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24STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

December 21, 2016 - 10:11 a.m.
Concord, New Hampshire

NHPUC JAN05'17 PM 2:08

RE: DG 16-827
CONCORD STEAM CORPORATION
NON-GOVERNMENTAL CUSTOMERS:
Joint Petition to Establish
Interconnection/Transition Fund
for Non-Governmental Concord
Steam Customers.
(Prehearing conference)

PRESENT: Commissioner Robert R. Scott, Presiding
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

APPEARANCES:**Reptg. the Joint Petition:**

State Senator Dan Feltes (District 15)
Kenneth E. Traum (Concord Family YMCA)
Remi Hinxhia (Associated Enterprises, Inc.)
Peggy Senter (Concord Community Music School)
Michael Gfroerer (South Congregational Church)
Hansi Glahn (Woman's Club of Concord)
Deborah DePeyster (Woman's Club of Concord)
Carolyn Stiles (Woman's Club of Concord)
Ron Snow (Brain Injury Assn. of New Hampshire)
Nicolette B. Clarke (Capitol Center for the Arts)
Suzanne Becker (First Church of Christ, Scientist)
Arthur Aznive (Snaphaunce Real Estate Trust)
Mark Ciborowski (Ciborowski Associates)

James W. Kennedy, City Solicitor (City of Concord)

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

**CERTIFIED
ORIGINAL TRANSCRIPT**

APPEARANCES: (c o n t i n u e d)

Reptg. CATCH Neighborhood Housing:

Rosemary M. Heard, President and CEO

Roy Schweiker, *pro se*

**Reptg. Liberty Utilities (EnergyNorth
Natural Gas) Corp.:**

Michael J. Sheehan, Esq.

Reptg. Residential Ratepayers:

Donald M. Kreis, Esq., Consumer Advocate

Pradip Chattopadhyay, Asst. Consumer Advocate

Office of Consumer Advocate

Reptg. PUC Staff:

Alexander F. Speidel, Esq.

Stephen P. Frink, Asst. Dir./Gas & Water Div.

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P R O C E E D I N G

CMSR. SCOTT: Good morning,
everybody. We're here for Docket GDG -- easy
for me to say, DG 16-827, Concord Steam
Corporation Non-Governmental Customers' Joint
Petition to establish Interconnection
Transition Fund for non-governmental Concord
Steam customers that was filed on October 14th.

We're here for a prehearing
conference, and there will be a technical
session to follow. I understand there are
members of the public who also wish to speak.

So, prior to doing that, let's take
appearances. And, then, I will look at members
of the public wishing to speak, and then we'll
also address intervenor requests.

So, why don't we start first with
appearances. We'll go around the room.
Senator Feltes.

SEN. FELTES: Good morning, Mr.
Chairman, members of the Commission. Dan
Feltes, Senate District 15, covering Concord,
Hopkinton, Henniker, and Warner.

And, when it comes time, Mr.

1 Chairman, I will, for preliminary statements, I
2 do have a preliminary statement on behalf of
3 Angela and Joshua Ford, an intervenor who
4 couldn't make it today. Thank you.

5 CMSR. SCOTT: Okay. And, since
6 you're the first up, will you be, I guess I'll
7 find out in a minute here, will you be
8 representing the group of Petitioners or how
9 will that be working?

10 SEN. FELTES: Mr. Chairman, everybody
11 will be giving their own statements and
12 representing themselves. I represent myself,
13 as a State Senator.

14 I will be giving a preliminary
15 statement, just because, for the Fords, just
16 because the Fords couldn't make it today.

17 CMSR. SCOTT: Okay. So, let's delve
18 into that a little bit more. So, I understand
19 you're a State Senator, and I certainly
20 recognize that. Are you a Liberty customer?

21 SEN. FELTES: I am not a Liberty
22 customer.

23 CMSR. SCOTT: Okay. So, we'll need
24 to think on that a little bit. So, let me ask

1 you this. So, what's your rights and interest
2 as a Petitioner? Help me with that.

3 SEN. FELTES: Rights, duties and
4 obligations of a State Senator are to represent
5 people within the District. This has a
6 dramatic adverse impact on downtown Concord.
7 The residents, organizations, and businesses
8 are directly affected, and, as a general
9 matter, just representing my constituents. So,
10 the rights, duties, duty to represent are
11 affected. And that's why, in terms of the
12 Joint Petition, I helped file the Joint
13 Petition.

14 CMSR. SCOTT: Okay. But you won't be
15 speaking for the rest of the Petitioners,
16 you'll just be speaking for yourself. Is that
17 the plan?

18 SEN. FELTES: That's the plan.

19 CMSR. SCOTT: Okay. May be better if
20 you were speaking for the Petitioners.

21 SEN. FELTES: Well, I want the
22 Petitioners to have their own say, Mr.
23 Chairman. I think it's important for the
24 Commission to hear from everybody about how

1 this is affecting them.

2 But, in terms of argument, generally
3 speaking, I think it's safe to say that I will
4 be making the general arguments on behalf of
5 the Joint Petition.

6 CMSR. SCOTT: Okay. That works a
7 little bit better for me.

8 SEN. FELTES: Okay. Thank you.

9 CMSR. SCOTT: I say that, because, in
10 the past, as far as intervenor status, has been
11 we've had, in other dockets, the Commission has
12 had legislators who represent broadly, you
13 know, we've not granted them intervenor status,
14 based on just being a representative in that
15 case.

16 SEN. FELTES: Right.

17 CMSR. SCOTT: Okay. So, thank you.

18 SEN. FELTES: Thank you, Mr.
19 Chairman.

20 MR. TRAUM: Good morning,
21 Commissioners. It's been a while.
22 Representing the Concord Family YMCA, who's one
23 of the Joint Petitioners is Jim Doremus, the
24 Executive Director, and myself, I'm a Board

1 member of the Y, and Chair of the Buildings &
2 Grounds Committee. That's how I got involved
3 in this.

4 MR. SPEIDEL: Ken, state your name
5 for the record.

6 MR. TRAUM: Kenneth Traum, excuse me.
7 Thanks, Alex.

8 CMSR. SCOTT: Good to see you again.
9 Yes, sir.

10 MR. HINXHIA: My name is Remi
11 Hinxhia. I'm the owner and president of
12 Associated Enterprises, Inc., a real estate
13 management company in northern and downtown
14 Concord.

15 CMSR. SCOTT: And, having said that,
16 you're one of the Joint Petitioners?

17 MR. HINXHIA: Yes.

18 CMSR. SCOTT: Ma'am.

19 MS. SENTER: Mr. Chairman, I am Peggy
20 Senter, president and CEO of the Concord
21 Community Music School, and one of the Joint
22 Petitioners.

23 CMSR. SCOTT: Thank you. The next
24 row?

1 MR. GFROERER: Mr. Chairman, my name
2 is Michael Gfroerer. I'm here representing the
3 South Congregational Church, a customer of
4 Concord Steam. I'm a member of the church.

5 CMSR. SCOTT: Thank you.

6 MS. GLAHN: Hi. I'm Hansi Glahn.
7 I'm president of the Concord Woman's Club. And
8 we have a house at 44 Pleasant Street that is
9 affected by this transition. And Board members
10 Deborah DePeyster and Carolyn Stiles are with
11 me.

12 CMSR. SCOTT: Thank you.
13 Mr. Sheehan.

14 MR. SHEEHAN: Good morning,
15 Commissioners. Mike Sheehan, from Liberty
16 Utilities (EnergyNorth Natural Gas) Corp.
17 Thank you.

18 CMSR. SCOTT: I guess we'll go to the
19 back of the room.

20 MR. SNOW: Good morning,
21 Commissioners. My name is Ron Snow. And I
22 represent the Brain Injury Association of New
23 Hampshire. And I'm one of the Joint
24 Petitioners.

1 CMSR. SCOTT: Thank you. And I'll
2 ask, since we have a transcriptionist here, I
3 appreciate you wanting to stand, but it would
4 be better for the transcriptionist if everybody
5 sat and made sure their microphone is on. That
6 way we can make sure your comments and what you
7 say is in the record. So, thank you.

8 MS. CLARKE: All right. Well, hello?
9 Truly sorry. Hi. I'm Nicolette Clarke. I am
10 the Executive Director of the Capitol Center
11 for the Arts, one of the Joint Petitioners.

12 CMSR. SCOTT: Thank you, ma'am.

13 MS. BECKER: Mr. Chairman, my name is
14 Suzanne Becker. I'm a Board member of the
15 Christian Science Church here in Concord.

16 CMSR. SCOTT: Thank you.

17 MR. KENNEDY: Yes, Commissioner. My
18 name is Jim Kennedy. I'm counsel for the City
19 of Concord.

20 CMSR. SCOTT: Welcome.

21 MS. HEARD: Good morning,
22 Commissioner. My name is Rosemary Heard. I'm
23 the president of CATCH Neighborhood Housing, a
24 501(c)(3), and a property owner in the

1 downtown, and part of the Joint Petition.

