

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

March 17, 2016 - 10:11 a.m.
Concord, New Hampshire

NHPUC APR08'16 am 9:04

RE: DG 15-289
LIBERTY UTILITIES (ENERGYNORTH NATURAL
GAS) CORP. d/b/a LIBERTY UTILITIES:
Petition for Approval of a Gas Franchise
in Lebanon and Hanover, New Hampshire.

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey
Adele Leighton, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth
Natural Gas) Corp. d/b/a Liberty Utilities:
Douglas L. Patch, Esq. (Orr & Reno)

Reptg. NG Advantage, LLC:
Susan S. Geiger, Esq. (Orr & Reno)

Reptg. the City of Lebanon, N.H.:
Tim Corwin, Planning Dept.

Ariel Arwen, *pro se*

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

ORIGINAL

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

Reptg. Residential Ratepayers:

Nicholas Cicale, Esq.
Pradip Chattopadhyay, Asst. Consumer Adv.
Office of Consumer Advocate

Reptg. PUC Staff:

Alexander F. Speidel, Esq.
Stephen P. Frink, Asst. Dir./Gas & Water Div.

I N D E X

PAGE NO.

PUBLIC COMMENTS BY:

Joanna Sharf 13

Rep. Lee Oxenham 14

* * *

WITNESS PANEL:

**DAVID SWAIN
WILLIAM J. CLARK
RICHARD G. MacDONALD
STEVEN E. MULLEN**

Direct examination by Mr. Patch 16

Cross-examination by Ms. Geiger 33

Cross-examination by Mr. Willing 35

Cross-examination by Mr. Cicale 93

Cross-examination by Mr. Speidel 100

Interrogatories by Commissioner Scott 117, 156

Interrogatories by Commissioner Bailey 127, 157

Cross-examination by Ms. Arwen 137

Interrogatories by Chairman Honigberg 145

Redirect examination by Mr. Patch 149

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X (continued)

PAGE NO.

WITNESS: THOMAS EVSLIN

Direct examination by Ms. Geiger	162
Cross-examination by Mr. Patch	171
Cross-examination by Mr. Corwin	174
Cross-examination by Ms. Arwen	174
Cross-examination by Mr. Cicale	179
Cross-examination by Mr. Speidel	181
Interrogatories by Commissioner Scott	182
Interrogatories by Chairman Honigberg	185

WITNESS PANEL: PRADIP CHATTOPADHYAY STEPHEN P. FRINK

Direct examination by Mr. Cicale	188
Cross-examination by Mr. Speidel	189
Direct examination by Mr. Speidel	191
Cross-examination by Ms. Geiger	204
Cross-examination by Mr. Patch	205
Interrogatories by Commissioner Scott	226, 234
Interrogatories by Commissioner Bailey	229
Redirect examination by Mr. Cicale	236
Redirect examination by Mr. Speidel	241

I N D E X (continued)

PAGE NO.

CLOSING STATEMENTS BY:

Ms. Geiger	247
Mr. Corwin	248
Mr. Willing	249
Ms. Arwen	250
Mr. Cicale	252
Mr. Speidel	253
Mr. Patch	255

* * *

E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
--------------------	------------------------------	-----------------

1	Liberty Utilities Petition for Franchise Approval (07-24-15)	30
2	Prefiled Testimonies and Attachments of Messrs. Saad, Clark, DaFonte, MacDonald, and Mullen (07-24-15)	30
3	Biography of David Swain	31
4	Rebuttal Testimony of W. Clark and S. Mullen, with attachments (02-26-16) [Redacted - for public use]	31
5	Rebuttal Testimony of W. Clark and S. Mullen, with attachments (02-26-16) {CONFIDENTIAL & PROPRIETARY}	31
6	Response to Staff Data Request 2-5, including attachment {CONFIDENTIAL & PROPRIETARY}	32
7	Testimony of Thomas Evslin (01-22-16)	164

1	E X H I B I T S (continued)		
2	EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
3	8	Testimony of Pradip Chattopadhyay, with attachments (01-22-16) [REDACTED - for public use]	189
4			
5	9	Testimony of Pradip Chattopadhyay, with attachments (01-22-16) {CONFIDENTIAL & PROPRIETARY}	189
6			
7	10	Testimony of Stephen P. Frink, with attachments (01-22-16)	192
8			
9	11	Response to Data Request Staff 2-5 [REDACTED - for public use]	49
10			
11	12	Response to Data Request Staff 2-2	49
12			
13	13	Liberty Utilities' response to Data Request Staff 3-9 {CONFIDENTIAL & PROPRIETARY}	201
14			
15	14	E-mail from Yvonne Flanagan to Jay Campion (10-23-14)	90
16			
17	15	Liberty Utilities' response to Set 1, Data Request Arwen 1-9	162
18			
19	16	Liberty Utilities' response to Set 2, Data Request Arwen 2-4	162
20			
21	17	Attachment Staff 1-10.4 to Data Request Staff 1-10 [REDACTED - for public use]	153
22			
23	18	Attachment Staff 1-10.4 to Data Request Staff 1-10 {CONFIDENTIAL & PROPRIETARY}	153
24			

P R O C E E D I N G

CHAIRMAN HONIGBERG: Good morning, everyone. We're here this morning in Docket DG 15-289, which is Liberty Utilities (EnergyNorth Natural Gas) Corp.'s Petition for a Franchise Approval in Hanover and Lebanon, raises a host of issues under a host of statutes, largely RSA 374. We're here for the hearing on the merits.

Before we get -- before we go any further, let's see who's here, enter appearances.

MR. PATCH: Good morning, Mr. Chairman and members of the Commission. Doug Patch, with the law firm of Orr & Reno. And, with me here today -- I'm appearing on behalf of Liberty Utilities (EnergyNorth Natural Gas). With me here today, on the stand, from left to right, William Clark, Steven Mullen, David Swain, and Rich MacDonald. And, then, with me here at the table this morning, Stephen Hall and Michael Licata.

MS. GEIGER: Good morning, Mr. Chairman and Commissioners. I'm Susan Geiger, from the law firm of Orr & Reno. I represent intervenor NG Advantage, LLC. And, with me today is NG Advantage's CEO, Mr. Tom Evslin.

MR. WILLING: Good morning, Commissioners. I'm Chuck Willing, with the law firm of

1 Rath, Young & Pignatelli, appearing on behalf of Valley
2 Green Natural Gas. With me today is Jay Campion, from
3 Valley Green Natural Gas, and Marcia Brown, from Rath.

4 MR. CICALÉ: Good morning, Mr. Chairman
5 and Commissioners. Nicholas Cicale, on behalf of OCA, and
6 Dr. Pradip Chattopadhyay, the Assistant Consumer Advocate.

7 MR. SPEIDEL: Good morning,
8 Commissioners. Alexander -- oh, I'm sorry.

9 MS. ARWEN: Good morning, Mr. Chairman
10 and Commissioners. I'm Ariel Arwen, a *pro se* intervenor.
11 And, I understand that this is the moment, correct me if
12 I'm wrong, where I could say that, regarding the New
13 Hampshire Climate Action Plan and other exhibits --

14 CHAIRMAN HONIGBERG: No, this actually
15 would not be the time.

16 MS. ARWEN: This has to do with
17 preserving an objection.

18 CHAIRMAN HONIGBERG: All we're doing is
19 entering appearances. I just want to know who's here --

20 MS. ARWEN: Okay.

21 CHAIRMAN HONIGBERG: -- representing
22 whom.

23 MS. ARWEN: Ariel Arwen, *pro se*.

24 CHAIRMAN HONIGBERG: Right. Yes, sir?

1 MR. CORWIN: Tim Corwin. I'm an
2 employee of the City of Lebanon, here on behalf of the
3 City of Lebanon.

4 CHAIRMAN HONIGBERG: Now, Mr. Speidel.

5 MR. SPEIDEL: I'm sorry. Alexander
6 Speidel, Staff of the New Hampshire Public Utilities
7 Commission. And, I have with me Stephen Frink, Assistant
8 Director of the Gas and Water Division.

9 CHAIRMAN HONIGBERG: The other
10 intervenor in this is Prometheus Energy? Anyone here from
11 Prometheus?

12 *[No verbal response]*

13 CHAIRMAN HONIGBERG: Do we expect anyone
14 here from Prometheus?

15 *[No verbal response]*

16 CHAIRMAN HONIGBERG: All right.

17 Preliminary matters. Ms. Arwen, what
18 was it you wanted to?

19 *[Court reporter interruption.]*

20 CHAIRMAN HONIGBERG: You don't need to
21 stand. You can sit. It will actually be easier for
22 everyone to hear, if you just use the microphone, make
23 sure the red light is on, keep the microphone
24 uncomfortably close to your face, and we'll all be good.

1 MS. ARWEN: Okay. Is that good?
2 Regarding the New Hampshire Climate -- this is short --
3 Climate Action Plan and other exhibits related to carbon
4 emissions and climate change, since the Commission has
5 concluded that these documents are not relevant, I wish to
6 preserve an objection to this evidentiary ruling for
7 purposes of appeal. I disagree with that Commission's
8 determination that these documents are not relevant to the
9 proceeding, and as -- as they are integral to issues at
10 hand, such as the public good. And, therefore, such
11 documents should be allowed on the record. As such, I
12 wish to preserve an objection to this evidentiary ruling,
13 in case I find it necessary to move for a rehearing. And,
14 I am reserving my right to move for a rehearing on the
15 potential decision. I question the basis of the
16 Commission's decision to exclude those documents pending
17 the Commission's ultimate decision on the issues in the
18 docket. Thank you.

19 CHAIRMAN HONIGBERG: Okay. Does anyone
20 want to comment or respond to Ms. Arwen?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: All right. Other
23 preliminary matters we need to deal with, before we get
24 started?

1 *[No verbal response]*

2 CHAIRMAN HONIGBERG: There are motions
3 for confidential treatment, I believe, that are out there.
4 Mr. Patch?

5 MR. PATCH: We filed a Motion for
6 Confidential Treatment, I believe it was a week ago, March
7 10th, with regard to responses to discovery requests.
8 Many of them I don't think are going to be offered as
9 exhibits. But we're not totally sure, until people try to
10 offer them or not.

11 So -- but, anyway, as required to do, I
12 believe, under the rules of the Commission, we filed a
13 Motion for Confidential Treatment with regard to discovery
14 requests, where we had noted we have a good faith basis
15 for believing that they were confidential, and we would
16 file before or at the hearing. And, that's what we did on
17 the 10th.

18 CHAIRMAN HONIGBERG: Does anyone intend
19 to object to the motions that were filed -- motion that
20 was filed recently for confidential treatment?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: All right. We
23 don't -- there's no need for us to rule on that right now.
24 But, if a document comes up that is affected by that

1 motion, you will have to alert us, and we'll deal with it
2 as we need to.

3 Other preliminary matters?

4 *[No verbal response]*

5 CHAIRMAN HONIGBERG: Are there members
6 of the public here who wish to make a public comment in
7 this docket? Yes, ma'am.

8 MS. SHARF: Hi. I'm Joanna Sharf.

9 *[Court reporter interruption.]*

10 CHAIRMAN HONIGBERG: Why don't you come
11 forward. Is there anyone else, other than Ms. Sharf? SH.

12 MS. SHARF: Do you want me to stay
13 there?

14 MR. SPEIDEL: You're welcome to just
15 come up and use this microphone, so the Court Reporter can
16 hear you.

17 CHAIRMAN HONIGBERG: Yes. If there's
18 just one person, then I think we should just take the
19 public comment. And, then, the member of the public who
20 wishes to comment will be done and can leave as she would
21 like, so -- or stay.

22 MS. SHARF: Okay.

23 CHAIRMAN HONIGBERG: If you would like
24 to make your public comment now, why don't you do so.

1 MS. SHARF: Okay. My name is Joanna
2 Sharf. I live in Cornish, New Hampshire.

3 CHAIRMAN HONIGBERG: Can you spell you
4 last name please?

5 MS. SHARF: S-h-a-r-f, as in "Frank".

6 CHAIRMAN HONIGBERG: Go ahead.

7 MS. SHARF: I work as an electrician.
8 So, I come up against issues with the power companies a
9 lot. And, I actually work against what one might think
10 are my own interests, in trying to urge my customers to
11 conserve electricity and not to expand our use of
12 electricity.

13 I am speaking in opposition to the
14 Petition to have a natural gas depot presented by Liberty
15 Utilities. On several grounds I'm objecting. I mainly
16 feel that we're at a critical point now, as a nation, as a
17 state, in terms of our planning for the future, of -- I'm
18 sorry. I will get this out pretty quickly, if I can.
19 And, this is a planning issue, in terms of how to get
20 energy to be used for, as needed, in our community. And,
21 I really think that we need to be very smart about how we
22 choose and plan for energy usage in the future. And,
23 economically, I think we need to be very wise about how we
24 choose those plans.

1 And, I just think that installing a
2 natural gas depot and a pipeline to bring it to whatever
3 places it needs to be brought to in the Upper Valley, I
4 just think that that's a poor -- it's not a wise planning
5 choice. It will cause us to invest a lot of money in
6 something that I think will just -- will not help the
7 future of our community.

8 And, I think it's really critical that
9 we deny this Petition, and instead focus our efforts on
10 developing renewable sources of energy for the community.

11 Thank you.

12 CHAIRMAN HONIGBERG: All right. Thank
13 you, Ms. Sharf. Is there anyone else? Any other member
14 of the public who wishes to comment?

15 Yes, ma'am.

16 REP. OXENHAM: Representative Lee
17 Oxenham. I'm from Plainfield. Thank you very much for
18 the opportunity to speak on this issue. As a State
19 Representative, I'd like to bring to the fore the notion
20 that this plan for expanding fossil fuel infrastructure
21 flies in the face of state policy. Our 10-year energy
22 plan is asking us to look to the future with renewables
23 and efficiency as the way to go forward.

24 And, so, I'm here to register my

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 opposition to expanding fossil fuel infrastructure in the
2 Upper Valley.

3 Thank you.

4 CHAIRMAN HONIGBERG: Thank you,
5 Representative Oxenham.

6 Is there any other member of the public
7 who wishes to provide comments?

8 *[No verbal response]*

9 CHAIRMAN HONIGBERG: All right. We'll
10 close the comment period.

11 Are there any other preliminary matters?

12 *[No verbal response]*

13 CHAIRMAN HONIGBERG: Seeing none.

14 Mr. Patch, you may proceed.

15 MR. PATCH: Thank you.

16 BY MR. PATCH:

17 Q. Would you each, beginning with you --

18 CHAIRMAN HONIGBERG: I think we need to
19 have them sworn in, actually.

20 MR. PATCH: Okay. I'm sorry. I thought
21 they were.

22 (Whereupon **David Swain,**

23 **William J. Clark, Richard G. MacDonald,**

24 and **Steven E. Mullen** were duly sworn by

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

the Court Reporter.)

DAVID SWAIN, SWORN

WILLIAM J. CLARK, SWORN

RICHARD G. MacDONALD, SWORN

STEVEN E. MULLEN, SWORN

DIRECT EXAMINATION

BY MR. PATCH:

Q. Okay. Mr. Swain, beginning with you, and then going in the order in which the testimony is presented, which would be Mr. Clark, Mr. MacDonald, and then Mr. Mullen. Would you each please state your name and address, and your position with the Company.

A. (Swain) Yes. My name is David Swain. I am the President of the Liberty Utilities (New Hampshire) Corporation.

Q. Mr. Clark.

A. (Clark) Good morning. William Clark. And, I head up business development for Liberty Utilities in New Hampshire.

Q. Mr. MacDonald.

A. (MacDonald) Richard MacDonald. I'm the Director of Gas Operations -- sorry. It's not working.

CHAIRMAN HONIGBERG: I thought it was your title that was the problem. I was wondering what the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 issue was.

2 WITNESS MacDONALD: It's an electrical
3 problem.

4 **BY THE WITNESS:**

5 A. (MacDonald) So, my name is Richard MacDonald. I'm the
6 Director of Gas Operations for Liberty Utilities. My
7 office is in Manchester, New Hampshire.

8 A. (Mullen) My name is Steven Mullen. I'm the Manager of
9 Rates and Regulatory for Liberty Utilities Service
10 Corp. And, my address is 15 Buttrick Road, in
11 Londonderry, New Hampshire.

12 BY MR. PATCH:

13 Q. And, Mr. Swain, as I understand it, this is your first
14 time testifying before the New Hampshire Commission, is
15 that correct?

16 A. (Swain) That's right.

17 Q. So, could you give the Commissioners a little bit of
18 your own personal background.

19 A. (Swain) I've worked in the utility business for 36
20 years. I've been in New Hampshire for the last six
21 months, started the job here October the first. Prior
22 to that, I was the president in the Mid-States
23 Corporation, where I oversaw the operations of
24 Illinois, Missouri, and Iowa, and had been there since

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 2013. Prior to that I worked for Atmos Energy
2 Corporation, and I was a Division Operations Manager,
3 oversaw operations in Illinois and Missouri, Iowa,
4 Tennessee, and Kentucky.

5 Q. Okay. Mr. Mullen, I'm going to show you a ten-page
6 document entitled the "Petition of Liberty Utilities
7 (EnergyNorth Natural Gas) Corporation doing business as
8 Liberty Utilities for Approval of a Gas Franchise in
9 Hanover and Lebanon". And, ask you if this is a copy
10 of the Petition that was filed with the Commission on
11 July 24th of 2015?

12 A. (Mullen) Yes, it is.

13 MR. PATCH: Thank you. I'll ask that
14 the documents be marked after we've gone through all of
15 the ones on the record, if that would be okay?

16 BY MR. PATCH:

17 Q. And, Mr. Swain, since you replaced Mr. Saad as
18 President of EnergyNorth, am I correct that you've
19 agreed to adopt the testimony that he filed on July
20 24th of 2015?

21 A. (Swain) Yes, I do.

22 Q. And, that testimony consists of ten pages and two
23 attachments?

24 A. (Swain) Correct.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. And, they're Bates Pages 1 through 14. I'm going to
2 just show you that document.

3 MR. PATCH: And, I'm going to leave it
4 up there at the witness table, because it actually
5 contains four different testimonies. I'm going to ask
6 each of the witnesses to verify them.

7 *[Atty. Patch handing document to the*
8 *witness panel.]*

9 CHAIRMAN HONIGBERG: Mr. Patch, are you
10 ultimately going to mark the testimony as separate
11 exhibits?

12 MR. PATCH: No, I was not, Mr. Chairman,
13 as one. You know, because they're Bates Page numbered,
14 and I thought it was more convenient to you.

15 CHAIRMAN HONIGBERG: I agree. Just I've
16 got them up here as one packet, and I was going to start
17 separating them out, if they're going to be separate
18 exhibits.

19 MR. PATCH: I can give you the -- if you
20 need an extra copy, I can give you that, but --

21 CHAIRMAN HONIGBERG: No, I think we're
22 good.

23 MR. PATCH: Okay.

24 CHAIRMAN HONIGBERG: Thank you.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. PATCH: Okay. Thanks.

2 BY MR. PATCH:

3 Q. So, Mr. Swain, do you have any corrections or updates
4 to the prefiled testimony?

5 A. (Swain) No, I don't.

6 Q. If you were asked the same questions today under oath,
7 would your answers be the same?

8 A. (Swain) Yes, they would.

9 Q. And, then, I also want to show you a one-page sheet,
10 that we have provided to the parties and filed with the
11 Commission, when we sent in the notification that you
12 would be adopting the testimony. And, I understand
13 this is a brief biography of your background.

14 *[Atty. Patch handing document to Witness*
15 *Swain.]*

16 BY MR. PATCH:

17 Q. Is that, in fact, the one-page sheet, your biography?

18 A. (Swain) Yes, it is.

19 Q. Thank you. And, Mr. Clark, are you the same individual
20 who submitted the prefiled testimony in this docket
21 dated July 24th, which was 16 pages in length, along
22 with five attachments to that testimony, and it's Bates
23 Pages 15 through 56?

24 A. (Clark) I am.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. And, I don't know if you can share that document I gave
2 to Mr. Swain, but just to make sure?

3 A. (Clark) Correct.

4 Q. Do you have any corrections or updates to this prefiled
5 testimony?

6 A. (Clark) Yes. I have one update. On Bates Page 28,
7 Lines 13 and 14, I state that "EnergyNorth has narrowed
8 the possible location of the fueling facility to a few
9 locations". Liberty has since executed an option
10 agreement for two parcels of land located at 384 and
11 386 North Plainfield Road, in West Lebanon, New
12 Hampshire.

13 Q. And, was that option agreement provided as a response
14 to a data request, Staff 2-5?

15 A. (Clark) It was.

16 Q. And, was there a redacted and unredacted version of
17 this?

18 A. (Clark) There were.

19 Q. And, it's my understanding that one of the other
20 parties plans to ask questions about the unredacted
21 version. But I'm just going to show you the redacted
22 version of that, and make sure that I have a correct --
23 I'm sorry. I'm going to show you the confidential
24 version, the unredacted version of that.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 *[Atty. Patch handing document to Witness*
2 *Clark.]*

3 BY THE WITNESS:

4 A. (Clark) This is it.

5 MR. PATCH: Okay. Thank you. And, when
6 I ask this to be marked, obviously, I will ask that it be
7 marked as "confidential" and kept under seal.

8 BY MR. PATCH:

9 Q. Mr. Clark, with the update that you just provided, if
10 you were asked the same questions today under oath,
11 would your answers be the same?

12 A. (Clark) They would.

13 Q. And, then, would you like to give a brief summary of
14 your testimony?

15 A. (Clark) A very brief summary, yes. So, Liberty
16 Utilities began exploring the concept of an island
17 utility back in 2013, with the emergence of new CNG
18 technologies and the potential LNG availability in the
19 Northeast. And, if awarded the franchise rights for
20 Hanover and Lebanon, we would like to build and
21 construct such a facility and such a utility in those
22 towns.

23 The distribution system that Liberty
24 plans to install are no different than any of the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 distribution facilities currently in operation in our
2 30 towns. The uniqueness of this system is the fueling
3 facility. Traditional utilities have an interconnect
4 with a natural gas pipeline. This facility will have
5 an LNG and CNG storage component, where we will be
6 trucking in LNG and CNG. As such, we would like to
7 treat this Petition, Hanover and Lebanon, to be
8 identical on the tariff for EnergyNorth, other than two
9 distinct changes.

10 The first change, the first difference,
11 is the cost of gas. And, the reason is, the
12 commodities will have different pricing, and the
13 fueling facility has a different cost. Those costs
14 will be borne strictly by the Hanover and Lebanon
15 customers, and not by the existing customers of
16 EnergyNorth.

17 The second difference is transportation
18 service. We will not be offering at this time
19 transportation service to commercial customers, due to
20 logistics of managing the deliveries of CNG and LNG to
21 that fueling facility.

22 So, after discussions with the City, and
23 other due diligence efforts on our part, we decided to
24 execute the option agreement for the land next to the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 landfill in West Lebanon.

2 Currently, Liberty operates three LNG
3 and three propane peak-shaving facilities currently,
4 that have been operating for decades safely and
5 reliably. Over the last two winters, we've had over
6 500 deliveries of LNG service to those locations.

7 Liberty also believes the growth
8 potential of natural gas in New Hampshire. Since
9 acquiring the EnergyNorth assets, Liberty has more than
10 tripled our new customer additions on an annual basis,
11 compared to our predecessor company. We also believe
12 in a satellite model, as evidenced by our recent
13 acquisition of New Hampshire Gas, which is now the
14 Keene Division of Liberty Utilities. That's a
15 propane/air facility that has trucked propane that gets
16 mixed with air and sent out to approximately 1,200
17 customers through an underground distribution network.
18 Extremely similar to what we project to build in
19 Hanover and Lebanon, other than natural gas will be
20 used. And, that's it.

21 Q. Mr. Clark, Francisco DaFonte also filed testimony in
22 this docket in July, and he cannot be here today. So,
23 as I understand it, you have agreed to adopt his
24 prefiled testimony, is that correct?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) That's correct.

2 Q. And, that testimony was eight pages in length, with no
3 attachments, Bates Pages 57 through 66. Am I correct?

4 A. (Clark) That's correct.

5 Q. And, do you have any corrections or updates to that
6 prefiled testimony?

7 A. (Clark) I do not.

8 Q. And, if you were asked the same questions today under
9 oath, would your answers be the same?

10 A. (Clark) They would.

11 Q. And, then, finally, you and Mr. Mullen filed rebuttal
12 testimony in this docket on February 26th of this year,
13 consisting of 13 pages and four attachments, which we
14 intend to mark as a separate exhibit. With the
15 attachments, this testimony is Bates Page numbered 1
16 through 27. I'm going to show you a copy of that
17 first.

18 *[Atty. Patch handing document to Witness*
19 *Clark.]*

20 BY MR. PATCH:

21 Q. And, just to be clear, we have both a confidential
22 version and a non-confidential version of that rebuttal
23 testimony, is that correct?

24 A. (Clark) Correct.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. And, the only confidential portion of that exhibit is
2 the information contained on Page 5. I'm just going to
3 show you that now. There's just one number on Page 5
4 that is confidential, as I understand it.

5 A. (Clark) That's correct.

6 Q. Okay. And, so, I'm going to --

7 COMMISSIONER SCOTT: Mr. Patch?

8 Mr. Patch?

9 MR. PATCH: Yes.

10 COMMISSIONER SCOTT: I'd like to note
11 that, for the Commissioners' copy, we can't read that
12 redaction. We can read the number, but we can't see that
13 it's marked. So, I just wanted to draw that to your
14 attention.

15 MR. PATCH: Okay. I mean, I'm happy to
16 provide you with both the redacted version and the
17 unredacted version, if that would be helpful?

18 CHAIRMAN HONIGBERG: It's not so much
19 that we can't number. We can see the number. What we
20 can't see is that there's shading. I mean, I think, if we
21 look carefully, we can see "oh, there was maybe some
22 shading here at one time". But, in all honesty, it just
23 kind of looks like a bad copy. And, so, it wasn't clear,
24 to look on the page, what had been redacted.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. PATCH: Okay.

2 CHAIRMAN HONIGBERG: And, since, just so
3 people understand, we don't generally get the redacted
4 versions of what's filed. When we get these things, we
5 only get the confidential versions, which show what has
6 been redacted shaded from the public copy.

7 Yes, Mr. Speidel?

8 MR. SPEIDEL: Mr. Chairman, I just
9 wanted to mention, on behalf of Staff, that Staff had
10 noticed this a couple weeks ago. And, we had some
11 back-and-forth with the Company regarding the shading.
12 And, they directed us to the specific line reference. I'm
13 sure Mr. Patch can provide that line reference once more
14 now.

