STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DE 23-039

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

DIRECT TESTIMONY

OF

MATTHEW DECOURCEY

AND

GREGG THERRIEN

April 28, 2023

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I. INTRODUCTION

Q. Mr. DeCourcey, please state your full name and business address.

A. My name is Matthew J. DeCourcey. My business address is 15 Buttrick Road, Londonderry, New Hampshire.

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

A. I am the Vice President for Rates & Regulatory Strategy for Liberty Utilities Services Corporation ("LUSC").

Q. Please describe your educational background and your professional experience.

A. In my current position I oversee the regulatory function for all the utilities owned by LUSC's parent company, Algonquin Power and Utilities, which, as of April 2023, included electric, natural gas, water, and wastewater utilities in thirteen U.S. jurisdictions, Canada, Chile, and Bermuda. Before moving to my current position in 2021, I was an advisor at a number of consultancies specializing in the utilities and energy industries. The most recent of those roles was as a Managing Director in the Power & Utilities group at FTI Consulting, Inc. ("FTI"). I hold an undergraduate degree in Political Science from the University of Massachusetts at Boston and a Masters in Business Administration from the University of Massachusetts at Amherst.

Q. Mr. Therrien, please state your full name and business address.

A. My name is Gregg H. Therrien and my business address is 293 Boston Post Road West, Suite 500, Marlborough, Massachusetts.

Q. Please describe your educational background and your professional experience.

A. As a consultant with Concentric I provide regulatory strategy and financial rate case expertise to regulated and unregulated entities in the natural gas, electric, and water industries. Consulting engagements including expert testimony on the subjects of allocated cost of service, rate design, rate consolidation, alternative rate plans, decoupling, revenue requirements, and natural gas infrastructure replacement programs. Prior to entering consulting, I held leadership level positions at Connecticut Natural Gas Corporation and its affiliated companies for over 19 years. I earned an M.B.A. from the University of Connecticut, a B.S. in Finance from Bryant University, and is certified Project Management Professional ("PMP"). My professional qualifications and experience are provided in Attachment GHT-1.

Q. On whose behalf are you testifying?

A. On behalf of Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty ("Liberty" or the "Company").

Q. What is the purpose of your testimony?

A. We explain how the Company will implement and administer its proposal for Performance Based Ratemaking ("PBR") and a Multi-Year Rate Plan ("MYRP"). Below, we discuss ratemaking, the timing and content of the various filings and review proceedings that will be required, timelines, reconciliations of projected and actual costs, and related administrative and procedural matters. Other witnesses discuss the ways in which PBR and MYRP will benefit our customers and how the Company's proposal aligns with best practices in the utility industry.

Q. Have you previously testified before the New Hampshire Public Utilities Commission (the "Commission")?

A. (DeCourcey) Yes, I testified on behalf of Liberty Utilities (EnergyNorth Natural Gas) Corp. in Docket No. DG 20-105.

(Therrien) Yes. I have testified in Docket No. DG 17-048 on behalf of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty on the subject matter of revenue decoupling and rate design. I have also testified in Docket No. DE 19-064 Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty ("Liberty" or the "Company") on the subject matter of revenue decoupling. Most recently, I testified in Docket No. DE 22-052 on behalf of Liberty in support of their annual decoupling compliance filing.

Q. Please summarize the remainder of your testimony.

A. In the next section of our testimony, we provide an overview of the Company's proposal for PBR and MYRP, define key terms, and describe the context of recent events relevant to this proceeding. In Section III we explain how Liberty will reconcile planned to actual spending, implement an Earnings Sharing Mechanism ("ESM"), apply rewards and penalties for excellent or poor performance, and change rates during the pendency of the MYRP. In Section IV, other elements of the MYRP are discussed, including a new proposed tariff, a re-opener provision that could be triggered by unforeseen and emergent circumstances, and the anticipated timing of Liberty's next rate case filing. Finally, in Section V, we summarize our findings and recommend that the Commission adopt the Company's proposal without modification.

II. OVERVIEW AND REGULATORY CONTEXT

Q. What is PBR?

A. PBR is an enhancement to traditional Cost of Service ("COS") regulation characterized by adjustments to distribution rates that are designed to increase or decrease a utility's earnings based on its operational performance. Generally, PBR mechanisms are designed to disassociate a utility's rates from its COS, whereby providing the utility an opportunity to earn higher profits if they can cut costs and operate more efficiently while simultaneously providing rate certainty over the term of the PBR and maintaining acceptable levels of service and reliability. This is good for the utility's shareholders and also its customers because customers benefit from the efficiency gains in the form of lower costs.[1] Financial incentives can also be applied to the achievement of other policy objectives, such as decarbonization or reliability.

Q. What is a MYRP?

A. A MYRP, like PBR, is a ratemaking framework wherein rates are set for more than one rate period. However, a MYRP differs from PBR insofar as revenues are not disassociated from the utility's COS, but are set at prescribed levels over the term of the

[1] The RAP report, at p. 35: https://www.raponline.org/wp-content/uploads/2016/05/rap-performancebasedregulationfordistributionutilities-2000-12.pdf

MYRP and subject to certain known plan adjustments. In some traditional COS contexts, a utility's rates are set and remain fixed indefinitely until it files another rate case. In others, rates may be subject to limited adjustments. Under a MYRP, rates are set for multiple periods at known intervals and often allow for adjustments based on changing conditions over the course of the period covered.[2]

Q. Can you please summarize at a conceptual level the Company's proposal for PBR and MYRP?

A. Our proposal is somewhat of a hybrid between MYRP and PBR. The Company proposes that the Commission authorize distributions rates for three one-year periods beginning in July 2023 based on forward-looking estimates of its COS for each of the three years. Within narrow limits, the revenues the Company will be authorized to collect can be adjusted during the pendency of the MYRP due to changes to the Company's capital spending. Revenues may also change during the MYRP to adjust for over- or under-earning and based on the achievement of performance targets established in this proceeding. Adjustments to the Company's revenues will be effectuated through a volumetric charge that we propose later in our testimony. At the end of the MYRP, the Commission will review the effectiveness of the program in delivering its intended benefits and also determine whether to allow the Company to recover the costs of significant deviations from its approved capital plan, if any such deviations exist.

[2] The NARUC report, at p.41-42: https://pubs.naruc.org/pub/FA86999D-D03F-2858-7228-A6353560E5B9

Q. How does a proposal such as the one being put forth by Liberty in this proceeding, which includes PBR and a MYRP, create benefits for utility customers?

A. There are two primary benefits. The first is that PBR aligns a utility's incentives with those of its customers in terms of operational efficiencies, achievement of policy objectives, and the quality of service it provides. Ultimately, financial outcomes will depend on its performance. Rewards can be achieved if the utility performs well. However, the design of the incentives means that those rewards are only available to the utility when benefits for customers are also created. In many instances, including, as we discuss later in our testimony, Liberty's proposal, the sharing of those benefits can be set asymmetrically in favor of the customers. If the utility's performance is poor, the utility is still exposed to underearning. Thus, the utility has strong incentives to achieve outcomes that benefit customers and to avoid those that do not.

Q. What is the other primary benefit?

A. Regulatory efficiency. The mechanics of various reconciliations and filings are designed to reduce the time and resources required to administer a utility's ratemaking without eroding its regulator's ability to fulfill its oversight function. In this proceeding, the Commission will establish baseline performance and spending levels for the Company for several years into the future. Minor deviations from those parameters will be assumed to be recoverable but major variances will trigger a prudence review that will be conducted at the end of the MYRP. The result is a more flexible regulatory paradigm that preserves incentives to perform well while reducing the regulatory burden.

Q. Is your testimony intended to explain specific benefits that will accrue to customers if Liberty's proposal is accepted?

A. No, our testimony is limited to the administrative and ratemaking mechanics necessary to implement the Company's proposal. Commentary on its reasonableness or the specific benefits that will accrue to customers is limited to our reporting of conclusions reached by other witnesses on those topics.