2 Thank you.

3 CMSR. SCOTT: Are you part of the
4 Joint Petition or are you -- I have you as a
5 intervenor --

6 MS. HEARD: Intervenor, yes.

7 CMSR. SCOTT: -- a requested
8 intervenor?

9 MS. HEARD: Yes.

10 CMSR. SCOTT: Thank you.

11 MS. HEARD: Thank you.

12 MR. KREIS: Good morning,
13 Commissioner Scott, Commissioner Bailey. I'm
14 D. Maurice Kreis, head of the Office of the
15 Consumer Advocate. By statute, we are here
16 today representing the residential utility
17 customers of Liberty Utilities.

18 CMSR. SCOTT: Thank you.

19 MR. SPEIDEL: Good morning,
20 Commissioners. Alexander Speidel, representing
21 the Staff of the Commission. And I have with
22 me Steve Frink of the Gas and Water Division,
23 and he is the Assistant Director of that
24 division.

1 CMSR. SCOTT: Okay. Thank you.

2 Well, I know I said I'd take public comment
3 next, but maybe we could address the intervenor
4 petitions, and then go to public comments.

5 So, I'm showing that we have three
6 intervenor requests. Mr. Schweiker, is he
7 here?

8 *[Indication given.]*

9 CMSR. SCOTT: Welcome, sir. Again,
10 the CATCH Neighborhood Housing, and Ms. Angela
11 Ford. Is she here or you're representing them,
12 Senator?

13 SEN. FELTES: Mr. Chairman, I'm here
14 to provide a preliminary statement on behalf of
15 the Fords. They couldn't make it today. I'm
16 not their attorney, though, but --

17 CMSR. SCOTT: Okay. Thank you for
18 that. So, let me ask, the Order of Notice gave
19 basically till today for any objections. Are
20 there any objections to any of those
21 intervenors? Anybody?

22 MR. KREIS: Commissioner, --

23 CMSR. SCOTT: Mr. Kreis.

24 MR. KREIS: -- I would note for the

1 record that Liberty Utilities is technically an
2 intervenor in this docket. So, I think you
3 might have to grant their intervention request
4 as well.

5 CMSR. SCOTT: Our Order of Notice
6 called them a "mandatory party".

7 MR. KREIS: Okay. Understood.

8 CMSR. SCOTT: Any objections?

9 *[No verbal response.]*

10 CMSR. SCOTT: So, Commissioner
11 Bailey, is this -- so, we're prepared to
12 grant -- we will grant those intervenor
13 requests. Not that we didn't want to hear
14 whatever eloquent statement you'd make, but I
15 think we're okay with the intervenor requests.

16 So, we will move on then to public
17 statements. I have a list here in front of me
18 of people who had asked to speak. So, what I
19 would ask again, if we kind find a microphone,
20 least there's one by Mr. Sheehan anyways. So,
21 again, it's less important that you stand and
22 whatnot, it's more important that we get your
23 voice on the record.

24 So, I will start with the Woman's

1 Club of Concord who has asked to speak as a
2 public comment.

3 MS. GLAHN: Okay.

4 CMSR. SCOTT: And you have a
5 microphone in front of you. So, that works.

6 MS. GLAHN: Yes. And I think it's
7 on.

8 Well, Mr. Chairman and Commissioners,
9 I'm Hansi Glahn. I'm President of the Woman's
10 Club of Concord. I'm joined today, as I said
11 previously, by Deborah DePeyster and Carolyn
12 Stiles. They're both members of our Board. We
13 are Joint Petitioners in the Feltes Petition.

14 The house at 44 Pleasant Street was
15 bequeathed to the Woman's Club of Concord --
16 bequeathed to the Woman's Club of Concord in
17 1919 by Nellie Chamberlin, who is the widow of
18 Horace Chamberlin, a railroad man.

19 The Club has maintained the house
20 since. Our mission is basically to support
21 women. And, to that end, since 1919, we have
22 housed low income women in transition, run
23 programs that benefit women in our community.

24 For the past eight years, we have run

1 an instructional program at the Women's Prison
2 in Goffstown.

3 CMSR. SCOTT: To make sure we get it
4 on the transcript, if you could slow down just
5 a little bit to make sure we get it.

6 MS. GLAHN: That's what they told me,
7 too.

8 For the last year, we have been
9 running a monthly book club at the prison as
10 well. We also raise money for scholarships for
11 high school girls, and provide monthly programs
12 at the House that are open to the public.

13 The need to convert our heating
14 system from Concord Steam on such short notice
15 has presented a big burden to us. We are a
16 volunteer organization. We have been able to
17 run the House and Club with room and parking
18 rentals, and have been fortunate to obtain an
19 LCHIP grant and a Von Webber grant to help with
20 the higher cost maintenance of the House.

21 We have interviewed contractors and
22 are ready to move forward with removal of the
23 asbestos from our basement pipes and the
24 installation of a steam boiler. We do have the

1 funds to do this, nor the ability to raise the
2 approximately \$50,000 required. We will need
3 to take out a loan to cover our costs.

4 We will not receive any benefit from
5 the lower heat costs for the ten years that we
6 are paying off the loan. The estimates we have
7 received for what the heat will cost and what a
8 loan will cost are just about equal to what we
9 have been paying Concord Steam. The bill we
10 received this week from Concord Steam is
11 considerably higher than we had been paying and
12 that we are budgeted for.

13 We feel a real sense of urgency and
14 would greatly appreciate any assistance that
15 you can give us.

16 CMSR. SCOTT: Thank you. Next --

17 *[Court reporter interruption.]*

18 CMSR. SCOTT: Ms. Glahn, also, the
19 transcriptionist, again, we want to make sure
20 we get the most accurate reflection on the
21 record, if you are willing and you have a -- if
22 you had written something up, for instance, if
23 you could give that or a copy to the
24 transcriptionist, if you're willing to, --

1 MS. GLAHN: Oh, sure.

2 CMSR. SCOTT: -- that would assist
3 him. So, thank you. So, next, and I'm going
4 to -- I'm not sure how -- I apologize --

5 *[Court reporter interruption.]*

6 CMSR. SCOTT: No. Mr. Gfroerer, is
7 that correct?

8 MR. GFROERER: It's "Gfroerer".

9 CMSR. SCOTT: I apologize. I knew
10 I'd get that incorrect.

11 MR. GFROERER: Thank you.

12 CMSR. SCOTT: Thank you.

13 MR. GFROERER: You're not the first.

14 My name is Michael Gfroerer. I'm
15 here representing South Congregational Church.

16 It is on, yes.

17 CMSR. SCOTT: It may need to be a
18 little closer to your mouth, unfortunately.

19 MR. GFROERER: I'm here representing
20 South Congregational Church. South
21 Congregational Church has had a presence on
22 Pleasant Street, in Concord, since 1837. We
23 are a church of approximately 450 members. We
24 provide the usual church services to our folks.

1 In addition to that, we provide community
2 service, such as we were the -- one of the
3 hosts of the emergency winter shelter for the
4 past ten years, until we closed down that
5 operation last year. We also provide meeting
6 space for organizations as diverse as the
7 Alcoholics Anonymous and the Beekeepers
8 Association of New Hampshire. There are
9 meetings in our church virtually every single
10 night.

11 We, in 19 -- or, excuse me, in 2015,
12 we made approximately \$25,000 worth of
13 improvements to our steam heating system in
14 anticipation of Concord Steam being in
15 business. We, although we knew that they had
16 some financial issues, we assumed that, in the
17 event that they were going to close down, that
18 there would be a run-out period, which would
19 allow us to, in our own time, replace the
20 heating system that we have now.

21 As it turns out, we did not
22 anticipate that they would be shutting down
23 within one year. And, as a result of that,
24 we've been forced to go out and look for a loan

1 to replace the heating system. We have --
2 we're in the process of closing on a loan.
3 We're in the process of converting our current
4 steam heating system to a hot water system.
5 And this is a loan that we did not anticipate
6 having to borrow. So, for at least for this
7 year, we'll be paying our heating costs to
8 Concord Steam and also paying for the loan that
9 we did not anticipate. And that loan, of
10 course, will run out probably for ten years.

11 So, we are looking for any kind of
12 relief from having to borrow funds that we can
13 get, and that's why we joined in the Petition.

14 CMSR. SCOTT: Thank you. Ms. Senter,
15 with the Music School.

16 MS. SENTER: Thank you, Commissioner
17 Bailey and Commissioner Scott. Thank you for
18 this opportunity to represent the Concord
19 Community Music School. We are a charitable
20 non-profit organization downtown, with 60
21 employees. Our core business is music
22 education and human services. We serve 1,400
23 students every week from over 100 towns, and
24 we -- and 59 percent of those 1,400 students,

1 or 775, are qualified as low income or with
2 some kind of special need or disability. We
3 present 150 concerts a year, many of them free.
4 Through all these activities, we bring 130,000
5 downtown visits annually supporting the
6 economic vitality of downtown.

