberty made its purchases of Class III**
2 **RECs?**

3 A. \$34.54/MWh.

4 **Q. What prices did the Company ultimately pay for its Class III RECs?**

5 A. Liberty executed two contracts for 2020 Class III RECs, both of which were effectuated
6 in July 2020. One had a REC price of \$ [REDACTED]/MWh, the other had a price of
7 \$ [REDACTED]/MWh.

8 **Q. Why did Liberty buy RECs at a price higher than the ACP?**

9 A. Around the time Liberty executed the agreements, the New Hampshire legislature passed
10 a bill to increase the Class III ACP to \$55.00/MWh, which is where it had been set for
11 2017, 2018, and 2019, but had dropped to \$34.50 for 2020. RSA 362-F:10, III(b) and (c).
12 As it appeared the change would soon become effective, Liberty updated the metrics it
13 used to evaluate purchasing opportunities. Subsequently, the bill was vetoed by the
14 Governor on July 28, 2020, so the ACP was never actually increased.⁴ By that time,
15 however, the Company had already made its purchases at the contract rates I describe
16 above.

17 **Q. Are you aware of any other New Hampshire utility that experienced similar issues?**

18 A. Yes. Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource)
19 also purchased 2020 Class III RECs at a price above the ACP. This is more fully

⁴ <https://www.governor.nh.gov/news-and-media/governor-chris-sununu-vetoes-hb-1234>

1 explained in the Motion and Testimony filed by Eversource on October 8, 2021 in
2 Docket No. DE 21-077.

3 **Q. Of the RECs that were purchased at a rate above the ACP, how many were used to**
4 **meet Liberty's 2020 Class III obligation?**

5 A. [REDACTED] RECs.

6 **Q. Why is this amount so much lower than what Liberty purchased for the year?**

7 A. Because of the change in the Class III obligation. When the Commission issued Order
8 No. 26,472 to reduce the Class III obligation to 2%, Liberty had already made all the
9 purchases it would need to meet the previous obligation of 8%.

10 **Q. Was the Commission made aware that this was the case at the time it issued Order**
11 **No. 26,472?**

12 A. Yes. Company representatives appeared at a hearing held in April 2021 to consider the
13 change in the Class III obligation and explained that Liberty had already made its
14 required purchases and that a change in the obligation would result in its having a large
15 number of Class III RECs on hand that it may not be able to use.⁵

16 **Q. What did Liberty pay for the RECs that it has used to meet its 2020 obligation?**

17 A. Liberty used some of the RECs it purchased at a price of \$ [REDACTED] /REC, for a total cost of
18 \$ [REDACTED].

⁵ Transcript of March 29, 2021, hearing in Docket No. DE 21-037, titled "Adjustment to Renewable Portfolio Standard Class III Requirements," at 35-36.

1 **Q. How much did Liberty seek to recover from customers for its purchases of Class III**
2 **RECs for 2020?**

3 A. \$ [REDACTED], which is what the RECs needed to meet the Class III obligation for 2020
4 would have cost had Liberty paid the ACP for them instead of buying them from the
5 supplier. The difference, \$ [REDACTED], represents the extra costs that were incurred as a
6 result of the confusion regarding the ACP that I describe above.

7 **Q. Will Liberty seek recovery of the \$ [REDACTED] at some later time?**

8 A. No.

9 **Q. Is that to say that Liberty's customers have been held harmless from extra costs**
10 **arising from confusion about the ACP?**

11 A. Yes. If Liberty had rejected the two Class III REC contracts, it would have had to pay
12 the ACP to meet its 2020 Class III obligation. The cost to do so would have been the
13 same amount that the Company sought to recover in this proceeding.

14 **Q. What options exist for the remaining Class III 2020 RECs?**

15 A. Liberty is currently in the process of evaluating options for the remaining Class III RECs
16 it has banked from those two contracts. State law rules allow some of those RECs to be
17 used to meet the Company's 2021 and 2022 obligations. RSA 362-F:7.

18 **Q. Does Liberty intend to provide the Commission with an update on its approach to**
19 **dispose of the remaining RECs?**

20 A. Yes. While our focus on this proceeding is on the costs that were incurred to serve
21 customers in 2020, we have already begun making purchases on behalf of our customers

1 to meet our various REC obligations for each class for 2021 and beyond and it may be
2 possible to meet some of our obligations using the Class III 2020 RECs we currently
3 have on hand. In addition, the Company believes that it may be entitled to recover some
4 or all of the cost of the Class III 2020 RECs to the extent that those costs were prudently
5 incurred before the Class III obligation was changed in April. For these reasons, and
6 others, Liberty will provide the Commission a filing in this docket in January that will
7 describe how we intend to monetize the value of the RECs we currently have on hand.

8 **Q. Will that filing also address the possibility of excess costs because of the confusion**
9 **about the ACP that you discussed above?**

10 A. Yes, it will.

11 **III. CONCLUSION**

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

13 A. Yes, it does.