Q. Which witnesses address those topics?

A. In his Direct Testimony, Company Witnesses Philip Hanser evaluates the alignment of Liberty's proposal with industry best practices and experiences in other jurisdictions that have implemented MYRP and PBR, ultimately concluding that they are. Additionally, he and Company Witness Erica Menard, in her own Direct Testimony, describe the Company's proposed PIMs and explain the ways in which the PIMs, and the MYRP in general, will benefit Liberty's customers.

Q. Do utilities in New Hampshire currently operate under MYRPs?

A. In a manner of speaking, although the degree to which ratemaking for utilities in the state is undertaken on a multi-year basis is very limited. At the conclusion of recent rate cases, Liberty and other utilities have been authorized by the Commission to change their distribution rates each year in "steps" in order to recover the cost of adding previously approved capital projects, which has led some industry experts and data providers to characterize New Hampshire as being among the jurisdictions that utilize MYRPs.[3] That being said, the proposal being made in this case is broader in the sense that it encompasses other elements of the Company's ratemaking, and includes performance incentives more commonly found in PBR plans.

Q. Does PBR necessarily require the implementation of a MYRP?

A. Not necessarily, but, as Mr. Hanser explains in his testimony, PBRs are very frequently implemented within an MYRP framework.[4] In particular, he discusses the importance of incentives for new and beneficial behaviors and how MYRPs are frequently utilized in conjunction with other elements of PBR to achieve targeted outcomes. Generally speaking, an MYRP framework incentivizes a utility to achieve cost efficiencies, in addition to reducing regulatory burdens, while PIMs incent more narrowly performance. Each element complements the other, which results in greater benefits to customers.[5]

Q. Why is Liberty proposing PBR and MYRP in this proceeding?

A. For the numerous reasons discussed by Mr. Hanser and Ms. Menard, Liberty believes that implementing PBR in New Hampshire will create value. But even setting those aside, Liberty agreed to include a PBR proposal in this submission when it settled its last rate case, Docket No. DE 19-064. In the agreement filed with the Commission in May 2020 and subsequently approved in Order 26,376 (the "Settlement Agreement"), the parties to

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[3] See, for example, https://www.spglobal.com/marketintelligence/en/news-insights/research/alternative-regulatory-paradigms-offer-utility-investors-a-degree-of-certainty
[4] Hanser Direct Testimony, p.3
[5] *Id.* p. 3-4

the (the "Settling Parties") agreed that "…it is in the public interest for Liberty to explore transitioning away from the strict application of traditional cost-of-service ratemaking principles in favor of a performance-based ratemaking approach."[6]

Q. Does the Settlement Agreement describe the Settling Parties' understanding of PBR and its objectives?

A. Yes. The Settling Parties agreed that PBR is "…a process of defining regulatory goals, specifying outcomes toward the achievement of those goals, applying performance metrics that measure such achievement, and establishing revenue adjustment mechanisms that support safe and reliable utility service, while rewarding utility shareholders for the achievement of performance metric benchmarks and penalizing them for failing to achieve such benchmarks."

Q. Does the Settlement Agreement impose any obligations related to PBR that the Company was required to fulfill prior to the filing of this application?

A. Yes, it imposes two such obligations. First, the Company was required to present proposals to the New Hampshire Department of Energy ("DOE"), Office of the Consumer Advocate ("OCA"), and the New Hampshire Department for Environmental Services ("NHDES") for "PBR mechanism(s)" that would be included in this proceeding.

[6] The Settling Parties are the Company, the Office of the Consumer Advocate ("OCA"), the Staff of the New Hampshire Public Utilities Commission ("Staff"), the City of Lebanon, NH, and Clean Energy New Hampshire ("CENH"). Since the agreement was executed, the Staff has become part of the New Hampshire Department of Energy ("DOE").

Second, the Company was required to consider in good faith the comments of the DOE and OCA before submitting this application.

Q. Has the Company fulfilled these obligations?

A. Yes. As Ms. Menard explains, Liberty conducted a number of working group sessions with DOE, OCA, NHDES, and other parties that included meetings in September 2021, April 2022, May 2022, January 2023, and February 2023.[7,8] Proposals in various forms of completion were shared with that group during the time the sessions were being conducted. As that process progressed, the proposals that the Company distributed for feedback and input became more detailed and complete; at the final meeting held by the group, Liberty presented a proposal that largely mirrors the one made in this application. Feedback from the participants was considered and embedded in each iteration of the proposals the Company shared.

Q. Would it be fair to characterize the Company's proposal as a pilot program?

A. Yes, in the sense that the Commission is being asked to approve a three-year MYRP with the expectation that the Company will file a new rate case at the end of that period. At that time, the Commission can assess whether customers have benefitted or not and whether it would be willing to approve a second MYRP. In this context, it is also relevant to note that Liberty is the smallest of the electric utilities that the Commission

[7] Stakeholder attendees included DOE, OCA, NHDES, CENH and City of Lebanon.
[8] Menard Direct Testimony, p. 5-6

regulates, making it a good candidate to explore an innovative regulatory scheme, which is a typical objective of a pilot program.

III. ADMINISTRATION OF RATE CHANGES DURING THE MYRP

Q. Please summarize this section of your testimony.

A. In this section we explain how the MYRP will be administered and how Liberty's earnings can vary during its pendency based on its performance. Included is a definition of the three rate years ("RYs") that will comprise the MYRP; a brief explanation of how the Company proposes that distribution rates be set for each; and a discussion of how the Company will adjust collections based on the reconciliation of certain costs to actuals, its annual earnings, and its achievement of defined policy objectives.

A. Rate Years

Q. What is a Rate Year and how is it relevant to an MYRP?

A. The Company is proposing to establish rates for a period comprised of three forward-looking RYs, the first of which will begin on July 1, 2023. At the conclusion of this proceeding, the Commission will approve a capital spending plan for each of the three RYs and establish a revenue requirement from which distribution rates can be derived. The established revenue requirement will also include an outlook for the Company's Operational Expenses ("OpEx"), its authorized return, and other revenue requirement-related related items.

Q. On what basis will the amount that the Company can recover through rates be subsequently adjusted?

A. During the MYRP, rates could change because actual costs varied from those approved in the approved capital plan, within allowed tolerances; because the Company over-earns or under-earns in a given year; because the Company's performance triggered a reward or incentive provision specified in the PIMs; or because of changes to operating expenses limited to vegetation management or IT. Regarding the last potential change, later in our testimony we explain why spending on vegetation management and cybersecurity should be treated differently than other types of spending.

Q. What are the dates on which the three RYs begin and end?

A. The dates of the three RYs are shown below in Table 1.

Table 1. Rate Year Start and End Dates

RY	Start	End
RY 1	July 1, 2023	June 30, 2024
RY 2	July 1, 2024	June 30, 2025
RY 3	July 1, 2025	June 30, 2026

Q. Is the Company requesting that the Commission approve a set of distribution rates that would be effective at the start of each RY?

A. Yes. Those base distribution rates would not change. Any adjustments to authorized revenues from the reconciliation of the capital plan, the application of the ESM, or from achievement of targets defined in the PIMs would be made through a volumetric charge that would be adjusted accordingly following each RY.

Q. Is the Company proposing a temporary rate?

A. Yes. In the Temporary Rate Testimony filed by Company Witnesses Dan Dane, Kristin Jardin and Gregg Therrien, they propose temporary distribution rates effective July 1, 2023. Mr. Dane, Ms. Jardin and Mr. Therrien also describe the one-time reconciliation between the temporary rates and the final approved rates for RY1, which would be made in the reconciliation filing after the end of the rate year. For purposes of simplicity, we have omitted further discussion of the temporary rate from our testimony.

Q. Have you reviewed the Company's proposed base rates?

A. Yes, we have. Although our testimony is not intended to support the Company's proposed base rates, their derivation is summarized below since they provide useful context for subsequent discussions.

Q. At a high level, can you please summarize the basis for the Company's proposed base rates?

A. Yes. The various witnesses representing Liberty in this proceeding have proposed capital spending plans, OpEx plans, and depreciation rates, from which the Company's rate base and expenses have been calculated for each year. Other witnesses make recommendations regarding the level of return that the Commission should authorize and estimate tax effects. From these elements, the Company's annual revenue requirements are calculated. Base rates are derived from those requirements and the sales outlook.