7 It's our community partnerships that
8 most reflect our emphasis on our human service
9 mission, through community bridges and Easter
10 Seals and other organizations that serve people
11 with developmental disabilities. We serve
12 those individuals.

13 We work with Merrimack Valley Daycare
14 every week serving low-income preschoolers. We
15 have a partnership with Second Start language
16 classes serving new Americans. We have a
17 partnership with River Bend Community Health
18 serving chronic mental illness clients, who are
19 older adults and young children. We have
20 partnerships with elder care organizations
21 working with Alzheimers patients.

22 So, I will not detail everything I
23 wrote in our October letter that's in the
24 docket in terms of our community impact. But I

1 will say that all of this work depends on more
2 than half of our budget comes from contributed
3 income, that was \$800,000 last year, and that's
4 more than 50 percent of our budget.

5 So, in addition to the surprise
6 expenses of doing a heating conversion on such
7 a short timeline, I would say the greatest
8 impact on the Music School this year, and for
9 the next year or so, will be our loss of income
10 and not being able to concentrate on the
11 fundraising activities that we would have done
12 from September through November.

13 So, a 90 year-old donor doesn't
14 understand why she's been ignored for the first
15 time in many years without a visit this fall.
16 A foundation that always gets a proposal from
17 us in the fall doesn't understand why we don't
18 think they need -- that we need their money.
19 So, we run the risk of not being able to apply
20 next year. So, those are just examples that
21 are multiplied many times in the work we've had
22 to divert, so that we could undergo this
23 conversion in a timeline that we didn't choose.

24 So, for that reason, in terms of loss

1 of income, which is more than \$30,000 I would
2 estimate, we are seeking relief through this
3 Petition, and hope that you will consider that.

4 I'd also like to take this
5 opportunity to say that the Bloomfield family
6 and Concord Steam have been exemplary
7 charitable supporters for many decades, both in
8 dollars and in volunteer expertise and leading
9 construction projects, and volunteering their
10 expertise on building matters downtown to many
11 charitable organizations.

12 And I hope that whatever the outcome
13 of this Petition, that Liberty Utilities will
14 take this opportunity to respond to all of the
15 nonprofit organizations in downtown Concord
16 that are affected by these costs.

17 Thank you very much.

18 CMSR. SCOTT: Thank you. Next, and I
19 apologize again if I get the name wrong,
20 Mr. Hintuin, is that correct?

21 MR. HINXHIA: "Hinxhia".

22 CMSR. SCOTT: Okay. Thank you.

23 MR. HINXHIA: Good morning,
24 Commissioners. Again, my name is Remi Hinxhia.

1 And I'm the owner and president of Associated
2 Enterprises, Inc. This company was created by
3 my godmother before I even was born, Victoria
4 Zappas. So, when she passed, I took over the
5 company.

6 With my skills and my own vision, I
7 was able to grow up the company from two
8 buildings to five now. However, I am here
9 today to talk about the two main buildings that
10 are still run by steam. One is at 136 North
11 Main Street. It's a 42,000 square feet
12 building, has 32 apartments, blue collar
13 apartments, and six storefronts. And one is at
14 11 Depot Street, also known as "Angelina's
15 Buildings", where there are two restaurants and
16 upstairs are offices.

17 I've been talking with Concord Steam,
18 because we've been their customer for so long.
19 Our yearly bill was between 22 to \$30,000 just
20 for those two billings. And, in talking with
21 Concord Steam even to convert, because some of
22 these [inaudible] are old, and is only one pipe
23 system. So, the same way that the water come
24 in, the same way that water goes down.

1 Concord Steam weren't able this
2 summer to help we with the price or tell me how
3 much would it cost. They came and took a look,
4 but there were needed -- they says "this needs
5 to be a major work."

6 In talking with Demers HVAC, which is
7 another local company that I use them for
8 repairs, and Johnson & Jordan, which are
9 helping me for renovation of Remi's Block,
10 which I bought it all, the biggest [?] block on
11 the corner, that we finally making hopefully to
12 change downtown Concord. I still haven't got
13 prices from them, because the project is so
14 big.

15 With all the conversions, quite
16 frankly, I don't believe that conversion right
17 now will help me, because to go get a loan 200
18 or 300,000, and still have the old system, what
19 good is going to be to get me into deeper debt.
20 I already -- I mean, Concord Steam just told us
21 in October that they getting out. I had bought
22 Remi's Block since August 8, 2014. I've been
23 carrying it on my shoulders for three years.
24 Every dime that we clear from the rest of the

1 properties took care of there. So, I don't
2 think I'm in a position to get such a big loan
3 to do this, to be -- will be financial
4 hardship for -- sorry, I did not know I was
5 going to do this, it's nothing to do with
6 emotional. I did not know I was going to --
7 so, would be a financial hardship for my
8 company and for my tenants.

9 How do I go and tell my tenants that
10 their leases is -- if Concord Steam is out, I
11 continue heat now, but I can't because of
12 Concord Steam is going out.

13 So, I do believe, on a previous
14 document that I read before from -- that the
15 Public Utilities Commission has decided that,
16 when you decide the franchise to take over, not
17 only to provide -- not only to make steam, but
18 to be able to get it to provide to us. Because
19 what happen two years from now, as City wants
20 me to renovate 136? Go spend two or three
21 hundred thousand dollars now, getting a loan,
22 and two years from now do another renovation as
23 I'm doing for Remi's Block. So, where all the
24 investment goes? Get myself in a deeper loan

1 that I cannot pay, just because someone is not
2 being profitable right now? That should have
3 been thought long time ago. Should have been
4 thought of creation potentially of Cole [?],
5 like Cole did in downtown. They originally
6 were making only two million, and, when the new
7 owners took over, increased so much for even
8 the State can afford something? I don't know.
9 But I'm not in a position to get such a big
10 loan, get myself deeper, and have my tenants on
11 that position.

12 So, for this, I'm here. And I hope
13 that you decide the right thing. Thank you.

14 CMSR. SCOTT: Thank you. Mr. Traum.

15 MR. TRAUM: Thank you, Commissioners.
16 The Concord YMCA is a charitable nonprofit
17 organization, whose mission promise is "to
18 strengthen the foundation of the community
19 through a focus on youth development, healthy
20 living, and social responsibility".

21 In the past 12 months, we served over
22 10,000 unduplicated people, 2,800 of which
23 received services for free or reduced rates
24 valued at over \$585,000.

1 This Petition, as far as it impacts
2 the Y, applies to our Fire House Building,
3 which houses the Y's preschool program and one
4 of our seven after-school sites. Over
5 60 percent of our preschool and 57 percent of
6 the total building population qualifies as low
7 income and receives financial assistance. On
8 average, the Y serves 160 children in the Fire
9 House Building on a daily basis, and 92 of
10 those children come from low-income families.
11 Both of these programs are License Plus
12 Certified, which means only 11 percent of all
13 childcare providers have that License Plus.

14 Not only does high-quality childcare
15 help to prepare children to be more successful
16 in school and as adults, it helps provide
17 low-income families both employed or maintain
18 full employment, enabling them to provide
19 financial stability and support for their
20 children's learning.

21 The Y spent over \$110,000 in direct
22 aid for childcare assistance in our most recent
23 fiscal year. This is money that we raised
24 through fundraising grants and the United Way.

1 If this Petition is not approved, we will
2 probably have to divert money that would
3 normally be used for childcare financial
4 assistance to pay for the Fire House Building
5 steam conversion to gas-fired boilers. This
6 means we would not be able to serve as many
7 low-income families and children.

8 While our annual budget exceeds
9 \$3 million, it only includes a \$50,000
10 projected surplus. So, it would be very
11 difficult for us to handle any large,
12 unexpected costs, such as a conversion.

13 For some more background, the Y has
14 two buildings that have historically been
15 served by Concord Steam. The main building,
16 for several years, the Board's Building and
17 Grounds Committee that I'm the Chair of has
18 been analyzing the costs and benefits of
19 converting the main building to natural gas.
20 On March 29, 2016, the Board approved borrowing
21 up to \$375,000 to do the conversion of that
22 building. In April, the Board approved a
23 contract with the company to handle the
24 conversion. And I'll note that that all

1 occurred prior to any filings in dockets 16-769
2 or 770. And that conversion for the main
3 building was completed in October and is now
4 served by natural gas.

5 The reason we're here today relates
6 to our other building, the historic Fire House
7 Building, which I previously explained what
8 services it provides.

9 That building was only billed roughly
10 \$6,200 by Concord Steam in the past year, and,
11 in September 2016, while back-of-the-envelope
12 estimates we've received for conversion was
13 \$125,000. So, even if a conversion would cut
14 our utility costs by two-thirds and we were
15 able to borrow at a no interest rate, at a zero
16 interest rate, the payback period would still
17 be about 30 years.