15 And, moreover, Staff had -- I thought
16 that perhaps there had been -- when I was put on the spot
17 yesterday about it, I had misremembered. But what I had
18 advised them was, if there is an issue with it, we'll go
19 through it at hearing and advise the Commissioners
20 informally.

21 So, I think, in the future, what we'll
22 do is just have them refile. But I understand that Mr.
23 Patch right now has actually original versions of the
24 exhibit that have the shading that's very clearly

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 indicated. So, I think we should be all set.

2 CHAIRMAN HONIGBERG: And, I think we are
3 all set. I think we've probably spent more time on this
4 than we needed to.

5 MR. SPEIDEL: Thank you.

6 MR. PATCH: Thank you.

7 CHAIRMAN HONIGBERG: But we're good.

8 Thanks.

9 BY MR. PATCH:

10 Q. Okay. Mr. Clark, then, with regard to the rebuttal
11 testimony, do you have any corrections or updates?

12 A. (Clark) I do not.

13 Q. And, if you were asked the same questions today under
14 oath, would your answers be the same?

15 A. (Clark) Yes.

16 Q. Okay. Mr. MacDonald, are you the same individual who
17 submitted prefilled testimony in this docket?

18 A. (MacDonald) Yes, I am.

19 Q. Okay. And, that was in July, and consisted of seven
20 pages in length, with no attachments, Bates Pages 67
21 through 74. Does that sound correct?

22 A. (MacDonald) That is correct.

23 Q. And, do you have any corrections or updates to your
24 prefilled testimony?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (MacDonald) I do not.

2 Q. And, if you were asked the same questions today under
3 oath, would your answers be the same?

4 A. (MacDonald) Yes, they would.

5 Q. Now, Mr. Mullen, you submitted prefiled testimony in
6 July, seven pages in length, with no attachments, Bates
7 Pages 75 to 82, is that correct?

8 A. (Mullen) That's correct.

9 Q. Do you have any corrections or updates?

10 A. (Mullen) I do not.

11 Q. And, if you were asked the same questions today under
12 oath, would your answers be the same?

13 A. (Mullen) Yes, they would.

14 Q. And, then, also, Mr. Mullen, you filed that rebuttal
15 testimony jointly with Mr. Clark on February 26th,
16 which we've already identified for the record, is that
17 correct?

18 A. (Mullen) Yes.

19 Q. And, do you have any corrections or updates to this
20 rebuttal testimony?

21 A. (Mullen) I do not.

22 Q. If you were asked the same questions under oath about
23 the rebuttal testimony, would your answers be the same?

24 A. (Mullen) Yes, they would.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. PATCH: Thank you. If I can just
2 have that document that I handed to you, the one that was
3 sort of the whole package? If not, I have another copy.

4 Mr. Chairman, I would like to ask that
5 we mark for identification as "Exhibit 1" the Petition
6 that was identified, the July 24th Petition?

7 CHAIRMAN HONIGBERG: So, just the
8 Petition, and not the testimony?

9 MR. PATCH: That's right.

10 CHAIRMAN HONIGBERG: Okay.

11 MR. PATCH: Because that's separately
12 numbered, as compared to testimony has separate Bates Page
13 numberings.

14 CHAIRMAN HONIGBERG: Okay. So, Exhibit
15 1 is the Petition itself.

16 (The document, as described, was
17 herewith marked as **Exhibit 1** for
18 identification.)

19 MR. PATCH: And, then, "Exhibit 2" for
20 identification would be the package that includes all of
21 the prefiled testimonies that were filed with the Petition
22 in July, Bates Pages 1 through 82.

23 CHAIRMAN HONIGBERG: Okay.

24 (The document, as described, was

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 herewith marked as **Exhibit 2** for
2 identification.)

3 MR. PATCH: "Exhibit 3" is a one-page
4 document, which you don't have copies of and I'll give
5 them to you now, but that's Mr. Swain's biography.

6 *[Atty. Patch distributing documents.]*

7 (The document, as described, was
8 herewith marked as **Exhibit 3** for
9 identification.)

10 MR. PATCH: And, then, "Exhibit 4" would
11 be the redacted rebuttal testimony of Mr. Clark and
12 Mr. Mullen. And, Exhibit -- and that's Bates Pages 1
13 through 27. And, "Exhibit 5", I would ask would be the
14 confidential version of the rebuttal testimony, same Bates
15 Page numbering. And, I would ask that that be kept under
16 seal and preserved as being confidential.

17 CHAIRMAN HONIGBERG: All right. Four is
18 the redacted the version; five is the confidential
19 version.

20 MR. PATCH: That's right.

21 (The documents, as described, were
22 herewith marked as **Exhibit 4** and
23 **Exhibit 5**, respectively, for
24 identification.)

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. PATCH: And, then, "Exhibit 6" would
2 be the confidential version of the response to Staff 2-5,
3 which Commissioners would not have a copy of.

4 (Atty. Patch distributing documents.)

5 COMMISSIONER BAILEY: Thank you.

6 (The document, as described, was
7 herewith marked as **Exhibit 6** for
8 identification.)

9 MR. PATCH: And, just to be clear for
10 the record, it's the attachment to this response to a data
11 request that is confidential, not the actual response
12 itself.

13 And, so, with that, Mr. Chairman, the
14 witnesses are available for cross-examination.

15 CHAIRMAN HONIGBERG: All right. Thank
16 you, Mr. Patch.

17 Attorney Geiger, do you have any
18 questions for the witnesses?

19 MS. GEIGER: Yes, I do. Just a few.
20 Thank you. I believe these questions are primarily
21 directed to Mr. Clark. But, if other members of the panel
22 want to weigh in, that's fine, too.

23 **CROSS-EXAMINATION**

24 BY MS. GEIGER:

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Mr. Clark, is it correct that Liberty intends to use
2 both compressed natural gas and liquified natural gas
3 to serve its customers in the Hanover/Lebanon area, if
4 a franchise is awarded?

5 A. (Clark) That's correct.

6 Q. And, as part of its franchise proposal for Hanover and
7 Lebanon, does Liberty plan to construct a decompression
8 facility?

9 A. (Clark) Yes, we do.

10 Q. Is it Liberty's belief that using both LNG and CNG will
11 allow the Company the flexibility to provide the most
12 reliable and the least cost service to its customers?

13 A. (Clark) That's correct.

14 Q. Will the use of both LNG and CNG allow Liberty to
15 better manage trucking logistics to optimize delivery
16 and price?

17 A. (Clark) That's correct.

18 Q. Do you agree that a system capable of using both LNG
19 and CNG will help avoid the risk of price vagaries that
20 may exist with relying simply on one fuel?

21 A. (Clark) We do.

22 Q. Do you agree that a system capable of using both LNG
23 and CNG would be more reliable than a system that is
24 only capable of operating on LNG?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) Yes.

2 Q. Now, does Liberty intend to procure its gas supplies
3 through an open RFP process?

4 A. (Clark) We do.

5 Q. And, does Liberty also intend to use LNG trucking RFPs?

6 A. (Clark) As far as the RFP process, we have that
7 capability, and we've done that previously. Some
8 responses may include trucking or we may separately RFP
9 the trucking.

10 Q. And, why does Liberty believe it's appropriate to use
11 RFPs to obtain supply and trucking contracts?

12 A. (Clark) We believe you get the best cost, most reliable
13 option, by having two fuels and RFP'ing different
14 vendors for trucking supplies.

15 Q. Do you believe it's in the best interest of the Company
16 and its customers to do that?

17 A. (Clark) We do.

18 MS. GEIGER: Thank you. I have no
19 further questions.

20 CHAIRMAN HONIGBERG: Mr. Corwin, do you
21 have any questions for the witnesses?

22 MR. CORWIN: No.

23 CHAIRMAN HONIGBERG: Mr. Willing, do you
24 have any questions for the witnesses.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. WILLING: Yes, I do.

2 BY MR. WILLING:

3 Q. I'll start with Mr. Clark. The date of Liberty's
4 Petition was July 24th of last year, right?

5 A. (Clark) Yes.

6 Q. And, the Petition contemplates a gas utility project in
7 Lebanon and Hanover, right?

8 A. (Clark) Correct.

9 Q. The major components of the project, I can describe
10 what I understand to you, or you can -- do you want to
11 describe them in your own -- okay. Let me -- I'll read
12 them to you, and you tell me if you disagree. CNG
13 decompression skids, CNG tankers, I'm talking about
14 things that might be on the site, an LNG storage and
15 vaporization facility, a vehicle refueling facility,
16 and then off-site -- or, beginning on-site, the
17 underground pipeline distribution system?

18 A. (Clark) Correct.

19 Q. Okay. Is there anything I'm missing as a major
20 component in that list?

21 A. (Clark) We're exploring the opportunity of a vehicle
22 refueling facility as well.

23 Q. And, Liberty entered the option agreement that you've
24 talked about on September 1st, right, of last year?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) Correct.

2 Q. So, because of the dates, the site wasn't identified in
3 the Petition, because it wasn't known at the time?

4 A. (Clark) We were looking at a few different sites
5 earlier in that summer.

6 Q. Yes.

7 A. (Clark) We had some discussions with the City, we did
8 some due diligence on other locations. Some of those
9 locations were put out because of codes, one being that
10 you have to be more than a mile from the tip of a
11 airport runway, and the Lebanon Airport is in that
12 vicinity. So, we kind of drew a circle, after we
13 identified some potential sites.

14 We also looked at some newspaper
15 articles on responses of the City to another site on
16 there, and felt it was in everybody's best interest
17 that we conducted our search in the heavy industrial
18 zoning, where, you know, the trucking traffic and fuel
19 storage is currently allowed, which led us to this
20 site.

21 Q. Uh-huh. Did you ever, with any of these other sites,
22 reach a point of signing an option agreement or
23 similar --

24 A. (Clark) No, we did not.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Okay. So, the site that you selected that's the
2 subject of the option agreement is at 384 and 386
3 Plainfield Road, in Lebanon, right?

4 A. (Clark) Correct.

5 Q. And, the site is about 24 or 25 acres in size, is that
6 right?

7 A. (Clark) Yes.

8 Q. And, the area around the site is known as, I think, by
9 "Route 12A area/Exit 20"?

10 A. (Clark) Exit 20.

11 Q. That's the vicinity we're talking --

12 *[Court reporter interruption.]*

13 MR. WILLING: Okay.

14 BY MR. WILLING:

15 Q. -- "Route 12A/Exit 20/I-89". The current owner of the
16 site is Upper Valley Sand & Gravel, right?

17 A. (Clark) Correct.

18 Q. And, under the option agreement, obviously, Liberty has
19 an option to purchase the property from Upper Valley
20 Sand & Gravel, right?

21 A. (Clark) Correct.

22 Q. The option agreement then contemplates the execution of
23 a purchase agreement, where you would purchase, if you
24 exercised your option?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) Correct.

2 Q. But you haven't exercised the option yet, have you, --

3 A. (Clark) Not at this time.

4 CHAIRMAN HONIGBERG: Mr. Clark, if you
5 can, wait until Mr. Willing is finished with his question.
6 Mr. Patnaude is really good, but he only has two hands.

7 BY MR. WILLING:

8 Q. Mr. Clark, I want to refer to the PowerPoint for the
9 public presentation on September 29th, 2015. It was
10 premarked as "Exhibit 12", but I don't think it's -- it
11 hasn't been marked yet. So, I don't know if you're
12 able to access that?

13 A. (Clark) I believe that was in a data response. Just
14 give me a minute.

15 Q. It was data response of Staff 2.2, and it was
16 Attachment 2.2.1 is what we're talking about.

17 A. (Clark) I have it.

18 MR. WILLING: I wonder if I could ask
19 Attorney Patch to -- I think that we were going to be
20 providing these exhibits to the Commissioners, so that
21 they can follow along. Do you have copies for them?

22 MR. PATCH: No, I don't. I thought that
23 was your exhibit, --

24 MR. WILLING: Okay.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. PATCH: -- so you would provide the
2 copies.

3 CHAIRMAN HONIGBERG: Mr. Willing, while
4 Ms. Brown looks for that discovery response, --

5 MR. WILLING: Yes. Yes, we can --

6 CHAIRMAN HONIGBERG: -- do you want to
7 move onto something else?

8 MR. WILLING: Yes.

9 BY MR. WILLING:

10 Q. The drawing that -- let's talk about zoning for a
11 minute. The site is zoned "heavy industrial", I think
12 you said, right?

13 A. (Clark) Correct.

14 Q. The project is not a permitted use in that zone, is
15 that right?

16 A. (Clark) We are in discussions with the City, but we
17 haven't determined whether we will need a variance or
18 not as of yet.

19 Q. Okay. So, obviously, you haven't applied for a
20 variance, if you need one?

21 A. (Clark) We have not. We have discussions, and fuel
22 storage is allowed, whether CNG or LNG represents fuel
23 storage will be the question.

24 Q. Uh-huh. You haven't completed any project design work

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 on this project yet, have you?

2 A. (Clark) We have a owner's engineer, which is Sanborn
3 Head Associates out of Concord, that has done some
4 preliminary design work, as well as a Phase I Fatal
5 Flaw Analysis of the site, which included thermal
6 radiation zones, and the ability to actually construct
7 on that site.

8 Q. You haven't provided the Commission with a site plan,
9 have you?

10 A. (Clark) Can you define "site plan"? I'm not sure.

11 Q. A plan that depicts where the components of the project
12 will be located on the site with some degree of
13 precision?

14 A. (Clark) No. We have not designed entrance and exits to
15 the site, where the exact tank locations will be, as
16 far as GPS coordinates. We have an idea of where
17 they're going to be sitting on the site.

18 Q. You haven't provided the Commission with a preliminary
19 design of any sort, right?

20 A. (Clark) The design work, that was submitted as part of
21 the data requests only.

22 Q. I'm sorry. You haven't done any gas modeling work,
23 have you? I'm talking about vapor dispersion modeling
24 site work.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) Thermal radiation, not vapor dispersion, yes.

2 Q. All right. Would you agree that vapor dispersion
3 modeling is an important step to determining whether a
4 project is viable at that site?

5 A. (Clark) Yes.

6 Q. Have you obtained any state or local permitting
7 approvals for this site?

8 A. (Clark) No. We have not executed the option
9 agreements, so have not applied for any permits for
10 that site yet.

11 Q. Oh. So, therefore, you haven't applied for a local
12 site plan review either?

13 A. (Clark) We have not.

14 MR. WILLING: I'm sorry, may I approach?

15 CHAIRMAN HONIGBERG: Sure.

16 MR. WILLING: These are the documents
17 that are the exhibits we were talking about, and the
18 parties should have copies of these.

19 *[Atty. Willing distributing documents.]*

20 CHAIRMAN HONIGBERG: Do you need to give
21 a set to the Clerk?

22 MR. WILLING: Yes.

23 MR. SPEIDEL: Is this the Staff 2-2
24 response, Mr. Willing?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. WILLING: It's the 2-5 response.

2 MR. SPEIDEL: So, it's 2-5. So, okay.

3 MR. WILLING: Or is it --

4 CHAIRMAN HONIGBERG: It says "2-5" here
5 on the first page.

6 MR. WILLING: Got it.

7 CHAIRMAN HONIGBERG: Mr. Patch?

8 MR. PATCH: I just want to make sure
9 that's the redacted 2-5?

10 COMMISSIONER BAILEY: It is.

11 MR. WILLING: Yes. We only have the
12 redacted version.

13 MR. PATCH: Yes.

14 BY MR. WILLING:

15 Q. Okay. I want to talk about storage for a minute. Mr.
16 Clark, can you please refer to -- do you have the data
17 responses in front of you? I'm going to talk about a
18 data response that I'm not planning to enter as an
19 exhibit.

20 A. (Clark) I do.

21 Q. Okay. Can you refer to NGA 1-1? By the way, I'll also
22 be talking about Arwen 1-1 in this sequence, if you
23 want to flag that as well. In NGA 1-1, you stated that
24 "Liberty is relying on LNG for its storage

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 requirements", right?

2 A. (Clark) As a portion --

3 Q. As a portion, right.

4 A. (Clark) -- for its storage requirements.

5 Q. And, you stated that Liberty expects its initial
6 build-out to require one 60,000 gallon LNG tank,
7 right?

8 A. (Clark) Correct.

9 Q. And, the design of on-site storage or the idea of
10 on-site storage is anticipated to be a series of 60,000
11 gallon LNG tanks, correct?

12 A. (Clark) That's correct.

13 Q. And, you'd have a maximum of four 60,000 gallon tanks
14 on the site at full build-out or something approaching
15 full build-out, right?

16 A. (Clark) Potentially.

17 Q. Okay. And, the LNG might be supplemented with CNG,
18 yes, as has been discussed earlier? Well, maybe,
19 actually, the storage requirement hasn't been discussed
20 already fully yet. Will you be using the CNG to
21 supplement LNG, in terms of meeting the storage
22 requirement?

23 A. (Clark) Well, I wouldn't classify it as
24 "supplementing", it depends on how the RFP comes back.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 CNG could be the base fuel that we're trucking in on a
2 daily, because of pricing, and LNG meets the seven-day
3 storage requirement from the PUC 500 rules. But the
4 actual fuel being utilized on a day-to-day basis would
5 be CNG.

6 Q. In NGA 1-1, you stated that the Commission allows a gas
7 utility to use up to 70 percent of trucking volumes for
8 five days of the seven-day storage requirement, right?

9 A. (Clark) Correct.

10 Q. And, trucking in supply is cheaper and less expensive
11 than storing supply on site, in general, right?

12 A. (Clark) It depends on the size of the system and how
13 many trucks per day versus your storage need, but --

14 Q. Would you agree that using transportation contracts to
15 meet the seven-day storage requirement carries more
16 reliability risk than having the storage physically on
17 the site?

18 A. (Clark) That would depend on many factors: Distance
19 from the CNG compression, access points of the CNG
20 provided that won the RFP, there may be multiple
21 locations that, if there was a road closure or a
22 disruption at one location, they could feed from a
23 secondary location. So, --

24 Q. Ice storms and weather events and similar things can

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 prevent trucks from delivering gas and getting through
2 to a site during the winter, is that --

3 A. (Clark) Correct.

4 Q. -- is that correct? Where will the CNG be trucked
5 from, do you know?

6 A. (Clark) Well, we haven't entered the RFP process. So,
7 we haven't picked a CNG provider. There is, I believe,
8 seven CNG providers in the Northeast, in the New
9 England market. There's approximately four or five LNG
10 providers going out as far as Pennsylvania and up to
11 Montreal, Canada. A few projects in development for
12 liquefaction in New England. And, so, --

13 Q. But, at this point, you don't know?

14 A. (Clark) We don't.

15 Q. Is the basic trade-off cost versus reliability, in
16 terms of using contracts for storage requirements?

17 A. (Clark) Well, they're not exclusive. We like to call
18 it the, you know, "best cost option". We rank both
19 reliability and cost, and weigh them both, when we
20 decide who will ultimately receive the contract.

21 Q. Uh-huh. If Liberty were required to have more on-site
22 storage than you stated in your response to NGA 1-1,
23 and you gave some numbers in there, meeting the
24 seven-day requirement would be more costly, most

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 likely, right? If you had to do more physical on-site
2 storage, as opposed to the amount that you're
3 projecting?

4 A. (Clark) Yes. If the -- if we got more customers than
5 we anticipated, and we then needed to meet the
6 seven-day storage requirement and add to that facility,
7 then there would be a larger investment that would be
8 warranted, because of the customer additions.

9 Q. Yes. I'm talking about if you had to use a higher --
10 apply a higher percentage of on-site storage to your
11 seven-day storage requirement, versus the percentage of
12 trucking capacity?

13 A. (Clark) Well, --

14 Q. Never mind. If meeting the storage requirement costs
15 more than you projected, then those higher costs would
16 have to be passed through to ratepayers, right?

17 A. (Clark) The seven-day storage is a calculation. If we
18 get up to the point where we're at 1.5, 1.6 Bcf of
19 throughput, that warranted more storage on-site, then
20 we would construct that storage. We would follow our
21 existing tariff that we have petitioned to be in effect
22 in Hanover and Lebanon. That, if any one customer or
23 class of customers wanted to take service that required
24 a substantial upgrade, they would bear the cost of that

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 upgrade in their rates.

2 Q. Calculations of the storage requirements at this point
3 are estimates, right, because the customer loads are
4 estimates at this point?

5 A. (Clark) Correct.

6 Q. In NGA 1-2, I don't know if you want to refer to that,
7 you state that "two potential large customers would be
8 dual fuel, and, therefore, interruptible", right?

9 A. (Clark) Correct.

10 Q. And, therefore, they are not included in Liberty's
11 calculations of the seven-day storage requirement at
12 this time, right?

13 A. (Clark) Those very large customers that are dual fuel,
14 and we do not currently have an interruptible rate in
15 our tariff, so, we would most likely seek special
16 contracts with those customers, that would release the
17 seven-day storage requirement, because we would be able
18 to switch them over within a 24-hour period to an
19 alternate fuel.

20 MR. WILLING: Okay. I'm done talking
21 about storage. I'd like to approach the Bench, if I can?

22 CHAIRMAN HONIGBERG: Sure.

23 *[Atty. Willing distributing documents.]*

24 MR. WILLING: These are actually the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 premarked exhibits that I was going to be talking about
2 earlier. So, I'll go back to that.

3 CHAIRMAN HONIGBERG: And, does the Clerk
4 already have a copy of this or is that the last one in
5 your hand?

6 MR. WILLING: This is it.

7 CHAIRMAN HONIGBERG: Yes. All right.
8 Off the record.

9 *[Brief off-the-record discussion*
10 *ensued.]*

11 MR. SPEIDEL: And, this is the response
12 to a particular data request?

13 MR. WILLING: Yes. This is the response
14 to Staff 2.2.

15 MR. SPEIDEL: Okay. So, that's back on
16 the list. All right. Thank you.

17 CHAIRMAN HONIGBERG: Does this already
18 have a number, some scheme that we're not aware of?

19 MR. WILLING: It was premarked as
20 "Exhibit 12". So, I assume we're sticking to that.

21 MR. SPEIDEL: And, the 2-5, it was
22 concurred they would be "11". There's going to be NG
23 Advantage and OCA and Staff-related exhibits that will be
24 in between.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 CHAIRMAN HONIGBERG: Okay. So, 2-5, I
2 think was -- the confidential version was marked as
3 "Exhibit 6" by Mr. Patch. And, then, there's a redacted
4 version that got handed out by Mr. Willing. Does that
5 have a number already?

6 MR. WILLING: That is "Exhibit 11", I
7 believe.

8 CHAIRMAN HONIGBERG: The redacted
9 version is "11".

10 MR. WILLING: The redacted version is
11 "11".

12 (The document, as described, was
13 herewith marked as **Exhibit 11** for
14 identification.)

15 CHAIRMAN HONIGBERG: And, you said that
16 2-2 that was just handed out is number "12"?

17 MR. WILLING: Is number "12".

18 (The document, as described, was
19 herewith marked as **Exhibit 12** for
20 identification.)

21 *[Atty. Patch handing document to*
22 *Chairman Honigberg.]*

23 CHAIRMAN HONIGBERG: And, there's a
24 list. Thank you, Mr. Patch.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. PATCH: And, it was just a list we
2 came up with at the evidentiary conference the other day,
3 you know, to try to get organized, but --

4 CHAIRMAN HONIGBERG: We're all in favor
5 of organization.

6 MR. PATCH: Thank you.

7 BY MR. WILLING:

8 Q. Okay. So, and, Mr. Clark, I want to refer to
9 Exhibit 12, new Exhibit 12, which is an attachment to
10 Staff 2.2. And, if you would turn to Page 10 of that
11 attachment, referring to a page that has a header "Site
12 Selection".

13 A. (Clark) I have it.

14 Q. Okay. This drawing depicts the site, right, outlined
15 in red?

16 A. (Clark) I have a black and white copy.

17 Q. Oh.

18 A. (Clark) But I'm assuming that's red.

19 Q. Okay. And, the site is 24 or 25 acres in size, I think
20 you said before, right?

21 A. (Clark) Correct.

22 Q. Not all of the 24 or 25 acres is available to be used
23 by the project, right?

24 A. (Clark) That's correct.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. The site includes a floodwater retention pond, is that
2 right?

3 A. (Clark) That is correct.

4 Q. And, there is a conservation easement on the property
5 to the City of Lebanon relating to the pond?

6 A. (Clark) Correct. That was in our evaluation from our
7 owner's engineers, as far as the Fatal Flaw Analysis,
8 as to whether this site would work for LNG storage.

9 Q. And, in the area covered by the conservation easement,
10 there's a restriction on development, right?

11 A. (Clark) Correct. We would simply be using that as a
12 buffer.

13 Q. Okay. Do you have -- do you know the appropriate
14 acreage of that area?

15 A. (Clark) I don't. I'd be guessing. Subject to check,
16 about four acres.

17 Q. Let me suggest something. Is it eight and
18 three-quarters acres, something like that?

19 A. (Clark) Subject to check.

20 Q. Okay.

21 A. (Clark) I'll take that.

22 Q. And, there are wetlands on the site, right?

23 A. (Clark) Yes.

24 Q. And, the City of Lebanon has wetland setback

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 requirements that would prohibit development in wetland
2 areas, right?

3 A. (Clark) I believe so.

4 Q. And, the City of Lebanon's zoning ordinance also has
5 setbacks along property boundaries, right?

6 A. (Clark) Correct. We had a few different discussions
7 with City of Lebanon officials before executing this
8 option agreement. And, the feedback was very positive
9 that this site would be preferred for an LNG storage or
10 CNG decompression location.

11 Q. Liberty hasn't submitted to the Commission an estimate
12 of how much of the 24 or 25 acres is actually usable
13 for the project, has it?

14 A. (Clark) No.

15 Q. Based on all of these restrictions, would it be fair to
16 say that half or more of the 24 acres would be
17 unavailable for development?

18 A. (Clark) I would not concede to that at this time.

19 Q. Can you give me any sort of a ballpark estimate?

20 A. (Clark) No. We have not applied for any variances or
21 setbacks. We have all of the recommendations, all of
22 the guidelines, City guidelines for our setbacks. We
23 performed an analysis, thermal radiation, and siting,
24 including topography, and feel that the facility will

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 fit on the workable space on this site.

2 Q. Okay. That's it on that topic. I want to circle back
3 to the purchase options for one or two questions here.

4 What would be the trigger event for
5 Liberty to decide to purchase the property, to exercise
6 its option?

7 A. (Clark) The first trigger would be awarding of the
8 franchise rights.

9 Q. So, before the franchise is awarded, you wouldn't
10 expect to exercise the option on that property?

11 A. (Clark) At this point, I don't think that would be
12 prudent. We have option extensions. So, we have
13 optionality, as far as when we purchase that site.

14 Q. A couple of questions for Mr. MacDonald, to change it
15 up here. Liberty does not currently operate any
16 baseload LNG facilities, right?