Q. Please summarize the revenue requirement and base rates for each year included in the MYRP.

A. The Company's revenue requirement and base rate for each RY is shown in **Error! Reference source not found.**2, below:

Table 2. Proposed Revenue Requirement and Base Rate by RY

Rate Year	**Revenue Requirement** *($millions)*
1	$61.9
2	$64.6
3	$67.6

Q. How will adjustments to the revenue requirement be made and recovered during the course of the MYRP?

A. Each year, the Company will submit a filing to the Commission that describes the following:

1) Variances from the approved capital spending plan, if any, and their impact on rate base;
2) Net Operating Income ("NOI") and earned return, which provide the basis for savings or loss savings with customers, as we describe later in our testimony;
3) Reconciliation of OpEx for cybersecurity, vegetation management and Pension and OPEBs; as well as
4) Achievement of PIMs and the penalty or rewards that will be applied form it.

Also included will be calculations related to the ratemaking mechanism that will facilitate recovery. A detailed discussion of the various reconciliations included in the annual filing, and of the form and timing of the filing itself, are discussed in the section of our testimony following this one.

B. Annual Reconciliations

Q. When will the Company make its annual reconciliation filings?

A. The Company proposes to make its annual reconciliation filings by September 1 after the end of the Rate Year.

Q. Is it necessary to wait until after the end of each rate year to make these adjustments and reconciliations?

A. Yes. As explained below in greater detail, the adjustments and reconciliations are based on the Company's actual plant in service on approved capital projects, financial performance during the year, and its achievement of the PIM objectives, none of which can be known until after the end of the RY. The proposed timing of the annual reconciliation filing recognizes the need for Liberty's outside auditors to certify the previous year's financial results.

Q. Is an after-the-fact reconciliation typical for an MYRP?

A. Yes, as Mr. Hanser describes in his testimony, annual reconciliations are in place in most states that apply MYRPs to electric utilities[9]. The annual adjustment mechanism needs to

[9] Hanser Direct Testimony, p. 9

be considered together with the other components of Liberty's MYRP proposal, specifically, the rate year forecast methodology, the deadband, and the earnings sharing mechanism. In their entirety, these components provide a balanced approach to the annual adjustment mechanism.[10]

1. Rate Base Reconciliation

Q. Please summarize the first element of the annual reconciliation, in which the Company will reconcile its capital spending to the approved capital plan and adjust its rate base accordingly.

A. At the end of this proceeding, the Commission will approve a rate base amount for the Company for each of the three rate years based on the approved capital plan. Utility Plant in Service ("UPIS") is the largest component of the rate base. Over the rate period, UPIS will change as the Company deploys capital into the system and as existing assets depreciate. The reconciliation accounts for differences in UPIS from variances between the capital plan and actual spending.

Q. Why is that necessary?

A. because the capital spending plan is a forecast. Like any forecast, it is subject to uncertainty. In particular, the timing and actual cost of capital projects cannot be known with complete certainty in advance and may change due to factors that are beyond the Company's control. Reconciling the capital plan with actuals and making corresponding

[10] Hanser Direct Testimony, p. 14

adjustments to UPIS prevents the Company from either under- or over-earning because of variations in the cost of capital projects that lie outside management's control.

Q. Is the form and content of this element of the annual reconciliation filing similar to the information the Company provides the Commission regarding its capital steps?

A. In some ways, particularly in regard to the information provided for the review of its spending on capital projects. In Commission orders that resolved recent rate cases, the Company, like other utilities in New Hampshire, has been authorized to implement rate steps to recover the cost of and returns on capital deployed after the conclusion of the case.[11] Each year, Liberty makes filings to the Commission that document its actual costs and reconciles them with the order that had approved the steps. Following a discovery period and a fairly substantial investigative process, the Commission authorizes the Company to recover the cost of and collect a return on approved capital projects whose completion was consistent with approved schedules and budgets, and which were supported with appropriate documentation. The Company's proposed approach would utilize many of the same elements to review and reconcile capital spending, including the Commission's approval of a plan in this proceeding based on a forward-looking review of the prudency of a capital plan and annual filings that include documentation and other support similar to the information currently provided in support of the steps.

[11] 2020 Step adjustment approved in Order No. 26,377 (June 30, 2020) in Docket No. DE 19-064 and 2021 step adjustment approved in Order Nos. 26,661 (July 29, 2022), 26,780 (March 1, 2023), and 26,781 (March 3, 2023) in Docket No. DE 22-035

Q. When will the capital plan reconciliation occur?

A. Following the end of each rate year. By that time, the actual cost and timing of projects in the capital plan will be known, from which the Company can make the necessary adjustments to the rate base.

Q. What specific elements of its capital spending will the Company reconcile?

A. First, projects that were scheduled to be in service during a RY but will not be brought into service will be removed from the rate base. Replacements for cancelled or delayed projects, if any, will be identified. For projects in service, adjustments to UPIS will be made to reflect variances between the approved costs and the actual costs that the Company incurred. Variances that increase rate base will be deferred if they are larger than the specified limits. Variances that decrease rate base will be reconciled without limit.

Q. Please explain how Liberty proposes to account for the delayed or cancelled projects.

A. The first step in the annual reconciliation will be to remove from the rate base any projects that have been delayed or cancelled from UPIS. For example, if a project was assumed to be in-service during RY1 but will not come into service until RY2, that project would be removed from UPIS from RY1 and corresponding adjustments to the rate base would be made.

Q. Will the Company be allowed to cancel projects entirely?

A. Yes.

Q. Can projects that were approved in the capital plan and then cancelled by the Company be replaced with some other project?

A. Yes, subject to certain restrictions, if Liberty replaces one or more projects, it may replace them with alternative capital projects (hereinafter, "Replacement Projects.")

Q. What are the restrictions placed on Replacement Projects?

A. First, the Company must identify which project, or projects, a Replacement Project is replacing. One Replacement Project can replace multiple projects approved in the capital plan or multiple Replacement Projects can replace a single project that was approved in the capital plan. In either case, the total value of the Replacement Project(s) cannot be greater than the previously approved capital projects they are replacement. Second, following the end of RY3, all Replacement Projects will be subject to a prudency review.

Q. What reporting will the Company be required to do with regard to Replacement Projects?

A. In any year in which the Company has one or more Replacement Projects come into service, it would report the value of each project and identify each project that had been replaced. Changes to Liberty's capital spending plans would also be reported in the E-22 Reports that it files regularly with the Commission.

Q. On what basis does Liberty conclude that it is reasonable to allow for deviations of this type to an approved capital plan?

A. As described in the Hanser Direct testimony, flexibility to respond to unforeseen changes is beneficial to customers. Simultaneously, customers are protected from overspending by the limitations placed on spending for Replacement Project and by the prudency review.[12]

Q. Does the prudency review of Replacement Projects create an incentive for the Company to not deviate from the approved capital plan?

A. Yes, it does. Approved projects create a known earning opportunity for the Company whereas, by design, Replacement Projects are riskier because spending on Replacement Projects is subject to the after-the-fact prudency review. This creates a risk that is not offset by additional earnings opportunities. The Company would therefore need to be highly confident that it could demonstrate the prudency of its decision to implement a Replacement Project, as well as that of its subsequent management of the actual implementation before it could rationalize the change.

Q. Can capital projects be put into service early?

A. Yes, but no more than three months early and no more than 10% of the approved, total capital spend for any RY may be placed into service prior to the date indicated in the approved capital plan.

[12] Hanser Direct Testimony, p. 16-17

Q. Please explain the next adjustment, the adjustment to reconcile actual project costs to those approved in the capital plan.

A. Reconciliations will be made for individual specific projects separately and collectively the group of annual blanket/program projects, for total spending in a RY. Reconciliation of projects whose actual costs are greater than its approved cost will result in an adjustment to increase UPIS, subject to a cap, while projects whose actual costs are lower than approved will reduce UPIS without limit.

Q. What are the limits to upward adjustments to the rate base additions?

A. With the exception of investments made for IT, the upward adjustment to rate base cannot exceed 20% for any individual specific project or 10% of the total change in UPIS for any RY.