18 While we are currently seeking quotes
19 for the actual conversion, and we're also
20 pursuing grant opportunities, we did not
21 originally consider conversion of that
22 building, because we relied on a Commission
23 order. And the statement in the order I'll
24 refer to was "that when a utility franchise is

1 granted by this Commission, it creates not just
2 a right to operate, but an obligation to
3 serve." That language came from Commission
4 Order 21,309, in Claremont Gas Corporation.
5 That was when Claremont Gas abandoned their
6 system. And I also testified in that case.
7 And I believe that was the last time utility
8 customers faced the elimination of service but
9 their regulated utility based on a decision by
10 the utility.

11 In that instance, the utility or its
12 parent agreed to make those customers whole, in
13 terms of conversion costs, whether it was to
14 bottled propane or to an alternate fuel source.

15 While this Joint Petition, in this
16 current docket, doesn't go that far, the Y
17 feels that approval of this Settlement is
18 appropriate, and, if granted, would still
19 benefit all of the utility's other customers
20 within ten years.

21 Thank you.

22 CMSR. SCOTT: Thank you. Next on the
23 list is Senator Feltes, but before I have you
24 speak. So, a couple things, as we get ready to

1 go into the tech session, we have 15
2 Petitioners, to my count I think, three
3 intervenors. So, similar to the discussion I
4 had with the Senator earlier, what I would
5 encourage, as you go in the tech session and
6 start thinking about, is there a way to kind of
7 have a common spokesperson for efficiency.
8 Because trying to run a hearing and all the
9 discussions with Staff and the utility kind of
10 can become unwieldy.

11 With that said, I can either have the
12 Senator speak now, or I will allow you to speak
13 at the end of the list, if you prefer,
14 obviously. Because I am considering the
15 statements from the Petitioners and the
16 intervenors, the public comments, to be the
17 preliminary positions of the parties. So, I'm
18 not going to come back again to the parties.
19 But I will allow, obviously, the utility, the
20 OCA, and Staff just to give us their
21 preliminary positions.

22 SEN. FELTES: Thank you, Mr. Acting
23 Chairman. I'm happy to speak last and allow
24 other folks to speak first. In terms of

1 technical session and settlement discussion,
2 I'm happy to take the lead in terms for the
3 Joint Petition. Obviously, "lead spokesperson"
4 doesn't mean "lead counsel" or "counselor for
5 all parties", to be clear. Thank you.

6 CMSR. SCOTT: Okay. If that's the
7 case, then we'll move on to Mr. Schweiker,
8 who's been granted intervenor status.

9 MR. SCHWEIKER: Thank you, Mr.
10 Chairman. Can you hear that?

11 MR. SPEIDEL: The red button, sir.

12 MR. SCHWEIKER: Can you hear this?

13 MR. SPEIDEL: Yes.

14 MR. SCHWEIKER: Okay. I'm Roy
15 Schweiker. I'm a residential customer of
16 Liberty Utilities. I don't receive the rate
17 for low-income people. And that's why I'm an
18 interested party. My comments on this is,
19 number one, people are saying "this is a sudden
20 emergency situation." Well, I had a bad year
21 last year. I had, at one time, my hot water
22 heater died, and then my furnace stopped
23 working. Of course, furnaces only stop working
24 in the middle of the heating season, not in the

1 summer, but you have to do something right
2 away. So, you know, having a year to make your
3 mind up for a new heating system is, you know,
4 quite a lot different than suddenly having to
5 do something.

6 So, my feeling is that this is not
7 quite sudden. On the other hand, Mr. Kennedy,
8 two months ago, asked for a prompt resolution
9 of this, so that people could get their ducks
10 in a row, eggs in a basket, whatever, and I
11 fully agree with that. Because, as a for
12 instance, many of the buildings downtown might
13 well be suited to renewable energy. You know,
14 they have flat roofs, they have, you know, big
15 things that could use a heat pump. They have a
16 basement, they used to have a coal bin and now
17 have pellets. But, because these people have
18 the opportunity of getting free money to
19 convert to gas, they haven't been, you know,
20 really given the opportunity to consider
21 alternatives, if instead there was some program
22 that would be neutral as to what they would
23 get. And I think that's a mistake,
24 particularly, if conversion to renewable fuels

1 would be -- probably take longer than just
2 hooking in gas.

3 So, therefore, I really agree with
4 Mr. Kennedy, that I would hope that the
5 Commission would expedite the rest of this,
6 whatever it is. If there are really two
7 issues, one of which "is granting this Petition
8 legal?" and second "is it good public policy?",
9 I hope the analysis would occur in parallel, so
10 that it could be resolved one way or another,
11 as quickly as possible, because I'm sure that
12 everybody would like to get on with getting
13 their heating system ready for next year. So,
14 that's my first comment.

15 My second comment is, you know, right
16 now, most of what I pay as a residential
17 customer is not for gas but for various, you
18 know, distribution charges, mandatory charges,
19 whatever. And, you know, I hate to see those
20 go up. You know, in my Petition, you'll see
21 what a small percentage I actually pay for the
22 gas itself. And, being asked as a residential
23 customer, all of these co-Petitioners are
24 institutions. I don't know why the Petition

1 shouldn't have said that the charge should only
2 go to other institutional customers of Liberty
3 Utilities, or why it should go only to heating
4 customers -- shouldn't go only to heating
5 customers, and not people who only use, you
6 know, natural gas for cooking and so forth.

7 So, I think that if it's decided even
8 that Liberty Utilities should do this, you need
9 to consider maybe reducing the number of people
10 that this charge go to, to only institutional
11 and heating customers, and not to all Liberty
12 customers.

13 And, finally, with the rate of return
14 that Liberty was granted of over 10 percent,
15 that's, you know, junk bond rates. No one
16 would go out and take out a loan at 10 percent
17 to do this. So, allowing Liberty Utilities to
18 earn 10 percent for administering this is
19 outrageous. Most of these places could get
20 something for less.

21 If the City of Concord decides to
22 open up their program, you might be looking at
23 a rate of 1 percent. So, even a 30-year
24 payback makes sense if you're only paying

1 1 percent on it.

2 So, I would encourage you to expedite
3 this Petition. And, once again, as a
4 residential customer, I don't see how this
5 benefits me. So, I would hope that your
6 expedition of this would also deny it.

7 Thank you.

8 CMSR. SCOTT: Thank you. Mr. Snow.

9 MR. SNOW: Thank you. Ron Snow --

10 *[Court reporter interruption.]*

11 MR. SNOW: I'm Ron Snow with the
12 Brain Injury Association of New Hampshire.

13 According to the latest hospital
14 discharge surveillance data, there's
15 approximately 14,000 brain injuries a year in
16 the State of New Hampshire.

17 Brain injury is not an event or an
18 outcome. It is the start of a misdiagnosed,
19 misunderstood, under-funded neurological
20 disease. People who sustain brain injuries
21 must have timely access to expert trauma care,
22 specialized rehabilitation, lifelong disease
23 management, and individualized services and
24 supports in order to live healthy, and an

1 independent and satisfying lives.

2 After the trauma care is where the
3 Brain Injury Association comes in. We assist
4 survivors and their families with the necessary
5 supports and services that they need to live in
6 their home environment. The one question that
7 we get at our office more so than anything else
8 is "What do we do now?" After a brain injury,
9 it's a very challenging time for families and
10 the survivor to figure out what the next steps
11 are.

12 We have a program called the "Neuro
13 Resource Facilitation Program". They are
14 basically like a Garmin GPS, helping guide
15 people to the necessary support services that
16 they may need. Along with that, we have our
17 case management. Currently, we're serving over
18 400 individuals throughout the State of New
19 Hampshire suffering from traumatic brain
20 injury.

21 We've recently just transitioned --
22 we have a Transition program. We've recently
23 just transitioned 200 people out of hospice, an
24 institutionalized setting, back into their

1 community or their home environment. Our goal
2 is that survivors not just survive, but thrive.

3 There is no magic pill for brain
4 injury. The only cure is prevention. We're
5 actively involved in New Hampshire high
6 schools. We're currently piloting a 15-high
7 school program on teen driving, partnering with
8 New Hampshire DOT. This is a pure support
9 program where a brain-injured survivor is going
10 in and speaking to the various high schools
11 about, basically, distracted driving and the
12 seatbelt rule. We've had tremendous success
13 within these 15 schools.

14 Currently, we're working with over
15 18,000 New Hampshire high school athletes
16 providing them with the concussion testing.
17 More importantly than the testing, we have the
18 results. We contract with Dartmouth-Hitchcock
19 to have the results read by a top expert in
20 concussion management.

21 In addition, I mean, could go on and
22 on about the various things with brain injury.
23 We're heavily involved with our veteran
24 community. We know that only 43 percent of the

1 veterans in New Hampshire have service at the
2 VA. So, the majority are out in the civilian
3 sector. We know, from the past decade of wars,
4 that 25 percent of all ground troops are
5 suffering from a traumatic brain injury. We
6 have created a Peer Support Program for them,
7 and also help them get the civil services that
8 they may require.

