

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

June 2, 2015 - 10:29 a.m.  
Concord, New Hampshire

NHPUC JUN17'15 AM 8:35

RE: DG 15-090  
NORTHERN UTILITIES, INC. - N.H. Division  
2015 Summer Cost of Gas.  
(Hearing regarding PNGTS refund)

PRESENT: Chairman Martin P. Honigberg, Presiding  
Commissioner Robert R. Scott

Sandy Deno, Clerk

APPEARANCES: Reptg. Northern Utilities, Inc.:  
Gary Epler, Esq.  
  
Reptg. Global Montello Group Corp.  
and Sprague Operating Resources, LLC:  
Patricia M. French, Esq. (Bernstein Shur)

Reptg. Residential Ratepayers:  
Wayne Jortner, Esq.  
James Brennan, Finance Director  
Office of Consumer Advocate

Reptg. PUC Staff:  
Rorie E. Patterson, Esq.  
Michael J. Sheehan, Esq.  
Stephen P. Frink, Asst. Dir./Gas & Water Div.  
Al-Azad Iqbal, Gas & Water Division

Court Reporter: Steven E. Patnaude, LCR No. 52

ORIGINAL

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**CHRISTOPHER KAHL**  
**FRANCIS WELLS**  
**MARK ROBERTS**  
**JAMES BRENNAN**  
**STEPHEN FRINK**

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**P R O C E E D I N G**

CHAIRMAN HONIGBERG: We're here this morning in Docket DG 15-090, to finish, we hope, the Northern Utilities 2015 Summer Cost of Gas docket. The outstanding issue had to do with how to deal with about 10 and a half million dollars being refunded and how to get that back to ratepayers. We know there's been activity. We know there's been testimony filed and data request responses. We do have a Motion for Confidential Treatment on a data response.

But, before we take that up, let's take appearances, and then somebody can tell us what we're going to be doing this morning.

MR. EPLER: Yes. Good morning, Commissioners. Gary Epler, appearing on behalf of Northern Utilities. Thank you.

MS. FRENCH: Good morning, Commissioners. Patricia French, from the law firm of Bernstein Shur, on behalf of the Montello -- the Global Montello Group Corp. and Sprague Operating Resources.

MR. JORTNER: Good morning. This is Wayne Jortner, for the Office of Consumer Advocate. And, we me today is Jim Brennan.

MS. HOLLENBERG: Good morning. Rorie

1 Patterson, Stephen Frink, and Iqbal Al-Azad, as well as  
2 Michael Sheehan, here for Staff.

3 CHAIRMAN HONIGBERG: Let's deal with the  
4 Motion for Confidential Treatment real quick. We have  
5 that from Sprague. We noted that the confidential version  
6 did not have shading on it to indicate what was redacted.  
7 We were able to find the redacted version. And, I, at  
8 least, was able to highlight what's redacted. But we'll  
9 remind counsel that, when you're filing something  
10 confidential, and you redact something, the full version  
11 should indicate what was redacted, because that's what we  
12 have. So, it's helpful for us to know.

13 MS. FRENCH: I misunderstood the rules.  
14 I bolded next to the portions that -- where the language  
15 should go in. I, of course, because of the joint  
16 representation, I, myself, did not see the confidential  
17 version before Mr. Roberts filed it directly from Sprague.  
18 So, perhaps his assistant removed that language. But I  
19 did try to identify for the Commission, in the blank  
20 version that I sent to him to fill out, to fill out where  
21 the things were -- where the items were redacted.

22 CHAIRMAN HONIGBERG: It's not that end.  
23 It's on the full version. What does the unredacted  
24 version look like? The unredacted --

1 MS. FRENCH: Oh.

2 CHAIRMAN HONIGBERG: -- version should  
3 indicate what was taken out in the redacted version. So,  
4 that's the part of it that was missing. We've got it  
5 figured out. So, it's not a big deal right now. It's  
6 just for future reference.

7 We're going to grant the Motion for  
8 Confidential Treatment. We have the full version, the  
9 confidential version is out there, and we understand  
10 what's going on. To the extent that there's references to  
11 that, people need to be careful of referring to  
12 confidential information. So, we're good there, Attorney  
13 French?

14 MS. FRENCH: Thank you.

15 CHAIRMAN HONIGBERG: All right.

16 MS. FRENCH: Thank you, Chairman. And,  
17 I apologize for the inconvenience.

18 CHAIRMAN HONIGBERG: Not a problem. So,  
19 can somebody tell me what we're going to be doing this  
20 morning? Attorney Epler.

21 MR. EPLER: Yes, Commissioners. I've  
22 been asked to give you an update as to where things are by  
23 the Parties. And, I encourage my fellow counsel to jump  
24 in if I misstate anything.

1 CHAIRMAN HONIGBERG: I have no doubt  
2 that they will.

3 MR. EPLER: And, as the Commission is  
4 aware, based on what's been filed, there are two issues.  
5 There's the Company, what the Company proposal is, and  
6 then there are two different perspectives on that, from  
7 the Office of Consumer Advocate and from the Intervenor,  
8 Global/Sprague. The OCA had an issue with respect to  
9 sales customers and Global/Sprague has an issue with  
10 respect to the refund to delivery service customers.

11 We've had discussions this morning.  
12 And, in the parallel docket in Maine, the Maine Commission  
13 recently issued an order dated May 12th, where they  
14 addressed the issue with respect to sales customers. And,  
15 we had a discussion of that. And, I believe we have  
16 agreement that, with respect to sales customers, that  
17 would be an appropriate treatment of the refund. And,  
18 that is, and I will read to you from -- it's the order in  
19 Maine Docket 2015-00041. And, in ordering paragraph  
20 number four, it states that "Northern Utilities shall  
21 return to sales service customers the applicable Portland  
22 Natural Gas Transmission System refund amount by reducing  
23 demand costs over a three-year period, in the proportion  
24 of 50 percent the first year, 30 percent in the second

1       year, and 20 percent in the third year."

2                       And, though they -- though they don't  
3       indicate in that particular paragraph, the interest rate  
4       to be applied is the interest rate as proposed by the  
5       Company. In other words, the Company's short-term debt  
6       rate.