Q. Can you characterize the magnitude of those allowed variances?

A. While the variances are significant, a variance in rate base in some year up to the limit would not have a large impact on rates. The Company's capital spending has averaged roughly $30 million per year in recent years, so the maximum allowable variance is $3 million. While the Company absolutely does not take lightly its commitments to deploy capital on behalf of its customers as efficiently and as close to budgets in all instances, it is also the case than an overspend of this size would not create large changes to the Liberty's overall rate base or major impacts to customer bills.

Q. What is the Company's proposed limit for adjustments to cybersecurity projects?

A. The Company proposes that the upper limit for any individual capital project is 25% and that positive variances (actual costs that are greater than authorized) do not count towards the limit on the total change in UPIS for any RY.

Q. On what basis is Liberty proposing to treat cybersecurity investments differently than other types of investments?

A. Because there are unique characteristics associated with cybersecurity investments that warrant special treatment. We discuss our proposal to address variances in spending on cybersecurity, as well as variances in OpEx for vegetation management, later in this section of our testimony.

Q. Are any of the projects in the capital plan blanket projects?

A. Yes.

Q. Please describe a blanket project and explain how they are treated for purposes of the rate base reconciliation.

A. Blanket projects, or, simply, blankets, are aggregations of small capital projects that are generally recurring in nature and which the Company manages as a single project. For purposes of the MYRP, the value of the blanket is added to the rate base when the Company has placed new infrastructure into service whose value is fifty percent of the total authorized value of the blanket. Cost variances are treated in the same way as non-blanket projects.

Q. Are any of the blankets cybersecurity projects?

A. No.

Q. Can you provide a simplified example?

A. Yes, assume that three hypothetical projects, A, B, and C, whose expected costs are $1 million, $2 million, and $3 million, respectively, are approved by the Commission for inclusion in the Company's capital plan. For purposes of simplicity, also assume an expectation that the three projects will increase RY2 UPIS by an amount precisely equal to their approved costs, or $6 million; which is to say that no timing adjustment described by Witnesses Dane and Jardin is required. Finally, assume that the actual costs of the projects are $1.3 million, $2.1 million, and $2.25 million, respectively. In which case, the actual cost of Project A is more than 20% higher than its approved cost, meaning that the difference, $0.2 million, is excluded from the RY2 UPIS. The actual cost of Project B is only 5% higher than its approved cost, so UPIS is increased by actual cost of the project, inclusive of variance. Finally, the actual cost of Project C is 25% lower than the approved amount, which reduces UPIS by $0.75 million. The total impact of the reconciliation is a reduction in UPIS of $0.45 million.

Table 3. Simplified Capital Reconciliation Example – Project Limit

	a	*b*	*c=b-a*	*d=c/a*	*e=Min[c, a*20%]*	*f=a+e*	*g=b-f*
Project	**Approved Cost** *($MM)*	**Actual Cost** *($MM)*	**Variance** *($MM)*	**Variance** *(%)*	**Adjustment** *($MM)*	**Adjusted UPIS** *($MM)*	**Defer** *($MM)*
A	$1.0	$1.3	$0.3	+30%	$0.2	$1.2	$0.1
B	$2.0	$2.1	$0.1	+5%	$0.1	$2.1	$0.0
C	$3.0	$2.25	($0.75)	-25%	($0.75)	$2.25	$0.0
Total	$6.0	$5.65			($0.45)	$5.55	

Q. Given this example, what would be the total UPIS added to ratebase for these projects?

A. $5.55 million.

Q. Would the Project A costs that were above the limit be disallowed?

A. Not necessarily. The Company could seek recovery of that amount at a later time if it believed that the additional costs were prudently incurred. We will explain how the Company would seek to recover those costs later in this section of our testimony.

Q. Would Replacement Projects be treated any differently in this scenario?

A. No, Replacement Projects would be treated the same as any other project.

Q. Can you provide an example of how the overall limit to the annual change in UPIS would apply?

A. Yes. Assume that hypothetical Projects D, E, and F are approved by the Commission and included in the capital plan at a total cost of $21.00 million; that all three projects are constructed at a total cost of $23.65 million; and that the cost variance for each project is

20% or less. Also assume that the three projects are the only approved capital additions for some rate year. The cost variance of each project is 20% or less for each project, but the total variance of the change in UPIS for the year is greater than 10%; specifically, the Company would be allowed to increase rate base in the example by $23.10 million or less, but its total costs are $23.65 million. The total required deferral is applied on a *pro rata* basis to each project, based on its actual costs, from which the balance of UPIS from each project is calculated, such that the total change in UPIS is limited to 110% of the amount approved by the Commission. The application of the limit to the example is shown in **Error! Reference source not found.**4.

Table 4. Simplified Capital Reconciliation Example – Annual Limit

	a	*b*	*g=(b-a)/a*	*h=b/ Σ_b*	*i=f*h*	*j=b+i*	*k=b-j*
Project	**Approved Cost** *($MM)*	**Actual Cost** *($MM)*	**Variance** *(%)*	**Project Share** *(%)*	**Pro-Rata Reduction** *($MM)*	**Adjusted UPIS** *($MM)*	**Defer** *($MM)*
D	$4.00	$4.20	5%	18%	($0.10)	$4.10	$0.10
E	$7.00	$7.45	6%	32%	($0.17)	$7.28	$0.17
F	$10.00	$12.00	20%	51%	($0.28)	$11.72	$0.28
Total	$21.00	$23.65				$23.10	$0.55
c	10%	Limit on total variance for UPIS additions in a rate year					
*d=Σ_a * (1+c)*	$23.10 M	Total allowable UPIS additions for the rate year					
e=Σ_b	$22.65 M	Actual costs on approved projects					
f=d-e	$0.55M	Required deferral					

Q. Is there a specific order in which the project and annual variance limits would be applied?

A. Yes. In each reconciliation, the 20% limitation on project variances would be applied, if any projects were over that limit, followed by the 10% limit on total annual variances, if necessary.

Q. Will recovery of costs associated with capital that were not added to UPIS during the MYRP be disallowed?

A. Not necessarily. Liberty's proposal is to create a variance account that would be used to track the revenues that the Company did not collect because variances in the capital costs exceeded the applicable limits. The unrecovered revenues would include the return on capital and the depreciation expense associated with capital projects that had been completed and placed into service, but not included in UPIS, as well as the impact of related items that are derived from rate base (taxes, etc.). The contribution to the total balances from deferrals associated with each project would be tracked on an ongoing basis. At the time the Company made its reconciliation filing following the end of RY3, the Company could request to recover some, or all, of the deferred revenues.

Q. How would the Company account for the variance account on its books?

A. As a regulatory asset. As such, it would apply a carrying charge equal to its authorized WACC.

Q. What standard would the Commission apply to determining whether to authorize recovery of some, or all, of the variance account?

A. The prudence standard. In each instance in which the cost of a project exceeded the 20% limit, and for which the Company requested recovery, the Commission would review the Company's management of the project to determine whether Liberty's imprudence caused the cost variance to exceed 20%. If imprudence was determined, recovery of the deferral associated with that project would be disallowed.

Q. Has the Commission recently explained the prudence standard?

A. Yes, it has. In its Order No. 21,721, which was issued in 1995, the Commission cites RSA 374-F:3 and explains that "[i]n the language of the law, prudence is commonly associated with diligence and contrasted with negligence." In Order 24,276, issued in 2004, it explained that "[a] prudence review, as we understand the concept, involves an after-the-fact review of investment decisions, in light of actual performance, but limited to what was reasonably foreseeable at the time of the decisions." These and other findings are referenced in Order 26,582, which the Commission issued in February 2022.

Q. Can you explain how this would be applied to the prudency review the Commission would conduct following the MYRP period?

A. Consistent with its explanation and application in the Commission's orders referenced above, investments could be determined to be imprudent if the Commission determined that the decisions it made were negligent, given the information that was available at the time those decisions were made. In the event they were, the Company's recovery of the cost of such investments could be disallowed.