9 We're a small nonprofit. Our funding
10 comes from a variety of sources. We have
11 grants. We have public funding, your typical
12 golf tournaments, bingo, all these very
13 exciting things.

14 We do understand the long-term
15 benefits to conversion over to natural gas.
16 The cost savings will be about ten years for
17 us. The conversion will currently cost us
18 about \$37,000, and we're in the process of that
19 right now. Our challenge is the funding gap of
20 unrestricted funds is going to have a direct
21 impact on our programs. We can't take money
22 from one grant and all of a sudden throw it in
23 to a capital improvement. I mean, that's
24 unethical. And, basically, that's why we have

1 joined this Petition to hope you to offer some
2 relief.

3 Thank you.

4 CMSR. SCOTT: Thank you. Ms. Clarke.

5 MS. CLARKE: Thank you. Good
6 morning. As I said, I'm Nicki Clarke, and I'm
7 the Executive Director for the Capitol Center
8 for the Arts, and one of the Joint Petitioners.
9 The Capitol Center is a charitable nonprofit
10 that operates two historic buildings on Main
11 Street, the circa 1926 Chubb Theater with
12 seating for 1,304 and the Victorian era
13 Benjamin Kimball House that provides event
14 space and staff offices. Today, 80,000 people
15 annually come through our doors on about 200
16 plus days a year. We introduce 1,300 children
17 each year to the magic of live performance and
18 the adventure of creative learning. We bring
19 the international world of performing arts to
20 Concord, and provide a platform for launching
21 local talent. In addition to a crowded
22 performance schedule, we host 80 plus community
23 and private events, from dance competitions to
24 class reunions to business retreats, and

1 collaborate with community partners across a
2 wide spectrum of activities. We give back to
3 the community that supports us by providing
4 reduced rental rates to other nonprofit
5 organizations and free and subsidized tickets
6 to clients of social service agencies. And, on
7 show days, we are a real boon to downtown area
8 restaurants, shops, and hotels.

9 Concord Steam, our situation is a
10 little different, does not provide heating for
11 the entire complex, but it really has just two
12 specific areas. One is the snowmelt system
13 that serves the long, gradual inclined walkway
14 from South Main Street to the front doors of
15 the theater, and the stage itself, which it
16 obviously directly affects the comfort of
17 performers that are in the building. Both of
18 these components are critical to our operating
19 the Center for the public good.

20 Despite our vitality and 21 years of
21 programming, we have significant challenges as
22 a nonprofit business. And, like other
23 performing art centers in other states, the CCA
24 only receives very minimal governmental

1 support, and it relies heavily on earned income
2 from ticket sales, which represents about 70
3 percent of our income, and the remaining 30
4 percent comes from business sponsorships and
5 individual memberships and contributions. We
6 always have that gap between what we can earn
7 and what we can actually have to find in other
8 monies to make our budget work. Our annual
9 budget is in the area of \$2.5 to \$2.9 million a
10 year, and it has always been kind of a
11 breakeven budget at best, and never has been
12 able to include depreciation.

13 We also carry heavy mortgage debt of
14 \$1.2 million that includes a reserve
15 requirement with a covenant from our lender.
16 The Board of Trustees has spent the last couple
17 of years giving serious look to all the key
18 systems and equipment it needs to replace
19 because things are just aging out. And we
20 faced an unexpected crisis in 2015 where both
21 the Kimball House boiler and three of the HVAC
22 systems that serve the audience section of the
23 Chubb Theater died after 20 years of continual
24 use. Without cash on hand, the Capitol Center

1 applied and was awarded a New Hampshire Higher
2 Education Finance Authority loan, and that has
3 to be paid back within five years. So, our
4 budget is stretched to the limit, and we don't
5 have the funds to convert and we must look for
6 outside resources.

7 We've maxed out our debt capacity,
8 there are few other funding options without
9 hoping for some relief from this Petition. We
10 hope that, with your financial assistance, we
11 can quickly connect the snow walkway system to
12 a natural gas boiler and providing a much safer
13 access to our building. We're looking at about
14 a \$54,000 investment there. The heating system
15 for the stage is more challenging, as we are
16 dealing with infrastructure of a historic
17 theater, and there are likely to be surprises.
18 Preliminary conversations with vendors indicate
19 that we're looking at another \$50 to \$77,000
20 investment.

21 So, neither of these projects
22 necessitated by the Concord Steam termination
23 was on the top of the priority list of critical
24 infrastructure projects. So, having to address

1 them right now without any financial relief
2 really puts us at risk of being unprepared for
3 the next piece of equipment or system that is
4 most likely to fail in the coming year.

5 So, I thank you for considering the
6 merits of this Petition. As I see it, it is a
7 win/win. By assisting the CCA and other vital
8 nonprofits that need to make this transition,
9 Liberty Utilities will be making us a stronger
10 Capitol City, and all of us will be serving the
11 public good, and, at the same time, Liberty
12 Utilities will benefit in the long term with
13 the addition of so many new ratepayers and
14 customers.

15 Thank you for this opportunity.

16 CMSR. SCOTT: Thank you. CATCH
17 Neighborhood Housing.

18 MS. HEARD: Thank you, Mr. Chairman.
19 I do have printed copies of the materials.
20 Should I bring them up?

21 CMSR. SCOTT: You can do that or you
22 can do that afterwards.

23 MS. HEARD: Afterwards. Okay.
24 Great. Thank you.

1 My name is Rosemary Heard. I'm the
2 President of CATCH Neighborhood Housing, which
3 is a 501(c)3, a 25 year-old organization that
4 was created to serve the needs of the residents
5 of Merrimack County, with a specific view to
6 strengthening the communities within Merrimack
7 County by creating opportunities for affordable
8 quality housing for people otherwise not being
9 served. Our vision is a community where every
10 person is confident of a home.

11 In the intervening years, CATCH has
12 had a high impact on the communities that we
13 serve within Merrimack County, and I'm going to
14 share some of those statistics with you. So,
15 today, we provide homes to 570 residents in all
16 of our properties. The average income of those
17 residents is \$22,683.17. We have invested
18 close to \$55 million in sticks and bricks in
19 the communities that we serve, in order to
20 provide those homes for people, many of whom
21 are disabled, are veterans who have served our
22 country, are aging out in the communities in
23 which they live. We currently have 45 units
24 under construction in the City of Franklin,

1 with a project cost of 11.8 million.

2 We are a real estate taxpayer. By
3 year-end, we will have paid \$439,099 to the
4 communities that we serve. So, not only are we
5 a nonprofit, but we behave very much like any
6 other business, we have to pay our way.

7 We've developed 344 units over the
8 course of time since 1989. We have 308 in our
9 portfolio today. We have some age-restricted
10 units in our portfolio, some market-rate units
11 as well. The majority of our units have been
12 developed through the Low Income Housing Tax
13 Credit Program. And we have developed units
14 for home ownership, as well as doing that for
15 somebody else.

16 In an effort to be a creative
17 nonprofit and try and leverage all of the
18 opportunities that are out there to create
19 income, we created two subsidiary nonprofits,
20 if you will. One is Alliance Asset Management,
21 which was originally designed to manage our own
22 properties. What we found was other people
23 were in dire need of management as well, and
24 particularly for an organization that

1 understood the way the nonprofit world works.
2 And, so, we manage close to 600 units in both
3 the States of Maine and New Hampshire.

4 We also have an organization called
5 "HOMETeam". And HOMETeam provides all things
6 homebuyer related to all of the residents
7 within New Hampshire at no cost. So, for
8 example, in the last calendar year, we have
9 assisted first-time homebuyers with the
10 purchase of 135 homes. We have worked with 171
11 households on mortgage default or delinquency.
12 We have assisted three families with financial
13 capabilities. And we, last, but not least,
14 worked with 76 seniors to enter into a reverse
15 mortgage so that they could age in their home.

16 So, we are creative, and every penny
17 that we make goes to support the programs that
18 we can provide, not only to Merrimack County,
19 but, in the case of HOMETeam, to 80 communities
20 within the State of New Hampshire. But every
21 time we do a development project, take Franklin
22 as an example, there is no more than \$200,000
23 of conventional debt in a project like that.
24 All of the other funding comes in through the

1 Low Income Housing Tax Credit Program as
2 equity. So, every time I look in our
3 organization at spending 100 or \$200,000, it's
4 eating up scarce resources that we have to
5 actually create housing.

6 We're also a workforce housing
7 provider. In the package, you will see three
8 pages of companies that our residents work for,
9 including the State of New Hampshire, many
10 different divisions of the State. So, housing
11 is a critical piece to the success of the state
12 and our ability to retain employers --
13 employees, should I say.

14 I would also like to key on something
15 that Ms. Senter said earlier from the Music
16 School about the Bloomfield family and their
17 commitment to the City of Concord. I think
18 it's safe to say that all of us who were using
19 Concord Steam were equally committed to the
20 Bloomfields. We did not all abandon ship. We
21 were all hopeful that this was something that
22 was going to continue, this partnership was
23 going to continue for the long term.