7                       CHAIRMAN HONIGBERG: That's one and half  
8       percent, 1.55 percent, something like that?

9                       MR. KAHL: That's approximately right.

10                      CHAIRMAN HONIGBERG: Okay. All right.

11                      MR. EPLER: And, so, that's the proposal  
12       with respect to sales service customers.

13                      We've had some discussion with respect  
14       to delivery service customers, and we have not reached any  
15       conclusion on those discussions.

16                      CHAIRMAN HONIGBERG: Okay. Does anybody  
17       want to add anything about -- let's just talk about the  
18       sales customers first. Everybody's good with that?  
19       Mr. Jortner? Ms. Hollenberg?

20                      MS. HOLLENBERG: Yes.

21                      MR. JORTNER: Yes. I'll add one thing.  
22       And, that's just to point out to the Commission, as you're  
23       probably aware, that there is a specific tariff applicable  
24       to supplier refunds, Accounts 242. And, the tariff



1 specifies that the refund will be in effect for one year,  
2 and that the applicable interest rate will be the prime  
3 interest rate, which today would be calculated at three  
4 and a quarter percent, which is what Liberty implemented  
5 in its PNGTS refund in its cost of gas case, probably a  
6 few weeks ago.

7 So, I just wanted to make clear that I  
8 guess, in essence, the Parties are seeking a waiver of the  
9 tariff in order to put forward this Settlement.

10 CHAIRMAN HONIGBERG: Ms. Hollenberg.

11 MS. HOLLENBERG: I guess I don't know if  
12 the Company requires a waiver to propose a new tariff  
13 provision. I think the companies do that all the time,  
14 they replace existing tariffs with new tariffs. And that,  
15 even though this is a specifically limited issue, I guess  
16 I don't see that the Company needs to have a waiver of its  
17 existing tariff in order for the Commission to allow it to  
18 allocate the refund differently than what the tariff  
19 requires.

20 CHAIRMAN HONIGBERG: Commissioner Scott.

21 COMMISSIONER SCOTT: Mr. Jortner, just  
22 to clarify. So, you're not objecting to the interest rate  
23 that the Company is proposing. You're just suggesting it  
24 may need a waiver, is that correct?

1 MR. JORTNER: That's correct. Because  
2 the front-loading of the refund ameliorates our concern  
3 that there was a mismatch between the interest rate and  
4 the duration of time that the funds were held by the  
5 Company. So, this, for this Settlement, it sort of, you  
6 know, creates sufficient equity in our view, and we're not  
7 objecting at all.

8 COMMISSIONER SCOTT: Thank you.

9 CHAIRMAN HONIGBERG: Do we really need  
10 to resolve whether a waiver is required, if everybody  
11 agrees and we put it in an order, and it could even say  
12 something helpful like "to the extent a waiver is  
13 required, it's granted"? That makes sense, right?

14 MS. HOLLENBERG: Uh-huh.

15 CHAIRMAN HONIGBERG: All right. So,  
16 that deals with the sales customers. What portion of the  
17 ten and a half million dollars is part of the refund? Can  
18 anybody give me a sense of that?

19 MR. EPLER: One moment.

20 (Atty. Epler conferring Mr. Kahl.)

21 MR. EPLER: Our estimate is  
22 approximately 80 percent is to sales customers.

23 CHAIRMAN HONIGBERG: Okay.

24 MR. EPLER: And, the remaining amount is

1 to deliver service customers.

2 CHAIRMAN HONIGBERG: So, then, we're  
3 talking about the last 20 percent of the ten and a half  
4 million dollars, so we're going to be a little over  
5 \$2 million. And, so, we have -- you haven't reached an  
6 agreement on that. We have the three positions that I  
7 think are out there. There's the Company's alternative  
8 proposal that it filed with its Cost of Gas filing; we  
9 have the OCA's "follow the tariff" language; and we have  
10 the Intervenor's "give it to us" proposal. Is that  
11 essentially how it shakes out, at a fairly high level?

12 MS. HOLLENBERG: Yes. And, the Staff is  
13 supporting the Company's proposal.

14 CHAIRMAN HONIGBERG: Oh. Did we know  
15 that? I don't know.

16 MS. HOLLENBERG: Well, I'd be glad to  
17 make the Staff available for the Commission to have a  
18 Staff witness, if that would be helpful. I've spoken with  
19 the other Parties, and they're amenable to doing that,  
20 even though Staff hasn't filed prefiled testimony.

21 CHAIRMAN HONIGBERG: Okay.

22 MS. HOLLENBERG: But it was clear at the  
23 time that we had our initial discussion about this issue  
24 that the Staff made it clear to the Parties at that point

1 that we were supporting the Company's proposal, and for  
2 the reasons that the Company indicated in its filing, as  
3 well as for other reasons.

4 CHAIRMAN HONIGBERG: Just off the record  
5 for a second.

6 (Brief off-the-record discussion  
7 ensued.)

8 CHAIRMAN HONIGBERG: All right. So,  
9 back on the record. So, how do you want to proceed? I  
10 mean, I think -- I don't really know how much  
11 cross-examination there needs to be of the positions that  
12 have been articulated by the Intervenor and by the OCA. I  
13 mean, do you all have questions for -- or, do we have  
14 questions for the Intervenor's witnesses -- witness, I'm  
15 sorry?

16 MS. FRENCH: Mr. Chairman?

17 CHAIRMAN HONIGBERG: Ms. French.

18 MS. FRENCH: We have tried to put out a  
19 case here that demonstrated that the marketer's partners  
20 paid dollar-for-dollar for this increase. I think that  
21 that is, you know, clear on the record and the data  
22 responses that Sprague responded to. Customers,  
23 transportation customers received the benefit of the way  
24 the pricing is created for competitive markets. And,

1 marketers bore the risk throughout the entire time period  
2 that they were paying for this dollar-for-dollar increase  
3 on the PNGTS, you know, over-collection.