17 A. (MacDonald) That is correct.

18 Q. And, Liberty does not currently operate any CNG
19 facilities, right?

20 A. (MacDonald) We have one under construction in Concord.

21 Q. You don't currently operate any?

22 A. (MacDonald) Correct.

23 Q. Okay. I'm going to go back to Mr. Clark. Referring
24 again to Exhibit 12, Staff 2-2.1. That's the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 attachment to Staff 2-2.

2 A. (Clark) That's the PowerPoint for the City?

3 Q. Yup.

4 CHAIRMAN HONIGBERG: Mr. Willing, while
5 we're getting there, you've said this now a couple of
6 times, and I want to make sure I understand what the
7 actual exhibit is.

8 MR. WILLING: Yes.

9 CHAIRMAN HONIGBERG: Is the exhibit the
10 response, plus the attachment?

11 MR. WILLING: It is, although I'm not so
12 concerned about that.

13 CHAIRMAN HONIGBERG: Okay. But the way
14 you've referred to it a couple of times now is that
15 Exhibit 12 is the attachment to the data response.

16 MR. WILLING: Okay.

17 CHAIRMAN HONIGBERG: I just want to make
18 sure that we're looking at the right thing and that the
19 record reflects what the exhibit actually is.

20 MR. WILLING: Yes.

21 CHAIRMAN HONIGBERG: Okay.

22 MR. WILLING: You are. Sorry for the
23 confusion.

24 BY MR. WILLING:

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. The site is located about a mile and a quarter, would
2 you say, from Exit 20?

3 A. (Clark) That sounds about right.

4 Q. And due south, right?

5 A. (Clark) Correct.

6 Q. The area between the highway and the Liberty site is
7 heavily developed, right?

8 A. (Clark) It's a Commercial and Industrial District. For
9 the Commissioners, there's a aggregate company, Pike
10 Industries, that operates on that road. The City of
11 Lebanon Landfill will be adjacent to us. From there,
12 to the Exit 20, off of Route 89, is strictly
13 commercial. There is the Home Depot, J.C. Penney's,
14 McDonalds, restaurants, strip malls.

15 Q. Yes. There are several strip malls or shopping
16 centers, right?

17 A. (Clark) Correct.

18 Q. Okay. And restaurants. You mentioned the Lebanon
19 Landfill. Carroll Concrete is down there?

20 A. (Clark) That's correct.

21 Q. Pike Industries?

22 A. (Clark) Correct.

23 Q. So, would you agree it's a heavily-traveled road?

24 A. (Clark) There is traffic on that road. And, the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 traffic and the design of the off-ramps and the road
2 was based on heavy truck traffic, including those
3 concrete trucks and Pike Industries' trucks, which is
4 one of the reasons we selected that site.

5 Q. How many stoplights are there between Exit 20 and your
6 site?

7 A. (Clark) It would be a guess, three.

8 Q. Does five sound right?

9 A. (Clark) Subject to check, five.

10 Q. Okay. How many CNG tanker trucks do you expect to
11 drive up and down that road at initial build-out?

12 A. (Clark) Again, it would depend on who wins the
13 contract, the customer mix at start-up, and the fuel
14 mix. One CNG delivery truck is about 355 Mcf and an
15 LNG truck is about two and a half times that. So,
16 depending on who wins the contract, it could be, you
17 know, a difference of multiple of three and how many
18 trucks are going up and down that road.

19 Q. Uh-huh. But there would be more trucks if CNG one the
20 contract, right?

21 A. (Clark) Correct. If CNG was the baseload fuel, there
22 would be more trucks.

23 Q. Because CNG is less energy-dense, therefore you need
24 more trucks to provide the same energy volume?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) That's correct.

2 Q. Okay. And, at full build-out, do you have any sense
3 how many there would be?

4 A. (Clark) No. Not that I would want to put out there at
5 this time, it would be a guess.

6 Q. Okay. And, so, there haven't been any traffic studies
7 done to determine what the truck traffic impacts would
8 be in that area, right?

9 A. (Clark) Well, we would have to have a pretty good idea
10 of customer count, storage, and who wins the contract,
11 before we would do an analysis and estimate how many
12 trucks would be coming through.

13 Q. Do you expect that any restrictions would be imposed on
14 truck traffic through the local zoning variance or site
15 plan review processes?

16 A. (Clark) Not that I'm aware of. Again, as I mentioned,
17 we've had a few meetings with the City, including the
18 fire chief. One of the topics that came up was
19 Liberty's ability in being dual fuel, LNG and CNG, is
20 that we could restrict deliveries during certain
21 timeframes. So that, if there was a traffic problem
22 that occurred every morning between 7:00 and 9:00, we
23 could utilize LNG that's on the storage site at that
24 time, restricting deliveries, and bringing the CNG

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 trucks in at a later date. So, we would be willing to
2 work with the City if there's any timing restrictions
3 or any thoughts that they would have towards the
4 delivery schedule.

5 Q. And, I know you've been talking to Kleen Laundry. Are
6 you aware that there are restrictions on when you can
7 deliver to Kleen Laundry?

8 A. (Clark) Yes.

9 Q. Would it fair to assume that some restrictions, similar
10 to Kleen Laundry, --

11 A. (Clark) I would --

12 Q. -- would be applied in your area?

13 A. (Clark) I would not say that. Kleen Laundry is in a
14 very dense area in downtown Lebanon, not near the exit.
15 I believe there's a couple of schools, or at least on a
16 thoroughfare on the way to one of the schools, down
17 there. So, I think it's a different dynamic at that
18 site than our location.

19 Q. Change gears a little bit. You've mentioned earlier
20 that you plan to have vehicle refueling at the site?

21 A. (Clark) I believe I stated "we were evaluating the
22 possibility of having vehicle refueling at the site."

23 Q. Okay. If you had it, would CNG be the fuel?

24 A. (Clark) That would depend on a couple different

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 factors. There may be an opportunity to have both
2 fuels there. I know many LNG suppliers and tractors
3 are now utilizing LNG as the fuel source for the
4 delivery. And, I believe some CNG trucks are also
5 switching to CNG as a fuel. So, I believe the answer
6 is, we may have both fuels there in the future.

7 Q. Uh-huh. Who would the customers be for the vehicle
8 refueling, do you know that?

9 A. (Clark) Past customers that utilize CNG, we have a
10 customer of ours in Nashua that owns a public access
11 CNG vehicle refueling. It's on the site of the
12 transportation yard for the City of Nashua. The City
13 of Nashua has converted 13, I believe it's 13, of their
14 trash trucks to run on compressed natural gas. I
15 believe they're up to three or four buses, some pick-up
16 trucks, and some other commercial businesses in the
17 area that utilize that facility.

18 Q. Uh-huh. So, if you're successful in building a vehicle
19 refueling station there, all those trucks would then be
20 coming on the same road?

21 A. (Clark) It's possible, or there could be a different
22 location. I mean, if we have a network of underground
23 distribution piping, there's a possibility of
24 installing a CNG vehicle refueling at another point in

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 the City, we'd be able to compress at that location,
2 much like Nashua. So, they may not necessarily be on
3 that site. LNG would most likely be on that site, but
4 CNG has the optionality of being on that site or
5 someplace else in the City.

6 Q. I want to talk about the pipeline build-out for a
7 minute, and I think I'm talking to Mr. MacDonald at
8 this point. I want to refer to Mr. MacDonald's
9 testimony, which is part of Exhibit 2, and I want to
10 refer to Bates number 071. I'll give you a second to
11 find that, if you need to. Are you all set, Mr.
12 MacDonald?

13 A. (MacDonald) I am.

14 Q. Okay. In your testimony, you said that the timeframes
15 for constructing the pipeline distribution system "will
16 depend on when approvals are received". Right?

17 A. (MacDonald) That is correct.

18 Q. And, the location of the facility, which wasn't known
19 at the time you gave your testimony, right?

20 A. (MacDonald) That is correct.

21 Q. And, the number and locations of anchor customers to be
22 served from that facility, right?

23 A. (MacDonald) Yes.

24 Q. And, on Lines 8 to 10 of that same testimony, on the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 same page, you said that the build-out would "likely be
2 performed in phases over a two- or three-year
3 [timeframe]." Right?

4 A. (MacDonald) That is correct. In parallel with the
5 construction of the CNG and LNG facility.

6 Q. Okay. Now, I'll refer to Exhibit 12, which is the
7 response to Staff 2-2.1, which we've been talking
8 about. And, I want to point you to Page 13 of that
9 attachment.

10 A. (MacDonald) What was that number again?

11 Q. It's Exhibits 12. It's Staff 2.2 -- 2-2, I apologize,
12 and I'm referring to that attachment to that response.

13 A. (MacDonald) And what page?

14 Q. Page 13. So, this, to make sure we're on the right
15 slide, it's a slide that has the heading "Build-out".

16 A. (MacDonald) Yes. I have it in front of me.

17 Q. Okay. So, here, the sequence of the build-out would go
18 from left to right on this illustration, right?

19 A. (MacDonald) Correct.

20 Q. And up a little bit?

21 A. (MacDonald) Yes.

22 Q. So, the first circle on the left is Exit 20, the Route
23 12A area near your site, right?

24 A. (MacDonald) Correct.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. And, that's kind of the logical first place to build
2 out your pipe?

3 A. (No verbal response).

4 Q. Okay. Then, the second circled area is the Seminary
5 Hill area, is that right? The middle circle?

6 A. (MacDonald) Yes, I believe so.

7 A. (Clark) That's correct.

8 Q. And, then, the third, the far circle on the right is
9 downtown Lebanon, right?

10 A. (MacDonald) Okay.

11 Q. So, Liberty would propose, as I understand it, to lay
12 pipeline between these areas on town roads, not I-89,
13 right?

14 A. (MacDonald) Correct.

15 Q. So, the pipeline would cross under the highway and over
16 the Mascoma River, north of the highway, is that right?

17 A. (MacDonald) Crossing the river?

18 Q. Yes.

19 A. (MacDonald) Bill.

20 A. (Clark) Yes. After downtown. So, in that third circle
21 over, there may be a directional bore or a bridge
22 crossing.

23 Q. Okay.

24 A. (MacDonald) Okay.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Yes. Yes, I'm talking about the first circle on the
2 left. I believe that the Mascoma River is right next
3 to the highway. And that, to get to the town road,
4 that would send you right, you know, across the river,
5 is that right?

6 A. (Clark) I believe -- well, I can give a brief
7 description of what we are calling the "backbone" of
8 our system. Correct. So, it's about 11 miles that we
9 see as our backbone. So, once you exit our facility,
10 in that first circle, and you terminate on the next
11 page, on Page 14, on that last circle, which is
12 downtown Hanover, that distance is about 11 miles.

13 So, the first, you know, we would follow
14 Route 12, up to Route 10, and then follow Route 10 down
15 through Miracle Mile, by Liberty Utilities' electric
16 distribution company is there, Timken Manufacturing,
17 crossing back under 89, going to downtown Lebanon,
18 crossing under Route 89 again, heading up 120, till we
19 eventually get to downtown Hanover. That we're
20 considering as a "backbone". As I said, it's about 11,
21 11 miles of pipe, to get from one end to the other.

22 From that main route, we will kind of
23 branch off, kind of like a Christmas tree, to get up
24 into the residential neighborhoods, side streets, and

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 other business areas.

2 Q. Okay. Just want to make sure of the sequence. On Page
3 13, one, two, three, left to right, you hit those areas
4 as you extend out your pipeline, right?

5 A. (Clark) That's correct.

6 Q. And, then, over on Page 14, the circle at the bottom
7 right is just north of the third circle on the previous
8 page. And, this is the Etna Road area?

9 A. (Clark) That's correct. I believe that's Exit 18, near
10 Hypertherm.

11 Q. Yes. Uh-huh. And, then, the middle circle is where
12 you'd go next, and that's the Dartmouth-Hitchcock
13 Medical Center area?

14 A. (Clark) Correct. That's the Medical Center, Centerra
15 Business Park, and a --

16 *[Court reporter interruption.]*

17 **CONTINUED BY THE WITNESS:**

18 A. (Clark) -- and a few other developments.

19 WITNESS CLARK: Sorry, Steve.

20 BY MR. WILLING:

21 Q. And, then, finally, the upper circle is downtown
22 Hanover, right?

23 A. (Clark) That's correct.

24 Q. So, that's the "11 miles" that you're talking about?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) Correct.

2 Q. And, you depicted six build-out phases here. Does that
3 sound right?

4 A. (Clark) Well, the -- they're not timed phases, they are
5 six distinct pockets that we're going to serve. That
6 doesn't mean that it's going to be six years to get to
7 the sixth circle.

8 Q. Uh-huh. In OCA 1-6, you said that "the year one
9 build-out would be the Exit 20/Route 12A area", right?

10 A. (Clark) Yes. Coming out of our facility, that will be
11 the first.

12 Q. And, Seminary, and also in OCA 1-6, the Seminary Hill
13 residential area would come "either in year one or year
14 two"?

15 A. (Clark) Correct. Depending on -- depending on the
16 timing of the completion of the storage facility, if
17 we're halfway through a construction season, we may
18 just get up to Exit 20. And, if we can start putting
19 pipe in the ground in early April, we may be able to
20 get all the way up to Seminary Hill, and down by
21 Miracle Mile. So, depending on the construction
22 season.

23 Q. Is it, referring back to Mr. MacDonald's testimony, is
24 it -- do you still believe that full build-out would be

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 completed in a two- or three-year timeframe?

2 A. (MacDonald) As Bill had mentioned, you know, timing of
3 the award of the franchise, you know, when that occurs
4 during the construction season, and as these customers,
5 you know, are signed up, everything falling into place,
6 yes, two to three years.

7 Q. That's still your testimony?

8 A. (MacDonald) It is.

9 Q. Okay. Turning to Kleen Laundry. And, I'm going to
10 direct those to Mr. Clark, although others may join in
11 if they want. In Liberty's Petition, Kleen Laundry was
12 identified as an "anchor customer", right?

13 A. (Clark) Yes.

14 Q. And, Liberty stated in the Petition that it would run a
15 pipeline to its anchor customer, right?

16 A. (Clark) Eventually.

17 Q. And, Liberty signed a Letter of Intent with Kleen
18 Laundry dated February 5th, that was referred to in
19 your rebuttal testimony, which I believe is Exhibit 4,
20 right?

21 A. (Clark) That's correct.

22 Q. Okay. At Bates number 17 in Exhibit 4, I'll give you a
23 second to find that.

24 A. (Clark) Exhibit 4, was that the rebuttal?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. It's the rebuttal testimony, with the LOI attachment.

2 A. (Clark) I'm sorry, can you repeat the Bates Page?

3 Q. Sure. It's Bates stamp 17.

4 A. (Clark) I have it.

5 Q. Okay. So, referring to that page, the LOI contemplates
6 a deal where Liberty would deliver CNG or LNG by truck
7 to Kleen Laundry, right?

8 A. (Clark) No, by pipe.

9 Q. And, under the LOI, Liberty has an exclusive right to
10 negotiate a final agreement, right?

11 A. (Clark) That's correct.

12 Q. Okay. And, the period of exclusivity lasts for one
13 year from when you signed the LOI?

14 A. (Clark) Correct.

15 Q. UGI currently supplies LNG to Kleen Laundry, right?

16 A. (Clark) I'm not 100 percent positive that it's UGI.

17 Q. Do you know who --

18 A. (Clark) I know they receive LNG. I just -- I don't
19 100 percent know who their supplier is. I heard
20 reference that it's UGI, but I have not heard that from
21 Kleen Laundry themselves.

22 Q. Did Kleen Laundry tell you anything at all about their
23 current supply arrangements?

24 A. (Clark) That they still have term left on it.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. And, what is that term?

2 A. (Clark) This -- I don't know if I should be giving out
3 customer information.

4 Q. Well, let me suggest, are you aware that the UGI
5 contract expires in February 2018, two years from now?

6 MR. PATCH: Mr. Chairman, I'm just
7 worried we're getting into confidential information. You
8 know, it's specific to this particular anchor customer,
9 and I don't think there's anybody here representing them.
10 But, to the extent that Mr. Clark is aware or anybody from
11 EnergyNorth is aware, that they consider that confidential
12 information. I'd be concerned about putting it in the
13 record, unless it was sealed.

14 CHAIRMAN HONIGBERG: Mr. Willing?

15 MR. WILLING: I don't mind if that the
16 information is sealed. We know the information. So, I'm
17 not sure how confidential it actually is. But I am
18 indifferent as to whether it's under seal.

19 CHAIRMAN HONIGBERG: Well, then,
20 Mr. Speidel, or do any of the other parties have an
21 opinion on how to deal with this little issue,
22 understanding that there's a company whose information is
23 being discussed who isn't here?

24 MR. CICALÉ: Chairman, OCA stands by the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 fact that, as long as any pricing issues are not discussed
2 by the underlying agreement or any precise terms, that the
3 expiration date of the agreement, any broad-based
4 questions regarding such should be allowed in the record.

5 CHAIRMAN HONIGBERG: Mr. Speidel, do you
6 have any thoughts?

7 MR. SPEIDEL: Well, it would appear
8 that, if a third party has possession of this information,
9 they received it from some channel. And, in all
10 likelihood, it was disclosed by the customer, or the
11 potential customer themselves. I don't have any direct
12 opinion on this, other than, well, the confidence has been
13 breached. That appears to be the case.

14 CHAIRMAN HONIGBERG: Mr. Willing, you
15 may --

16 MR. SPEIDEL: It's public information.

17 CHAIRMAN HONIGBERG: Mr. Willing, you
18 may proceed.

19 MR. WILLING: Okay.

20 MR. PATCH: Mr. Chairman, could I just
21 say, to the extent that any of the Liberty witnesses
22 believe that it's confidential, that they not be asked to
23 answer the question. If they have been led by the
24 customer to believe that it's confidential, I don't want

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 to put them in a position of having to confirm or not what
2 Mr. Willing knows.

3 MR. WILLING: I can wrap up this line of
4 questioning with one more question, and then we can move
5 on.

6 CHAIRMAN HONIGBERG: Let's see how that
7 question goes.

8 MR. WILLING: Okay.

9 BY MR. WILLING:

10 Q. Is it possible that the LOI between you all and Kleen
11 Laundry would expire before Kleen Laundry's contract
12 with UGI or the supplier would expire?

13 A. (Clark) It's possible. We're discussing contract terms
14 with them. We believe that they may be one of the
15 special contracts. They have the unique supply, where
16 they do not have a backup fuel. So, we would need to
17 be secure that we could supply them fuel when they need
18 it uninterrupted.

19 A. (Mullen) If I could just add to that. The term is for
20 one year, and it does continue on a month-to-month
21 basis thereafter, unless terminated within 30 days
22 written notice.

23 Q. But Kleen Laundry could terminate it after one year,
24 right?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Mullen) That's possible.

2 Q. Moving on to another topic briefly. Mr. Clark, in your
3 response to OCA 1-8, and I'll give you a moment to look
4 for that. Are you there?

5 A. (Clark) I am.

6 Q. In your response to OCA 1-8, you said "Liberty had sent
7 out mailings to Lebanon and Hanover residents about gas
8 service", right?

9 A. (Clark) That's correct.

10 Q. Were these sent out to all residents of Lebanon and
11 Hanover?

12 A. (Clark) I believe they were. Liberty's Sales and
13 Marketing Department sent direct mailers on those three
14 dates, July 28th, August 18th, and September 2nd. I
15 saw some of the responses that were scattered
16 throughout the territory, not just on that backbone.
17 So, I believe that they went out to the entire
18 community.

19 Q. Right. And, talking about the backbone, even at full
20 build-out, Liberty won't be laying a pipeline
21 distribution system to reach all residents of Lebanon
22 and Hanover, right?

23 A. (Clark) No gas utility reaches 100 percent saturation
24 rate.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Okay. So, I just want to be clear about that. Okay.
2 I want to refer you to Liberty's response to Staff
3 1-20. And, I'm talking to Mr. Clark, I believe. Are
4 you there?

5 A. (Clark) I am.

6 Q. You state that "Liberty has a local building with space
7 available for EnergyNorth employees", right?

8 A. (Clark) We currently own Granite State Electric, and
9 our electric operations center, the customer walk-in
10 center, and engineering facility is located at 407
11 Miracle Mile, in Lebanon, New Hampshire.

12 Q. Okay. So, that building has been used by Granite State
13 Electric?

14 A. (Clark) That's correct.

15 Q. Was the building recently closed to customer service?

16 A. (Clark) Yes. The customer service went through a
17 change in personnel and a hiring. They hired new
18 people. So, there was a period of time, I believe a
19 few weeks, maybe a month, where the walk-in center was
20 not staffed. It is currently staffed and open now.

21 Q. Okay. And, that the duration that they were gone was
22 only "a month", is that your testimony?

23 A. (Clark) Approximately.

24 Q. And, while the customer service was closed, there was a

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 sign telling customers to call an 800 number for
2 service issues, right?

3 A. (Clark) Correct. Our walk-in centers enable customers
4 to walk in, pay their bill, talk to a service rep, all
5 the functions that could be done over the phone or
6 online. But we know some customers like to come in and
7 talk and pay their bills or drop off a deposit. So,
8 that's why we have the walk-in centers at various
9 locations.

10 Q. Is there any guarantee that there will be a local
11 customer service office there over the long term for
12 the gas service that you're offering?

13 A. (Clark) Yes. That's Liberty's design, is to have local
14 walk-in centers. We have them in Salem, in our
15 electric territory, we have them in Tilton, and
16 Londonderry as well.

17 Q. Okay. I'm going to move onto a different topic very
18 briefly on landfill gas. So, Mr. Clark, I'm going to
19 refer you to Staff 3-4.

20 A. (Clark) I'm there.

21 Q. Okay. In Staff -- in Liberty's response to Staff 3-4,
22 you said that "discussions with City personnel to
23 utilize landfill gas are ongoing", right?

24 A. (Clark) That's correct.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. And, there was a meeting with a City of Lebanon
2 official about landfill gas on September 28th, does
3 that sound right? I don't think that's in your
4 response. Do you recall what the date was when there
5 was a meeting?

6 A. (Clark) Subject to check, I would go with -- that
7 sounds about right.

8 Q. Okay. And, that would have been the day before the
9 September 29th informational meeting for local people,
10 right?

11 A. (Clark) Correct.

12 Q. Okay. You haven't had any other meetings with the City
13 about landfill gas since that time, have you?

14 A. (Clark) We've had -- yes. We had one subsequent
15 meeting that, actually, that may have been, not the
16 landfill themselves, the City officials, where we
17 mentioned landfill gas.

18 Since then, we have had design work
19 done, the engineer that I mentioned earlier, Sanborn
20 Head, they're also experts in landfill gas. They
21 designed the UNH pipeline that runs to Waste
22 Management, it's the same firm. They currently
23 install -- they manage and designed the methane capture
24 system currently in place at the landfill. They were

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 allowed to share information with us, as far as the
2 output of the facility.

3 Q. Okay.

4 A. (Clark) And, so, we've done some preliminary design
5 work, as far as what would be needed to utilize that
6 gas.

7 Q. Okay. Has Sanborn Head studied whether the landfill
8 gas needs to be treated to pipeline quality, in order
9 for you to use it in your service?

10 A. (Clark) Yes, they have. And, yes, it will need to be
11 treated. There are contaminants in there, such as
12 sulphur and water that would need to be extracted
13 before it's placed in a pipeline.

14 Q. Okay. And, have they evaluated the cost of that
15 treatment for you?

16 A. (Clark) That is ongoing.

17 Q. Okay. Now, I want to refer to Arwen 2-9, also on
18 landfill gas. I'll give you a moment.

19 A. (Clark) Did you say "2-9"?

20 Q. Yes, 2-9. Are you there?

21 A. (Clark) I am.

22 Q. Okay. You said, "In the initial years of build-out,
23 the percentage of load from landfill gas may be
24 approximately 20 to 25 percent", right?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) Correct.

2 Q. Is that still your belief?

3 A. (Clark) Yes. It's dependent on the number of customers
4 that sign up in the beginning, and it's a division
5 problem. So, depending on what the customer throughput
6 is, if it's 400,000 decatherms a year of the customers
7 in the initial years, that would be about 25 percent.

8 Q. Is there a threshold in pipeline quality standards
9 whereby only a certain amount of LNG can be introduced
10 without breaching pipeline quality standards?

11 A. (Clark) I'm not aware.

12 Q. Okay. I think I'm going to move on. May still be you
13 on this topic, I'm talking about of long-term plans.
14 I'd like to ask you some questions about statements
15 made in the Petition, which is Exhibit 1. So, again,
16 directing them to Mr. Clark. I'll give you a moment to
17 find the Petition.

18 A. (Clark) I'm there.

19 Q. And, in the Petition, Liberty states that it "has
20 committed substantial resources to expanding its gas
21 franchise area to customers in areas such as Hanover
22 and Lebanon", right?

23 A. (Clark) That's correct. As I mentioned earlier, we
24 have more than tripled our customer additions on a

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 yearly basis. We currently have a petition in front of
2 the Commission for Windham and Pelham franchise rights,
3 which is a more traditional pipeline build-out. But,
4 yes, we are committed, and believe that there is a
5 great deal of expansion potential in the state.

6 Q. Okay. Has Liberty spent substantial resources to bring
7 gas service specifically to Hanover and Lebanon, or is
8 that a more general statement about expansion plans?

9 A. (Clark) Depends on your definition of "substantial".

10 Q. Well, that was my next question. So, what does
11 "substantial" mean to you, I guess is the question?

12 A. (Clark) Again, "substantial" means a pretty large
13 percent of your capital budget, as a company, on a
14 year-to-year basis is towards growth. And, I believe
15 we've tripled our capital budget for EnergyNorth from
16 our predecessor company, on both expansion, cast iron
17 replacements.

18 Q. Okay. Would you say that substantial resources have
19 been spent on the specific effort to bring gas service
20 to Hanover and Lebanon?

21 A. (Clark) I think prudent resources have been spent to
22 design and apply for the franchise rights for those
23 towns, yes.

24 Q. But not "substantial"?

1 A. (Clark) The substantial investment will become after
2 being awarded the franchise rights, where we construct
3 and own the fueling facility, as well as construction
4 of the distribution network.

5 Q. Okay. I'm just moving, I think, just down a little bit
6 from the other passage we just looked at. At Page 2,
7 Paragraph 3, in the Petition, Liberty states that
8 "began speaking publicly about its long-term strategy
9 almost two years ago and has learned that customer
10 demand in the Hanover/Lebanon area for a cleaner,
11 cheaper and more convenient fuel is growing." Is that
12 a correct statement?