24 So, we have covenants on all of our

1 proprietaries in terms of our loans. If you
2 take our average donation as being \$5,200,
3 that's a lot of donors's money that we're going
4 to have to come up with to offset the cost of
5 something that we have not anticipated.
6 Because, if we had, we would have tried to
7 include that when we redid the Endicott Hotel,
8 which is a property in which we do have Concord
9 Steam.

10 So, we're very appreciative of any
11 consideration that you can give to all of us as
12 a group. And thank you for the opportunity to
13 speak.

14 CMSR. SCOTT: Thank you. Ms. Suzanne
15 Becker. And, before you speak, if you could
16 let us know if you're speaking for yourself or
17 for an organization.

18 MS. BECKER: I'm speaking for the
19 organization.

20 CMSR. SCOTT: The reason I ask is
21 because the sign-up sheet doesn't have an
22 organization listed, so --

23 MS. BECKER: Oh, I'm sorry. It
24 should be the First Church of Christ,

1 Scientist, --

2 CMSR. SCOTT: Thank you.

3 MS. BECKER: -- here in Concord.

4 Mr. Chairman and Commissioners, I'm a
5 Board member of the First Church of Christ,
6 Scientist, the only Christian Science church in
7 Concord. The church was built in 1903 by Mary
8 Baker Eddy, the founder of Christian Science.
9 It is a well-known historic landmark of the
10 City, visited by people from all over the
11 world.

12 Mrs. Eddy built only two churches:
13 The original Mother Church in Boston's Back
14 Bay, and this one in Concord. This church's
15 significance is unique.

16 For the last four years, our small
17 membership has been in the process of a massive
18 preservation, five-year project, to preserve
19 our 113 year-old building at 33 North Main --
20 North State Street. To date, we have spent
21 close to \$800,000 for this purpose, funds
22 donated from all other the world and from our
23 own local donations. We are at the end of our
24 budget funds for this project.

1 To say the closing of Concord Steam
2 and the subsequent need for us to spend in the
3 neighborhood of 3 to \$500,000 to make the
4 necessary changes in our heating system and
5 present infrastructure to provide for such
6 comes at a peculiar time for us is an
7 understatement. We have spent the last four
8 months interviewing contractors, attending all
9 available City meetings regarding Concord
10 Steam's closing, and we are close to signing a
11 contract in early 2017 for the work necessary
12 to comply with the new utility option.

13 The potential for nonprofit funds
14 made available by this Petition could not come
15 at a better time for us. Please consider
16 approving the Petition, not just for us, but in
17 support of all nonprofit entities in this City.

18 Thank you.

19 CMSR. SCOTT: Thank you. Attorney
20 Kennedy, with the City of Concord.

21 MR. KENNEDY: Thank you, Commissioner
22 Scott and Commissioner Bailey.

23 On behalf of the City of Concord, I'd
24 just like to note that there is precedence for

1 this Commission. I think it was noted earlier
2 by the YMCA's representative, relative to the
3 Claremont Gas case, where this Commission
4 issued an order on August 5th, 1994. In that
5 case, I thought the Court -- the Commission
6 made very clear what was very important were
7 the customers, and the customers' ability to
8 convert from the natural gas to the -- an
9 alternative energy source. That was a very
10 significant matter throughout that order, both
11 for the residential customers and all the other
12 customers that were relying upon Claremont Gas
13 at that time.

14 Claremont, in that case, was
15 responsible for all the conversion costs. In
16 fact, the Commission made clear that the
17 Claremont Gas Corporation was not permitted to
18 discontinue service until all customers were --
19 made a successful conversion to an alternative
20 energy source, which is, I think, a stark
21 contrast to what happened in this case under
22 the 770 and 769 dockets.

23 We know, at least with respect to the
24 customers' protection in those documents, we

1 know the 1.9 million went to, as far as we can
2 tell, offset some of the high energy costs that
3 Concord Steam would be having to charge in its
4 final year. But we've already heard, from at
5 least one entity here, I believe the Concord
6 Music School, talking about how high those
7 costs are currently.

8 With respect to other notations
9 concerning customers, I find it interesting
10 that, at least in Paragraph 12 of the 770
11 document, is that customers wishing to convert
12 from Concord Steam to natural gas are required
13 to be up-to-date with all their bills to
14 Concord Steam and required to be in good
15 standing with Concord Steam. I don't see any
16 of the protections for customers of Concord
17 Steam that exist in the Claremont Gas
18 Corporation case. And that is something I
19 think that needs to come forward here in this
20 Joint Petition.

21 Senator Feltes has lead this and
22 should be applauded for his efforts here. I
23 know that he made these notes in the prior
24 petitions of 769 and 770. But, certainly, the

1 protection of the customers should be of
2 paramount importance to the Commission and the
3 OCA and the Staff. And the City of Concord
4 supports this Petition.

5 CMSR. SCOTT: Thank you. And now
6 Senator Feltes.

7 SEN. FELTES: Thank you, Mr. Acting
8 Chairman. I believe a Joint Petitioner has
9 arrived, Arthur Aznive. And, I don't know,
10 Arthur, do you have any comments that you want
11 to make? I'll to defer to Arthur first.

12 MR. AZNIVE: And Mark Ciborowski is
13 here, too.

14 SEN. FELTES: Oh, Mark is here, too.
15 Okay. Great.

16 MR. AZNIVE: Thank you,
17 Commissioners.

18 *[Court reporter interruption.]*

19 CMSR. SCOTT: And state your name for
20 the record please.

21 MR. AZNIVE: My name is Arthur
22 Aznive. I represent my family's real estate
23 business in Concord, specifically downtown we
24 have ten buildings, eight of which are serviced

1 by Concord Steam. And, as we all know,
2 reiterate that, obviously, this couldn't come
3 at a worse time. But, nonetheless, we will
4 come out on top somehow.

5 But our firm -- our family has been
6 in business 1969, and we have served many
7 working class families for apartments and their
8 homes. Many of those families could be
9 considered low income. Other than that, we are
10 a private for-profit, hopefully, business. And
11 this Petition, if it comes through and is any
12 relief for us to get some sort of funding, then
13 that would be appreciated.

14 Thank you.

15 CMSR. SCOTT: Thank you. Senator,
16 was there somebody else?

17 SEN. FELTES: It sounded like there
18 might be. Mark? I don't know if Mark wants to
19 say anything, though. He's a Joint Petitioner.

20 Oh, he's coming up. Okay.

21 MR. CIBOROWSKI: Mark Ciborowski. I
22 don't have any prepared statement. I manage my
23 family's buildings in downtown Concord. We
24 have 11 buildings currently under Concord

1 Steam, and are currently reviewing with
2 mechanical contractors the options and costs
3 and have started doing those.

4 But it is -- it is just -- it's an
5 incredible hardship, you know, to convert 11
6 buildings all at once. I mean, I'm looking at,
7 I don't know, maybe three-quarters of a million
8 dollars or something, you know, somewhere in
9 that order of magnitude to convert these
10 buildings. And it's not something that, in
11 this business climate, you can pass down to
12 customers. I mean, the office market is very
13 competitive right now. We have a surplus of
14 office space right now. And people are, you
15 know, calling your tenants. And it's very,
16 very competitive out there, and especially in
17 the office market.

18 So, these are costs that are really
19 challenging to absorb, and not ones that you
20 can just really pass down onto your customers,
21 so -- or, you know, my tenants, in this case.
22 So, it -- I mean, it is a hardship.

23 And I would also greatly appreciate
24 any relief that this Petition could afford and

1 making funds available to, certainly, the
2 nonprofits, of course, but also other people
3 who have significant stakes in buildings and
4 extremely high conversion costs, which are
5 tough to pass on.

6 CMSR. SCOTT: Thank you. Senator.

7 SEN. FELTES: Thank you, Mr. Acting
8 Chairman.

9 You've already heard from a lot of
10 customers and the impact that this has on them.
11 You haven't heard from people who didn't even
12 sign on to the Joint Petition or didn't even
13 intervene. All the accounts, all the people
14 who are out there that may or may not be facing
15 some of these same problems.

16 And it's not every day a public
17 utility obligated to serve customers goes out
18 of business. And, in this particular case, at
19 this moment, the customers are being left
20 behind. And that's not, in my view,
21 respectfully, in the public interest or in the
22 public good.

23 We ought to make sure no one, no
24 residential customer, no nonprofit, no business

1 goes without or heat or hot water. And it's
2 unfair. It's unfair to saddle the cost of a
3 forced and mandated conversion strictly on the
4 backs of the customers. It's outside of their
5 control, they didn't ask for this, but they're
6 taking it on the chin as a consequence.