Q. Would the same standard apply for balances in the variance account that were created because actual costs exceeded the annual limit?

A. Yes. If the Company requested recovery of deferrals caused by a violation of the annual limit, the Commission would analyze the prudence of the Company's management and decision-making with regard to all the projects for the rate year whose actual costs were greater than their authorized cost and disallow recovery of any variances that were caused by the Liberty imprudence. If necessary, adjustments to asset balances that were reduced on a *pro rata* basis during the reconciliation process would be made to ensure that recovery would be authorized on the projects that were not found to have been imprudently managed.

Q. Would the variance account be reset to zero following the RY3 reconciliation?

A. Any costs that the Commission found to have been imprudently incurred would be removed and permanently disallowed. If the Commission ordered the recovery of any recoverable amounts over time, a balance could carry forward during the period in which it was amortized.

Q. What information would the Company provide as the basis for the capital reconciliation?

A. With each annual reconciliation filing, the Company will provide a list of projects approved for the rate year, the authorized cost, the actual, and calculation of variance by project and for the total year. Relevant documentation that supports the cost consistent with similar information provided in the Company's annual step filings would also be provided.

Q. After the filing is made, could the Commission or intervenors request additional information regarding capital projects?

A. Yes, if the Company were to seek recovery of deferred revenues, the Commission could open an evidentiary proceeding that included the provision of additional information, discovery, a hearing, testimony, or other any proceeding it deemed necessary or useful to the review of the reasonableness of Liberty's request.

Q. Would adjustments to UPIS require other adjustments to the rate base?

A. Yes. The reserve held for depreciation and deferred taxes could require adjustments if the UPIS changed. In which case, the Company would make the appropriate adjustment in order to conform with the rates approved in this proceeding.

Q. Can you provide an example?

A. Yes. If a project were approved for inclusion in the RY1 rate base but was delayed or deferred until RY2, the UPIS for RY1 would be reduced, which could require a corresponding adjustment for the depreciation reserve or deferred taxes, since both of those items are impacted by the timing of when capital is placed into service.

Q. Is it the case that each of these adjustments are defined by other elements of the Company's cost of service approved by the Commission?

A. Yes. Depreciation would be based on the depreciation rates approved in this proceeding, the deferred taxes would be based on the approved depreciation and tax rates.

Q. How would the Company document these adjustments?

A. It would provide a description and, if necessary, workpapers supporting the adjustment when it made the reconciliation filing after each rate year.

Q. Are there elements of the rate base that would not require adjustment following each rate year?

A. The Company does not anticipate requesting updates to the remaining components of its rate base, including materials and supplies, prepaid expenses, cash working capital, regulatory assets and liabilities and customer deposits. Those components make up a relatively small portion of the rate base and are unlikely to change. While Liberty could request a change to these elements in the event that unanticipated circumstances were to arise, it would expect the Commission to require demonstration of a higher standard before an adjustment were to be approved. Specifically, Liberty would expect to have to demonstrate the prudence of its management with regard to these components of the rate base, that it could not have reasonably foreseen or controlled the change that has occurred since the conclusion of this proceeding, and that an adjustment to one or more of these components would be more beneficial to customers than its invoking the re-opener we discuss later in our testimony.

Q. What is the end result of rate base reconciliation?

A. Once the Company has made adjustments to UPIS for plants that are delayed or cancelled; for the variances in the costs of capital projects; and made the corresponding adjustments described above, the rate base that would be serve as the basis for calculating the Company's NOI and the subsequent adjustments required by the ESM would be established.

2. Calculation of NOI and Earned Return on Equity ("ROE")

Q. What is the purpose of calculating the Company's income for a given rate year?

A. The purpose of calculating the Company's income for a given rate year is to determine its earned ROE. The result may require an adjustment to income, which would be achieved through the ESM, as we describe later in our testimony.

Q. What measure of income is calculated?

A. NOI, which is equal to the Company's operating revenues less its Operations & Maintenance expense ("O&M"), customer expenses, Administrative & General ("A&G") expenses, depreciation and amortization, and taxes.

Q. When will the Company calculate NOI and earned ROE?

A. The Company will calculate NOI and earned ROE in the reconciliation filing made at the end of each rate year.

Q. Is the earned ROE calculation the same one that the Company reports annually in the F-1 Supplemental Quarterly Financial and Sales Information per Puc 308.11[13]?

A. Yes.

Q. How will operating revenues for each rate year be calculated?

A. Because Liberty's distribution revenues are decoupled from its retail sales, distribution revenues are based on the Revenue Per Customer ("RPC") benchmark that will be approved by the Commission in this proceeding.

Q. What is the RPC and how is it determined?

A. The revenues the Commission authorizes the Company to collect, on a per-customer basis, which establishes the basis for the annual reconciliation of its revenues via decoupling. Specifically, each year, the Company files a request to reconcile its actual revenues with those established by the benchmark as part of its revenue decoupling adjustment factor ("RDAF") filing, the most recent filing was made in September 2022 in Docket No. DE 22-052 and subsequently approved by Order 26,748. The period for which the decoupling reconciliation takes place is the twelve months ending in the

[13] https://www.puc.nh.gov/Regulatory/Rules/Puc300.PDF

previous June, which matches the rates. Thus, the reconciliation filing will utilize the operating revenues submitted in the RDAF filing.

Q. Will expenses that are approved in this proceeding be adjusted to account for variances in the Company's cost of doing business?

A. In most cases no. Neither customer expenses nor A&G will be adjusted. There are adjustments to distribution O&M that are allowable, both of which are expected to be limited. First, an adjustment will be made each year to true-up vegetation management expenses, as described by Company Witnesses Heather Green and J.M. Sparkman in their Direct Testimony.[14] Second, an adjustment would be made to true-up O&M attributable to cybersecurity.

Q. Would any other expenses be adjusted for purposes of calculating NOI?

A. Yes, adjustments would be made to items whose value is determined by some other input to the calculation of the Company's revenue requirement and/or NOI. For example, adjustments to ratebase for some year would necessitate corresponding adjustments to the return it can collect through rates and to depreciation expense, which the Company would implement using the rates approved in this proceeding. Also, if operating income were to change, income taxes would change as well. The Company would make adjustments accordingly using approved tax rates.

[14] p. 30

Q. Is the adjustment for the cost of vegetation management an element of the Company's PBR proposal?

A. No. Liberty proposes to include the adjustment in its annual reconciliations only as a matter of administrative convenience. It could submit the adjustment in a separate filing. The Commission would need to rule on such a filing prior to the reconciliation of the MYRP after each rate year since over- or under-collections due to variations in the cost of vegetation management would affect the Company's NOI.

Q. How is earned ROE calculated?

A. For any given rate year, earned ROE is calculated as NOI divided by the equity portion of the Company's rate base.

Q. What is the purpose of calculating the Company's earned ROE?

A. The Company's earned ROE serves as the sole input to the ESM.

3. Earning Sharing Mechanism

Q. What is an ESM?

A. ESM is a mechanism established by which a utility's earnings are reconciled, in part or in whole, to its authorized ROE. The purpose is to ensure a utility's profits during the pendency of a MYRP are neither excessive nor insufficient.

Q. Can you summarize the Company's proposed ESM?

A. Liberty is proposing an asymmetric ESM that includes an earnings "deadband," within which deviations in earned ROE are absorbed by the Company. Excess earnings above the deadband are returned, in whole or in part, to the customers. Deficient earnings below the deadband are partially collected from the customers.

Q. Is this proposal consistent with best practices in the electric industry?

A. Yes, it is. In his Direct Testimony, Mr. Hanser explains that the use of an ESM that includes two-way sharing, a deadband, and tiered rates of sharing is consistent with best practice for utilities that utilize MYRPs. His testimony also explains the reasons why the specific parameters of the Company's proposed ESM create a balance of risk and reward that favors customers by virtue of its symmetric design.

Q. Please explain how the ESM will work.

A. In the reconciliation filing following each rate year, the Company would calculate its earned ROE and compare that to its authorized ROE. If the earned ROE is within 100 basis points ("bps") of the authorized, there is no adjustment to earnings. If the earned ROE is more than 100 bps greater or less than authorized, the sharing mechanism is triggered.