13 A. (Clark) Yes. I believe that refers to Chico DaFonte
14 gave a public presentation in December of 2013, at a
15 BIA Association event, where he discussed the satellite
16 utility model and Liberty's plans. Shortly after that,
17 Liberty responded to an RFP issued by Dartmouth College
18 seeking service of LNG or CNG for their central boiler
19 plant. In Liberty's response to that RFP, we
20 highlighted that our plan is different than the RFP, in
21 that we would be building a central fueling facility
22 and underground distribution network, but that would
23 serve the entire community, not just the College, but
24 the College could receive service from such a facility.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Okay. When would you say that Liberty began exploring
2 the possibility of an LDC in Lebanon and Hanover?
3 Would it trace back to the response to the Dartmouth
4 RFP or --

5 A. (Clark) Slightly before that, we were looking at
6 satellite locations, as evidenced by Chico's
7 presentation. Hanover/Lebanon was one of the areas.
8 About the same time, we were doing our due diligence on
9 acquiring the New Hampshire Gas system, which I believe
10 was commercially executed in 2014, with a approval of
11 January of 2015, fully intending to convert that system
12 over to natural gas utilizing LNG and CNG, and
13 operating that as a satellite location. I think you
14 remember at the time of that purchase, the Northeast
15 Energy Direct pipeline was not routed through New
16 Hampshire. So, we were looking at that solely as an
17 LNG/CNG facility at the time.

18 Q. Okay. So, it sounds like the thinking about
19 establishing gas service in Lebanon and Hanover traces
20 back to 2013 at least, right?

21 A. (Clark) Yes. The predecessor company, I believe the
22 sale was not too long before that, there was a
23 different strategy, different entrepreneurial spirit,
24 so to speak, of Liberty Utilities, over the past

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 predecessor company's. And, we wanted to explore those
2 new opportunities.

3 Q. Okay. Employees of Liberty have been aware for some
4 time that Jay Campion was seeking to develop a natural
5 gas pipeline project in Lebanon and Hanover, right?

6 A. (Clark) I can speak for myself, personally. The first
7 I heard was in the Valley Green newspaper -- I mean,
8 I'm sorry, the Valley News newspaper article.

9 Q. Okay. Are you aware that articles were published in
10 the Valley News in 2013 and 2014 about Mr. Campion's
11 efforts?

12 A. (Clark) I'd have to check the dates. I remember
13 reading articles.

14 Q. Uh-huh. In 2013 and 2014?

15 A. (Clark) Sounds about right.

16 Q. Did anyone from Liberty ever contact Mr. Campion and
17 offer to develop a gas pipeline project instead of him?

18 A. (Clark) From Liberty or the predecessor company?

19 Q. From Liberty.

20 A. (Clark) Can you repeat that?

21 Q. Sure. You've indicated that you, and most likely other
22 employees, you know, were aware of the reports in the
23 Valley News going back to 2013 and 2014 about Mr.
24 Campion's efforts to bring a gas pipeline project to

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Hanover and Lebanon.

2 MR. PATCH: Mr. Chairman, I would just
3 object to the form of the question. I think Mr. Clark
4 made it clear that he was speaking for himself, not other
5 employees. So, I think the question suggests that he was
6 speaking for others, too.

7 CHAIRMAN HONIGBERG: Well, the question
8 that Mr. Willing asked that Mr. Clark asked to have
9 repeated was a very specific question that I think was a
10 follow-up to something that Mr. Clark had just said. Not
11 sure what the question is that Mr. Willing is going for
12 right now, because it's got a setup associated with it
13 that may well be different from the question that he asked
14 Mr. Clark a moment ago.

15 MR. WILLING: Okay. Why don't --

16 CHAIRMAN HONIGBERG: So, why don't we
17 let him finish the question, and then you can object.

18 MR. WILLING: I'll backtrack and break
19 it up a little bit.

20 BY MR. WILLING:

21 Q. You've said that you were personally aware in the 2013
22 to 2014 time range through the Valley News of Mr.
23 Campion's efforts, is that right?

24 A. (Clark) Correct.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Would other employees within Liberty also have been
2 aware by similar means?

3 A. (Clark) Most likely.

4 Q. Okay. Did anyone from Liberty ever contact Mr. Campion
5 and offer to develop a pipeline project in his place,
6 essentially asking him to stand down?

7 A. (Clark) I did not. I don't know if any others have.

8 Q. Okay. Did anyone from Liberty ever contact Mr. Campion
9 during that timeframe and ask him that -- and inform
10 him that Liberty was thinking about pursuing a
11 project?

12 A. (Clark) Again, I did not contact Mr. Campion. So, I
13 don't believe --

14 Q. You didn't. Do you know if anyone else did?

15 A. (Clark) I don't believe anybody else did.

16 Q. Okay. Liberty encouraged Mr. Campion to pursue a
17 franchise, would that be fair to say?

18 A. (Clark) No.

19 Q. Okay.

20 MR. WILLING: May I approach the
21 witness?

22 CHAIRMAN HONIGBERG: Yes. You don't
23 really need permission for that either.

24 MR. WILLING: Okay. I would like to

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 show -- I'll give you this, and I'll go back and describe
2 it.

3 *[Atty. Willing handing document to*
4 *Witness Clark.]*

5 CHAIRMAN HONIGBERG: Mr. Willing?

6 MR. WILLING: Yes.

7 CHAIRMAN HONIGBERG: While -- well,
8 while you're walking, looking at probably breaking in
9 about 30 minutes. Where do you think you will be in 30 --

10 MR. WILLING: I am just about done.

11 CHAIRMAN HONIGBERG: Okay.

12 MR. WILLING: Okay.

13 CHAIRMAN HONIGBERG: Mr. Willing?

14 MR. WILLING: Yes.

15 CHAIRMAN HONIGBERG: There are some
16 parties who didn't get copies who appear to be interested.

17 MR. WILLING: Okay.

18 *[Atty. Willing distributing documents.]*

19 CHAIRMAN HONIGBERG: Do we need them,
20 too?

21 MR. WILLING: I think you do. Should
22 have given them to you first.

23 CHAIRMAN HONIGBERG: Off the record.

24 *[Brief off-the-record discussion*

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 *ensued.]*

2 BY MR. WILLING:

3 Q. Okay. Mr. Clark, I'd like to show you this -- what you
4 have in front of you is a copy of an e-mail that was
5 sent to my client, Jay Campion, of Valley Green.

6 A. (Clark) Okay.

7 Q. Can you identify the date of that e-mail for the
8 record?

9 A. (Clark) October 23rd, 2014.

10 Q. And, who is the --

11 MR. PATCH: Mr. Chairman? Mr. Chairman,
12 I'm sorry to interrupt. But the document we were just
13 handed is marked "confidential", the attachment to the
14 e-mail. And, so, --

15 MR. WILLING: I'm only talking about the
16 e-mail.

17 MR. PATCH: Okay. Well, what I was
18 handed is, you know, I don't know, a 10 or 12-page
19 document attached to it, and very clearly, on the first
20 page, is marked "Confidential".

21 MR. WILLING: I think it was
22 confidential to Mr. Campion, and I believe he's waiving
23 the confidentiality.

24 CHAIRMAN HONIGBERG: Mr. Willing, is it

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 your representation that the e-mail had, as an attachment,
2 the document that is attached to this piece of paper?

3 MR. WILLING: Yes. And, I'm not
4 actually asking about the attachment, I passed out the --

5 *[Interruption due to continuous banging*
6 *sound.]*

7 MR. SPEIDEL: You have many friends in
8 the audience.

9 MR. WILLING: I included the attachment
10 for the sake of completeness, but I'm not actually
11 referring to it.

12 CHAIRMAN HONIGBERG: Just hang on one
13 second, I want to take a look at what we've got.

14 *[Short pause.]*

15 CHAIRMAN HONIGBERG: All right.
16 Mr. Patch, have you -- do you have an objection to where
17 we are right now with Mr. Willing having distributed this
18 document?

19 MR. PATCH: No, I don't, now that he's
20 represented that it was confidential. I mean, we can get
21 into some of this on redirect, in term of who she's
22 employed by.

23 CHAIRMAN HONIGBERG: That's fine. I
24 just wanted to make sure we had run to ground the first

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 issue you flagged.

2 I guess, you ask questions of the
3 witness in just a second, Mr. Willing. But am I correct
4 that what I've been given is a single page e-mail, with
5 two identical attachments? Does everyone have the same
6 packet?

7 Ah. It may just be the one you gave me.
8 I happen to have two attachments attached to mine.

9 MR. WILLING: I apologize for that.

10 CHAIRMAN HONIGBERG: I'm special.

11 MR. WILLING: Okay.

12 CHAIRMAN HONIGBERG: All right. So, go
13 ahead, Mr. Willing.

14 MR. WILLING: Okay.

15 BY MR. WILLING:

16 Q. I can't remember -- can you please identify the date of
17 the e-mail for the record?

18 A. (Clark) October 23rd, 2014.

19 Q. And, who is the e-mail from?

20 A. (Clark) It's from an Yvonne Flanagan.

21 Q. And, who is Yvonne Flanagan?

22 A. (Clark) Yvonne Flanagan previously worked for an
23 unregulated affiliate of Liberty Utilities (EnergyNorth
24 Natural Gas). This is not EnergyNorth Natural Gas.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 She was never employed by EnergyNorth Natural Gas.

2 Q. But she has a Liberty Utilities e-mail account?

3 A. (Clark) I believe all e-mail through Liberty Utilities
4 are at *libertyutilities.com*. Again, this was an
5 unregulated affiliate of Liberty Utilities (EnergyNorth
6 Natural Gas) Corp., that I believe is also no longer in
7 business.

8 Q. Was she an employee of the broader Liberty corporate
9 family?

10 A. (Clark) She was an employee of an unregulated affiliate
11 of Liberty, so an employee of the Liberty Utilities
12 umbrella, yes.

13 Q. Okay. What was her job function? And, I think she has
14 a title at the bottom of the e-mail.

15 A. (Clark) I believe this unregulated affiliate wanted to
16 construct a CNG decom -- CNG compression facility and
17 sell CNG services to private clients, like a hospital
18 or a university or manufacturing --

19 Q. Okay.

20 A. (Clark) -- off pipeline.

21 Q. Can you read the third paragraph of the e-mail,
22 beginning "Our sister firm"?

23 A. (Clark) "Our sister firm (Liberty Utilities) and
24 iNATGAS' Concord, New Hampshire compression/tanker

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 filling station is only 60 miles from Lebanon, so I
2 hope you will consider us for any interim supply needs
3 while you get your anchor customers and LNG supplies
4 lined up."

5 Q. Okay. And, can you read the fourth paragraph of the
6 e-mail?

7 A. (Clark) "Also, we can offer financing and pipeline
8 construction, operating and maintenance support (at
9 your sole option) in your planned service area."

10 Q. And, the fifth paragraph?

11 A. (Clark) "Let's get together soon as we discussed and
12 see if we can work together for mutual success and the
13 economic development of the Upper Valley. Please keep
14 me posted on your progress."

15 MR. WILLING: Okay. I'd like to make
16 an --

17 BY MR. WILLING:

18 Q. So, Liberty, in this e-mail, is offering construction
19 and O&M support for Mr. Champion's project, right?

20 A. (Clark) Not Liberty Utilities (EnergyNorth Natural Gas)
21 Corp. This Liberty Utilities, again, was an
22 unregulated affiliate, almost identical or what they
23 achieved -- or, wanted to be was very similar to NG
24 Advantage, and be able to supply Mr. Champion's facility

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 with compressed natural gas.

2 Q. Okay. And, you said the e-mail is dated October 23rd,
3 2014, right?

4 A. (Clark) Correct.

5 MR. WILLING: Okay. I'd like to make an
6 offer of proof that this is an exact copy of an e-mail
7 provided to Mr. Campion that our firm copied into a Word
8 document for ease of print. And, I'd like to ask that it
9 be entered into the record as an exhibit?

10 CHAIRMAN HONIGBERG: Not sure the
11 significance of the first part of that.

12 MR. WILLING: Uh-huh.

13 CHAIRMAN HONIGBERG: You'd like this
14 marked as an exhibit --

15 MR. WILLING: Yes.

16 CHAIRMAN HONIGBERG: -- and admitted as
17 a full exhibit. The next exhibit number would be -- I
18 guess the next unused number is "14", is that correct?

19 MR. WILLING: I'll take it.

20 CHAIRMAN HONIGBERG: All right. Is
21 there any objection? Mr. Speidel.

22 MR. SPEIDEL: I don't have an objection,
23 strictly speaking. But I have to say this on the record,
24 just to do my own job.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 There is this push to have all of the
2 exhibits sequentially numbered using a single numbering
3 scheme from the beginning of the paper stack to the end of
4 the paper stack. There is no such scheme on this one.
5 So, it's short enough that maybe Mr. Willing would like to
6 take a pen and sort of take the Clerk's copy, at the very
7 least, and fill that in.

8 MR. WILLING: I can do that.

9 MR. SPEIDEL: That might be smart. And,
10 other than that, thank you.

11 CHAIRMAN HONIGBERG: All right. Is
12 there any objection to this document being an exhibit in
13 this case?

14 All right.

15 MR. PATCH: We don't have --

16 CHAIRMAN HONIGBERG: Mr. Patch.

17 MR. PATCH: We don't have any objection.
18 But, obviously, we will have an opportunity on redirect to
19 ask more questions.

20 CHAIRMAN HONIGBERG: Sure. Absolutely.

21 You're going to get another crack at this document.

22 (The document, as described, was
23 herewith marked as **Exhibit 14** for
24 identification.)

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. WILLING: Okay. I have no further
2 questions.

3 CHAIRMAN HONIGBERG: Ms. Arwen, do you
4 have any questions for this panel?

5 MS. ARWEN: Yes, I do. My intention is
6 to enter into evidence two exhibits that the Commission
7 ruled in response to my motion in limine will be
8 admissible. So, may I just hand those exhibits to you?
9 If not, I'm prepared to cross-examine. But, of course,
10 I'm not an attorney and that might not be a very efficient
11 process.

12 CHAIRMAN HONIGBERG: I am not sure what
13 it is you want to do. So, you have two documents that
14 you -- that was the subject of your motion that the
15 Commission ruled on would be admissible?

16 MS. ARWEN: Yes.

17 CHAIRMAN HONIGBERG: They're not
18 currently on this list that I was handed? So, the next
19 two exhibit numbers would be "15" and "16".

20 MS. ARWEN: Yes.

21 CHAIRMAN HONIGBERG: You want those two
22 exhibits marked and admitted as "Exhibits 15" and "16", is
23 that correct?

24 MS. ARWEN: Yes.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 CHAIRMAN HONIGBERG: All right. So, are
2 you going to ask any questions about them?

3 MS. ARWEN: I don't need to. If it's
4 okay just to submit them?

5 CHAIRMAN HONIGBERG: That's what you'll
6 need to do. What you'll need to do is get whatever you
7 want to be 15 to the Clerk and distributed to everyone, 16
8 to the Clerk and distributed to everyone.

9 MS. ARWEN: Okay.

10 CHAIRMAN HONIGBERG: Now, what I'm going
11 to say, is you don't need to do that this second, if
12 you're not going to have anything to ask, because we can
13 move right along to Mr. Cicale and Staff. And, we'll
14 just, as we break for lunch, you can take care of that
15 business with the Clerk and distribute copies to everyone.

16 Does everyone got that?

17 *[Multiple parties indicating in the*
18 *affirmative.]*

19 CHAIRMAN HONIGBERG: All right. So, do
20 you have any -- so, you have no questions for these
21 witnesses, correct?

22 MS. ARWEN: No. Thank you.

23 CHAIRMAN HONIGBERG: All right.
24 Mr. Cicale.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. CICALÉ: Thank you, Chairman.

2 BY MR. CICALÉ:

3 Q. I'd like to start with Mr. Clark. I won't be on you
4 long, I know you probably need a break.

5 A. (Clark) Water.

6 Q. So, the Company, EnergyNorth, hasn't signed and
7 executed and negotiated any anchor customer contracts
8 in their completion up to this point?

9 A. (Clark) Just the LOI, not in completion of a special
10 contract.

11 Q. Now, what natural gas demand to the two towns is there
12 without any anchor customers?

13 A. (Clark) We believe in the order, without any of the
14 three identified anchor customers, to be on the order
15 of 300,000 decatherms to 600,000 decatherms a year.

16 Q. And, that is a forecasted number?

17 A. (Clark) Yes.

18 Q. Now, this could be appropriate for you, or maybe to
19 Mr. Mullen. Without the results of the RFP on your
20 natural gas supply, how can potential customers of the
21 two towns ascertain the cost of gas for their service?

22 A. (Clark) As our Petition states, three components of
23 their overall gas bill will be identical to EnergyNorth
24 customers, that being the Customer Charge, Distribution

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Charge, and the LDAC Charge. The variable will be the
2 cost of gas. That cost of gas includes the commodity
3 that we RFP, LNG and/or CNG, and also the construction
4 of the actual facility itself.

5 We've done some forecasting on what we
6 believe those numbers are. We put them in some
7 presentations up there as an adder to our all-in rates
8 that are on the New Hampshire Office of Energy Planning
9 website, to compare and contract with current fuels,
10 like oil and propane, in the area.

11 Q. Okay.

12 A. (Clark) So, we consider it much like signing up a new
13 customer in an existing service territory. You know,
14 when a sales rep talks to a customer on the phone or a
15 commercial rep goes out to meet a customer, usually
16 what we do is we take their last 12 months consumption,
17 how much they used for oil or propane, plug that into
18 last year's models as what the gas prices were, and
19 project a savings for that customer. We would do
20 similar in this sense, with an adder.

21 A. (Mullen) If I could just add to that? As a starting
22 point, and you can start with, say, EnergyNorth's cost
23 of gas on its existing system, and then to that,
24 depending on whether it's CNG, LNG, you would have to

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 put in adders for things like liquefaction, trucking,
2 compression. So, that at least gives some sort of a
3 starting point for that.

4 As Mr. Clark testified earlier, we will
5 go through an RFP process. And, as we're looking for
6 service that would be in the future now, any numbers
7 that we come up with now are mainly just estimates
8 based on current pricing. However, the pricing would
9 be more driven by the results of the RFP process for
10 the gas component.

11 Q. For the record, when will the RFP process conclude and
12 a selection be made for cost -- for a gas supply?

13 A. (Clark) We would most likely issue an RFP anywhere from
14 six to twelve months, most likely twelve months, in
15 advance of being able to supply service, to be able to
16 evaluated the RFPs that come up in, and also allow for
17 the eventual winning bidder to ramp up service to that
18 area.

19 We have recently issued an RFP for
20 conversion of our Keene Division from propane/air to
21 natural gas. We just sent that out a few weeks ago to
22 eleven different corporations. And, we've had nine
23 responses that we're working through, and they just
24 came in Monday morning. It was a pretty robust

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 process. And, we would do the exact same thing for
2 Hanover/Lebanon.

3 Q. Now, if you were awarded this franchise on a given date
4 within the next six months, how long would it take for
5 the Company to complete the RFP process and for
6 potential customers within the proposed service area to
7 be able to get access to the information as to the cost
8 of gas?

9 A. (Clark) It would take a few months. We would -- the
10 first step would be to identify the initial first
11 couple of year usage, kind of as a minimum/maximum,
12 structure the RFP at different price points. I would
13 suspect the vendors would want to know a minimum
14 take-or-pay and price breaks for utilizing more than
15 that as well. In order to get them the information
16 they need, we need to do a couple evaluations on a
17 design day, on what the worst case day would be that
18 they need to provide fuel to our facility. That would
19 most likely take a few months to get that.

20 Q. Thank you, Mr. Clark. I think you might be off the
21 hook for the rest of my questions. Moving on quickly
22 to Mr. MacDonald. Has Liberty Utilities/EnergyNorth
23 developed natural gas distribution infrastructure in a
24 greenfield service area where none yet exists up to

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 this point?

2 A. (MacDonald) We have completed a couple of projects over
3 the years. We did some expansion into the Town of
4 Milford, you know, which occurred in the '80s. We
5 performed some expansion in Londonderry, New Hampshire
6 in 2003. We recently conducted expansion into the Town
7 of Bedford to expand on, you know, our facilities in
8 that -- at that location.

9 Q. So, have there been any infrastructure built by the
10 Company since they purchased the Company from National
11 Grid?

12 A. (MacDonald) Just the Town of Bedford project.

13 Q. And, you'd characterize that as an "expansion"?

14 A. (MacDonald) Yes.

15 Q. Will the Company need to hire new staff members to
16 operate the proposed facility in the proposed service
17 area?

18 A. (MacDonald) Yes. The Company will need to higher, you
19 know, a few new incremental employees to operate the
20 system.

21 Q. What might be the number of these employees?

22 A. (MacDonald) Right now, given the initial start-up and
23 the projections, we would be bringing on board a
24 supervisor and two field technicians.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Can you relay a range for salary that these individuals
2 might be compensated with to do their job descriptions?

3 A. (MacDonald) I believe I have. And, I would direct you
4 to Staff 2-8.

5 Q. Thank you. Now, regarding these new staff members,
6 would the compensation for such staff members be passed
7 through to the rates exclusively to the customers of
8 this proposed service area or would it be spread across
9 EnergyNorth's customer rates as a whole?

10 A. (MacDonald) Steve, you want to take that?

11 A. (Mullen) To the extent the tasks that they're doing are
12 distribution-related, they would be included in the
13 rates, the distribution rates that are paid by all
14 EnergyNorth customers. To the extent that they're
15 doing work related to the supply component, that would
16 be included in the cost of gas.

17 MR. CICALÉ: Thank you, gentlemen and
18 Commissioners. That concludes OCA's cross.

19 CHAIRMAN HONIGBERG: Mr. Speidel, how
20 much do you think you have for these witnesses?

21 MR. SPEIDEL: There's a fair amount, Mr.
22 Chairman. Considering it's noontime, it's probably a good
23 idea to have the break you suggested now.

24 CHAIRMAN HONIGBERG: I was thinking the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 same thing. So, it is currently about five minutes after
2 12:00. We're going to break until 1:15. And, we're going
3 to come back really at 1:15 ready to go.

4 So, with that we will adjourn for an
5 hour and ten minutes.

6 *[Lunch recess taken at 12:03 p.m. and*
7 *the hearing reconvened at 1:15 p.m.]*

8 CHAIRMAN HONIGBERG: Mr. Speidel, before
9 you begin, I'll note that over the last few days we've
10 received a number of written comments regarding this
11 docket, and we received two in our in-boxes while we were
12 downstairs, one from Representative Oxenham, and the other
13 from someone probably related to Representative Oxenham,
14 it's the same last name. So, we will read those comments,
15 and they are a part of the record, since they have been
16 filed with the appropriate docket.

17 And, I see some other documents up here,
18 which I'm sure someone will explain at some point.

19 And, with that, is there anything we
20 need to do before Mr. Speidel takes over?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: All right.

23 Mr. Speidel, you may proceed.

24 MR. SPEIDEL: Thank you, Mr. Chairman.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Just one moment please.

2 All right. These questions are directed
3 at the panel in general, but I would imagine they're
4 mostly targeted at Mr. Clark and Mr. Mullen. So, I invite
5 anyone to answer that feels qualified. But I would
6 imagine that Mr. Clark and Mr. Mullen will want to, in the
7 first instance, given the questioning.

8 BY MR. SPEIDEL:

9 Q. There's some discussion within the rebuttal testimony,
10 and that would be in the area of Bates Page 10, roughly
11 at Lines 14 through 17. Does the Company agree that
12 its tariff is not applicable outside of its franchise
13 area?

14 A. (Mullen) Yes. As stated, on a day-to-day basis, that
15 is correct. However, as part of an application for
16 franchise approval we have to say what tariff we would
17 want applicable. And, as part of our Application, we
18 said that EnergyNorth's tariff, with the exceptions
19 that were noted, would be applicable to the
20 Hanover/Lebanon area.

21 Q. So, if in the event that the franchise is granted, in
22 such an instance, did Staff take the position or
23 suggest that the revenue test should not be used for
24 customers seeking service in Lebanon or Hanover?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Mullen) Could you run that by me again, make sure I
2 got it right.

3 Q. So, has Staff ever testified or suggested that, if the
4 franchise is granted, the revenue test should not be
5 used for customers seeking service in Lebanon and
6 Hanover?

7 A. (Mullen) I believe Staff's testimony was that the
8 revenue test was not appropriate for us to use for
9 purposes of this application.

10 Q. But, after the franchise is granted -- it's kind of
11 hard to prove a negative, I understand. But is it fair
12 to say that you haven't read anything indicating that,
13 once it's an ordinary-course-of-business utility
14 operation, that the revenue test could be applied?

15 A. (Mullen) I do not recall reading anything to that
16 effect.

17 Q. Okay. Thank you. And, do you believe that Discounted
18 Cash Flow or DCF analysis is a useful tool in
19 evaluating the profitability and determining a
20 breakeven point of a utility project?

21 A. (Mullen) That's one way to get there.

22 Q. Can you identify any other ways?

23 A. (Mullen) Yes. The ways that are specified in our
24 tariff.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Okay. Was a Discounted Cash Flow analysis performed by
2 the Company in evaluating the merits of the Market Path
3 Precedent Agreement in DG 14-380?

4 A. (Mullen) I'm trying to get the cases straight in my
5 head. I don't recall offhand.

6 Q. How about the iNATGAS project, under DG 14-091, here in
7 the Concord area?

8 A. (Mullen) Yes. I believe there was in that case.

9 Q. Do you recall if the results of the DCF analysis in the
10 iNATGAS proceeding was used in determining the escrow
11 requirement for iNATGAS?

12 A. (Mullen) I believe that's correct.

13 Q. Okay. Is it EnergyNorth's position that performing a
14 DCF analysis to determine a return and breakeven point
15 for the proposed Lebanon/Hanover project somehow
16 violates EnergyNorth's tariff and requires Commission
17 approval?

18 A. (Mullen) The Company's position is that, for purposes
19 of reviewing main expansions and extensions, our tariff
20 provides for a revenue test, and that is what we used
21 in this proceeding.

22 Q. Okay. Thank you. So, then, encapsule, the Company's
23 position is that there is no distinguishable difference
24 between an ongoing utility operational posture and a de

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 *novo* franchise for the purposes of applying a DCF?

2 A. (Mullen) Well, I think one of the cases that you
3 pointed to was iNATGAS, which is not technically a main
4 extension, that is a different type of project than a
5 main extension would be.

6 Q. All right. But what you're saying though, as a Company
7 position, is that it's appropriate to apply the tariff
8 provisions for main extensions to a new franchise
9 territorial area, is that correct?