4 CHAIRMAN HONIGBERG: I think we get -- I  
5 think we get the argument.

6 MS. FRENCH: Yes.

7 CHAIRMAN HONIGBERG: I think the  
8 question is, do we have questions for your witnesses?

9 MS. FRENCH: Well, actually, we're  
10 willing to move toward the position that Northern and the  
11 OCA and the Staff have come to, on the condition that we  
12 can get all of our -- all of the work that we've created  
13 here, because this may be an issue that can repeat itself  
14 in the future, that we could put our testimony and our  
15 data responses into the record.

16 But both Global and Sprague have  
17 indicated a willingness just to go forward on the 50-30-20  
18 proposal.

19 CHAIRMAN HONIGBERG: Okay.

20 MS. FRENCH: So, we just did not have  
21 the opportunity to tell the other Parties that, because we  
22 were gaining those assents.

23 CHAIRMAN HONIGBERG: Is there much  
24 rejoicing? Is that where we are?

1 MS. HOLLENBERG: That resolves the  
2 second issue, I believe.

3 CHAIRMAN HONIGBERG: Okay.

4 MR. EPLER: And, the Company has --

5 CHAIRMAN HONIGBERG: Mr. Epler.

6 MR. EPLER: We have no objections to  
7 entering the testimony and data requests into the record.

8 CHAIRMAN HONIGBERG: Mr. Jortner.

9 MR. JORTNER: No objection from OCA.

10 CHAIRMAN HONIGBERG: So, then, tell me  
11 mechanically what we would need to do then. The testimony  
12 has already been submitted. We can mark it as an exhibit,  
13 admit it as evidence. We don't have, except for the  
14 confidential one, the data responses. So, are there  
15 particular -- do you want to work, you know, do you all  
16 want to work together and just create an appropriate  
17 record, which we can bless or not? How do you want to  
18 proceed? Ms. Hollenberg.

19 MS. HOLLENBERG: I think that it might  
20 be helpful for the Parties to actually solidify the  
21 agreement into a settlement agreement for the Commission  
22 to approve or not. And, that the agreement could attach  
23 relevant documents for the record.

24 CHAIRMAN HONIGBERG: Is that something

1       you all are going to be able to do here, now, with  
2       Commissioner Scott and myself outside the room, is that  
3       what you're proposing?

4                   MS. HOLLENBERG: Well, I guess I would  
5       propose to file something maybe by the end of the week or  
6       at some point. I mean, that's one way to proceed, is to  
7       actually have a document for you to rule on and a package  
8       of information to accept into the record, without us  
9       deciding right now.

10                  CHAIRMAN HONIGBERG: Would we need to  
11       hold a hearing -- we're going to need to hold a hearing on  
12       the first part of the settlement anyway.

13                  MS. HOLLENBERG: So, have the testimony  
14       taken at this point in time?

15                  CHAIRMAN HONIGBERG: I'm thinking that  
16       maybe that might be the best way to do it, so we don't  
17       have to come back at some other time.

18                  MS. HOLLENBERG: Uh-huh. Yes. So, do a  
19       live testimony on the terms of settlement.

20                  CHAIRMAN HONIGBERG: All right. Do you  
21       need to -- do you need a few minutes to caucus about who's  
22       going to do what, who's going to go up there?

23                  MS. HOLLENBERG: I mean, I think that it  
24       makes sense for the Company to present the -- because they

[WITNESS PANEL: Kahl~Wells~Roberts~Brennan~Frink]

1 have the familiarity with the terms of the agreement that  
2 they reached, that was approved in Maine. And, then, we  
3 could make the other witnesses available for questioning,  
4 to the extent that they have anything additional to add.  
5 You could do it as a panel as well.

6 CHAIRMAN HONIGBERG: Okay. I'm thinking  
7 put everybody up there at once. Does that work for  
8 people?

9 MR. EPLER: Yes. That would work for  
10 the Company.

11 MS. FRENCH: That's fine with Global and  
12 Sprague.

13 MR. JORTNER: That's fine with OCA.

14 CHAIRMAN HONIGBERG: All right. Why  
15 don't we get the witnesses up here. Are there four? Do  
16 we need four seats up there?

17 MS. HOLLENBERG: One, two, three, just  
18 one or do both? Four or five.

19 CHAIRMAN HONIGBERG: Let's go off the  
20 record.

21 (Off the record.)

22 CHAIRMAN HONIGBERG: Well, while the  
23 Parties are sorting the witnesses out and how they're  
24 going to proceed, we're going to take a five-minute break.

{DG 15-090} {06-02-15}



[WITNESS PANEL: Kahl~Wells~Roberts~Brennan~Frink]

1 We'll be back.

2 (Recess taken at 10:45 a.m. and the  
3 hearing resumed at 10:55 a.m.)

4 CHAIRMAN HONIGBERG: All right. So,  
5 we're going to take the testimony from the witnesses, make  
6 the record. I think what we're going to do is reserve an  
7 exhibit for a settlement agreement that you all will  
8 prepare and file, and assuming it conforms with what we  
9 all talk about here, we'll be good to go. We would all  
10 caution you that it's difficult to find time when the two  
11 of us are in-state over the next few weeks. So, I  
12 encourage you to make sure that your settlement is in  
13 conformance with what we are able to do.

14 So, who's going to start? Mr. Epler.

15 MR. EPLER: Yes. Thank you.

16 (Whereupon **Christopher Kahl,**  
17 **Francis Wells, Mark Roberts,**  
18 **James Brennan,** and **Stephen Frink** were  
19 duly sworn by the Court Reporter.)

20 MS. HOLLENBERG: Before we begin with  
21 the witnesses, may I also ask that the Commission reserve  
22 an exhibit. I know that Sprague and Global's  
23 participation in the compromise that we've reached is  
24 conditioned upon the acceptance of their -- not only their

[WITNESS PANEL: Kahl~Wells~Roberts~Brennan~Frink]

1 testimony, but their data requests. So, I wondered if  
2 they would want an exhibit reserved, in order to file that  
3 after the hearing as well?

4 CHAIRMAN HONIGBERG: They probably do.  
5 Attorney French.

6 MS. FRENCH: From an administrative  
7 standpoint, if that's easiest for the Commission, yes. Do  
8 you want to use Exhibit 5, which would have been the  
9 premarked exhibit for Mr. Roberts' testimony?