Q. What is a basis point?

A. One basis point is equal to one one-hundredth of a percent, or 0.01%. 100 basis points equals 1%.

Q. What if the Company's earnings are more than 100 bps higher than authorized?

A. 50% of the excess earnings would be returned to the customers for any amounts greater than 100 bps higher but less than 200 bps higher than the authorized amount.

Q. What amount would be refunded to customers if earnings exceeded 200 bps higher than authorized?

A. 75% of earnings greater than 200 bps above the authorized ROE would be returned to the customers.

Q. Would returns lower than the deadband be treated in the same manner?

A. Yes, the symmetry in the mechanism means that both the sharing ratios and the limits are the same. If the Company's earnings were to fall below the deadband, it would recover 50% of the underearning from customers up to 200 bps below the authorized ROE. If the earned return was more than 200 bps below the authorized ROE, 75% could be collected from customers.

Q. Can you please summarize the ESM in a single table?

A. Yes. See Table 5, below.

Table 5. ESM Parameters

Outcome	Action
If earned ROE is ……..	
200 bps or more above authorized	75% of excess returned to customers
More than 100 bps but less than 200 bps above authorized	50% of excess returned to customers
Earned ROE withing 100 bps of authorized	None
More than 100 bps but less than 200 bps below authorized	50% of deficit collected from customers
More than 200 bps below authorized	75% of deficit collected from customers

Q. How would excess be returned to, or a deficit collected from, the Company's customers?

A. Adjustments made via the ESM would be one of the two elements that would be recovered from or refunded to customers via the Revenue Adjustment Charge ("RAC"), a new volumetric charge. As Ms. Menard describes in her Direct Testimony, the RAC would be a component of the Electric Reconciliation Adjustment Mechanism ("ERAM"), which the Company is also proposing

Q. What is the other element that will be reconciled via the RAC?

A. Incentives earned or penalties incurred via PIMs.

4. Ratemaking Treatment Targeted Categories

Q. What is the purpose of this subsection of your testimony?

A. To describe how variances in capital and/or operational spending will be treated for costs associated with the Company's cybersecurity program, its VMP, and its pension cost, including the manner in which variances will be calculated and reported and, in particular, the allowed tolerances for spending variances in each category. The allowable variances define the degree to which over- or under-spending compared to authorized budgets will be collected from or returned to customers via the RAC.

Q. Is the approach to spending variances significantly different for these categories of expense.

A. No. The approach to each is generally similar to the manner in which other types of variances will be treated within the MYRP except that variance tolerances are increased.

Q. Why is it necessary to increase the tolerances for spending variances for these types of expense?

A. Expenses in each category are unavailable, difficult to predict, and cannot be controlled by Liberty's management. That being the case, broader tolerances in spending variances should be implemented.

Q. Why?

A. There are at least two important reasons. The first is fairness. If a utility incurs costs prudently, it should be allowed recovery of those costs. Likewise, in the event that a utility's spending is considerably less than expected because of factors that are beyond its control, the extra earnings should be refunded to customers in full. The second reasons, which is closely related, is the question of incentives. Good ratemaking is centered on the idea that financial outcomes should align with a utility's performance. In this instance, no meaningful incentive can be applied because the Company has no effective control over outcomes. Creating earnings impacts by limiting the degree to which over- or under-spending is reconciled to budgets and then returned to customers is creates no incentive for performance if the result is beyond a utility's control. As such, there is no reasonable basis to create financial risk for the Company or its customers.

a) Cybersecurity

Q. Please summarize the Company's proposed cybersecurity program.

A. The Company is planning to make significant capital investments and to incur ongoing operational expenses to make enhancements of our computer systems. The capital and operational costs that the Company currently expects to incur are already reflected in revenue requirements for each RY shown above in **Error! Reference source not found.**.

Q. Is the Company seeking particular treatment of the investments it will make for cybersecurity spending?

A. We propose that cybersecurity spending will generally be treated in the same was as other types of spending except that the allowable variance for any capital project will be increased to 25% and the Company will be allowed to true up all its operational spending each year when it makes its reconciliation filing.

Q. Why is special treatment for cybersecurity spending necessary?

A. Because it is highly uncertain. As Company Witness Shawn Eck describes at length in his testimony, the cybersecurity space is characterized by rapid, unpredictable change and spending is mostly beyond management's control. Moreover, the rapid pace of change means that it is not possible for Liberty to predict with reasonable certainty what its needs will be even a few years into the future.[15] The uncertainty lies entirely beyond the Company's control and cannot be meaningfully hedged in any way.

[15] Eck Direct Testimony, p. 3

Q. But is it not one of the responsibilities of a utility to forecast its future needs and plan for them?

A. Only when there exists an empirical basis to make such a forecast. In this instance, there is not.

Q. Is the Company committing to other types of spending forecasts in this proceeding? If so, please identify some of those commitments and explain why similar commitments cannot be made for cybersecurity spending.

A. Liberty is proposing to make significant investments in distribution infrastructure, AMI, enterprise computer systems, and other assets that support its commitment to safe, reliable, affordable electric service. In each instance, Liberty will need to tightly control costs in order to stay within approved variance limits and will be subject to *ex post* prudence reviews that could result in disallowances for the recovery of capital that it has already spent. The amount of risk the Company must manage to execute its capital plan is reasonable because the costs are, generally, predictable. Liberty can know with some certainty how much of each time of asset it will need and roughly how much those assets will cost. Liberty is also proposing to establish rates based on an outlook for operational spending that will be established in the course of this proceed and which cannot be adjusted over the pendency of the MYRP, other than limited exceptions for specific types of spending. As is the case for the capital plan, setting an operational spending plan in this manner is reasonable because the Company can rely on the expertise of its managers, data on past performance, and other available information to develop the outlook. By managing efficiently, it can also control its costs. The Company's cybersecurity program is different. There is no way to know even what investments will be required, much less how much they will cost. Because Liberty's management can neither predict nor control what its costs will be for needed investments, application of a stringent cap would be capricious and arbitrary.

Q. Is the proposed limit on project variances of 25% reasonable?

A. It is. Because the costs of cybersecurity are less predictable than the costs of other types of investments for all the described above, an allowable variance that is greater than the one applied to other types of capital projects is reasonable. At the same time, having a per-project cap creates an incentive to control costs, better enables Commission oversight of the Company's spending, and allows for better transparency.

Q. How will capital spending above the 25% limit be treated?

A. The revenue requirement associated with the amount over the cap would be added to the variance account described above and be cybersecurity to the same prudency review following RY3 that applies to spending overages for non-cybersecurity projects.

Q. Why is there no limit on the reciliation of operational costs for cybersecurity?

A. OpEx associated with cybersecurity programs are even less predictable than capital spending. Moreover, utilities do not earn a profit on OpEx, which are simply passed through to customers. These factors make a less restrictive governance structure sufficient and appropriate.

Q. How will the Company document its costs and variances from the budget approved in this proceeding?

A. Liberty will include in each reconciliation filing detailed descriptions of the cybersecurity investments it made during the previous RY, its operational spending, and supporting documentation as well as a reconciliation between approved cybersecurity spending and actuals for the RY. The Company will also provide a narrative that identifies the changes in the space that necessitated the deviations from planned spending and a explain how the investments Liberty made on behalf of its customers were prudently incurred.

Q. Will the information provided in the annual filing be sufficient for the Commission to maintain an appropriate level of oversight over Liberty's spending?

A. Yes. Each annual filing will include sufficient detail that the Commission can review the Company's operational and capital spending, validate spending totals, and understand the need for and benefits from variations from approved budgets. Each submission would also be subject to review, including discovery, by intervenors who would have the opportunity to recommend recovery disallowances if they identified evidence of imprudence. Additionally, capital spending beyond the project limit would be automatically subject to prudency reviews following RY3. These elements facilitate the Commission's oversight and create strong incentives for the Company to spend efficiently.

Q. Is it important that the Company be granted the flexibility it needs to make appropriate investments and incur the expenses needed?