10 A. (Mullen) Yes.

11 Q. Thank you. On Bates Page 5, Line 14 through 18 of the
12 rebuttal testimony, and I won't stray into confidential
13 figures. And, just for the record, on Bates Page 5 of
14 the testimony, Line 9, there is a confidential figure
15 shaded there in the center, within the Commissioners,
16 if you have a pencil, you can circle it, if it's hard
17 to read. There's mentioning of discussions with "five
18 other large commercial customers and numerous small
19 commercial customers along the route", "direct mail
20 solicitations of residential customers along the
21 route", and "expressions of interest from 60 commercial
22 and 36 residential customers". Does "along the route"
23 mean directly on the proposed distribution main to
24 serve anchor customers? If so, please explain.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) In the commercial customer count, that was
2 directly on the route. And, residential, they may be
3 off side streets to that.

4 Q. And, if this strays into privileged information, just
5 let us know. But what is the total number of
6 commercial customers along the route that EnergyNorth
7 has discussions with? And, how were the discussions
8 conducted? Phone? In person? Other methods?

9 A. (Clark) It's been -- I'm sorry. It's been a mix of
10 both in person, site visits by our commercial sales
11 team, has had some boots on the ground, walk-in visits,
12 scheduled visits. I have met directly with some of the
13 anchor customers on there, but the commercial customers
14 has been handled by the sales team.

15 Q. Do you happen to know what level of information
16 granularity has been collected and how it's being used
17 by the sales team?

18 A. (Clark) Sure. They were able to attain some specific
19 load information for certain customers. In the
20 Phase I, where we were concentrating off of Exit 20, as
21 I mentioned earlier, the strip malls, the J.C.
22 Penney's, what we were able to do there is we have very
23 many similar businesses in the EnergyNorth territory.
24 So, we would go and pull out a J.C. Penney or a

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 McDonald's load, average those out and project a usage
2 based on current customer counts.

3 Q. Okay. What sort of direct mail was provided as part of
4 the solicitation effort? Was it a simple prospectus?
5 Was it a mailing card? What kind of thing was it?

6 A. (Clark) It was a dispatchable mail-in card, where it
7 had some information specific to Liberty Utilities, and
8 a card that could be detached and sent in, stating
9 their level of interest, either "not interested", "very
10 interested", or "interested", along with their name,
11 address, business name, if appropriate, and contact
12 information.

13 Q. Do you happen to know how many were sent of those?

14 A. (Clark) I do not.

15 Q. How many of the "60 commercial and 36 residential
16 customers" referred to in the rebuttal testimony
17 "expressing interest" are directly along the proposed
18 mains to the anchor customers versus side streets?

19 A. (Clark) The vast majority are right on there. However,
20 when you're dealing with a mall or a shopping complex,
21 some of the businesses may be at the back of that and
22 will have what we call a "main stub", not off the
23 direct route, but accessible from the direct route.
24 So, I would consider them directly on main.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. So, including setback shopping center areas, subject to
2 check, would you be able to estimate how many are along
3 the main itself, say, three-quarters, half?

4 A. (Clark) Three-quarters.

5 Q. Three-quarters, okay. Thank you. Would you please
6 tell us a little bit more about Liberty's plan to enter
7 into a contract with ICF International and the services
8 that they will be providing?

9 A. (Clark) The ICF International contract has been
10 finalized from both parties. ICF International is a
11 company that we recently contracted with to do some
12 research and build a database, and some other tools,
13 for Liberty Utilities' sales team. What they're going
14 to do is come in and use our mapping software, along
15 with our billing software for our existing 30 towns,
16 plus Hanover and Lebanon, plus Keene, so, they're going
17 to identify every street that has main, they're going
18 to identify customer along main and off main, age of
19 house, owner of the house, typical fuel use -- fuel
20 usage, propane versus oil versus electricity, business
21 type. We will then be able to drill down and market to
22 specific segments of certain communities. We'll be
23 able to utilize tools such as, you know, restoration
24 fees. Some towns have much higher or lower restoration

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 fees. We can target certain demographics that utilize
2 propane. There may be a subdivision that's 20 to 25
3 years old where 95 percent of the homes utilize
4 propane. And, that would be a prime target for a
5 conversion. The propane costs are higher than oil, and
6 their conversion cost typically much lower than oil.
7 So, that would be able -- that would allow us to
8 identify expansion opportunities.

9 Another tool that they will be creating
10 and implementing on our website is a gas availability
11 tool. It will allow customers to, when they're on our
12 website, type in their address and see if gas is
13 available in their street. We will have monthly
14 refreshes of collecting that data and finding out how
15 many customers on a certain street have inquired about
16 gas availability, perform outreach. And, we'll be able
17 to update that on a semi-annual basis, and the contract
18 is two years.

19 Q. So, is this effort being undertaken across, obviously,
20 not all of New Hampshire, but is it roughly congruent
21 with the current service territory of EnergyNorth?

22 A. (Clark) It's our existing 30 towns, Keene, and Hanover
23 and Lebanon. I'm sorry, Windham and Pelham as well, we
24 have that filing. So, it includes Windham and Pelham.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Okay. So, if it -- will this system produce a ranking
2 of investment opportunities that EnergyNorth and
3 Liberty can use to evaluate what expansions make sense
4 financially?

5 A. (Clark) That's correct. It will allow us to aggregate
6 all that data. We're working through kind of a ranking
7 criteria, that includes cost and GPM and return on
8 investment. However, it also will include other
9 non-cost benefits, like looping of a system,
10 reliability enhancements, projects that would coincide
11 with city/state reconstruction roadway repaving. We
12 would be able to book a business for a couple years out
13 and work with different communities with their project
14 as well.

15 Q. So, if the Company were to receive feedback or output
16 from this computer modeling exercise using all of this
17 aggregated data, that would indicate that other
18 projects would perhaps offer the Company more
19 opportunity for business development and return, as
20 compared with Lebanon and Hanover, would the Company
21 perhaps consider withdrawing its expansion plans in
22 Lebanon and Hanover?

23 A. (Clark) No, absolutely not. We committed to the build
24 in Hanover/Lebanon. We have budgets set aside that are

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 different from the organic growth budgets in the
2 existing communities.

3 Q. So, would you describe that as a strategic effort by
4 the Company to expand its geographic scope to a certain
5 extent?

6 A. (Clark) Correct.

7 Q. All right. Now, there has been some discussion of the
8 Letter of Intent with Kleen Laundry, Incorporated.
9 That is on Bates Page 5 of the rebuttal testimony and
10 other places, including your original testimony, on
11 Bates Page 54. Now, this may be reiterative, but to
12 just be clear. Does the Letter of Intent require a
13 financial commitment by either EnergyNorth, Liberty or
14 Kleen?

15 A. (Clark) No, it does not.

16 Q. Now, there is indication that the distribution main
17 required to serve Kleen would be 5.5 miles. What would
18 the average cost to EnergyNorth be of such an
19 installation?

20 A. (Clark) If we use the most recent similar data, that
21 would be the Bedford expansion. A loaded cost per mile
22 is approaching 400 to \$450,000.

23 A. (MacDonald) Half a million.

24 A. (Clark) Half a million?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (MacDonald) That's correct.

2 Q. And, that is half a million in total or half a million
3 a mile?

4 A. (Clark) I'm sorry. Half a million per mile.

5 Q. Per mile, okay. So, somewhere north of \$2.5 million in
6 total?

7 A. (Clark) Correct.

8 Q. Okay. Now, we've also heard that Kleen has its own
9 liquified natural gas facilities and a contract with an
10 LNG supplier. Now, there's going to be a roll-in of
11 this cost of distribution service line to whatever
12 contract is entered into with Kleen, in theory, is that
13 right?

14 A. (Clark) There will be a distribution charge component
15 to the contract to Kleen.

16 Q. So, how does the Company expect that Kleen would, as an
17 economic decision, decide to incur the costs of
18 distribution main service, as opposed to just
19 continuing having LNG trucked to its own facilities?

20 A. (Clark) There is a substantial maintenance cost with
21 their facility on a yearly basis, annual checks,
22 semi-annual checks, monthly checks, for them to own and
23 operate that facility. As we heard earlier, there's
24 restrictions of when they can receive deliveries. And,

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 they are not the experts in, you know, contracting for
2 their supply. I mean, well, --

3 Q. Well, it's all right if Mr. Mullen jumps in by himself,
4 if he has a thought.

5 A. (Clark) It was more of the safety. The location of
6 this LNG fuel vaporization facility in Kleen Laundry is
7 right in their employee parking lot, where the trucks
8 are coming in on a daily or every other day basis.
9 And, there could be some safety enhancements or
10 benefits to remove that equipment and just have a pipe
11 serving them.

12 Q. Do you happen to have any idea, has Kleen indicated to
13 you what the maintenance cost structure is for their
14 LNG facility, or have they not told you?

15 A. (Clark) They did not give us the cost. They had
16 provided a list of what those requirements are, a
17 schedule of maintenance.

18 Q. Okay. The Letter of Intent does indicate that Liberty
19 expects to enter into a special contract with Kleen.
20 If that's the case, how would the gross profit margin
21 on the Kleen contract compare to the gross profit
22 margin on customers receiving service under tariff
23 rates?

24 A. (Clark) Well, as a starting point, we would look at our

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 commercial line extension policy. That would allow us
2 to use six years of expected GPM towards their
3 construction costs. Any construction cost to serve
4 Kleen would either be collected through a CIAC payment
5 or, in a special contract, we would negotiate a higher
6 distribution rate with take-or-pay minimums to offset
7 that investment.

8 Q. Uh-huh. So, in terms of comparability, would you
9 expect that the gross profit margin would be comparable
10 for the two paradigms, the tariff rates and the special
11 contract?

12 A. (Clark) I guess they would be paying their fair share
13 of any infrastructure work. And, so, therefore, the
14 GPM would be consistent with our line extension policy
15 that current commercial and residential customers are
16 already -- that we have to adhere to.

17 Q. Well, maybe we're talking past each other a little bit.
18 You're describing it in terms of compliance with
19 regulatory standards.

20 A. (Clark) Uh-huh.

21 Q. But I'm just wondering the dollars, the figure. Would
22 there be a discount offered to Kleen, --

23 A. (Clark) No, there would --

24 Q. -- in terms of your taking -- your shaving your profit

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 margin?

2 A. (Clark) No.

3 Q. No, there would not?

4 A. (Clark) No.

5 Q. So, the same yardstick would be applied for
6 profitability?

7 A. (Clark) The same yardstick would apply.

8 Q. Okay.

9 CHAIRMAN HONIGBERG: Mr. Clark, I know
10 it's tempting to jump right in when you know what
11 Mr. Speidel is going to say. But it would be really
12 helpful if wait till he's done.

13 WITNESS MULLEN: I will start poking
14 him.

15 BY MR. SPEIDEL:

16 Q. Okay. So there's mention on Bates Page 14, Lines 2 to
17 6 of the rebuttal testimony, that the current winter
18 has seen Liberty's gas rates significantly reduced.
19 And, that there's reasons to convert to gas service
20 other than price. Obviously, we are in a period of
21 relatively low oil prices compared to recent norms. Do
22 you know if oil and propane prices have dropped during
23 the winter as well, along with gas?

24 A. (Mullen) I believe they have, yes.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. And, can you elaborate any non-price reasons for not
2 converting to natural gas?

3 A. (Clark) You mean, for converting to natural gas?

4 Q. In favor, yes.

5 A. (Clark) Yes. You know, we've had some very successful
6 years on our typical pipeline expansions where natural
7 gas was close to oil. Price is not the only factor
8 when a customer makes a decision. Usually, the
9 investment to convert is a 20-year investment decision.
10 We don't get many customers that put a new oil system
11 in three years previously converting the entire system.
12 But, if you're making a decision on aging equipment,
13 that you need to or want to replace anyways, many
14 people choose natural gas because of the convenience.
15 There is a significant price advantage at this point.
16 There's higher efficiencies of the equipment. There's
17 less worrying about deliveries and shoveling of snow
18 for deliveries, oil tanks in the basement/propane tanks
19 outside. So, there are very many different reasons
20 people choose natural gas. Energy efficiency programs
21 have been very popular from our customers as reasons to
22 convert.

23 Q. And, so, those are the positives that aren't related to
24 price. What about the negatives? Why would folks be

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 hesitant perhaps to convert to natural gas, for reasons
2 other than price?

3 A. (Clark) Some people do not like natural gas. There's,
4 you know, inherent fear, I believe, in some people.

5 Q. Just the nature of the fuel?

6 A. (Clark) The nature of the fuel. I mean, there are
7 streets in our service territories that have had, you
8 know, gas availability for 90 years and somebody hasn't
9 converted. So, there's got to be another reason.

10 Q. Understood. So, if the Commission were to grant
11 Liberty's Petition for the franchise territory at this
12 time, does Liberty intend to purchase the plant site,
13 order equipment, and commence construction, without any
14 firm customer commitments?

15 A. (Clark) We will be working with the commercial and
16 residential customers along that initial route for some
17 level of commitment before construction begins. We're
18 still evaluating at what point in time we would execute
19 the option agreement.

20 Q. What is the project timeline and the expected
21 in-service date, if the Petition were to be granted?

22 A. (Clark) I'm sorry, just Steve reminded me of an update
23 to your previous question on there. Again, the similar
24 project that we recently completed last year was the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Bedford expansion project, and that was about a
2 \$1.5 million investment for a few miles of pipe to
3 extend it to the Town of Bedford. And, what we did
4 there is we had a certain commitment level that we
5 wanted to receive or achieve before we went through
6 with that project. And, at that point, we went through
7 with the project, and then continued to work with the
8 project, so that I believe we were at 60 to 65 percent
9 saturation rate after the first year of every potential
10 customer along that route. We would apply similar
11 prudence for this build-out.

12 Q. Could you please focus in on the issue as to whether
13 you have an idea of the project timeline and the
14 expected in-service date, if the Petition were to be
15 granted? Or, is that still open-ended?

16 A. (Clark) If we were to receive Commission approval this
17 summer, I would expect construction to commence next
18 construction season, permitting throughout this fall
19 and winter, and construction to begin in the Spring of
20 2017.

21 MR. SPEIDEL: Thank you very much.

22 Staff has no further cross for these witnesses.

23 CHAIRMAN HONIGBERG: Commissioner Scott.

24 COMMISSIONER SCOTT: Good afternoon.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 WITNESS CLARK: Good afternoon.

2 WITNESS MULLEN: Good afternoon.

3 COMMISSIONER SCOTT: My usual caveat,
4 whoever feels, or multiple people, if they want, to answer
5 my question, that's fine.

6 BY COMMISSIONER SCOTT:

7 Q. Why don't we stay along the same line of questioning
8 that Attorney Speidel was just asking. So, what I
9 think I just heard was two different answers relative
10 to the in-service date. So, what I thought I heard,
11 and, if I paraphrase wrong, please correct me, is you
12 wouldn't start construction until you had a critical
13 mass of customers signed up, is that correct?

14 A. (Clark) Correct. We would working on that in --
15 simultaneous as the permitting process goes.

16 Q. Okay. So, having heard that, so, I assume your
17 projection of next summer would be assuming that all
18 happens?

19 A. (Clark) Correct.

20 Q. Okay. But it's something that you're optimistic that
21 would happen?

22 A. (Clark) I believe so.

23 Q. So, obviously, your testimony, your original testimony
24 was submitted last year. As outlined, we're seeing,

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 thankfully, for a lot of reasons, we're seeing a very
2 warm winter, I think the warmest on record, I think.
3 We're seeing relatively historic lows for oil prices,
4 which tends to bring other energy prices down.

5 So, with that dynamic, and I don't have
6 a crystal ball to know how long that will last either,
7 do your numbers still make sense? I mean, your
8 submittal was at a time when just we weren't in the
9 same place energywise?

10 A. (Clark) They do. There are a couple different factors
11 at play here. One, our cost of gas for EnergyNorth
12 this winter has come down just as much as the
13 oil/propane prices. I believe we're exiting this
14 winter at historically low levels of commodity costs, I
15 believe in the 25 cents per therm range.

16 The second part of that is, when we RFP
17 the LNG and the CNG, we would expect the respondents to
18 have access to natural gas at different points on the
19 system on different pipelines for compression, as well
20 as the potential for Marcellus liquefaction directly,
21 or Canadian or shipments coming into Boston Harbor.
22 So, I think we project that natural gas costs should
23 stay low.

24 And, then, you add onto that the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 potential pipeline projects coming into New England and
2 the Northeast as well, that would eliminate some of
3 that summer/winter differential. Where, if we're
4 allowed to either compress or liquefy here off this
5 pipeline reducing the distances for trucking, I think
6 that that advantage holds.

7 Q. And, if I remember from your written testimony, you are
8 expecting a 60 percent saturation rate for this project
9 also?

10 A. (Clark) We target 60 percent. It depends on what year
11 you're looking at. I mean, we would -- some projects
12 may be a little bit lower and some projects may be a
13 little bit higher. The most recent ones have all been
14 over 60 percent. But, again, those have been pipeline
15 priced gas.

16 Q. So, on the issue of anchor customers, so, as has
17 already been outlined, we understand you have a Letter
18 of Intent, but that's the extent you have for -- you
19 don't have any firmed up anchor customers?

20 A. (Clark) We do not have a firm contract/special contract
21 with an anchor customer.

22 Q. And, there's a reference, I don't remember where, to,
23 and if you weren't, for some reason, be able to get
24 anchor customers, there's a thought to scale down the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 amount, is that correct?

2 A. (Clark) That's correct. Some of the larger anchor
3 customers reduce the throughout, but would also reduce
4 the construction cost of the facility, less storage
5 tanks, the potential to utilize CNG more, which is, at
6 this point, a lower cost, and believe that we could
7 still achieve critical mass to make it profitable.

8 Q. But it would be -- am I correct that it would be more
9 desirable for a lot of reasons to have the anchor
10 customers?

11 A. (Clark) It would. It would allow us to plan much
12 better. As far as what years, what construction --
13 what part of the distribution system gets constructed
14 at what time. These large anchor customers, as you
15 know, a lot of them have year-to-year budgets, fiscal
16 budgets. And, if we can't give them a projected
17 in-service date, they really can't budget for the
18 conversion in their costs, which makes it a little bit
19 difficult. A couple of them have existing contracts
20 for fuel supply, whether it be Number 6 oil, 2 oil, CNG
21 or LNG, that expire at different points in time,
22 roughly, about a year and a half, on average.

23 Q. So, whether it's the full request, which is you could
24 get anchor customers, and then have residential

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 customers, or this potential for a smaller footprint,
2 for mostly residential, it sounds like?

3 A. (Clark) And, probably what we would call the smaller
4 box store commercial, uh-huh.

5 Q. So, I assume, even with that, there's a critical mass
6 by which, if you don't have X amount of -- X amount of
7 demand, it's just not a viable --

8 A. (Clark) Correct. Yes. If we have two pizza parlors
9 that have signed up and that's it, we're not going to
10 put a mile of pipe in and construct the facility to
11 serve them.

12 Q. So, I'm not aware of any time constraints. So, if we
13 were to grant the franchise, I'll state the obvious,
14 there is somebody else who would like the same
15 franchise area. You don't have any customers signed
16 up, firm customers right now.

17 A. (Clark) Uh-huh.

18 Q. And, I understand some of this is the
19 chicken-and-the-egg thing, without a franchise and
20 without customers, and back and forth. But, with that,
21 is there not a time -- what's the timeframe by which
22 you would expect, either I have enough customers and I
23 go forward, assuming I get a franchise, or I just don't
24 have enough customers and I don't?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) We would work diligently over this coming end
2 of summer and winter to have an answer to that question
3 by construction season of 2017.

4 Q. Similar line of questioning. Is there -- should I be
5 concerned with -- and, again, the more customers, the
6 better for everybody, I think, in a lot of respects.

7 A. (Clark) Uh-huh.

8 Q. Is there a danger to a small amount of customers
9 getting on service, the rest of it not happening,
10 because the economy or oil prices or whatever, and now
11 you have customers who, for want of a better word, are
12 stranded, if you will? They have a higher cost than --
13 you were hoping to get anchor customers, you don't.
14 How does that all -- assure me why that's not an issue?

15 A. (Swain) While they're thinking about that, I've had
16 a -- when you look at the natural gas business, the
17 business today, many people call it a "fuel of choice",
18 I happen to think that it is. I think the evidence of
19 that is that, when you -- even when you look at the
20 electric products, more and more it's natural gas is
21 being used to produce electricity. And, many of those
22 electric utilities are looking for the opportunity to
23 get natural gas to them. And, obviously, there might
24 be some -- it's not just a price thing, but there's an

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 environmental issue that comes into play there. And,
2 that's happening across the country.

3 Probably, the future of natural gas is
4 as bright as it's ever been. Today, they say that we
5 have two to three hundred, depending on who you talk
6 to, years of product that's out there. And, in the
7 areas where natural gas is available, there's a reason
8 why the saturation rate is extremely high, because it
9 continues to be that product of choice. And, the proof
10 is kind of in the pudding. Anywhere that you have a
11 gas main in front of homes, people hook up to it, they
12 sign up for it, because it's a product that continues
13 to be not just safe and reliable, it's also one that,
14 from a cost standpoint, has a great advantage.

15 And, it's, you know, it's been proven
16 out over the last 50 years or so. When you put the
17 main in front of the house, people are signing up to
18 get that product into their house. And, so, there is
19 that confidence of seeing what's happened in the past.
20 And, we're very confident that that's going to continue
21 on, especially with the news about where we are with
22 the product today. It has a bright future.

23 A. (Clark) So, as David mentioned, the confidence that we
24 have, you know, Liberty, in one of our testimonies have

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 put up kind of a guarantee on there, that we would do
2 projections of what we think customer sign-ups would be
3 along the main. And that, when we would come back in
4 for our next rate case, that, if we didn't get that
5 customer sign-up that we anticipated, we would exclude
6 that portion of the investment from the rate base, thus
7 kind of keeping those rates a little lower, and it's
8 more risk on the Company, as opposed to the existing
9 customers.

10 A. (Mullen) And, that's really the distribution side. If
11 your question was more to the commodity side, I think
12 that, when we extend the main anywhere, I mean,
13 customers have the choice to sign up or not. And,
14 obviously, they'd be choosing to take service for
15 probably a combination of pricing and non-price
16 reasons. So, I think that, when they make that
17 decision to do that, they're doing -- they're making
18 that conscious decision knowing that the prices are
19 where they are, and that they can change, but there's
20 also other reasons that they sign up.

21 Q. So, in my mind, the real key, I think, to your model
22 would be, for whatever section you're looking at
23 building, you would need a critical mass of load before
24 you pull the trigger to go ahead and build. Is that

1 correct?

2 A. (Clark) Yes.

3 Q. And, you seemed to allude to my next question, which is
4 on Bates 6 of the rebuttal. You talk about being
5 willing to discuss a mechanism, I think it's talking
6 about cross-subsidization I think. Can you elaborate a
7 little bit more on that?

8 A. (Mullen) Sure. As Mr. Clark briefly outlined, what we
9 had in mind was a type of mechanism where we would
10 track the investment in Hanover and Lebanon, and the
11 related O&M costs associated with it. Following
12 commencement of service, at any subsequent EnergyNorth
13 rate case, we would do a computation of the revenue
14 requirement associated with the investment in Hanover
15 and Lebanon, compare that to the revenue we have from
16 customers that are already taking service or others
17 that we had signed up, and then compare the two. If
18 there was a shortfall between the two, then what we
19 could do is we could make an adjustment to our rate
20 base to exclude that until the next rate case and we do
21 the same determination. So, that way, that would avoid
22 any existing EnergyNorth customers, if there was any
23 potential subsidy, they would not pay it.

24 Q. And, I understand -- I think I understood what you just

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 said. And, that's not in writing anywhere in this
2 docket at this point?

3 A. (Mullen) That's correct. Just the outline of the
4 concept that we mentioned in our rebuttal testimony.

5 Q. Okay. Thank you. As you're aware, Staff testimony,
6 would it -- well, I was going to say "imply", I think
7 it was clearer than that, but they suggest this not
8 proceed until there are firm anchor customers. What
9 would be wrong with waiting until there are anchor
10 customers before proceeding?

11 A. (Clark) As you know, it's been tough to get them to
12 sign up without an in-service date, and when they're
13 trying to put fiscal year budgets together of when they
14 could take service. Most of the customers that we deal
15 with are facilities directors and facilities managers,
16 sustainability managers, and they're living
17 year-to-year on their budgets. The willingness to sign
18 something for some unopen -- unknown date in the future
19 has been tough.

20 Q. And, Attorney Willing had, I think, implied regarding
21 the Kleen LOI, and you discussed with Attorney Speidel
22 a little bit the transition to a distribution line.

23 A. (Clark) Uh-huh.

24 Q. Assuming this became a firm contract, and, you know,

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 again, I know you don't have one now, while the line is
2 being built, is there -- would you be trucking gas in
3 some form to them?

4 A. (Clark) Depending on the construction time line. If we
5 were able to get that pipe to them before their fuel
6 procurement contract is up, we wouldn't need to do
7 that. Another option is they own the equipment that's
8 on-site. We could RFP their fuel while we're waiting,
9 and take care of that and make that as a pass-through
10 cost to their facility, until the pipe were to become
11 active.

12 COMMISSIONER SCOTT: Thank you. I think
13 that's all I have for now.

14 CHAIRMAN HONIGBERG: Commissioner
15 Bailey.

16 COMMISSIONER BAILEY: Thank you.

17 BY COMMISSIONER BAILEY:

18 Q. Mr. Swain, you -- just a follow-up on what you just
19 said, and to paraphrase you, "when you put the main in
20 front of the house, people sign up". And, if it's
21 really that easy, why haven't you extended the mains in
22 the towns that you already have franchises in more
23 aggressively?

24 A. (Swain) Well, I think, when you look at what Liberty

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Utilities is doing, that's exactly what we are doing.
2 We have a very aggressive capital growth plan in the --
3 not just in places like Lebanon or Hanover, but we're
4 also doing that, and Mr. MacDonald mentioned earlier,
5 that we expanded into Bedford. This year, we plan to
6 spend another, approximately \$15 million, on main
7 extensions into those areas that you're talking about,
8 twelve to fifteen miles this year.

9 Q. In what towns, can you say that?

10 A. (MacDonald) Across a lot of different towns. We do a
11 lot of short main extensions. Certainly, our biggest
12 project last year was the Bedford project, which was
13 around or close to four miles. But, you know, we do
14 1,500-foot, 2,000-foot, 500-foot main extensions in all
15 of our service territories, where the -- you know,
16 where the revenue projections meet the hurdles, you
17 know, we approve those projects and go after them.

18 A. (Clark) Last year, we added 1,817 new customers to our
19 system. That was our best year ever, which -- by
20 51 percent. National Grid, the predecessor company,
21 was averaging about 600 customer additions per year.
22 Since Liberty has taken over, we've close to tripled
23 that number.