10 MS. HOLLENBERG: Well, I think that the  
11 Commission is accepting the testimony, it sounds like, so  
12 those would be "Exhibit 5", and "Exhibit 6" would be --  
13 "Exhibit 5" could be Sprague/Global; "Exhibit 6" could be  
14 OCA; "Exhibit 7" could be reserved for the Settlement  
15 Agreement; and then "Exhibit 8" could be reserved for  
16 Global and Sprague data requests.

17 CHAIRMAN HONIGBERG: I would flip those  
18 last two.

19 MS. HOLLENBERG: Okay.

20 CHAIRMAN HONIGBERG: So, "5" is the  
21 Sprague Global testimony; "6" is the OCA testimony; "7" is  
22 going to be the Sprague/Global data responses; and then  
23 "8" will be the Settlement Agreement.

24 (The documents, as described, were

1 herewith marked as **Exhibit 5, Exhibit 6,**  
2 **Exhibit 7 (reserved), and Exhibit 8**  
3 **(reserved),** respectively, for  
4 identification.)

5 MS. FRENCH: Thank you, Mr. Chairman.

6 CHAIRMAN HONIGBERG: All right.

7 MR. EPLER: Excuse me. Could I confer  
8 with counsel for a moment please?

9 CHAIRMAN HONIGBERG: Sure.

10 (Attorneys conferring.)

11 MR. EPLER: Thank you.

12 CHAIRMAN HONIGBERG: And, we'll note  
13 that this is why there's a rule that requires settlement  
14 agreements to be filed five days in advance. But we're  
15 going to, to the extent necessary, we'll waive that rule  
16 in whatever order gets issued, assuming that this  
17 settlement all comes together in the way we'd like it to.

18 So, Mr. Epler.

19 MR. EPLER: Thank you.

20 **CHRISTOPHER KAHL, SWORN**

21 **FRANCIS WELLS, SWORN**

22 **MARK ROBERTS, SWORN**

23 **JAMES BRENNAN, SWORN**

24 **STEPHEN FRINK, SWORN**

**DIRECT EXAMINATION**

BY MR. EPLER:

Q. I would ask the two witnesses closest to me to identify yourselves and the company you work for.

A. (Wells) My name is Francis Wells. I'm the Manager of Energy Planning for Unitil Service Corp.

A. (Kahl) I'm Christopher Kahl, Senior Regulatory Analyst, Unitil Services Corp.

BY MS. FRENCH:

Q. And, Mr. Roberts, would you state your name and business address for the record please.

A. (Roberts) My name is Mark Roberts. I'm the Managing Director of Natural Gas Sales and Marketing for Sprague. The business address is 185 International Drive, in Portsmouth.

BY MS. HOLLENBERG:

Q. Good morning, Mr. Frink. Could you please state your full name and position at the Commission for the record.

A. (Frink) Stephen Frink. I'm the Assistant Director of the Gas and Water Division.

BY MR. JORTNER:

Q. And, the gentleman at the end, could you identify yourself, state your name and address for the record

[WITNESS PANEL: Kahl~Wells~Roberts~Brennan~Frink]

1 please.

2 A. (Brennan) My name is Jim Brennan, with New Hampshire  
3 Office of Consumer Advocate. I'm the Finance Director.

4 MR. EPLER: Okay. Commissioners, I will  
5 start the examination.

6 CHAIRMAN HONIGBERG: Go ahead.

7 BY MR. EPLER:

8 Q. Mr. Kahl, you addressed the PNGTS refund in your  
9 initial testimony that was previously submitted into  
10 the record in this proceeding, starting with the  
11 question on Page 31, Line 19. Is that correct?

12 A. (Kahl) Yes.

13 Q. And, at Page 32, you state, and this is again in your  
14 initial testimony, you state that Northern was  
15 expecting a refund of "approximately 22 million". Has  
16 Northern received the refund? And, if so, what was the  
17 amount?

18 A. (Kahl) Yes. The Company received a refund of  
19 \$22,025,257 on April 15th of this year. The Company's  
20 latest calculation, the portion of the refund to be  
21 allocated to the New Hampshire Division is 10,420,309.  
22 The Company is in the process of verifying the interest  
23 calculations before it determines the final exact  
24 amount.

[WITNESS PANEL: Kahl~Wells~Roberts~Brennan~Frink]

1 Q. Okay. Now, in your initial testimony, at Page 32, you  
2 discuss how the Company proposes to flow through the  
3 refund to sales customers. Is it your understanding  
4 that there has been a settlement agreement reached  
5 among the parties as to how to accomplish that?

6 A. (Kahl) Yes.

7 Q. And, is it your understanding that the settlement  
8 involves implementing the same allocation that was  
9 recently ordered by the Maine Public Utilities  
10 Commission in Docket Number 2015-00041?

11 A. (Kahl) Yes. That's correct.

12 Q. Okay. And, that order was issued on May 12th, 2015.  
13 And, is it your understanding that what that order  
14 stated was that Northern Utilities shall return to  
15 sales service customers the applicable Portland Natural  
16 Gas Transmission System refund amount by reducing the  
17 demand costs over a three-year period, in the  
18 proportion of 50 percent in the first year, 30 percent  
19 in the second year, and 20 percent in the third year?

20 A. (Kahl) Yes. That's correct.

21 Q. And, is it your understanding that the settlement  
22 agreement that's been reached among the Parties in this  
23 docket is that those proportions would apply not just  
24 to sales service customers, but also to the refund for

[WITNESS PANEL: Kahl~Wells~Roberts~Brennan~Frink]

1 delivery service customers?

2 A. (Kahl) That is my understanding.

3 Q. And, in terms of the interest rate that would be  
4 applicable, it would be the -- on the balances, it  
5 would be the interest calculated at Northern's  
6 short-term borrowing rate, is that correct?

7 A. (Kahl) That is correct.

8 Q. And, is it also your understanding that, as part of the  
9 settlement agreement, the Parties have agreed to enter  
10 into the record the testimony -- the testimonies that  
11 have been previously prefiled of the Office of Consumer  
12 Advocate and Intervenor Global/Sprague?