A. Yes, very. Liberty has an obligation to provide safe and reliable service and cybersecurity is a critical element of doing so. Due to the unique nature of the assets and operational spending, denying the Company the flexibility it needs to address the uncertainties inherent to its program could force difficult choices about whether it would need to forego important investments or having those investments funded by its shareholders without recovery.

b) VMP

Q. Is the Company proposing changes to its vegetation management program?

A. Yes. The Direct Testimony of Witnesses Green and Sparkman describes the Company's plan to enhance its VMP, the ways in which doing so will benefit Liberty's customers, and the cost increases that the Company expects to incur as a result of its increased activity.

Q. Is the increased cost of the VMP included in the Company's proposed COS?

A. Yes. The COS includes approximately $4.1M for RY1, $4.3M for RY2, and $4.6M for RY3.[16]

Q. Is spending on the VMP all OpEx?

A. Yes.

[16] Green-Sparkman Testimony p. 19

Q. How does the Company propose to reconcile variances from planned spending?

A. Each annual reconciliation filing the Company makes will include a calculation of the variances from the amount the Commission approves for the VMP, which will be recovered the following year through the RAC. There will be no limit on the reconciliation of the VMP. Essentially, the approach is the same as the one the Company is proposing to reconcile and recover variances in operational expenses for the cybersecurity program.

Q. Why is this approach necessary?

A. This approach is necessary because the Company can neither reasonably predict nor manage the cost of the VMP. Ms. Green and Mr. Sparkman explain that execution of the VMP is highly dependent on the use of contractors whose availability is uncertain, whose cost is unknown, and whose services must be procured in an uncertain market in which Liberty competes with other utilities to secure the required contracts, all of which creates a level of complexity that makes accurate prediction of costs impossible.[17] Because the VMP is largely outsourced, the Company's ability to control costs is limited. It can procure services using efficient processes that include, for example, the use of competitive solicitations to ensure that its costs are consistent with the prevailing market for services, but that market is itself impossible to predict with confidence.[18] But despite these challenges, the VMP is critically necessary to maintain system reliability.[19] In

[17] Green-Sparkman Direct Testimony, p. 14
[18] *Id.*, p.18-24
[19] Green-Sparkman Direct Testimony, p. 4

particular, VMP spending cannot be deferred into future periods as part of a cost containment strategy without impermissibly jeopardizing reliability.[20] In the situation in which Liberty will incur significant costs that cannot be reasonably predicted but which also cannot be avoided, the only reasonable approach is to allow the Company to fully reconcile its actual expenses except in instances in which those expenses were imprudently incurred.

Q. How will the Commission review the Company's VMP spending?

A. With each annual reconciliation, the Company will include a reconciliation of its actual VMP spending to the budget approved in this proceeding. It will also provide narrative descriptions of the procurement processes it utilized to ensure that it incurred costs competitively, documentation to support spending totals, and other required information. As with other elements of the reconciliation, the Commission and intervenors will have the opportunity to review those data, conduct discovery if necessary, and seek a review of the prudency of the Company's spending if the available evidence supports doing so. All negative costs variances, that is, variances that result from actual spending being lower than the budget authorized in this proceeding, would be returned to customers via the RAC in the following rate year. All positive variances not shown to have been imprudently incurred would be collected the following year in the same manner as it will recover variances in cybersecurity and VMP.

[20] *Id.*, p. 4

c) Pension expense

Q. What is the Company's proposal regarding pension expense reconciliations?

A. That it be allowed to reconcile all of its expenses related to pensions and Other Post-Employment Benefits ("OPEBs"). Expenses in this category are OpEx.

Q. Why is this necessary?

A. Because pension expenses are unavoidable, uncontrollable, and cannot be predicted with confidence.

Q. Why is the Company unable to forecast pension and OPEB costs?

A. Because they are highly uncertain and vary due to factors that are beyond the company's control.

Q. Do you have recent data that highlights the uncertainty in pension and OPEB spending?

A. Yes. The Company's finance team provided the following data on its pension and OPEB costs for 2021 and 2022.

Table 6. Pension and OPEB Expenses

	2022	2023	Variance	Variance (%)
Interest costs	$1,767,386	$2,505,957	$738,571	117%
Return on plan assets	($2,704,073)	($2,240,513)	$463,560	74%
Service costs	$998,634	$785,613	($213,021)	-34%
Other	($74,323)	($434,591)	($360,268)	-57%
Total	(12,376)	$616,466	$628,842	

Q. What do these data show?

A. That Pension and OPEB spending is volatile. In 2022, the Company's pension costs, in 2023, they were significantly positive. Additionally, the drivers of the cost change are themselves volatile, with large variances that move in opposite directions.

Q. Can the Company control these costs?

A. Not meaningfully. The biggest drivers of the total change in the pension and OPEB costs are changes to interest rates and the value of the return on plan assets, neither of which are within the Company's control.

Q. How does the Company plan to treat variances in pension and OPEB expenses?

A. By reconcile its actual pension and OPEB costs when it makes it annual filing each year. The approach is the same that the Company is proposing for VMP and cybersecurity costs.

5. Performance Incentive Mechanisms

Q. What are PIMs?

A. As discussed in detail by Mr. Hanser and Ms. Menard in their Direct Testimonies, PIMs are mechanisms that create incentives, often through financial penalties or rewards, for a utility to achieve certain outcomes that its regulator deems beneficial. Liberty is proposing three such PIMs in this case that target reliability, TOU rate adoption, and support for the development of distributed energy resources.[21] Liberty is also proposing a

[21] Menard Direct Testimony, p. 9

"reporting-only" PIM that will require it to compile and report data not being captured, which will enhance transparency and accountability and may also inform decisions the Commission might make about metrics for use in PBR in future proceedings.[22]

Q. How would a penalty incurred under a PIM be applied?

A. By reducing customers' rates in the following year. Specifically, the penalty would be refunded to customers through the RAC. In the section of the annual reconciliation filing reporting achievement of the PIMs, the rate for a penalty incurred would be calculated as the total value of the penalty divided by the expected sales volumes for the year. If it were not offset by a reward, the application of a penalty would create a negative rate for the RAC.

Q. Would a reward be collected in the same way?

A. Yes. The calculation would be the same except the rate for the RAC would be positive, meaning that the amount the Company was allowed to collect from customers in the following year would be increased.

Q. Could penalties and rewards offset each other?

A. Yes. In the event that the Company reported both for a RY, the net of the value of all penalties and rewards would be applied to the RAC for refund or recovery the following year.

[22] *Id.*, p. 9

Q. Would penalties incurred or rewards achieved affect the calculation of NOI for purposes of the ESM?

A. No.

6. Timing and Content of the Reconciliation Filings

Q. When would the Company make the reconciliation filing each year?

A. On or before the first business day in September following the end of the Rate Year.

Q. Can you please summarize the content that would be included in each reconciliation filing?

A. Yes. Each reconciliation filing would include the following ten elements:

- *First*, information sufficient to reconcile the Company's actual vegetation management expenses to the planned amounts, as described in Witnesses Green and Sparkman testimony;
- *Second*, a reconciliation of the cost and timing of capital projects put into service during the applicable rate year to the approved capital plan;
- *Third*, a list of capital projects that had been included in the capital plan for the applicable rate year but which were deferred, delayed, or cancelled and, for each, an explanation as to why the timing of the project has changed;
- *Fourth,* a list of all Replacement Projects and the projects they replace along with the value for each such project.

- *Fifth*, Liberty's calculations of the impact to rate base and income items (depreciation expense, taxes, etc.) that result from changes to capital projects and workpapers supporting each calculation;
- *Sixth*, Liberty's calculation of its earned ROE and amounts, if any, that would be collected from or returned to customers through the RAC;
- *Seventh*, Liberty's calculation of the amounts that would be placed into the variance account due to variances in the costs of capital projects;
- *Eighth,* a report of the balance of the variance account, if any, including carrying charges, and the contribution of each individual project to the total balance;
- *Ninth,* a calculation of the incentive payments earned or penalties incurred under the PIMs, with necessary supporting workpapers and documentation; and
- *Tenth,* a summary of any over- or under-collections by the RAC from past periods due to volume uncertainty.