24 Q. Okay. Thanks. Mr. Swain, on Page 8 of your testimony,

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Line 16 through 18, you say "EnergyNorth plans to
2 finance the project through internally generated funds
3 or funds provided by the corporate parent which will
4 inject equity and/or debt into EnergyNorth." How
5 will -- talk about the injection of debt and how that
6 might alter the capital structure?

7 A. (Swain) Ask me that question again.

8 Q. I don't understand how the parent company would inject
9 debt?

10 A. (Swain) The purpose of that statement is to say that
11 it's not just EnergyNorth, but that we are part of a --
12 are part of a bigger company that does have capital,
13 that they can and are willing to invest in these
14 communities. It's obvious that it does matter as to
15 whether a company is willing to or not; the predecessor
16 here didn't do that. We're very willing to do that.

17 If it was completely dependent upon
18 EnergyNorth to do that, then we may have to borrow from
19 somebody else, which would be debt from somebody.
20 Here, we're able to invest equity into it from our
21 parent company, and they're strong enough for us to be
22 able to do that.

23 A. (Mullen) If I could just add to that. I think the
24 sentence could have probably been worded a little more

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 artfully. I think the "inject" pertains to the equity.
2 As related to "debt", that would be EnergyNorth would
3 get a note from Liberty Utilities Co., which is the
4 financing arm of Liberty Utilities.

5 Q. Okay. Thanks. Okay. This is Gas Ratemaking 101 for
6 Commissioner Bailey, sorry. So, Mr. Clark, you said
7 that there are about four rate elements, Customer
8 Charge, Distribution, LDAC, and cost of gas?

9 A. (Clark) Correct.

10 Q. So, in which rate component is the investment for
11 compression and liquification and vaporization and
12 odorization?

13 A. (Clark) That would be the cost of gas.

14 Q. Okay. And, the facility construction charges?

15 A. (Clark) Cost of gas.

16 Q. So, all of the charges for the investments in this
17 project would be included in a separate cost of gas?

18 A. (Clark) Other than the distribution lines and the
19 service lines, meter charges, back office support,
20 legal customer service, those will be in the
21 distribution rates.

22 Q. Okay. In which rate component is the firm gas pipeline
23 capacity cost recovered?

24 A. (Mullen) When you're talking about "pipeline capacity",

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 that's more for, say, like EnergyNorth has, when it
2 buys on existing pipelines. This would be an
3 off-pipeline system. So, you would be having the LNG
4 and CNG commodity.

5 Q. Right. I totally understand that. That's the point of
6 my question. So, which rate component --

7 A. (Mullen) Oh.

8 Q. -- is that capacity charge recovered in?

9 A. (Mullen) I get it now. Okay. I'm sorry. For
10 EnergyNorth, that is part of the cost of gas.

11 Q. Okay. Thank you.

12 CHAIRMAN HONIGBERG: Mr. Mullen, she
13 told you it was "101". You were in the 200 series of
14 courses with that.

15 WITNESS MULLEN: My apologies.

16 COMMISSIONER BAILEY: No, actually, I
17 think I was in the 200 series, and he was thinking I was
18 in the 100, because that's what I said.

19 BY COMMISSIONER BAILEY:

20 Q. The whole conversation about using the revenue test
21 contained in the tariff for main extensions, I think
22 maybe this question is answered by the response to the
23 last questions. But isn't this project more than a
24 main extension?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) In the sense that it has that fueling facility,
2 capacity, construction cost, and operating that
3 facility, it's more than a main extension. If we were
4 to do just the main extension in Bedford, we have
5 infrastructure on the outskirts of that town that we're
6 extending. So, therefore, it's straight line
7 extension/line extension policy. You do the revenue
8 test to find if there's any CIAC involved. Is there
9 revenue justified at a 60 percent saturation rate?
10 And, you move forward.

11 This is different, in the sense that
12 there's an upfront cost to construct the facility, as
13 well as put the pipe in the ground.

14 Q. So, isn't that an argument why the DCF methodology may
15 make more sense? Or, tell me why that isn't a reason
16 why the DCF methodology doesn't make more sense for
17 this kind of project?

18 A. (Mullen) Well, when you look at it, I mean, you know,
19 the only -- the main difference here is that it's not
20 on existing pipeline, it's just off pipeline. I mean,
21 the main extension policy says "extensions that require
22 the construction of a new gas main and a service from
23 that new main".

24 So, you know, when he look at it, we

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 also have to look at it from a perspective of a
2 potential customer taking service. And, I think Mr.
3 Clark could add more about this, but I know that
4 sometimes, when they're out talking to large customers,
5 they have our tariff open on the table when they go and
6 talk to them. So, they want to know how things are
7 going to be evaluated. So, if we're talking to
8 customers in some of these other areas, and we've said
9 we want to apply our existing tariff out there, well,
10 they want to know how their project's going to be
11 assessed.

12 Q. And, isn't there testimony that says that the result of
13 the analysis between the DCF and the six-year revenue
14 test in the tariff are roughly the same thing?

15 A. (Mullen) Correct.

16 Q. So, why would customers be worried about using a
17 different methodology to decide whether this investment
18 was going to prevent cross-subsidization by other
19 customers?

20 A. (Mullen) Because the tariff spells out what we would be
21 using, whereas the other one we would have to explain
22 it to them. Here, the tariff is, you know, is how we
23 charge customers and provide service to them. So,
24 having things written down, so they can see exactly how

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 it's going to work, rather than us saying "Well, we
2 have another methodology, it's about the same, and here
3 it is." I mean, you know, we have to follow our
4 tariff.

5 Q. Okay. I get that we have to follow our tariff. I
6 think I'm not understanding one of the main points
7 here. So, if you go to customers and say "these are
8 going to be our rates based on the tariff", why are
9 they going to look at your analysis to determine
10 whether this project is cost-effective or not based on
11 your tariff, as long as they get the rates that are in
12 the tariff?

13 A. (Mullen) Well, the tariff also spells out how we're
14 coming up with the CIAC payment for them, and that's
15 part of the analysis.

16 Q. Okay. Just to make sure I understand, the LNG
17 vaporization and the CNG decompression facilities are
18 going to be located on the property that we looked at
19 that was outlined in red for us, gray for you?

20 A. (Clark) Correct. They will be on the same parcel.

21 Q. Okay. Are you still working under the assumption that
22 Dartmouth is going to be your anchor customer or are
23 you sort of proceeding assuming that they're not?

24 A. (Clark) We're projecting that there's enough viable

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 load without them to proceed. Obviously, we would love
2 them as an anchor customer. As for their timeframe,
3 I'm sure they're evaluating many different
4 opportunities. In the essence of time, one thing that
5 we have going for us is that we have that 11-mile
6 backbone to get to them. So, I don't anticipate them
7 calling us and saying, you know, "we want service in
8 three months." We should have time to serve them.

9 Q. If they call you up in your permitting period and said
10 "we want to be a customer", would you have to build to
11 them first, the whole eleven miles?

12 A. (Clark) No. Well, we would explore other
13 opportunities. As part of the special contract, in
14 some of the discussions that we've had, there are other
15 options, short-term options, to get them converted
16 before the pipeline gets there. There are
17 opportunities that they have a bunch of land in that
18 vicinity that we could possibly host a temporary site
19 and serve them while we're building that backbone to
20 them.

21 Q. Could a CNG trucking facility or trucking company do
22 the same thing?

23 A. (Clark) Yes. Their load profile is rather large, would
24 require a lot of CNG trucks per day. There are

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 customers in the Northeast that are larger than them
2 that are utilizing CNG.

3 Q. The three employees that, I forget, it might have been
4 you, Mr. MacDonald, --

5 A. (MacDonald) Yes.

6 Q. -- who said that you were going to hire, will they live
7 in the service territory?

8 A. (MacDonald) That will be a preference and a
9 requirement, yes.

10 Q. A preference or a requirement?

11 A. (MacDonald) A requirement.

12 Q. Okay. So, do you have a requirement of your employees
13 to respond within a certain amount of time to
14 emergencies?

15 A. (MacDonald) Well, that's driven by the 500 rules.
16 There are multiple response metrics that are outlined
17 in the regulations regarding response time during the
18 day, after normal business hours, and on weekends and
19 holidays. So, those drive our decisions on personnel.

20 COMMISSIONER BAILEY: I think that's all
21 I have. Thank you.

22 CHAIRMAN HONIGBERG: Ms. Arwen, you look
23 like you wanted to say something. What was it you wanted
24 to say?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MS. ARWEN: I even raised my hand. I
2 have a question for Mr. Swain, and also for Mr. Clark, if
3 possible.

4 CHAIRMAN HONIGBERG: Well, I'm going to
5 allow you to do it. I'll just tell you, though, that the
6 typical practice here is to go around the room and
7 identify who wants to ask questions. Staff usually gets
8 the last round of questions before the Commissioners asks
9 questions. I understand you're not -- you're not a
10 regular here. So that -- and that's fine. So, if --

11 MS. ARWEN: Thank you.

12 CHAIRMAN HONIGBERG: -- if you would
13 like to ask your questions, you may go ahead.

14 MS. ARWEN: Thank you very much.

15 BY MS. ARWEN:

16 Q. The first question is for Mr. Swain. I think we met
17 after your September 29th presentation. My question is
18 what research is the basis of your claim for "plentiful
19 gas supplies going two to three hundred years into the
20 future"? And, if you're aware of the University of
21 Texas at Austin study that was published in Nature in
22 December 2014?

23 A. (Swain) I heard part of your question. Ask me that
24 again.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. The first part was, what research is the basis of your
2 claim of "plentiful gas supplies going two to three
3 hundred years into the future"?

4 A. (Swain) I can't cite a specific document. I'm sure
5 that -- I don't have one in mind. There's many studies
6 that are there, there are many that support that
7 statement, but I don't know specifically what one of
8 those are.

9 MS. ARWEN: Okay. If the Chair would
10 allow --

11 CHAIRMAN HONIGBERG: What was the -- you
12 want an answer to the second question, I assume, which was
13 "are you aware of" --

14 MS. ARWEN: Yes, which I have some
15 excerpts in front of me to show to you.

16 CHAIRMAN HONIGBERG: Why don't you ask
17 him the question that you asked.

18 MS. ARWEN: Oh.

19 CHAIRMAN HONIGBERG: It's a good
20 question. "Are you aware of the study" --

21 BY MS. ARWEN:

22 Q. Are you aware of the University of Texas at Austin
23 study, which was put together by dozens of geo -- I
24 would have to read it. It was published in Nature, in

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 actually January of 2015.

2 A. (Swain) I still didn't hear who you said it was.

3 Q. The University of Texas at Austin. There are other
4 studies as well.

5 A. (Swain) No. I don't recall being aware of that
6 specific one.

7 MS. ARWEN: So, if I would be allowed to
8 read just a little bit, is that appropriate, since he made
9 a claim?

10 CHAIRMAN HONIGBERG: No, it wouldn't.
11 But what you can do is, how much -- what excerpts are
12 you -- how long are these excerpts?

13 MS. ARWEN: They're not long, like
14 about --

15 CHAIRMAN HONIGBERG: How long?

16 MS. ARWEN: Two paragraphs.

17 CHAIRMAN HONIGBERG: "Not long" is not
18 an answer.

19 MS. ARWEN: Two paragraphs.

20 CHAIRMAN HONIGBERG: So, you want to ask
21 him would he agree with the statements that you're going
22 to read?

23 MS. ARWEN: Yes. Exactly?

24 CHAIRMAN HONIGBERG: And, if they are --

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 if they're going to take you three minutes to read, that's
2 too long.

3 MS. ARWEN: Okay.

4 CHAIRMAN HONIGBERG: You understand?

5 MS. ARWEN: Make it short.

6 CHAIRMAN HONIGBERG: Right.

7 MS. ARWEN: Okay.

8 BY MS. ARWEN:

9 Q. Okay. Here we go. "The results are "bad news", says
10 Tad Patzek, head of the U of Texas at Austin's
11 Department of Petroleum and Geosystems Engineering, and
12 a member of the team that's conducting the in-depth
13 analyses. With companies trying to extract shale gas
14 as fast as possible and export significant quantities,
15 he argues "we're setting ourselves up for a major
16 fiasco". Then, I'll skip to the --

17 CHAIRMAN HONIGBERG: Wait. Do you want
18 to ask him if he agrees with that statement?

19 MS. ARWEN: Well, I want to read the
20 supporting -- yes, I do.

21 CHAIRMAN HONIGBERG: Okay.

22 MS. ARWEN: Okay. And, then there's
23 another part that I'll ask the same.

24 BY MS. ARWEN:

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 Q. Do you agree with that statement?

2 A. (Swain) Again, I hate to ask you to, but I heard part
3 of the question -- I mean, part of the statement.

4 Q. Oh. Maybe I'm not --

5 CHAIRMAN HONIGBERG: Mr. Patnaude, maybe
6 you could read it back?

7 *[Brief off-the-record discussion*
8 *ensued.]*

9 MS. ARWEN: I'll go slower. I'll talk
10 better. I wasn't talking so close. Is that better?

11 CHAIRMAN HONIGBERG: And just -- and
12 make sure that microphone is close to you.

13 MS. ARWEN: Okay. And, that my bifocals
14 work, right?

15 BY MS. ARWEN:

16 Q. Let's see. What I said was, "The results are "bad
17 news" said Tad Patzek, head of the University of Texas
18 at Austin's Department of Petroleum and Geosystems
19 Engineering, and a member of the team that's conducting
20 the in-depth analyses. With companies trying to
21 extract shale gas as fast as possible and export
22 significant quantities, he argues, "we are setting
23 ourselves up for a major fiasco".

24 That's the first part. And, I'm asking

1 if you agree?

2 A. (Swain) No. Obviously, I disagree with that. And, I
3 think that most of the -- most of the science and the
4 people who study that today would disagree with that.
5 And, I say that it's "obvious", because our Company
6 isn't investing in a future that we think is headed for
7 a disaster.

8 Q. So, the next part says "The research was funded by
9 \$1.5 million U.S. grant from the Sloan Foundation, and
10 it's been appearing gradually in academic journals. If
11 natural gas prices were to follow the scenario that the
12 U.S. EIA used in its 2014 Annual Report, the Texas team
13 forecasts that production from the big four plays would
14 peak in 2020, and decline from then on. By 2030, these
15 plays would be producing only about half as much as the
16 EIA's reference case. Even the agency's most
17 conservative scenarios seem to be higher than the Texas
18 team's forecast. "Obviously, they do not agree very
19 well with the EIA results," says Patzek."

20 Do you agree with that?

21 A. (Swain) I agree that's the writer's opinion. I don't
22 agree with the synopsis of that, no.

23 MS. ARWEN: Okay. So, there are other
24 studies, but I don't have the citations here. Now, may I

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 ask a question of Mr. Clark?

2 CHAIRMAN HONIGBERG: Sure.

3 MS. ARWEN: Okay.

4 BY MS. ARWEN:

5 Q. This is in response to when Staff was asking the pros
6 and cons in the public eye regarding gas. And, the
7 only comment I heard was concerns about safety. Can
8 you hear me okay? Am I doing okay here?

9 A. (Clark) I do, yes.

10 Q. So, I wanted to ask if you are aware that, kind of
11 inspired by these two dockets, there are hundreds of
12 people in Lebanon and Hanover who have been organizing
13 and having public forums and a variety of workgroups,
14 who are not interested in new fossil fuel
15 infrastructure, and are interested in energy efficiency
16 and sustainable energy sources, and that a grant has
17 been funded through the National Sierra Club, that has
18 as its goal Hanover being 100 percent carbon-neutral,
19 which is activating people in the Upper Valley Sierra
20 Club, the Donnell Meadows Institute, the Dartmouth
21 Outing Club, the Environmental Studies Department at
22 Dartmouth, the Sustainability --

23 CHAIRMAN HONIGBERG: Slow down, slow
24 down, slow down.

1 BY MS. ARWEN:

2 Q. -- at Dartmouth, Sustainable Hanover, and a large
3 citizens group. And, I wondered if you're aware that
4 there are many people in the Upper Valley who do not
5 want new fossil fuel infrastructure, and view it as a
6 disincentive to the goals that Representative Oxenham
7 earlier referred to?

8 A. (Clark) I am aware of the letters that came into the
9 Commission in the last 48 hours. And, I'm not aware of
10 any groups that have contacted Liberty to protest. As
11 far as being carbon-neutral, you know, the fuels that
12 we, as a utility, would be displacing would be fossil
13 fuels, oil, propane. I think a lot of businesses up
14 there that utilize fossil fuels for manufacturing and
15 cooking, we find it hard to view those processes
16 without the fossil fuels.

17 Q. So, may I ask if you're familiar with Robert Howarth's
18 meta analyses from Cornell that equate the carbon
19 equivalence due to fugitive methane to as bad as oil?

20 A. (Clark) I'm not familiar with that study, no.

21 Q. That's a study I showed to Mr. Swain in September as
22 well. Regarding being familiar with activity in the
23 Upper Valley, I don't know where you live, but the
24 Valley News has had several front page articles about

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 the forums and meetings that have been going on. I
2 wondered if you've read them?

3 A. (Clark) I have not.

4 MS. ARWEN: Okay. Thank you very much.
5 Thank you. Thank you, Chairman.

6 CHAIRMAN HONIGBERG: I have a few
7 questions.

8 BY CHAIRMAN HONIGBERG:

9 Q. They're on similar topics, having to do with the
10 projection of 60 percent. You had compared it to
11 Bedford. I'm interested in, again, some of the
12 differences between this situation and what was an
13 extension in Bedford. Bedford was already within your
14 service territory, correct?

15 A. (Clark) We had facilities -- we have facilities on the
16 Bedford/Manchester line. We extended a few streets
17 into Bedford at that location.

18 Q. And, so, you're dealing with neighbors of people who
19 have gas and have had gas for many years, right?

20 A. (MacDonald) At the beginning of a project.

21 A. (Clark) At the beginning of the project, at the
22 intersection of Seabee Ave. and Whittemore. A little
23 bit of that neighborhood had gas. EnergyNorth years
24 ago, probably 15 years ago, installed a pipe to that

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 neighborhood, and then stopped. So, there was an
2 8-inch high-pressure line pretty much stuck in the
3 middle of a neighborhood.

4 So, what Liberty did was, reached out to
5 some of the large anchor customers along 114 and 101
6 down there. There was a couple new developments going
7 in, and there was some highway work that's going on for
8 the last two years that we wanted to piggy-back on. We
9 were able to get some of the anchor customers signed
10 up, one being the Bedford Village Inn, plus their new
11 construction; there was 144-unit housing complex being
12 built, we got that customer to sign up; the new Copper
13 Door Restaurant; those customers signed up, the
14 Memorial School, in Bedford. And, then, we got to that
15 saturation point, where the project was viable, we
16 started planning and constructing, and then worked the
17 neighborhoods for these smaller residential and smaller
18 customers.

19 Q. In the Upper Valley, you're parachuting in to a place
20 where you don't have a presence. And, as far as we can
21 tell, there's not a natural gas presence that isn't
22 being trucked in from somewhere place else. Do you
23 know the current penetration of CNG, LNG, up there,
24 even propane?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 A. (Clark) I don't know the propane penetration rate. I
2 do know the large customers that are receiving CNG or
3 LNG.

4 Q. What about the residential, anybody taking fuel that
5 way?

6 A. (Clark) No. It's --

7 Q. So, you have -- there's no one up there with experience
8 with natural gas. Isn't that a very different
9 situation than trying to sell into Bedford?

10 A. (Clark) It could take some education to the residential
11 community to --

12 Q. That's an understatement. I think that you're hearing
13 it from, obviously, this is, you know, the plural of
14 anecdote is not data. But you've got one anecdotal
15 point right here, and an organized effort up there to
16 make your sales force's life difficult in the
17 residential market. A projection based on main
18 extensions, in places where people have experience with
19 gas and talk to their neighbors, has to be different,
20 doesn't it?

21 A. (Clark) Yes.

22 Q. A question about -- you made a reference to the ICF
23 marketing, the work done for your marketing staff. You
24 mentioned the other franchise expansion petitions that

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 are here, except one. And, I'm wondering whether that
2 information is being made available to that group.
3 It's the one that includes Jaffrey and seven or eight
4 other towns. Is that one also part of the study?
5 Because you mentioned "Pelham and Windham", but didn't
6 mention the other one.

7 A. (Clark) Not the initial study. Pelham and Windham,
8 we'd like to start the construction process this fall.

9 Q. I think it was with Mr. Willing, you were talking about
10 trucks in and out of the site. And, this is a level of
11 information I don't know anything about, how busy it
12 needs to be to serve customers. Is the type of traffic
13 in and out of that site to deliver, in the LNG scenario
14 or the CNG scenario, because I can do the math times
15 three, are we talking about one truck an hour? Two
16 trucks a day? Ten? One hundred? How many trucks to
17 serve a large anchor customer? How many trucks to
18 serve Kleen? I just can't get a sense of the scope.

19 A. (Clark) So, Kleen Laundry, I believe, receives one LNG
20 shipment about every two and a half days on there. I'm
21 not sure about Pike Industries, which is on that
22 street. NG Advantage has that contract, they may be
23 able to tell you how many trucks a day they deliver in
24 the summertime. That facility is closed during the

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 wintertime. The Medical Center is also on CNG and
2 served by a different provider. And, I believe that's
3 on the magnitude of anywhere from three to five trucks
4 a day.

5 CHAIRMAN HONIGBERG: Thank you. That's
6 helpful. I don't think I had anything else to ask about.

7 Mr. Patch, do you have any further
8 questions for your witnesses?

9 MR. PATCH: I do, Mr. Chairman. Thank
10 you.

11 **REDIRECT EXAMINATION**

12 BY MR. PATCH:

13 Q. First of all, with regard to the exhibit that was
14 marked, I believe, as number "14", and that's the
15 e-mail that Mr. Willing provided, I just have a couple
16 of questions about that. First of all, there's a
17 reference -- a couple of references, I think in there,
18 to "we". For example, in paragraph four, "we can offer
19 financing and pipeline construction". And, I think,
20 Mr. Clark, this is directed at you. Who does that "we"
21 refer to?

22 A. (Clark) That "we" would be an unregulated affiliate,
23 and not EnergyNorth.

24 Q. And, are you familiar with and is your Company familiar

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 with affiliate transaction rules and codes of conduct?

2 A. (Clark) We are.

3 Q. And, do you abide by them?

4 A. (Clark) We do.

5 Q. And, so, would there have been any conversations
6 between an unregulated affiliate and with the regulated
7 company about this?

8 A. (Clark) No.

9 Q. I think, Mr. Clark, in response to a question, were
10 describing sort of the benefits of this particular
11 location that you've chosen for the facility that would
12 be used to put gas into the distribution lines. Could
13 you describe the proximity to the landfill?

14 A. (Clark) It's directly adjacent to the City of Lebanon
15 Landfill. If we were to reach an agreement with the
16 City for the methane produced at the landfill, it would
17 be approximately a thousand foot pipe to get into our
18 distribution network.

19 Q. You had a question with regard to the serving of
20 customers and the impact, in terms of the trucks. I
21 mean, you've had a couple of questions, I think, about
22 trucks and the trucking. In the event that
23 Liberty/EnergyNorth is given this franchise, and, in
24 the event that you sign up a number of those customers

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 that currently receive LNG or CNG by truck, then won't
2 those trucks be eliminated? Won't the need for trucks
3 to serve those customers be eliminated?

4 A. (Clark) That's correct. If they signed with Liberty
5 Utilities in our central facility, the trucks that are
6 currently making deliveries in downtown Lebanon and
7 other business areas would be reduced, as well as large
8 anchor customers that have 30,000 gallon propane or oil
9 tanks on site receiving tractor-trailer deliveries of
10 those fuels as well.

11 Q. You had a question, I believe, about the -- and I think
12 it was from Mr. Willing, about the footprint of the
13 proposed facility. And, do you recall whether you have
14 provided more detailed information about that in
15 response to a data request? And, just to refresh your
16 memory, would that have been response to 1-10, and, in
17 fact, there was an attachment labeled "10.4"?

18 A. (Clark) That's correct. The attachment was the Fatal
19 Flaw Analysis performed by Sanborn Head for the on-site
20 storage and vaporization. It includes the thermal
21 radiation testing that was done as well. And did not
22 find any impingement from the conservation easement or
23 the water overflow area. The footprint itself of the
24 LNG tanks in the facility is much smaller than 25

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 acres. The 25 acres is a buffer, you know.

2 Q. And, is the response, the attachment, in fact, you were
3 referring to, 10.4, does it contain some confidential
4 information?

5 A. (Clark) It does.

6 MR. PATCH: Mr. Chairman, I have two
7 exhibits I'd like to offer. One is a redacted version of
8 that response and the other is an unredacted version.

9 CHAIRMAN HONIGBERG: I assume these are
10 not on the premarked list or the prenumbered list?

11 MR. PATCH: They're not, because it came
12 up during cross.

13 CHAIRMAN HONIGBERG: Understood. This
14 is going to be "17" and "18". So, which one is going to
15 be 17?

16 MR. PATCH: How about if we say the
17 redacted.

18 CHAIRMAN HONIGBERG: And, what's the
19 data request number?

20 MR. PATCH: It's Staff 1-10. And, it's
21 only the attachment to the response, and it's "10.4".

22 CHAIRMAN HONIGBERG: And, so, 18 is
23 going to be the full confidential version?

24 MR. PATCH: That's right.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 (The documents, as described, were
2 herewith marked as **Exhibit 17** and
3 **Exhibit 18**, respectively, for
4 identification.)

5 BY MR. PATCH:

6 Q. I believe there was a question that was asked about how
7 long the customer center in Lebanon was out. Could you
8 clarify that perhaps? I think the information that
9 came out this morning was maybe a little different
10 than --

11 A. (Clark) Upon clarification during break, it was five
12 months that that contact center was not in use.

13 Q. You also received a question about whether the Company
14 has any experience running baseload CNG or LNG. And,
15 would you like to provide a response to that question,
16 a clarification?

17 A. (Clark) Well, currently, the LNG facilities that we
18 have are supply and peak-shaving facilities. The
19 Tilton facility, because it's at the end of the Concord
20 Lateral, could actually be considered a baseload
21 facility. It's used for pressure support. The last
22 couple winters there were times where it ran 24/7 for
23 70 straight days through the winter, receiving LNG
24 deliveries and vaporizing. And, if not for that

{DG 15-289} {03-17-16}

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 facility, we would have had pressure reductions in the
2 nine northern communities that we serve. So, we feel
3 Tilton, not only as a peak-shaver, but a pressure
4 support, is very close to a baseload facility
5 operationally during the winter.

6 Q. And, in terms of the methane from the landfill in
7 Lebanon, could you talk about any benefits associated
8 with that, in terms of it being -- becoming a part of
9 the EnergyNorth system? I mean, how is it being used
10 now?