13 A. (Kahl) Yes.

14 Q. And, as well, enter into the record the responses of  
15 Sprague to the data requests of Northern and the Staff?

16 A. (Kahl) Yes.

17 Q. And, in order to implement this settlement agreement,  
18 to the extent that the Commission determines that a  
19 waiver is required from its tariff provision regarding  
20 a refund of over-collections, is the Company asking for  
21 that waiver?

22 A. (Kahl) Yes. It is asking for that.

23 MR. EPLER: Okay. Thank you.

24 CHAIRMAN HONIGBERG: Is that it,

[WITNESS PANEL: Kahl~Wells~Roberts~Brennan~Frink]

1 Mr. Epler?

2 MR. EPLER: Yes, Mr. Chairman. I think  
3 that's it.

4 CHAIRMAN HONIGBERG: Attorney French.

5 BY MS. FRENCH:

6 Q. Mr. Roberts, isn't it true that Sprague and Global, or  
7 Sprague anyway, and I can represent that Global agrees  
8 with this, would support the settlement as described by  
9 the Company?

10 A. (Roberts) That is correct.

11 Q. Do you -- would you summarize Sprague's initial  
12 concerns with the original proposal, and explain why  
13 now this proposal is at least reasonably acceptable for  
14 the purposes of settlement.

15 A. (Roberts) We're certainly disappointed in that we were  
16 not refunded directly, the funds that we paid for these  
17 rate increases. However, the settlement, in terms of  
18 the distribution changes, is a better scenario than a  
19 ratable 33 percent across three years.

20 MS. FRENCH: Thank you, Mr. Roberts.

21 CHAIRMAN HONIGBERG: Attorney French, do  
22 you want to have him go through and just adopt his  
23 testimony that you prefiled?

24 MS. FRENCH: Mr. Chairman, is that in



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1 the event that the settlement doesn't actually come  
2 through at the end of the day?

3 CHAIRMAN HONIGBERG: Yes. Let's get the  
4 settlement, let's get the testimony in the record.

5 MS. FRENCH: Okay.

6 CHAIRMAN HONIGBERG: Everybody's agreed  
7 to it, but let's --

8 BY MS. FRENCH:

9 Q. Mr. Roberts, I'm showing you what's been premarked  
10 "Exhibit 5" for identification. Do you recognize this  
11 document?

12 A. (Roberts) Yes.

13 Q. And, what is it?

14 A. (Roberts) It's my testimony.

15 Q. Was it prepared by you or under your direct supervision  
16 and control?

17 A. (Roberts) Yes, it was.

18 Q. And would you adopt it as if set out fully on the stand  
19 today?

20 A. (Roberts) I would.

21 MS. FRENCH: Thank you.

22 CHAIRMAN HONIGBERG: Thanks. Do you  
23 have any other questions?

24 MS. FRENCH: We have no further

1 questions.

2 CHAIRMAN HONIGBERG: Mr. Jortner.

3 MR. JORTNER: Thank you.

4 BY MR. JORTNER:

5 Q. Mr. Brennan, did you have an opportunity to review  
6 Northern's filing in this Cost of Gas docket?

7 A. (Brennan) Yes.

8 Q. And, within Northern's Cost of Gas filing, are you  
9 familiar with their proposal for treatment of a refund  
10 from PNGTS Pipeline, resulting from a FERC rate  
11 decision?

12 A. (Brennan) Yes, I am.

13 Q. Could you briefly describe your understanding of the  
14 original proposal for the treatment of those funds.

15 A. (Brennan) Northern proposed to extend three years as  
16 flowback of the substantial FERC refund. Northern also  
17 proposed paying their short-term rate, borrowing rate  
18 of 1.55 percent on the undistributed refund balance.

19 Q. And, can you very briefly describe the OPA -- I'm  
20 sorry, the OCA's proposal for the treatment of those  
21 funds?

22 A. (Brennan) The OCA recommends that the tariff be  
23 filed -- be followed. The tariff recommends that the  
24 flowback occur over a one-year period, and that the

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1 rate paid on the undistributed balance be the prime  
2 interest rate.

3 Q. And, did you file testimony to that effect in this  
4 proceeding?

5 A. Yes, I did.

6 Q. And, if you were asked the same questions today, would  
7 your answers be the same as they were in your written  
8 testimony?

9 A. (Brennan) Yes.

10 Q. And, Mr. Brennan, are you familiar with the settlement  
11 agreement that was reached this morning informally  
12 among the parties?

13 A. (Brennan) Yes, I am.

14 Q. And, could you briefly describe your views on that  
15 settlement.

16 A. (Brennan) The settlement agreement proposes, while  
17 diverging from the tariff's one-year flowback duration,  
18 it does propose a accelerated return, front-loading the  
19 refund 50 percent in the first year, 30 percent in the  
20 second year, and 20 percent in the third year.

21 MR. JORTNER: Thank you. That's all we  
22 have.

23 CHAIRMAN HONIGBERG: Ms. Hollenberg.

24 MS. HOLLENBERG: Thank you.

1 BY MS. HOLLENBERG:

2 Q. Mr. Frink, do you agree that the terms of settlement  
3 that the Company described earlier are acceptable to  
4 the Staff?

5 A. (Frink) Yes. It is Staff's position that the  
6 settlement will result in rates that are just and  
7 reasonable.

8 Q. And, because you haven't filed testimony in this case  
9 like the other witnesses, I wondered if you might just  
10 provide a little summary about why it is that you were  
11 not supportive of the other alternatives proposed by  
12 the Office of Consumer Advocate and the marketers?

13 A. (Frink) I'd be happy to do that. Since gas unbundling  
14 in the early '90's, the Commission's policy has been to  
15 ensure utility rates reflect market rates and to try  
16 and limit rate volatility. That was done through  
17 allowing monthly cost of gas adjustments. Prior to  
18 that, there used to be large seasonal over- and under-  
19 collections that distorted utility rates in the  
20 following corresponding period. So, for instance, if  
21 there was a large under-collection in one winter  
22 period, the following winter that would be a charge to  
23 the utility's rate, cost of gas rate, which then would  
24 essentially stay in place for six months. And,

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1 customers, C&I customers that could switch, would be  
2 incented to switch for the benefit of that lower rate.