7 This is a Petition for
8 non-governmental customers. That means
9 residential customers, nonprofits, businesses.
10 My good friend, Mr. Kreis is here on behalf of
11 Liberty's residential customers, so I'll talk
12 on behalf of the residential customers of
13 Concord Steam, specifically, the Fords, who
14 couldn't be here today.

15 This is the statement the Fords
16 wanted to talk about:

17 I live here with Angela, me and our
18 daughter, Persimmon, Percy, she's three
19 years-old. My wife is a marriage and family
20 therapist, and I build and restore antique and
21 custom cars and motorcycles. We are having
22 trouble affording heat, especially right now.
23 We've got a tenant in the building for whom
24 we're obviously required to provide heat. The

1 estimate is somewhere upwards of \$10,000 to
2 convert.

3 That's an example of -- you heard
4 customers for nonprofits and businesses; that's
5 a residential customer, what they're being
6 faced with. Is it fair to the Fords to be
7 forced to be in this situation?

8 The Fords say that this is 15 percent
9 plus of their income.

10 Is it fair to Remi? Is it fair to
11 the tenants of Remi? Is it fair to Mark's
12 tenants or Arthur's tenants? Is it fair to the
13 programming that's going to need to be cut back
14 that you heard about from the nonprofits? Is
15 it fair that this forced conversion is directly
16 ripping money out of the community and ripping
17 programming out of the community? I don't
18 think it's fair.

19 We've talked about the precedent.
20 We've talked about Order 21,309. And I'm going
21 to direct folks to Page 15 of that Order. "For
22 those customers" -- I'm reading from the Order:
23 "For those customers who are forced to convert
24 to a fuel source other than bottled propane,

1 i.e. those customers who cannot be converted
2 legally and safely to bottled propane,
3 Claremont will bear all costs of conversion to
4 an alternative source at a comparable level of
5 service, including the replacement of
6 appliances. We believe this to be an
7 appropriate safeguard." Think about that.
8 That's the Claremont case: All costs of
9 conversion covered. The last time a regulated
10 public utility went out of business.

11 Here, right now, zero costs covered.
12 This Petition, Mr. Acting Chairman,
13 Commissioner Bailey, it doesn't even go as far
14 as Claremont. If it did it would say "cover
15 all the costs of conversion". It doesn't go
16 that far. It doesn't go near that far. You
17 heard the numbers thrown out here today. This
18 isn't going to cover all the costs of
19 conversion. But, if we can structure something
20 within the context of this Joint Petition to
21 have some relief to help pay down the cost,
22 some refinancing, some help with the financing,
23 we're going a long way.

24 So, let's talk about some of the

1 objections I'm sure we're going to hear in a
2 second. So, one objection is "Staff shouldn't
3 run the fund." Well, thankfully, the Capital
4 Region Development Council, Stephen Heavener is
5 here, he's going to be offering to help
6 administer the fund. So, that's a good
7 development. The Petition says "the Staff",
8 but Mr. Heavener, on the Capital Region
9 Development Council, has experience
10 administering grants and funds, is willing to
11 take that off of Staff.

12 Second, we've heard "Well, it's just
13 not fair to Liberty customers." Well, you know
14 what? The Discounted Cash Flow analysis that's
15 attached to the Joint Petition says it's fair
16 over time, and that Liberty residential
17 customers -- all Liberty customers benefit over
18 time. And the 1.9 million in the Asset
19 Purchase Agreement is already being passed off
20 to Liberty customers. But that's not assuring
21 conversion and transition. That's not assuring
22 that folks are actually going to Liberty, which
23 is part of the basis of the Discounted Cash
24 Flow analysis, you assume more customers are on

1 the system, you spread the costs around. So,
2 if we want to make that an actual analysis, we
3 do this.

4 And, then, we hear a little bit about
5 this rate of return. I didn't bring all the
6 case law, but there's case law in other
7 jurisdictions when a -- one utility takes over
8 a failed utility, they not only get their rate
9 of return, they get a premium above and beyond
10 the rate of return. Why? Because it's a dicey
11 situation, it's a dicey proposition.

12 Thankfully, Liberty is stepping up to
13 the plate here. Why? Because the failed
14 utility clearly is not capable of doing --
15 well, the failed utility may be incapable of
16 doing what Claremont did in Docket 94-056 and
17 Order 21,309.

18 So, Mr. Acting Chair, Commissioner
19 Bailey, this Petition is more than in the
20 public interest, it's absolutely essential. We
21 need to make this right for the customers. We
22 need to do something. This is a modest
23 proposal, in light of the Commission case law.

24 And I respectfully encourage that

1 this Commission and all the parties give it
2 adequate consideration. And I would also
3 encourage that we have a final hearing in this
4 matter as soon as possible, preferably the
5 first or second week of January.

6 Thank you.

7 CMSR. SCOTT: Thank you. As
8 mandatory parties, Liberty, your preliminary
9 position.

10 MR. SHEEHAN: Thank you,
11 Commissioners. The preliminary statement I'm
12 about to give is lifted from the letter we
13 wrote in October filing our Petition to
14 Intervene.

15 Senator Feltes approached Liberty
16 regarding the concept of this fund for Concord
17 Steam customers. We indicated we would support
18 the request and the fund, provided the cost
19 recovery language that is in the Petition.

20 Also, at the Senator's request, we
21 did update the DCF analysis that we used in
22 the -- what we call the "APA docket", the case
23 where we paid 1.9 million as part of Concord
24 Steam's wind-down. The DCF analysis we did in

1 that case showed that it would be a net benefit
2 to all Liberty customers. At the Senator's
3 request, we updated that to add the million
4 dollars proposed here, and the DCF still
5 remains positive. Meaning, at the end of the
6 ten-year period, all Liberty utility customers
7 receive a benefit. And, of course, that
8 benefit comes from the money we pay as offset
9 by the money we received by the new customers.

10 We're willing to do this, given the
11 unique circumstances of the short shutdown,
12 because of what you've heard today in this
13 hearing room. We acknowledge there are
14 arguments against it. We've heard some from a
15 gentleman this morning, and I suspect we'll
16 hear from Staff, there are reasons not to do
17 this, too. We are supportive of the Petition,
18 but we are mindful of those other positions.

19 Two other points I thought I would
20 clarify. I don't think the Senator meant to
21 say it, but we are not taking over a failed
22 utility. And, of course, the arrangement we
23 have with Concord Steam was to buy some assets
24 from them for the money we paid. We are not

1 assuming Concord Steam's responsibilities and
2 assets or anything like that. I think that is
3 clear.

4 And, second, Mr. Kennedy referred to
5 the provision in the Settlement Agreement that
6 Concord Steam customers had to pay their
7 balances in full before converting. Your order
8 approving that, that was part of Concord
9 Steam's winter rate case, deleted that
10 provision from the Settlement Agreement. So,
11 that requirement does not exist today.

12 So, unless you have any questions
13 that's our statement this morning. Thank you.

14 CMSR. SCOTT: Mr. Kreis.

15 MR. KREIS: Thank you, Commissioner
16 Scott. The Office of the Consumer Advocate, on
17 behalf of residential utility customers,
18 reluctantly, but ambiguously, opposes the
19 Petition that we are here to discuss today.

20 We have heard some very compelling
21 stories this morning, at least as a resident
22 and neighbor of all the nonprofits and small
23 businesses who are here today. I have to say,
24 I personally find them very compelling.

1 But it is important for you, as
2 Commissioners, and for all the parties in this
3 room to understand, that given the nature of
4 the proposal pending here today and the way it
5 is structured, the earnest request that we've
6 heard for help are really aimed not at Liberty
7 Utilities or Concord Steam or anybody but the
8 body of customers that is currently and will be
9 served by Liberty Utilities. And that is
10 because the Petition calls for Liberty to
11 establish a regulatory asset on its books, and
12 then recover every last cent of that regulatory
13 asset, as well as a return on that regulatory
14 asset, from its customers.

15 So, in contrast to the situation that
16 attained in the Claremont case that we've heard
17 something about today, this is a Petition that
18 asks for a body of many utility customers to
19 help a relatively small group of utility
20 customers that has some compelling needs for
21 help.

22 That request is unfair. And the
23 reason that request is unfair was compelling
24 stated earlier today by Mr. Schweiker. And I'd

1 like to thank him, if he's still in the room,
2 for his compelling testimony about the
3 situation that residential customers of Liberty
4 Utilities face. As he mentioned, there are
5 lots of residential customers who find it a
6 challenge every month to meet their utility
7 obligations, and emergencies happen with
8 respect to their heating needs and their
9 situations as well. And, so, to expect the
10 full body of the Liberty Utilities' customers
11 to come forward with the kind of assistance
12 that's being requested here is simply unfair.

13 It's also, in the opinion of the
14 Office of the Consumer Advocate, illegal for at
15 least four reasons -- or, at least three
16 reasons. The first is that the creation of the
17 regulatory asset proposed in this Petition
18 raises issues about the "used and useful"
19 requirement that is a long-standing fundamental
20 tenet of utility law. Basically, it is
21 inappropriate and illegal to put into utility
22 rates anything that pays for assets that are
23 not used and useful in the provision of public
24 utility service. And the regulatory asset

1 proposed here would not meet that standard.