11 A. (Clark) Currently, the methane is captured under the
12 capped and uncapped landfill and being flared in the
13 atmosphere. So, if it were to be cleaned and injected
14 in the system, it would be sent to the burner tips of
15 customers in that area on more efficient products, I
16 think it would be better use of that methane. It could
17 also contribute a revenue stream to the City as well.

18 Q. I think there were a couple of questions that
19 Mr. Speidel asked with regard to two dockets, one of
20 which involved I think it was 14-380, the docket that
21 pertains to the Market Path, and the other one was with
22 regard to, and I'm going to get this wrong, but is it
23 iNAT Concord?

24 A. (Clark) iNATGAS.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. SPEIDEL: Yes.

2 BY MR. PATCH:

3 Q. INATGAS. And, so, neither one of those are franchise
4 approval dockets, are they?

5 A. (Clark) iNATGAS was a special contract, and the Market
6 Path was a capacity contract on a pipeline.

7 A. (Mullen) So, the answer is "no".

8 A. (Clark) Thank you.

9 Q. And, in terms of the question about the lack of
10 familiarity of customers in that area, you know, not
11 having neighbors or other people that are familiar with
12 natural gas, I mean, presumably there are a number of
13 people who live in that area who may have lived
14 somewhere else, would they have experience with natural
15 gas? Would you say that's the case? I mean,
16 obviously, we don't know numbers, but --

17 A. (Clark) It could be.

18 Q. And, so, that might make them more comfortable with the
19 fact that natural gas is being offered to them?

20 A. (Clark) Yes.

21 MR. PATCH: Okay. That's all the
22 questions. Thank you.

23 CHAIRMAN HONIGBERG: I believe
24 Commissioner Scott has a question about the new exhibits.

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MR. PATCH: Okay.

2 CHAIRMAN HONIGBERG: And, Commissioner
3 Bailey has one, too, I think.

4 BY COMMISSIONER SCOTT:

5 Q. Mr. Clark, if you go to the -- what did we decide the
6 confidential version was, "18"?

7 CHAIRMAN HONIGBERG: Yes.

8 BY COMMISSIONER SCOTT:

9 Q. -- Exhibit 18, the first highlighted area, the very
10 first part that's highlighted.

11 A. (Clark) Uh-huh. Yes, I'm there.

12 Q. Is that truly confidential, because I think you
13 discussed that in the open at the beginning of this
14 hearing?

15 A. (Clark) That's correct. So, we discussed that at lunch
16 as well, that that part was spoken today. The next
17 confidential on that page is the true reason.

18 Q. Okay. So, should -- is that part still confidential or
19 not, I guess is my question?

20 A. (Clark) No.

21 Q. It is not, okay.

22 COMMISSIONER SCOTT: That's it. Thank
23 you.

24 CHAIRMAN HONIGBERG: Commissioner

1 Bailey.

2 BY COMMISSIONER BAILEY:

3 Q. Do you have any experience with converting methane gas,
4 to injecting it and being able to use it in a pipeline?

5 A. (Clark) No. Liberty does not. Again, one of the
6 reasons we reached out to Sanborn Head is they have
7 experience doing that at the UNH Waste Management.
8 And, they're the current engineers for the City of
9 Lebanon for their landfill, and designed the methane
10 capture system and flaring system currently in place.
11 We'll be working with them to design the clean-up.
12 There's been some preliminary work done by them of what
13 was necessary to extract the sulphur, the water, and
14 the other contaminants out of it.

15 Q. Have they given you any cost estimates? I mean, do you
16 have any idea how much that's going to cost?

17 A. (Clark) We have a rough idea.

18 Q. It's pretty big, isn't it?

19 A. (Clark) It's more than a million.

20 Q. But it's going to be cost-effective and you're going to
21 be able to make it work?

22 A. (Clark) It all depends on the revenue stream that the
23 City is looking for. I would suspect that the City is
24 going to entertain a couple different options. I mean,

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 there's the opportunity for us to invest and own the
2 equipment and maintain the equipment, so there's zero
3 risk to the City or cost to the City other than a
4 revenue stream coming in. There's the opportunity for
5 them to take a little bit more risk and construct the
6 methane cleanup for a higher revenue stream. There's
7 the opportunity for them to produce electricity.
8 There's an opportunity for one of these large end-use
9 customers that want to come in and take a renewable gas
10 source and pay for that cleanup and pay a
11 transportation charge from our pipe into their
12 facility. There's a few different ways that we're
13 looking at the methane capture.

14 Q. And, I guess our decision whether that was prudent,
15 whatever decision was made, would happen in a rate
16 case?

17 A. (Clark) It would.

18 Q. Okay. Thank you.

19 A. (Clark) And, it would also impact whether we went
20 forward, the cost of gas. If it got to the point where
21 it would make the product too expensive for our
22 customer base, that would also enter into our decision
23 of whether we went forward as well.

24 CHAIRMAN HONIGBERG: Yes, Ms. Arwen?

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 MS. ARWEN: Thank you, Mr. Chairman.
2 This is for Mr. Clark.

3 CHAIRMAN HONIGBERG: You're probably not
4 going to get allowed to ask this question. But, in order
5 to make the record clear as to what it is you are not
6 going to be allowed to do, why don't you say what the
7 question is on the record.

8 MS. ARWEN: Okay.

9 CHAIRMAN HONIGBERG: What question would
10 you ask if you were allowed to ask a question right now?

11 MS. ARWEN: Nice. Okay. If I was
12 allowed to ask a question, I would ask whether Mr. Clark
13 is aware of the level of interest or the lack thereof in
14 the City of Lebanon, according to Mark Morgan, who is on
15 the Lebanon Advisory -- Energy Advisory Committee with me.
16 He is the manager of Waste Management and the landfill.
17 I'm wondering if you could give some indication of what
18 you think the City of Lebanon's interest is in capturing
19 methane for such a system, versus converting it on-site to
20 electricity for the City's own use, which would be
21 independent of your project?

22 CHAIRMAN HONIGBERG: All right, Mr.
23 Clark, don't say anything. There were two questions
24 there. Were you aware of what this gentleman's opinion

[WITNESS PANEL: Swain~Clark~MacDonald~Mullen]

1 is? And, what are your thoughts about the City?

2 Mr. Patch, what would you like me to do?

3 MR. PATCH: Well, it seems to me that
4 we've already investigated that. It's clearly out of
5 time. We've already, I mean, out of -- you know, it's not
6 in the typical manner to allow further questions after
7 I've done redirect, certainly. And, I think that issue's
8 been pretty fully vetted.

9 But, I don't know, obviously, we defer
10 to you, Mr. Chairman.

11 CHAIRMAN HONIGBERG: Well, I think I'm
12 giving you an opportunity to protect your record as well.
13 So, if you object, I will not allow the question.

14 MR. PATCH: Yes. We object.

15 CHAIRMAN HONIGBERG: All right. So, Ms.
16 Arwen, just going forward, I think you understand now, to
17 try and identify all the questions you might want to ask,
18 because it's probable that you're only going to get one
19 crack at each set of witnesses.

20 But you've identified the questions that
21 you would have asked. So, if you feel you need to appeal
22 down the line, you'll be able to point to that as some
23 error that we may have made, in the event that you're
24 aggrieved by the decision. Do you understand that?

{DG 15-289} {03-17-16}

[WITNESS: Evslin]

1 MS. ARWEN: Yes. Somehow I thought that
2 I had to respond to things that were brought up.

3 CHAIRMAN HONIGBERG: No. It's not a
4 back-and-forth --

5 MS. ARWEN: Okay.

6 CHAIRMAN HONIGBERG: -- throughout. The
7 Commissioners have a little bit more leeway than all of
8 you do.

9 MS. ARWEN: Okay. Thank you.

10 CHAIRMAN HONIGBERG: All right. So, I
11 think we have nothing else for you gentlemen. You can
12 return to your seats.

13 Let's go off the record for a second.

14 *[Brief off-the-record discussion*
15 *ensued.]*

16 CHAIRMAN HONIGBERG: Ms. Geiger, I guess
17 your witness is going to go next?

18 MS. GEIGER: Yes. That's fine.

19 CHAIRMAN HONIGBERG: All right. Why
20 don't you have him take the stand.

21 Oh. While he's doing that, I will note
22 for the record that Ms. Arwen has provided us, and I
23 assume the Clerk, with Exhibits 15 and 16. Exhibit 15 is
24 the data response Arwen 1-9 and 16 is Arwen 2-4.

{DG 15-289} {03-17-16}

[WITNESS: Evslin]

1 (The documents, as described, were
2 herewith marked as **Exhibit 15** and
3 **Exhibit 16**, as previously reserved, for
4 identification.)

5 (Whereupon **Thomas Evslin** was duly sworn
6 by the Court Reporter.)

7 **THOMAS EVSLIN, SWORN**

8 **DIRECT EXAMINATION**

9 BY MS. GEIGER:

10 Q. Mr. Evslin, could you please state your name and spell
11 your last name for the record.

12 A. My name is Tom Evslin, E as in "Edward", v as in
13 "Victor", s as in Sam, l-i-n.

14 Q. And, by whom are you employed and in what capacity?

15 A. I'm the CEO of NG Advantage, LLC.

16 Q. And, what is NG Advantage, LLC?

17 A. NG Advantage, LLC, was the first company to truck
18 natural gas, compressed natural gas to industrial
19 customers in the United States. And, we are in that
20 business, located in Vermont, and serving northern New
21 England and adjacent New York.

22 CHAIRMAN HONIGBERG: Just a minute.

23 Mr. Evslin?

24 WITNESS EVSLIN: Yes.

[WITNESS: Evslin]

1 CHAIRMAN HONIGBERG: If you're going to
2 speak to Ms. Geiger, move that microphone between you and
3 her, so that you're speaking right into that microphone.

4 WITNESS EVSLIN: Will do.

5 COMMISSIONER BAILEY: That's much
6 better.

7 MS. GEIGER: Thank you.

8 BY MS. GEIGER:

9 Q. Could provide the Commission with a bit more
10 information about your company.

11 A. Yes. We have a fleet of 54 trailers, which we use to
12 deliver natural gas from our two compressor sites, one
13 of them in Milton, Vermont, and the other one in
14 Pembroke, New Hampshire. The largest customer that we
15 have is International Paper, in Ticonderoga, New York,
16 who gets 16 truckloads of gas a day.

17 Somebody was asking about Pike, in West
18 Lebanon. They're a summer-only customer, of course,
19 because they are an asphalt customer. On a peak day,
20 they would get two or three trailer loads of gas, on a
21 very sunny day, when they were making lots of asphalt.

22 Q. And, Mr. Evslin, did you submit prefiled testimony in
23 this case?

24 A. Yes, I did.

[WITNESS: Evslin]

1 Q. And, do you have in front of you a document entitled
2 "Prefiled Direct Testimony of Tom Evslin on behalf of
3 NG Advantage, LLC", dated January 22, 2016?

4 A. Yes, I do.

5 Q. And, is this the prefiled testimony that you just
6 referred to?

7 A. Yes, it is.

8 MS. GEIGER: Mr. Chairman, I'd ask that
9 that document be marked as "Exhibit 7".

10 CHAIRMAN HONIGBERG: Sounds good.

11 (The document, as described, was
12 herewith marked as **Exhibit 7** for
13 identification.)

14 BY MS. GEIGER:

15 Q. Mr. Evslin, do you have any corrections or updates to
16 your prefiled testimony?

17 A. Two updates. When I prepared the prefiled testimony, I
18 got some local prices for oil or propane, which are
19 part of my testimony. I have not updated them since.
20 So, I don't know that they're correct as of today.
21 There's been changes in the wholesale market.

22 Also, since I prefiled the testimony, as
23 Mr. Clark testified, Liberty Utilities has put out an
24 RFP for service to Keene, New Hampshire, to bring

[WITNESS: Evslin]

1 natural gas service to what is now a propane utility.
2 And, NG Advantage, LLC, has responded to that RFP.
3 Otherwise, no changes or amendments.

4 Q. Mr. Evslin, could you look at Page 3, Line 5, of your
5 prefiled testimony.

6 A. Yes.

7 Q. And, is it -- would you like to change the date
8 "2015" -- "2016" to "2015"?

9 A. Ah. Yes. Thank you very much. I was projecting the
10 future. Yes. In "2015", and not "2016", Clean Energy
11 Fuels bought a majority interest in NG Advantage, LLC.

12 Q. Okay. Thank you. Just to follow up a bit on the
13 issue.

14 A. Actually, it's "2014". I've got to correct this
15 number. "In the fall of 2014, Clean Energy bought a
16 majority of NG Advantage."

17 Q. Okay. So, the year "2016", on Page 3, Line 5, should
18 be changed to "2015" --

19 A. Fourteen.

20 Q. -- "2014"?

21 A. Fourteen.

22 Q. So, to follow up a bit, I believe you just indicated
23 that -- provided some information about trucking CNG.
24 Were you present this morning when Mr. Clark responded

[WITNESS: Evslin]

1 to some questions from Mr. Willing about the number of
2 CNG trucks that Liberty might expect to arrive at its
3 premises on a daily basis, are you familiar with that?

4 A. Yes, I am.

5 Q. Do you have any -- do you agree with what Mr. Clark
6 said?

7 A. Mr. Clark was correct as of today about the ratio of
8 CNG trucks to LNG trucks. However, there's a new
9 generation of CNG trucks, which are undergoing final
10 DOT approval, particularly applicable here in New
11 England, where we can go up to 100,000 pounds, that
12 have about 50 percent more capacity. So, instead of
13 being three CNG trucks to a single LNG truck, in the
14 future, it will be more like two. Mr. Clark is correct
15 about what the ratio is today.

16 Q. Okay. Mr. Evslin, could you please briefly summarize
17 NG Advantage's position regarding Liberty's franchise
18 request?

19 A. Yes. First of all, we think that it would be a very
20 good thing if there were a utility that got a
21 certificate of public good to provide service in this
22 area. There are many customers that are too small for
23 companies like mine to serve directly. And, then, they
24 can't get the environmental or the cost benefits of

[WITNESS: Evslin]

1 CNG, those are both businesses and residential
2 customers.

3 So, the only way that that demand can be
4 aggregated is for there to be a pipeline. Vermont Gas
5 has done something like that, connecting a bunch of
6 larger customers, but still too small for us to serve,
7 in Middlebury, Vermont. We're able to serve all of
8 those customers through a single connection to Vermont
9 Gas.

10 And, so, we think that this is desirable
11 for the people in Lebanon. It's another way to sell
12 natural gas. So, obviously, we're in favor of it for
13 that reason, and we think it's a way to reach customers
14 who couldn't be reached otherwise.

15 We're not -- we don't have a position on
16 whom the franchise should be awarded to. But, because
17 this concept is new, this concept of "gas islands", as
18 they're beginning to be called in the industry, it's
19 very important that the first implementations be
20 successful, in order for this to spread around the
21 country, which we'd like to see. And, so, we do have a
22 concern that, when a franchise is awarded, that it be
23 awarded with conditions that give it the highest
24 probability of success.

{DG 15-289} {03-17-16}

[WITNESS: Evslin]

1 And, so, therefore, we -- I've
2 recommended in my testimony that, whomever the
3 franchise is granted to, it be with -- I'm sure there
4 will be many requirements, but among the requirements
5 in the franchise be that, one, there would be the
6 ability to use both LNG and CNG from the beginning.
7 That's for two reasons. Right now, CNG is considerably
8 cheaper, from an operating point of view, than LNG,
9 even here in New England. And, that's why our
10 customers use CNG and don't use LNG. On the other
11 hand, CNG doesn't have the density that LNG does. And,
12 so, in order to meet the requirements of the Public
13 Utilities Commission that there be sufficient on-site
14 backup for customers who won't have any alternative to
15 their gas, it's necessary to take advantage of LNG
16 density and at least use it for backup storage.
17 Because both of these are commodities, and commodity
18 prices do fluctuate, it is possible that at some time
19 in the future it would be practical to use LNG for the
20 backbone supply and use CNG as backup for the baseline,
21 LNG for the baseline. Right now, the economics say it
22 ought to be CNG that's in the baseline.

23 So, we think that a facility that's
24 built, in order both to guarantee the quality of

[WITNESS: Evslin]

1 service that must be required when there are
2 residential customers, and in order to deliver a
3 product at a reasonable price, should be a facility
4 which can use both LNG and CNG.

5 Second, and we think very, very
6 important, is that supply contracts be awarded through
7 competitive bidding. This is the big difference
8 between a gas island, which is served by trucked gas,
9 and a normal utility franchise that an LDC would have,
10 which is attached to a transmission pipeline. There's
11 great transparency in the pricing on transmission
12 pipelines. And, so, the Commission, in deciding
13 whether an expense is necessary and proper, and
14 deciding whether an expense is prudent, has plenty of
15 information about the commodity purchase. But there is
16 no such regulation of trucked -- of companies who
17 deliver natural gas by truck, whether they deliver it
18 at LNG or CNG. We're not subject to economic
19 regulation. Our prices vary in almost every contract
20 that we enter into, because trucking distance and
21 quantity and many other things are components of the
22 cost.

23 And, so, in my view, the best way, and
24 perhaps the only way, to assure that the utility and

[WITNESS: Evslin]

1 the utility's customers are getting the best possible
2 prices, and that the utility has been reasonable, is
3 for there to be a request for proposal process, and for
4 there to be competitive bidding on a periodic basis for
5 the supply. Whether that supply be LNG or CNG, whether
6 two different providers provide those two products, or
7 one provider provide both products together, that
8 should be determined by what kind of bids are received.

9 But we do think it's very, very
10 important that there be a public bidding process for
11 the supply, which will be a larger share of everybody's
12 bill. That is, trucked gas is more expensive than gas
13 that comes off of an interstate pipeline. And, so, a
14 larger percentage of the consumer bill, whether it's a
15 residential consumer or a business consumer, is going
16 to consist of the price of that gas as its delivered to
17 the utility on site. And, competitive bidding is the
18 best way to assure that that's a fair and reasonable
19 price.

20 Q. Mr. Evslin, along with the information that you just
21 provided orally, if I were to ask the same questions
22 today under oath that are contained in your prefiled
23 testimony, would your answers be the same?

24 A. With the exception of the amendments that I gave

[WITNESS: Evslin]

1 before, yes, they would.

2 MS. GEIGER: The witness is available
3 for cross-examination.

4 CHAIRMAN HONIGBERG: Mr. Patch, do you
5 have any questions?

6 MR. PATCH: Just a few, Mr. Chairman.
7 Thank you. Good afternoon, Mr. Evslin.

8 **CROSS-EXAMINATION**

9 BY MR. PATCH:

10 Q. When you were talking about the benefits, first of all,
11 that you thought it would be good for the Commission to
12 award a franchise, and then you talked about the
13 benefits that this could bring to small and larger
14 customers up in that area. Didn't you also say in your
15 testimony that you believe that there is, and I think
16 this is the word you used, enormous environmental
17 advantage in moving from oil products to natural gas,
18 from the perspective of carbon dioxide reduction and
19 the elimination of particulate matter and sulphur
20 dioxide?

21 A. That's correct. That there's a 26 percent reduction in
22 carbon dioxide output in switching over from oil-based
23 products, whether that's propane, number 6 or diesel
24 oil. Almost all particulate emissions is eliminated

[WITNESS: Evslin]

1 when you switch over from the oil-based products.

2 There's a great deal of number 6 oil that's burned
3 industrially in New England. The asphalt plants that
4 we've gone into, for example, used to have black smoke,
5 now they don't. There's only a negligible amount of
6 sulphur dioxide, as opposed to a high amount of sulphur
7 dioxide, that comes from burning natural gas, as
8 opposed to burning oil-based products.

9 And, so, those are all environmental
10 benefits. And, then, natural gas, because of its
11 abundance in North America, has almost always, since
12 2008, been cheaper on a per BTU basis, substantially
13 cheaper than oil, even though the two used to be in
14 lockstep. And, so, there are financial benefits as
15 well. And, the two of those work very well together,
16 because what happens is, that industrial customers
17 don't have to wait to get a grant to make the
18 conversion from oil to natural gas. They make the
19 conversion not only because they want to be good
20 citizens, but because it's self-financing, because
21 there's a quick payback for that.

22 Our 26 customers around New England all
23 spent their own money on doing -- changing their system
24 so that they could burn natural gas. And, they have

{DG 15-289} {03-17-16}

[WITNESS: Evslin]

1 saved an enormous amount of emissions, the public has
2 been spared an enormous amount of emissions. And, the
3 companies made what, for them, were prudent
4 investments, and investments they could afford to make,
5 because it made them more competitive.

6 Q. On Page 7 of your testimony, I think you've talked
7 about them already, but the two conditions that you say
8 ought to be attached to any franchise that's granted,
9 the first one was that the system must be designed to
10 use both CNG and LNG. And, is that correct?

11 A. Yes, sir.

12 Q. And, based on your understanding of Liberty's proposal,
13 would it meet that condition?

14 A. Yes, based on my understanding.

15 Q. And, the second condition is that a competitive process
16 must be used for trucked delivery of natural gas. Am I
17 correct?

18 A. Yes.

19 Q. And, based on your understanding of Liberty's proposal,
20 would it meet that condition?

21 A. Yes. And, I heard testimony to that effect this
22 morning from Liberty.

23 MR. PATCH: That's all the questions.

24 Thank you.

[WITNESS: Evslin]

1 CHAIRMAN HONIGBERG: Mr. Corwin, do you
2 have any questions?

3 MR. CORWIN: I do have one quick
4 question.

5 CHAIRMAN HONIGBERG: Why don't you come
6 to a microphone.

7 MR. CORWIN: Thank you. Just a
8 clarification.

9 BY MR. CORWIN:

10 Q. Did you testify that, when you switch from oil to
11 natural gas, there is a 26 percent reduction in carbon
12 dioxide emissions?

13 A. I did.

14 MR. CORWIN: Thank you.

15 CHAIRMAN HONIGBERG: Mr. Willing?

16 MR. WILLING: No questions.

17 CHAIRMAN HONIGBERG: Ms. Arwen?

18 BY MS. ARWEN:

19 Q. With respect, the term "carbon footprint" relates to
20 what you just described, which is at combustion. But
21 it doesn't take into account the fugitive methane. So,
22 I -- I guess I need to put this in the form of a
23 question. Do you agree that, since last year, when the
24 EPA regulated that new fracking wells were required to

[WITNESS: Evslin]

1 have better regulation and whatever, regarding methane
2 leaks, but not any already existing, that that was a
3 recognition of the fact that methane is a far more
4 potent greenhouse gas than carbon? And, so, simply
5 relating to combustion is somewhat misleading, in my
6 opinion. Do you -- what's my question? Do you
7 recognize -- sorry -- do you recognize the issue of
8 methane as a carbon equivalent as an issue, because
9 you're citing customers benefiting and feeling good
10 about their environmental decision?

11 A. I recognize that methane is a potent greenhouse gas,
12 and that it's properly regulated to reduce the amount
13 of the fugitive emissions.

14 CHAIRMAN HONIGBERG: Mr. Evslin, I'm
15 sorry to interrupt.

16 WITNESS EVSLIN: Yes.

17 CHAIRMAN HONIGBERG: But, if you can get
18 that microphone between you and Ms. Arwen, --

19 WITNESS EVSLIN: Okay.

20 CHAIRMAN HONIGBERG: -- that will help.

21 WITNESS EVSLIN: Okay. I'm sorry about
22 that.

23 **CONTINUED BY THE WITNESS:**

24 A. Yes. I think that the regulation of new wells to

[WITNESS: Evslin]

1 reduce fugitive emissions of methane was a good thing.
2 Although methane, I don't want to give a lecture on
3 this, but, although methane is a more potent greenhouse
4 gas, immediately the carbon dioxide -- a huge
5 difference is that methane disappears from the
6 atmosphere and carbon dioxide doesn't, at least for
7 hundreds and hundreds of years. So, figuring out the
8 carbon equivalence is rather difficult.

9 And, I'm only pointing out that the
10 emissions, according to the EPA and according to Energy
11 Efficiency Administration from the natural gas
12 industry, have declined even through this period where
13 there's been an enormous increase in the production of
14 natural gas. That's not an excuse for not doing
15 better. Everybody in our industry, we certainly are,
16 has to be aware that they have a responsibility to
17 avoid fugitive emissions. But the technology exists to
18 avoid fugitive emissions, and technology is being
19 applied. It doesn't mean there's never a mistake, any
20 more than there's never an oil spill or never any other
21 kind of accident.

22 But it does mean that that issue is
23 getting attention, it's getting proper attention. And,
24 I would argue that the environment, everything has

{DG 15-289} {03-17-16}

[WITNESS: Evslin]

1 drawbacks and benefits, but that the environmental
2 benefits of switching from fossil fuel, from other
3 fossil fuels to natural gas, are enormous. And, the
4 loss by not doing that is an environmental tragedy.

5 MS. ARWEN: May I follow up?

6 CHAIRMAN HONIGBERG: It's your turn to
7 ask questions right now.

8 MS. ARWEN: Thank you.

9 BY MS. ARWEN:

10 Q. So, you make a good point, that the life of methane and
11 carbon dioxide are different. And, when I am focusing
12 on fugitive methane, I'm focusing on a very critical
13 20-year timeframe in which methane is 86 times more
14 potent than CO2. In the 100-year timeframe, yes, it's
15 like 34 times, so it's not as bad. But we really need
16 to reducing quickly, according to COP 21 and everything
17 else, we need to really be looking at the next 20 years
18 hence.

19 So, I guess, as a question, does that
20 make sense?

21 A. Well, first of all, I disagree with the "86 percent"
22 number. There are various --

23 Q. Eighty-six times.

24 A. I'm sorry, "86 times". Twenty-six (26) times is, I

[WITNESS: Evslin]

1 believe, what's the difference in the immediate
2 shielding of long rays, infrared rays going back out
3 into space, which is what causes global warming.
4 That's the difference between methane and carbon, at
5 the time when both of them refresh in the atmosphere on
6 a pound to pound basis. That's the number that I
7 believe through what I've read.

8 So, do I believe it makes sense,
9 nevertheless, to reduce methane emissions? Yes, I do.
10 Do I believe that that's being done? Yes. Do I
11 believe that that can be done better? Yes. Do I
12 believe we ought to do that? Yes. Do I believe that
13 we would benefit the environment by stopping using
14 natural gas because that would reduce some fugitive
15 emissions? Absolutely not, because it would leave us
16 with all the carbon dioxide and particulates and
17 sulphur dioxide and nitrous oxides and particulates
18 that come from burning oil and coal.

19 Q. So, my next question, when you referred to "greenhouse
20 gas emissions going down in the years that the use of
21 gas has gone up", does that take into account the
22 increase in renewables? I mean, that's kind of a
23 global thing to bring up without being more specific,
24 would you agree?