3 So, the Commission has also tried to  
4 limit rate volatility by approving -- by encouraging  
5 and approving hedging policies. So, a proposal that  
6 reduces that discrepancy between rates, so that  
7 Northern's rates will more accurately reflect the  
8 market rates and will be more understandable to  
9 customers. For instance, in a data response in this  
10 cost of gas, the summer rate, under the one-year  
11 payback, would have been 11 cents. And, that's --  
12 we've never seen, for instance, looking back over the  
13 last ten years, the lowest rate we've ever seen is 40  
14 cents. This year's rate is around 30 cents. So, that  
15 seems artificially low. And, it's hard to explain  
16 that, customers, when the winter rate pops up, would  
17 have probably had a lot of questions regarding that.  
18 So, anyway, this helps balance out the -- more reflects  
19 market rates, and also reduces the rate volatility.

20 Also, there was a concern that  
21 grandfathered transportation customers, it's  
22 conceivable that transportation customers could have  
23 switched back, taken advantage of the lower firm sales  
24 rate that hadn't contributed to the over-collection, in

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1       which case the customers that had contributed to the  
2       over-collection would get less of the refund. So, this  
3       also -- this settlement also reduces that, that  
4       possibility.

5                   And, as regarding the interest rate,  
6       using the Northern's short-term borrowing rate under  
7       this proposal, which calls for a payback over three  
8       years, the interest that will go to customers will be  
9       very similar, and Northern's earnings shouldn't be  
10      harmed as a result of using their short-term borrowing  
11      rate.

12                   So, in summary, that's why Staff  
13      supports this settlement.

14                   MS. HOLLENBERG: Thank you. No other  
15      questions.

16                   CHAIRMAN HONIGBERG: Commissioner Scott.

17                   COMMISSIONER SCOTT: Thank you. I'll  
18      start with Northern. And, good morning, everybody. I  
19      think it's still morning.

20      BY COMMISSIONER SCOTT:

21      Q.    So, just earlier it was mentioned that the -- if I  
22             heard right, the exact amount of the New Hampshire  
23             Division refund is still being determined?

24      A.    (Kahl) Yes. I believe I put a number out of

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1 10,420,309. We're pretty confident that is very, very  
2 close to the final number. We're just looking and  
3 trying to verify PNGTS's interest calculations at this  
4 point. But it is, I think, about 99 percent there.

5 Q. Okay. So, with being at 99 percent, so it sounds like  
6 the timing of any refund wouldn't be impacted by this  
7 calculation then?

8 A. (Kahl) No. We've got a portion for the summer, which  
9 is very small, that's already in this summer's rates  
10 that are in effect. The bulk of it is recovered in the  
11 winter period. So, this final number will impact the  
12 winter and then going forward.

13 Q. Okay. So, there will be enough time to finalize?

14 A. (Kahl) Oh, yes.

15 Q. Okay. Thank you. It was, I think, Attorney Epler who  
16 talked about -- mentioned the Maine Settlement --  
17 excuse me, the Maine order. Did that stem from a  
18 settlement also?

19 A. (Kahl) No. To give you some background, there was a  
20 prior PNGTS refund, a much smaller amount. And, in  
21 Maine, we were basically directed to refund it in a way  
22 that differed from how the tariff stipulated it. And,  
23 what we proposed with this refund was to do it in a  
24 similar manner, the only difference is to do it over a

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1 three-year period, just because of the magnitude of  
2 that refund. And, that was basically the one change  
3 that they wanted, was instead of 33 percent each year,  
4 50, 30, 20.

5 Q. Okay. Thank you. And, you've already -- and I'm  
6 picking on you, sorry -- you've already kind of alluded  
7 to it, but can you outline for the record, assuming we  
8 agree to this, that how the refund would flow timewise,  
9 the timing, how it would be disbursed?

10 A. (Kahl) Yes. So, 50 percent of that refund would flow  
11 through in the first year. And, I also want to  
12 emphasize that the bulk of that, well over 90 percent  
13 of it, is flowed back in the winter period. And,  
14 that's because these costs are tied to pipeline  
15 contracts that mainly service storage gas. So, we  
16 benefit from those pipelines in the winter period. So,  
17 that's why the bulk of it is going to show up in the  
18 winter. And, I believe, for this past summer, only  
19 about 140, 145,000 are being refunded back, because  
20 there's so little of it that really impacts the summer  
21 period. So, starting this winter, you're going to have  
22 50 percent; the following winter 30 percent; and the  
23 one after that 20 percent.

24 Q. So, you see the whole dispersal being for the winter



1 period?

2 A. (Kahl) We'll still split it out. But, again, of that  
3 50 percent, you know, you're getting 90 or 95 percent  
4 of it recovered in the winter period.

5 A. (Frink) If I may, the PNGTS contract for capacity, I  
6 believe it's roughly 33,000 a day for winter capacity,  
7 and approximately a thousand dollars [MDQs?] for the  
8 six summer months. So, you can look at that  
9 relationship and that's how the refund should be  
10 reflected.

11 Q. So, it would be proportional to that?

12 A. (Kahl) Yes. It's 33 out of 34,000 MDQs are for winter  
13 service.

14 Q. Okay. Thank you. And, keying off of Mr. Frink,  
15 anybody on the panel, if I ask a question and you have  
16 something to add, please do so. Don't feel that you  
17 can't speak unless you're asked. So, please, we want  
18 to hear from you. In the testimony for the original  
19 proposal from Northern, there was a lot of concern  
20 about educating the public about the rate change. Is  
21 there still a need for that with this type of  
22 dispersal?

23 A. (Kahl) I mean, the Company does put out notices,  
24 especially when the summer rates and when the winter

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1 rates go in. You know, obviously, if you're only  
2 recovering half of that amount, the need isn't as  
3 great. But, at this point, I think we would still have  
4 a note in those bill messages.