2 Secondly, and this goes to a lot of
3 the arguments that we've heard that relate to
4 the Claremont situation, the relief requested
5 here -- well, the order that the Commission
6 entered in Docket Number 16-770, Order 25,965,
7 on 11/10, is a final order. And what the
8 Petitioners and the other parties that are
9 asking for help here today are essentially
10 asking you to do is to change that order. The
11 time for requesting the sort of relief that
12 we're talking about here was in that docket.
13 And I believe some of these issues, but perhaps
14 not all of them, were raised in that docket.
15 Order 25,965 is, in the circumstances, *res*
16 *judicata*, unless some party can come forward
17 with a compelling case that there are
18 circumstances that have changed since the
19 Commission heard Docket Number 16-770.

20 Finally, the Petition calls for
21 disparate treatment of the regulatory asset, in
22 the sense that it requests that the Commission
23 order that it be recovered from some, but not
24 all, of Liberty's customers. There's a statute

1 that prohibits undue discrimination in rates.
2 And our concern is that the proposal would, in
3 fact, lead to such undue and unjust
4 discrimination.

5 For that reason, again, reluctantly,
6 the Office of the Consumer Advocate
7 respectfully requests that the Commission deny
8 the Petition. And we will pursue that position
9 during the technical session later today, and
10 ultimately at any hearing that you conduct in
11 connection with this docket.

12 CMSR. SCOTT: Thank you. Attorney
13 Speidel.

14 MR. SPEIDEL: Thank you. Staff's
15 initial position is that the Petition should be
16 denied. As you have heard, we broadly share
17 this initial position with the Office of the
18 Consumer Advocate. Staff appreciates the good
19 works performed by the Petitioners and the
20 City, and Staff also appreciates that many of
21 Concord Steam's customers are experiencing
22 financial distress as a result of Concord Steam
23 terminating service. But relief should not
24 come at the expense of Liberty's customers.

1 Staff recommended Commission approval
2 of the Concord Steam/Liberty Asset Purchase
3 Agreement because Liberty was able to
4 demonstrate that its existing customers would
5 benefit through lower rates, as the one-time
6 payment of \$1.9 million was more than offset by
7 the protected cost savings and additional
8 revenue. Staff has not come to that same
9 conclusion within the present Petition.

10 If Liberty is required to provide
11 \$1 million for the proposed fund and allowed
12 recovery, Liberty's existing customers would be
13 harmed. There is no discernable benefit to
14 Liberty's customers related to the fund.
15 Liberty does not expect the fund to produce any
16 cost savings or increased revenues that we can
17 verify at the present time. Liberty's
18 customers located throughout the state would be
19 paying higher rates to subsidize a very limited
20 number of Concord customers.

21 Staff has many other concerns
22 regarding the proposal, many of which are
23 raised in Mr. Schweiker's Petition to
24 Intervene. Mr. Schweiker also suggests that a

1 City of Concord fund already exists that may be
2 available to the Petitioners to finance that
3 conversion. I think that should be explored
4 further.

5 Concord Steam is a failed business,
6 and, in the short term, its customers are being
7 negatively impacted. Long term, those
8 customers should realize energy cost savings,
9 and Staff will explore what options may be
10 available to finance conversion costs that will
11 not harm existing customers.

12 Regarding the Claremont Gas case,
13 Staff has reviewed that case, and we're not
14 prepared at the present time to say that the
15 situation is exactly factually analogous or
16 even generally factually analogous. For
17 instance, we would expect that the universe of
18 customers within the Claremont Gas system that
19 could not take propane service from third party
20 providers would be much smaller than the
21 universe of Concord Steam customers that must
22 convert from steam to an alternative system,
23 because all must convert from steam to an
24 alternative system. That's one factual

1 difference.

2 Another factual difference that has
3 to be explored is the fact that Claremont Gas
4 itself evidently probably had some sort of
5 funds available or was able to fold that
6 limited cost into rates. Concord Steam now is
7 at the outer edges of what its rates can be
8 under the Emergency Rate Petition. And it's
9 almost like a perpetual motion machine, to have
10 the same Concord Steam customers pay for
11 conversion costs for a certain subset of those
12 customers within those emergency rates.

13 So, there are certain factual
14 differences that make the two situations
15 different. But, again, that's something we
16 have to explore and consider carefully.

17 In general terms, Staff will endeavor
18 to develop a procedural schedule for the
19 Commission's consideration that accommodates
20 the time necessary to properly develop a
21 comprehensive final recommendation of this
22 Petition. In light of the serious issues
23 involved, we don't expect that that would allow
24 for a hearing within the first two weeks of

1 January. But we will endeavor to come up with
2 a hearing schedule that is as expeditious as
3 possible.

4 Thank you.

5 CMSR. SCOTT: Thank you.

6 Commissioner Bailey, any questions?

7 COMMISSIONER BAILEY: No thank you.

8 CMSR. SCOTT: I do have some
9 questions. I do have some questions, probably
10 for the utility.

11 I was curious, first of all, on the
12 status, if you have a rough status of heating
13 transitions, have they -- if you could kind of
14 articulate, to your knowledge, if you're
15 prepared to answer any of that?

16 MR. SHEEHAN: Give me one second.

17 *[Short pause.]*

18 MR. SHEEHAN: Understanding this
19 information may not be precise, we are working
20 on roughly half of the customers, have either
21 converted or we're working on them now. Half
22 of the Concord Steam customers.

23 CMSR. SCOTT: And, given that you may
24 have to go to the back, I should have asked

1 this follow-on question at the same time. And
2 do you have a feel for, are these -- yes,
3 please come forward. Are these -- I was just
4 curious, if you're able to characterize, are
5 the conversions mostly to gas, obviously that's
6 your involvement, or are you seeing some
7 non-gas conversions also?

8 MR. CLARK: They are mostly gas
9 conversions. There are a couple non-gas
10 electric conversions.

11 CMSR. SCOTT: Okay. Thank you. We
12 have heard a fair amount of testimony over -- I
13 think it's based on the price of natural gas of
14 a payback. You know, I think one of the
15 commenters or one of the Petitioners commented
16 it would be a "ten-year payback". I assume
17 that's because of the cost of the differential
18 in the steam versus gas.

19 And it begs the question to me, has
20 the utility looked at, for instance, other
21 financing options, for instance, on-bill
22 financing, that type of thing, that would
23 provide a venue for these customers?

24 MR. SHEEHAN: Staff has already sent

1 out discovery requests to all of the
2 Petitioners. Those responses are in. And they
3 have more detailed case-by-case examples of
4 payback periods from particular people. And
5 you've heard that one reference, but a lot of
6 that information is now in from Petitioners.

7 On financing, it's a -- the work that
8 Liberty has done in that regard has been to
9 work with the local banks, primarily Merrimack
10 County, I can't recall if there was another
11 one, to offer financing, which they have come
12 forward and done. And I understand some of the
13 Petitioners have already gotten financing from
14 Merrimack County or another institution.

15 It is a difficult thing for us to
16 finance on-bill, because it would require a
17 special contract in each case. And, not to say
18 we can't do it, but it's not something, a
19 blanket thing we can offer to 100 customers.
20 Again, it would be more of a case-by-case
21 situation. Can we do the conversion?
22 Basically, roll in the CIAC to the rate. And
23 that's -- we haven't made a decision "we can't
24 do it" or "we can do it", it's going to fail to

1 a case-by-case.

2 CMSR. SCOTT: All right. Thank you.
3 Okay. With that, thank you very much. It
4 seems like there's a fair amount of work to be
5 done for the tech session.

6 So, with that, we will leave you to
7 the tech session, and thank you for all the
8 work.

9 *[Short pause.]*

10 CMSR. SCOTT: So, why don't you tell
11 me what you would ask, if I were to allow you
12 to.

13 MR. HINXHIA: I have contacted
14 Liberty Utilities based on an amount of
15 customers that we have, and they can help us to
16 provide with a system. You know, like back on
17 2000 [?], Liberty Utilities were helping like
18 each family that has gas burner oil -- oil
19 burners, if they converted to gas, they will
20 convert the furnace for free, because of the
21 count that we need.

22 I contacted Liberty Utilities. I
23 spoke with two sales representative. I said,
24 "based on the count that I'm giving you, can

1 you provide us with a boiler, and, you know, do
2 the conversion?" They said "No, because these
3 are commercial accounts, we do not do that."

4 CMSR. SCOTT: So, that would be a
5 great question to ask in the tech testimony --
6 technical session that's coming up. So, you
7 should ask the utility.

8 MR. HINXHIA: Thank you.

9 CMSR. SCOTT: Thank you.

10 *(Whereupon the prehearing*
11 *conference was adjourned at*
12 *11:31 a.m., and a technical*
13 *session was held thereafter.)*