Q. Does the Company expect that lengthy proceedings would be required to review and approve the reconciliations?

A. No. In particular, the reconciliations for RY1 and RY2 are unlikely to create significant burdens for the Commission or parties to this proceeding because the range of issues being reviewed is limited. Following each of RY1 and RY2, the Commission will rule on the prudency of the Company's vegetation management spend and authorize the appropriate adjustment. The review of other elements of the reconciliation filing would be simply to validate that the Company had submitted the cost documentation and that its calculations were correct.

Q. Please elaborate with regard to the variances in capital spending.

A. Variances that are within the 10% project limit for specific, non cybersecurity projects, 25% for cybersecurity projects and 10% for the collective group of annual blanket and program projects and the 5% annual limit described above are assumed to be prudent and thus do not require a prudency review. Thus, adjustments to the rate base for variances associated with projects that fall within that limit require only the Commission's determination that the Company has sufficiently documented the projects and their costs.

Q. Will variances above the limits require a detailed review?

A. Not in proceedings related to the reconciliation of RY1 and RY2. In those proceedings, the Commission will only need to validate the project documentation and the Company's calculations in order to authorize the inclusion of the amounts over the limits in the variance account and the creation of a regulatory asset.

Q. Does the application of the ESM and the PIMs require substantial review?

A. No, they do not. The calculation of earned ROE, the incentive or penalty amounts, and the total amounts to be refunded to or collected from the customers is straightforward and largely well established by the information supporting the reconciliation filings.

Q. Would the Commission conduct any additional review of the variances in capital costs following RY3?

A. The Commission could potentially need to review the prudence of the costs incurred above the limits of the capital project variances described above. Specifically, if the variance account has a balance when the Company makes it reconciliation filing in RY3, the Company could request recovery of some or all of the amount, which it would do on a project-by-project basis. In that case, the Company would file along with its reconciliation filing written testimony that summarizes the circumstances that caused the increases that were captured in the variance account, an explanation as to why it believed those costs had not been incurred imprudently, along with relevant documentation or other evidence. It is the Company's expectation that balances in the variance account it was authorized to recover would be collected through the RAC.

Q. Are there any other additional items the Company would need to review following RY3?

A. If there were any Replacement Projects put into service, the Commission would review the prudency of those projects. If the costs of those projects were determined to have been imprudently incurred, those costs would be disallowed, retroactive to the date which they were put into service. If necessary, disallowed costs that had already been recovered from customers could be returned through the RAC. Any projects not found to have been imprudently incurred would be kept in rate base and not subject to further review.

Q. Is this level of review consistent with best practices for the annual reconciliations for utilities using MYRPs?

A. Yes. In his Direct Testimony, Mr. Hanser explains that the Company's proposal strikes an appropriate balance between oversight and transparency with efficiency.[23]

Q. What date would changes to the RAC become effective?

A. December 1 each year. As Mr. Hanser explains, this timing should provide a sufficient amount of time for the Commission to review the Company's reconciliation filings.

IV. OTHER MYRP ELEMENTS

Q. Please summarize this section of your testimony.

A. This section of our testimony describes the new tariff that is being proposed for the RAC as well as the Company's proposed re-opener provision, which would allow for adjustments or cancellation of the MYRP in the event that exigent, unforeseen circumstances during its pendency. This section also includes a discussion of the Company's anticipated timing of its next rate case.

A. RAC Tariff

Q. Is Liberty proposing a tariff for the RAC?

A. Yes, the RAC is a component within the ERAM which is included in the Company's proposed Tariff filed as part of this rate case.

[23] Hanser Direct Testimony, p. 17

B. <u>Re-Opener Provision</u>

Q. What is a re-opener?

A. A mechanism by which the MYRP can be terminated if unforeseen and exigent circumstances were to emerge during its pendency that made it impossible for the Company to maintain its financial integrity, for customers to realize the benefits of the current ratemaking scheme, or both.

Q. Is the Company proposing a re-opener?

A. Yes. The Company proposes that any party may petition the Commission to investigate the appropriateness of one, or all, of the elements of the MYRP at any time. Additionally, the Commission could initiate such an investigation on its own initiative at any time.

Q. What would the Company expect would be the standard required to trigger the re-opener?

A. The Company is not proposing any specific standard nor any specific events that would trigger the re-opener and we note that the ability to respond to unintended consequences is one of the primary purposes of the re-opener. That said, the Company expects that a request to trigger the re-opener would be required if earnings fall significantly above or below approved levels.[24]

[24] Hanser Direct Testimony, p. 9

Q. Are re-openers typical for MYRPs?

A. Yes.[25]

Q. Are re-openers triggered often?

A. No. Given that the re-opener is designed to respond to exigent, unforeseen events, and because one of the purposes of the MYRP is to create predictability for ratemaking over time, re-openers are triggered infrequently.[26]

C. Rate Case Timing

Q. When will Liberty file its next rate case?

A. At present, Liberty expects to file a case no later than January 1, 2026, which should provide enough time for new rates to be effective on July 1, 2026 and obviate the need for the Commission to approve temporary rates.[27] However, Liberty does note that if it needs to rely on a Base Period to support the forecast of its test year revenue requirements, it would need to utilize a period of 12 months that do not correspond to a calendar year since it is unlikely to have complete financial information for 2025 at the time it plans to make its filing. The Company respectfully requests that the Commission address this issue specifically in the final order it issues in this proceeding.

[25] Hanser Direct Testimony, p. 8-9
[26] *Id*., p. 8-9
[27] The Commission may choose to conditionally approve temporary rates in case an unexpected procedural delay were to arise.

Q. Will Liberty request PBR and another MYRP in its next filing?

A. If the Company determined that the PBR and the MYRP were effective frameworks that created value for both its customers and its shareholders, it may choose to propose those elements for its next rate case, possibly with refinements that are based on lessons learned from the PBR and MYRP approved in this proceeding. Likewise, the Commission will have the benefit of having reviewed the experience in this MYRP when it determines whether it should grant such a request.

V. SUMMARY

Q. Please briefly summarize your testimony.

A. Our testimony explains that Liberty's MYRP proposal is for the Commission to set distribution rates and a capital spending plan for the three-year period beginning July 1, 2023, based on the data and evidence filed with this application, at the end of this proceeding. The Company is also requesting that the Commission approve the ratemaking mechanics that we have described above that would require the Company to make annual filings that report detailed information on its financial and operational performance and which would describe the reconciliation of variances to its authorized budget, within limits, of its capital spending and also reconcile spending on the limited number of categories of expenses which cannot be reasonably predicted and which cannot be controlled by Company management. Liberty is asking the Commission to approve its ESM and its RAC Tariff.

Q. What are your conclusions?

A. Our testimony supports eight primary conclusions:

First, that the Company's proposed MYRP is consistent with its obligations under the Settlement Agreement;

Second, that the Company's proposal will ease regulatory burdens in New Hampshire;

Third, that the Company's proposal would require it to provide sufficient data to allow the Commission and other interested parties to examine its financial and operational performance and to identify instances of potential imprudence that would be subject to further review, were such instances to occur;

Fourth, that the structure of the MYRP, in particular, the ESM, would create incentives for the business to operate efficiently and to reduce costs and that savings realized would reduce customer bills;

Fifth, that fixing the elements of the Company's operational spending that can be predicted with reasonable accuracy and which are within management's ability to control will create incentives to save that will benefit customers;

Sixth, that is not reasonable for the Company to be exposed to financial outcomes from changes in expenses that cannot be predicted with reasonable accuracy or over which management has no ability to control, nor does requiring the Company's exposure to cost variances that are beyond its control create useful performance incentives; therefore, the

Company should be able to fully reconcile its spending in small number of expense categories of this type;

Seventh, that the manner in which the Company will implement the PIMs will create financial incentives that will support achievement of the underlying policy objectives; and

Eighth, that inclusion of a re-opener would mitigate impacts from unanticipated circumstances that may emerge during the pendency of the MYRP.

Q. What do you recommend?

A. That the Commission approve the Company's proposal without modification.

Q. Does this conclude your testimony?

A. Yes.