5 Q. In general, I'm always a fan of trying to educate the  
6 customers, if possible. Okay. Probably for  
7 Mr. Roberts. So, is your understanding that this  
8 agreement will make Global and Sprague whole at the end  
9 of the day for what they're owed?

10 A. (Roberts) No.

11 Q. Can you elaborate?

12 A. (Roberts) Well, I mean, this rate increase went into  
13 effect in December 2010, through January of last year.  
14 There's two Portland components to the assets that  
15 we're assigned for a capacity-eligible customer. The  
16 lion's share of it supports deliver of the managed  
17 program supporting the Washington 10 storage service.

18 When those rate increases went into  
19 effect, we paid those increases directly to Northern  
20 and directly to Portland. We've received our refund  
21 from Portland. So, although we are amenable to the  
22 settlement, we view this as a direct hit.

23 Q. So, help me a little bit more. So, you said you  
24 received a refund from Portland?

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1 A. (Roberts) So, customer-eligible -- capacity-eligible  
2 customers, there's two components of Portland Pipeline  
3 that go with that. There's a very small piece, where  
4 we're assigned that contract directly with Portland.  
5 So, Sprague is the shipper of record.

6 Q. All right.

7 A. (Roberts) And, the company-managed asset, which deals  
8 with Canadian gas through Washington 10, in both those  
9 cases, when the rate increases went into effect, we  
10 were invoiced those adjustments. So, --

11 Q. Okay. So, to the extent you had direct dealings with  
12 the Pipeline, you've received that refund?

13 A. (Roberts) We have.

14 Q. Okay. So, how would the -- explain to me, and I'll go  
15 back to Northern. So, we're talking sales service  
16 customers of 50-30-20. How does Global and Sprague fit  
17 into that?

18 A. (Wells) I'll handle that. So, what would happen with  
19 the delivery service customers is that I would apply a  
20 prorated credit based on 50-30-20 to their  
21 company-managed invoice, based on prospective capacity  
22 assignments. So that it would basically be flowed  
23 through in the way of less expensive company-managed  
24 service through the refund period.

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1 Q. Mr. Roberts is looking confused. I want to make sure  
2 everybody is in agreement before we walk away and say  
3 "we have a settlement."

4 A. (Roberts) That's -- my understanding generally is that  
5 it would be a reduction in demand charges for the  
6 applicable storage service.

7 A. (Wells) Yes. I agree with that.

8 A. (Roberts) Great.

9 COMMISSIONER SCOTT: Thank you. It's  
10 always good to be everybody is on the same page. Not that  
11 I won't want to take a second bite of the apple, but I  
12 think that's all I have for now.

13 CHAIRMAN HONIGBERG: I guess my question  
14 is for Mr. Frink.

15 BY CHAIRMAN HONIGBERG:

16 Q. Why was the Global and Sprague position not a better  
17 position than you seem to give it credit? I heard you  
18 explain your problems with the OCA's proposal. I'm not  
19 sure I heard or maybe I didn't understand what you were  
20 saying about the Global and Sprague position. So, can  
21 you do that for me or do it for me again please?

22 A. (Frink) Sure. The proposal, the settlement refunds the  
23 money in the same manner that it was collected. So,  
24 basically, the Company has been charging the higher

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1 rates in their company-managed charge to the suppliers  
2 that we don't know how that's priced when it goes to  
3 their transportation customers. If one assumes they're  
4 charging what they're paying, then that works out fine.  
5 They do have a number of fixed contracts. And, now  
6 that the data responses are going to be part of the  
7 record, you can see that, you know, there were -- there  
8 are contracts that are one, two, three years out. And,  
9 so, when the rate increase went in for PNGTS, those --  
10 the marketers, the suppliers would have been absorbing  
11 those costs on those contracts.

12 On the other hand, when the rate  
13 decrease now takes effect, those customers under fixed  
14 contracts will -- the Company will reap the benefit of  
15 the lower -- the lower expenses. So, it seems fair in  
16 that respect and I'm comfortable with that.

17 Again, there's a -- naturally, customers  
18 will do what is in their economic interests. And, as I  
19 said all along, they'll game the system. If they can  
20 jump on to the utility rates and get a better deal,  
21 assuming they're not under a long-term contract, then  
22 they will do that in many cases. So, and that is  
23 not -- we'd prefer the market wasn't determined by how  
24 we set the rates, but more that we're consistent how we

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1 set rates, and that the rates reflect market rates.  
2 And, so, that's why the proposal to make a one-time  
3 payment to the marketers, and also I would say that  
4 this proposal was specific to just two suppliers. So,  
5 under the proposal, these two suppliers would get a  
6 check, and all the other suppliers would be treated as  
7 the Company proposed, and which would appear to be  
8 discriminatory. And, again, it just seems to distort  
9 the market.

10 From my perspective, from Staff's  
11 perspective, it was recovered over a long period of  
12 time in this fashion. It's being returned in a similar  
13 manner.

14 Q. Thank you. I heard Mr. Frink say it, but I just want  
15 to confirm that everybody else agrees, that the  
16 settlement is fair to all the parties, although not  
17 what they necessarily wanted, fair, and produces just  
18 and reasonable rates. Mr. Brennan, you're satisfied on  
19 that?

20 A. (Brennan) Yes. We agree that it is a fair and  
21 reasonable settlement.

22 Q. Mr. Roberts?

23 A. (Roberts) We agree.

24 Q. And, do the Company's witnesses agree?

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1 A. (Kahl) Yes.

2 A. (Wells) Yes.

3 CHAIRMAN HONIGBERG: I have no further  
4 questions. Commissioner Scott.

5 COMMISSIONER SCOTT: I warned you I'd be  
6 back.

7 CHAIRMAN HONIGBERG: I was ready.

8 COMMISSIONER SCOTT: Another quick  
9 question again for Mr. Roberts, I think.

10 BY COMMISSIONER SCOTT:

11 Q. Earlier Attorney French implied, actually, when we were  
12 discussing documents to put in the record, that there  
13 was a desire to have things in the record "in case this  
14 happened again", my paraphrase. Is the FERC Settlement  
15 with PNGTS, is that an abnormal thing or is that -- do  
16 we expect this type of thing? Is it a reasonable  
17 expectation that this may happen again in the near  
18 term?

19 A. (Roberts) I think the Portland case was unique on its  
20 own merits. However, it's -- these type of cases do  
21 happen, and they're not unusual over the broad  
22 spectrum.

23 Q. And, my question wasn't to imply it was an improved  
24 suggestion. I just -- it begged the question, you

1 know, do we see a lot of this happening? It sounds  
2 like not a lot, but it's not unheard of, essentially?

3 A. (Roberts) Speaking on behalf of Sprague, you know, we  
4 see it a fair amount. We deal with over 25 pipelines  
5 throughout our service area. These type of adjustments  
6 do happen.

7 COMMISSIONER SCOTT: Okay. Well, thank  
8 you. And, thank you all.

9 CHAIRMAN HONIGBERG: I have no further  
10 questions. Do any of the lawyers have any further  
11 questions for their witnesses or for everybody else?

12 MR. EPLER: No thank you.

13 MS. HOLLENBERG: No thank you.

14 MR. JORTNER: No.

15 CHAIRMAN HONIGBERG: All right. You  
16 all, I think, can stay where you are.

17 So, we'll strike the ID on all the  
18 exhibits that have been -- or, the new exhibits that have  
19 been offered today, it's 5 and 6. We're going to wait on  
20 7, which is the data responses, and 8, which is the  
21 Settlement Agreement. And, you'll get those in as soon as  
22 you can.

23 Is there anything else we need to do  
24 with respect to the record before we let the parties sum



1 up?

2 MS. HOLLENBERG: Would you like to set a  
3 date for the filing of the two remaining exhibits?

4 CHAIRMAN HONIGBERG: Make me an offer.

5 MS. HOLLENBERG: Next Wednesday, is that  
6 enough time for everybody?

7 (Attorneys conferring.)

8 MS. HOLLENBERG: June 26 please.

9 CHAIRMAN HONIGBERG: That sounds like a  
10 lovely date.

11 MS. HOLLENBERG: Thank you.

12 CHAIRMAN HONIGBERG: All right. So,  
13 June 26 will be the date by which you will be filing those  
14 exhibits.

15 All right. We'll let the Parties go  
16 around the room and sum up. We'll start -- I guess we  
17 start with Ms. French, and we'll finish with you,  
18 Mr. Epler.

19 MS. FRENCH: Thank you, Mr. Chairman.  
20 As our testimony demonstrated, marketers did pay  
21 dollar-for-dollar in monthly invoices for the demand costs  
22 associated with the PNGTS over-collection. They, on the  
23 basis of their contract pricing, passed the value of the  
24 benefit to -- onto customers, and yet they bore the risk

1 during the entire time of this increase for the  
2 profitability of their operations.

3 Given Staff's staunch opposition to our  
4 position, we've agreed to settle, but we do so reserving  
5 all rights to our original position, should there be  
6 another time where a one-time refund is, in our view, the  
7 most appropriate position.

8 And, part of the concerns with the  
9 original proposal was that Unitil doesn't have the ability  
10 currently to stop migrating customers from taking  
11 advantage of a price decrease and moving over to sales  
12 service. So, part of what we're hoping is that we would  
13 be looking to Northern to implement the functionality that  
14 would allow it to control this type of behavior in the  
15 future, so that gaming can't occur.

16 But we understand that's not necessarily  
17 part of this settlement, and we understand and do agree  
18 that this is a reasonable outcome, given the differing  
19 positions of all the parties. Thank you.

20 CHAIRMAN HONIGBERG: Mr. Jortner.

21 MR. JORTNER: Thank you. The OCA's  
22 initial concerns stem principally from the combination of  
23 a three-year duration of paying back of the refund, with  
24 the Company holding onto substantial balances over three

1 years, combined with a short-term interest rate. And, as  
2 the Maine Commission noted, that creates the potential for  
3 a windfall to the Company.

4 And, this settlement this morning  
5 greatly ameliorates that concern by front-loading the  
6 refund, even though the short-term interest rate remains.  
7 It's a fair compromise and the OCA fully supports it.

8 CHAIRMAN HONIGBERG: Ms. Hollenberg.

9 MS. HOLLENBERG: Thank you. Staff's  
10 position is that the distribution of the PNGTS refund, as  
11 the Parties have presented here today in settlement, is  
12 reasonable, consistent with past Commission practice, and  
13 will result in rates that are just and reasonable.

14 We were concerned about returning the  
15 overcharge over a shorter period of time, as recommended  
16 by the OCA. We had concerns that that would incent  
17 reverse migration of capacity-exempt and capacity-assigned  
18 transportation customers. We were also concerned that  
19 that disadvantaged residential customers in that, should  
20 there be reverse migration, the share of the refund that  
21 they would receive would be reduced by the migrating  
22 transportation customers receiving part of that share.

23 We don't -- excuse me for one second.  
24 We don't view Northern as being in a position to

1 experience a windfall, however this occurs. I think that,  
2 had they kept and returned the money over the three years  
3 as proposed, versus over the one year, I think you have  
4 testimony today that states that the amount of the  
5 interest would have been about the same. The Company  
6 worked very diligently, in Staff's view, during the rate  
7 case to make sure that the Company was on top of what was  
8 going on. They kept the Staff apprised during that period  
9 of time, and the OCA, as I was on the OCA staff at that  
10 point. So, I don't view this as them taking the  
11 opportunity to earn money.

12 And, it does help protect the market, in  
13 terms of keeping rates at a smoother -- a smoother level,  
14 and not disrupting or sending non-price signals that would  
15 incent reverse migration. Thank you.

16 CHAIRMAN HONIGBERG: Mr. Epler.

17 MR. EPLER: Thank you. The Company  
18 believes that the settlement agreement that has been  
19 described today results in just and reasonable rates and  
20 asks the Commission to approve it.

21 CHAIRMAN HONIGBERG: Thank you all. If  
22 there's nothing further, we will adjourn.

23 **(Whereupon the hearing was adjourned at**  
24 **11:31 a.m.)**