{DG 15-289} {03-17-16}

[WITNESS: Evslin]

1 A. I believe that the United States, which did not sign
2 the Kyoto Treaty, is the only other countries that were
3 involved in the negotiation of it that met what would
4 have been its carbon dioxide goals. Some of that is
5 due to renewables, but there's been more support for
6 renewables in other parts of the world. The large --
7 the biggest reason why the United States met those
8 carbon emission levels that it never signed up to, is
9 because of the use of natural gas.

10 MS. ARWEN: Thank you.

11 CHAIRMAN HONIGBERG: Mr. Cicale.

12 MR. CICALE: Thank you, Chairman. Just
13 a couple questions from OCA. Good afternoon, Mr. Evslin.

14 WITNESS EVSLIN: Good afternoon.

15 BY MR. CICALE:

16 Q. My first question, have you testified in any capacity
17 prior to this proceeding during another franchise case
18 matter before a state commission in the past?

19 A. No, I have not.

20 Q. Are you aware of any franchise case at a state
21 commission where the conditions of -- for an islanding
22 facility that you relayed where franchisanship should
23 be granted on a first condition where the facility
24 would have a CNG and LNG component, and then, second, a

[WITNESS: Evslin]

1 competitive bidding process, those two conditions as a
2 baseline to award the franchisanship or not?

3 A. As far as I know, no gas island franchise has been
4 granted in the United States. What we serve in
5 Middlebury is somewhat of a special case, because
6 Vermont Gas already has a franchise for the entire
7 state, and they were building that distribution system
8 to front-run the arrival of their transmission line,
9 transmission line didn't get there, so they used us.
10 But there wasn't a case to award them the franchise,
11 because they already had the franchise. So, there
12 wasn't the need to use LNG for backup in that case,
13 because they're only serving industrial customers who
14 have an ability to go to a backup fuel. So, it's not
15 apples-to-apples what it is here.

16 But we don't have a case -- you're
17 making precedent here in New Hampshire. And, that's
18 one of my reasons for wanting -- hoping that it will be
19 a very good precedent.

20 MR. CICALÉ: Thank you for your answers,
21 Mr. Evslin. That's all, Chairman and Commissioners.
22 Thank you.

23 CHAIRMAN HONIGBERG: Mr. Speidel.

24 MR. SPEIDEL: Thank you, Mr. Chairman.

[WITNESS: Evslin]

1 Mr. Evslin, I have just a couple questions for you.

2 WITNESS EVSLIN: Yes.

3 BY MR. SPEIDEL:

4 Q. And, the first question relates to, what would be, in
5 the view of NG Advantage, the ideal length of contract
6 term for island-type utility service? This is,
7 obviously, a *de novo* concept.

8 A. Yes.

9 Q. New Hampshire seems to be pacesetter here. What do you
10 think would be the most advantageous contract term?

11 A. You have to ask -- I have to ask, advantageous to whom?
12 I think that -- and I don't mean to not answer your
13 question at all. If a contract is very short, you get
14 the advantage of being able to go back into the
15 marketplace very often. On the other hand, there's a
16 fair amount of capital equipment required to serve a
17 contract, like the one that would presumably be here.
18 Typically, that capital equipment is supplied by the
19 provider. So, if the contract is short, then we have
20 to raise the price in order to assure that we get
21 recovery on the equipment.

22 So, I think that that answer really gets
23 determined by the bids that come back. That, where
24 possible, the utility should probably allow -- the

[WITNESS: Evslin]

1 utility may not want to say "they have to all be three
2 year bids", or "they have to all be seven year bids".
3 They might want to say, "They're bid three, five, and
4 seven, or, you know, give us your best bid and what you
5 think is the best term". And then, when the bids come
6 back, evaluate those trade-offs.

7 Q. Thank you. That's most helpful. And, when NG
8 Advantage signs a regular industrial or commercial
9 customer, what is the usual contract term that you
10 seek?

11 A. We usually are looking for at least three years. And,
12 that's usually what we get, or we sometimes get five
13 years, we've sometimes been shorter.

14 MR. SPEIDEL: Thank you. That will be
15 all.

16 WITNESS EVSLIN: Thank you.

17 CHAIRMAN HONIGBERG: Commissioner Scott.

18 COMMISSIONER SCOTT: Thank you.

19 BY COMMISSIONER SCOTT:

20 Q. I know this question may be a little bit out of your
21 bailiwick. But you've said in your testimony that
22 you're agnostic as to who gets a franchise, as long as
23 you have your two conditions met, ideally, and it's
24 successful, correct?

[WITNESS: Evslin]

1 A. That's correct.

2 Q. So, one of the things we're grappling with as a
3 Commission is is "if", and I think the other question
4 is is "when". So, if you read Staff testimony, I think
5 the suggestion is, without an anchor customer, it's a
6 concern, or an appropriate amount of anchor customers.
7 And, to the extent there's a competition for the same
8 territory for a franchise, and assuming we're not going
9 to grant two entities the same franchise area, if one
10 gets it, it effectively blocks the other for some
11 length of time. So, is that concerning to you that, if
12 a franchise were to be given without the holder or the
13 utility having firm customers, is that concerning to
14 you?

15 A. I am concerned that somebody have a franchise and then
16 not operate on it, because, obviously, then you don't
17 get all the benefits that we want. However, in this,
18 without answering your question theoretically, but
19 knowing something about the potential customers in the
20 area, I know that Dartmouth-Hitchcock is already served
21 by compressed gas. And, I know that they would -- and
22 that's a contract I lost, I competed for it, but I lost
23 it. So, they're served by one of our competitors. I
24 know that they would prefer to be a pipeline customer,

{DG 15-289} {03-17-16}

[WITNESS: Evslin]

1 as long as the costs were reasonable. I've had enough
2 talks with Dartmouth University to be convinced that
3 they would very much like to stop burning oil-based
4 products, and that they understand that that's an
5 environmental problem.

6 So, I think that, if the service is
7 offered at a good price, the anchor customers will come
8 over and will use that service. We built our
9 compressor station in Milton, Vermont, without having a
10 single customer signed, because we couldn't get
11 customers to sign up until we could start saying "well,
12 we have a hole in the ground", "well, we have a
13 permit", "well, we've installed our compressors".

14 We know that the economics and
15 environmental benefits are good. We know that the
16 customer base exists in Lebanon, and we can all --
17 within the Hanover/Lebanon area. We can all point to
18 who the anchor customers should be. So, I have a fair
19 amount of confidence that they will be signed, and a
20 fair amount of sympathy for the argument that it's hard
21 to sign them without a franchise.

22 COMMISSIONER SCOTT: Thank you.

23 CHAIRMAN HONIGBERG: Commissioner

24 Bailey?

[WITNESS: Evslin]

1 COMMISSIONER BAILEY: No. I understand
2 your testimony. Thank you.

3 WITNESS EVSLIN: Thank you.

4 CHAIRMAN HONIGBERG: I have one
5 question. I think you're going to like it, and I think
6 some others are going to like it.

7 BY CHAIRMAN HONIGBERG:

8 Q. You're an experienced business person, and you're
9 familiar with the idea of giving your best price to try
10 and get a new customer, right?

11 A. Correct. Absolutely.

12 Q. And, you've testified, and I think others have
13 indicated, that this -- this is without precedent.
14 We're trying to build this island. This is the first
15 island.

16 A. Yes.

17 Q. And, is this the situation where all the participants
18 have a tremendous amount of incentive to do whatever it
19 takes to make it work, even if that means taking a
20 little bit less profit on their -- on the deal?

21 A. I think that's true. I think that's very true. I
22 think, not only -- I can't speak for my competitors,
23 it's a deal that we would very much like to have,
24 because it's going to be a landmark deal. It's going

1 to position you well, and I think that's what you're
2 saying, for similar deals around the country.

3 CHAIRMAN HONIGBERG: All right. That's
4 all I have. Thank you.

5 Ms. Geiger, do you have any further
6 questions for your witness?

7 MS. GEIGER: Nothing further, Mr.
8 Chairman. Thank you.

9 CHAIRMAN HONIGBERG: All right.
10 Mr. Evslin, you can return to your seat.

11 WITNESS EVSLIN: Thank you.

12 CHAIRMAN HONIGBERG: It is time for us
13 to take a break. When we come back, who will be the next
14 witness? Will it be Dr. Chattopadhyay?

15 *[Multiple parties nodding in the*
16 *affirmative.]*

17 CHAIRMAN HONIGBERG: All right. So,
18 we'll take a ten-minute break, a little bit more, and
19 we'll be back here at 20 minutes after 3:00.

20 *[Recess taken at 3:07 p.m. and the*
21 *hearing reconvened at 3:25 p.m.]*

22 CHAIRMAN HONIGBERG: Before we get
23 started with Dr. Chattopadhyay, I have a question for the
24 parties about trying to get done today. If we start with

[WITNESS PANEL: Chattopadhyay~Frink]

1 Dr. Chattopadhyay, and then Mr. Frink, just let me
2 confirm, there are no other witnesses, is that right?

3 *[No verbal response]*

4 CHAIRMAN HONIGBERG: Okay. Would it
5 make any sense to have both of them come up at the same
6 time? Their positions are not incompatible, at least as
7 far as I'm concerned or from what I can see. Any
8 thoughts, positive or negative on that?

9 I see some shrugging shoulders, some --
10 does anybody object?

11 *[No verbal response]*

12 CHAIRMAN HONIGBERG: All right. Mr.
13 Frink, come on down.

14 Mr. Cicale, are you planning on having
15 substantive questions for Mr. Frink?

16 MR. CICALÉ: No.

17 CHAIRMAN HONIGBERG: Mr. Speidel, do you
18 think you will have substantive question for Dr.
19 Chattopadhyay?

20 MR. SPEIDEL: Two.

21 CHAIRMAN HONIGBERG: Okay. So, why
22 don't you swear the witnesses in, and we'll sort those out
23 first.

24 (Whereupon **Pradip K. Chattopadhyay** and

[WITNESS PANEL: Chattopadhyay~Frink]

1 **Stephen P. Frink** were duly sworn by the
2 Court Reporter.)

3 CHAIRMAN HONIGBERG: Mr. Cicale, why
4 don't you go first.

5 MR. CICALÉ: Thank you, Chairman and
6 Commissioners.

7 **PRADIP K. CHATTOPADHYAY, SWORN**

8 **STEPHEN P. FRINK, SWORN**

9 **DIRECT EXAMINATION**

10 BY MR. CICALÉ:

11 Q. Please state your name for the record.

12 A. (Chattopadhyay) My name is Pradip Chattopadhyay.

13 Q. Dr. Chattopadhyay, what is the purpose of your
14 testimony today?

15 A. (Chattopadhyay) To represent the OCA's views on the
16 franchise request by Liberty Utilities for Lebanon and
17 Hanover.

18 Q. Do you have any changes or updates or amendments to
19 your testimony today?

20 A. (Chattopadhyay) No.

21 Q. If this testimony was given today under oath, would it
22 be the same as it was previously?

23 A. (Chattopadhyay) Yes.

24 MR. CICALÉ: No further questions.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 CHAIRMAN HONIGBERG: Mr. Speidel.

2 MR. SPEIDEL: Just one moment please.

3 MR. CICALÉ: Actually, Chairman and
4 Commissioners, while Mr. Speidel gets ready, if this would
5 be an appropriate time, OCA would like to submit
6 Dr. Chattopadhyay's testimony, redacted and unredacted, as
7 exhibits.

8 CHAIRMAN HONIGBERG: Right. I think you
9 all have agreed that they will be "Exhibits 8" and "9".
10 So, they will be marked as such.

11 (The documents, as described, were
12 herewith marked as **Exhibit 8** and
13 **Exhibit 9**, respectively, for
14 identification.)

15 MR. SPEIDEL: Excellent. Thank you.

16 **CROSS-EXAMINATION**

17 BY MR. SPEIDEL:

18 Q. Dr. Chattopadhyay, you have a Ph.D in Economics, that
19 may seem redundant, but that is your academic
20 background. Given your academic background, what's
21 your opinion regarding the use of Discounted Cash Flow
22 analysis in evaluating investment opportunities?

23 A. (Chattopadhyay) I will be first pointing out that I've
24 used a DCF exclusively for analyzing cost of equity in

[WITNESS PANEL: Chattopadhyay~Frink]

1 lots of rate cases. So, I have a very good sense of
2 what the -- what that methodology is.

3 In terms of the use for analyzing, you
4 know, investments, I'm going to just focus on what's
5 being discussed here. And, I would say that, even
6 though I did not get into that issue in my testimony,
7 based on what I've seen Staff had said, I agree with
8 Staff that it's a useful technique to judge the
9 viability of a project.

10 And, as far as a representative who was
11 interested in the interest of residential customers,
12 for me, the whole essence of DCF approaches, but you're
13 sort of looking at the inflows and the outflows. And,
14 for the inflows, we need to have a very good sense of
15 how the demand for the product is going to play out in
16 the future, especially when we are talking about a
17 regulated service.

18 And, so, I think it brings a lot to the
19 table here. It would make the Company view the demand
20 for natural gas in those two towns more carefully to a
21 long-term analysis as to what's going to happen over
22 the next, say, 20 years or so. So, that's the value
23 for me, as far as that approach is concerned.

24 Q. Do you believe that Liberty should be required to

[WITNESS PANEL: Chattopadhyay~Frink]

1 perform a Discounted Cash Flow analysis to demonstrate
2 the economic feasibility of the proposed
3 Lebanon/Hanover franchise project?

4 A. (Chattopadhyay) Yes. And, that's consistent with what
5 I've just said in response to your first question. It
6 will really help us understand, you know, how the
7 demand for the services will play out. And, it's a far
8 more intensive look at the investment, rather than just
9 using some other approach.

10 MR. SPEIDEL: That would conclude my
11 questions for Dr. Chattopadhyay.

12 CHAIRMAN HONIGBERG: Why don't you
13 introduce Mr. Frink's testimony then.

14 MR. SPEIDEL: Very good.

15 **DIRECT EXAMINATION**

16 BY MR. SPEIDEL:

17 Q. Mr. Frank, what is your full name?

18 A. (Frink) Stephen Paul Frink.

19 Q. And, what is your title and responsibility here at the
20 Commission?

21 A. (Frink) I'm the Assistant Director of the Gas and Water
22 Division. And, I'm primarily responsible for the gas
23 filings.

24 Q. Thank you very much.

[WITNESS PANEL: Chattopadhyay~Frink]

1 *[Atty. Speidel handing document to*
2 *Witness Frink.]*

3 BY MR. SPEIDEL:

4 Q. Do you recognize this document?

5 A. (Frink) Yes, I do.

6 Q. Do you have a copy of it with you here?

7 A. (Frink) I do.

8 MR. SPEIDEL: Very good. I'm going to
9 distribute this among the Clerk and the Commissioners,
10 because Staff has prepared this. It had an internally
11 consistent numbering scheme. But now Staff understands
12 that requirement for sequential numbering essentially
13 means Bates stamping or the equivalent. So, in an effort
14 to avoid any issues, --

15 *[Atty. Speidel distributing documents.]*

16 MR. SPEIDEL: There is a legend in the
17 upper right-hand corner that's blank, "DG 15-289 Hearing
18 Exhibit". Upon adoption, Staff would recommend that that
19 be marked as "Hearing Exhibit 10". So, you can write that
20 in at your leisure.

21 CHAIRMAN HONIGBERG: Got it.

22 (The document, as described, was
23 herewith marked as **Exhibit 10** for
24 identification.)

{DG 15-289} {03-17-16}

1 BY MR. SPEIDEL:

2 Q. So, having recommended that this testimony be marked as
3 "Hearing Exhibit 10", do you have any changes to your
4 testimony you'd like to make today?

5 A. (Frink) I do not.

6 Q. What was the purpose of your testimony?

7 A. (Frink) To evaluate Liberty's economic analysis
8 regarding the feasibility of providing natural gas
9 utility service to Lebanon and Hanover, and to present
10 Staff's findings and recommendations regarding
11 Liberty's franchise request.

12 Q. Could you very briefly summarize your findings and
13 recommendations.

14 A. (Frink) That Liberty's Petition should not be granted
15 at this time. Liberty's growth projections used in its
16 analysis to demonstrate the feasibility appear to be
17 overstated. Liberty should develop a detailed business
18 plan, get financial commitments from one or more anchor
19 customers, and perform a Discounted Cash Flow analysis
20 to help in determining the feasibility of the project.

21 Q. Have you heard anything today that would cause you to
22 modify your recommendations?

23 A. (Frink) No. As a matter of fact, what I've heard today
24 only strengthens my belief. Liberty's contract with

[WITNESS PANEL: Chattopadhyay~Frink]

1 ICF, sounds like that's going to provide a lot of
2 useful information that could be used in developing a
3 business plan. It would make sense to review that,
4 before they -- to determine if this project is
5 feasible, the best use of Liberty's growth budget.

6 And, also, we heard that Keene -- that
7 Kleen is under contract until 2018. You know, that
8 hasn't been vetted, but, given that, and that also the
9 Company's construction wouldn't begin until 2017, I
10 think it makes eminent sense that this not be granted
11 at this time, and that the analysis be undertaken.

12 Q. Thank you. Now, Mr. Frink, if you could please turn to
13 Bates Page 3 of your testimony, and really the Lines 3
14 through 7. There's reference to an "independent audit
15 in Docket Number DG 14-180 of Liberty's financial
16 reporting, accounting, and customer service". And, an
17 audit report was expected within a few months of the
18 filing of your testimony, which was January 22, 2016.
19 Do you know if that audit report has been filed yet?

20 A. (Frink) No. That audit report has not been filed.
21 And, again, this is another reason it would make sense
22 to delay approving the Petition at this time, because,
23 hopefully, by the time a decision needs to be made,
24 we'll have that report.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 Q. And, in any instance, you would recommend to the
2 Commission that room in this docket be reserved for
3 such an audit report filing?

4 A. (Frink) Yes.

5 Q. Okay. Thank you. The Company's rebuttal testimony, at
6 Bates Page 11, Line 6, says that, you know, its
7 position -- that Staff's position is that a DCF
8 analysis is required. Is that Staff's position?

9 A. (Frink) No, that isn't. The Company is not required to
10 perform a DCF analysis. It's a very useful and
11 commonly used analysis to evaluate expected returns on
12 investments and has been used by New Hampshire gas
13 utilities since the early '90s in support of major
14 investments. Staff issued a data request asking
15 Liberty to perform a DCF analysis, and Liberty
16 objected, because its tariff does not require a DCF
17 analysis when considering line extension requests for
18 service within its franchise territory. Staff has
19 recommended that the Commission not grant the Petition
20 until Liberty has performed a DCF analysis and the
21 Commission has had a chance to review it, along with a
22 detailed -- performing a detailed business plan and
23 signing anchor customers.

24 Q. The Company's rebuttal testimony says that, if its

[WITNESS PANEL: Chattopadhyay~Frink]

1 Petition is granted, and that's at Bates Page 11, Lines
2 1 through 5, Liberty/EnergyNorth cannot apply different
3 criteria for evaluation of line extension requests in
4 Lebanon and Hanover that is different from the line
5 extension policy within its tariff. Does Staff agree?

6 A. (Frink) The Staff agrees. Staff is not recommending
7 that the DCF analysis be used to evaluate customer
8 requests for service in Lebanon and Hanover if Liberty
9 is granted the franchise. Staff is recommending that
10 the DCF analysis be used in determining whether to
11 grant the franchise or not.

12 Q. The Company's rebuttal testimony, Bates Page 10, Lines
13 8 through 12, states that, because the Commission
14 approved Northern's expansion to Brentwood using the
15 DCF methodology as contained in its tariff, it is not
16 logical for Staff to criticize Liberty for using the
17 methodology in its own respective tariff. Do you agree
18 with this reasoning?

19 A. (Frink) No. The evaluation of the economic feasibility
20 of the Brentwood expansion was done precisely as Staff
21 has requested of Liberty and the results are consistent
22 with what Staff has recommended here, half of the
23 projected \$2 million cost to serve Brentwood was funded
24 by two anchor customers. As in this instance,

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 Northern's tariff was not applicable to the Brentwood
2 service request, but Northern's line extension policy
3 is consistent with the analysis the Commission
4 considers when evaluating major expansions.

5 Q. The Company's rebuttal testimony implies that Staff
6 support of the Liberty line extension policy in Docket
7 Number DG 13-198 is inconsistent with Staff's position
8 in this proceeding. Do you agree with that assertion?

9 A. (Frink) No. Most line extension requests within a
10 franchise territory are likely to be relatively close
11 to an existing distribution line and therefore pose a
12 limited financial risk. Whereas requests outside of
13 the existing service territories are likely to be
14 further from the utility's distribution system and
15 require a much larger investment. When revising the
16 prior revenue test, Staff fully expected the Company
17 would continue its practice of conducting a DCF
18 analysis for major expansions beyond its service
19 territory when seeking Commission approval.

20 Q. The Company's rebuttal testimony attempts to address
21 Staff's concerns regarding customer commitments and
22 cross-subsidization. Would you please comment on those
23 attempts?

24 A. (Frink) The Letter of Intent with Kleen does not

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 address Staff's concerns regarding customer
2 commitments. The first page of the Letter of Intent
3 specifically states that the "Letter of Intent is not
4 binding on any Party and shall not create any
5 obligation or commitment of any kind".

6 The suggestion that Liberty is willing
7 to discuss a mechanism that would ensure any revenue
8 from existing or anticipated customers unless justified
9 by Lebanon/Hanover sales has merit and may address the
10 concerns regarding cross-subsidization. So that, as
11 always, the devil's in the details, but that the
12 proposal certainly has merit.

13 Q. The Company's rebuttal testimony, at Bates Page 14,
14 Lines 2-3, states that Liberty has significantly
15 decreased its cost of gas over the winter. Have oil
16 prices also decreased, in your own experience?

17 A. (Frink) As stated in my testimony, I paid \$1.92 per
18 gallon for home heating oil on December 28th; on
19 February 4th, I paid about \$1.80. So, it's gone down.

20 MR. SPEIDEL: Thank you very much. At
21 this time, I would like to just mention that I'm going to
22 be introducing a confidential exhibit into the record.
23 It's the confidential version of the Company response to
24 Staff 3-9 as it exists in our docketbook at the present

1 time.

2 In case there's a flurry of excitement
3 about it, there has been a redacted version that has been
4 submitted in response to the Arwen pleading that was
5 partly approved by the Commission recently, but this is,
6 again, the confidential version. Staff has applied all of
7 the usual necessities regarding Bates stamping, using
8 the -- stamped "confidential" on each page, and
9 distributing among the parties today that are within the
10 circle of confidentiality, including, I believe, Ms.
11 Arwen, who has signed a nondisclosure agreement regarding,
12 I believe. And, therefore, I'm going to distribute it and
13 show it to everyone right now.

14 CHAIRMAN HONIGBERG: Okay. Good enough,
15 Mr. Speidel, are you also asking for us to reserve an
16 exhibit for the audit report?

17 MR. SPEIDEL: Yes. It could be
18 structured as a record request. But, given the long
19 period of time between now and when the audit report might
20 be finalized, it may be too speculative. But at least if
21 the Commission could grant leave to that being filed on
22 this docket when it is prepared, that would probably be
23 helpful.

24 If it's rendered moot by any decision,

[WITNESS PANEL: Chattopadhyay~Frink]

1 perhaps that would be unnecessary. But, if it's not
2 rendered moot, if there is some period of time through
3 which this docket would remain open, it would make sense
4 to allow that to be filed into the record.

5 CHAIRMAN HONIGBERG: All right. I don't
6 think we'll reserve an exhibit for it then. But we'll
7 provide for it in an order.

8 MR. SPEIDEL: Very good. So, I'll
9 distribute the 3-9 matter just right now.

10 *[Atty. Speidel distributing documents.]*

11 MS. ARWEN: If I may say, my colleague,
12 Stuart Blood, I apologize, I didn't introduce him earlier,
13 he also signed a protective agreement to be able to see
14 this, if you notice that I'm showing it to him.

15 CHAIRMAN HONIGBERG: Oh. Okay.

16 MS. ARWEN: Thank you.

17 CHAIRMAN HONIGBERG: Mr. Speidel, are
18 you going to have any further questions?

19 MR. SPEIDEL: Yes, I will, as a matter
20 of fact.

21 This is also produced in one-sided
22 format, because of the varying exhibits, some are
23 landscape, some are portrait, but short enough where I
24 think it should be acceptable. So, it is not

[WITNESS PANEL: Chattopadhyay~Frink]

1 double-sided. I hope that covers all the bases.

2 BY MR. SPEIDEL:

3 Q. Mr. Frink, are you familiar with this document?

4 A. (Frink) Yes, I am.

5 Q. What is it?

6 A. (Frink) It's the Company's -- Liberty's data response
7 to Staff Data Request 3-9.

8 MR. SPEIDEL: Thank you. I would ask
9 that the Commission reserve this as "Hearing Exhibit
10 Number 13, "confidential Hearing Number 13". And, there
11 is a space in the legend on the upper right-hand corner of
12 the first page where that can be entered.

13 CHAIRMAN HONIGBERG: Got it.

14 (The document, as described, was
15 herewith marked as **Exhibit 13** for
16 identification.)

17 MR. SPEIDEL: Thank you.

18 BY MR. SPEIDEL:

19 Q. Now, Mr. Frink, the Liberty response to Staff 3-9
20 includes an average per therm rate for commercial and
21 industrial and residential customers. Is that rate
22 representative of what tariff rates are likely to be?

23 A. (Frink) I don't think so. As I've testified, I believe
24 Liberty's sales forecasts are overstated. A lower

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 sales forecast would increase the average rates. So,
2 while normally, if the sales forecast was accurate,
3 then that would be reflective of what you'd expect for
4 a tariff rate. But I don't believe that's the case.

5 Q. Do you have any other general comments that don't stray
6 into confidential territory regarding the information
7 that's been supplied for the Commissioners' benefit in
8 3-9?

9 A. (Frink) No, I do not.

10 Q. Thank you. And, one quick question regarding
11 Mr. Evslyn's presentation today. He mentioned that, in
12 his view, there ought to be a condition of approval
13 handed down by the Commission, if it were to approve
14 the franchise, requiring that there be both a CNG, that
15 is a compressed natural gas, and an LNG, liquefied
16 natural gas, part of the engineering of this project.
17 There has to be both. Do you agree with that
18 recommendation?

19 A. (Frink) I do not think that should be a condition for
20 approval. Ultimately, I believe, if this project is
21 going to be economically feasible, it's going to come
22 down to price. And, if having facilities provide both
23 CNG and LNG, may or may not be cost-effective. So, I
24 think it needs to be looked at without that condition.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 It may be that strictly on LNG is cheaper or CNG is
2 cheaper, in that case, I wouldn't recommend going
3 forward with both. So, I wouldn't set that as a
4 condition.

5 Q. Not necessarily waiving your position regarding the
6 advisability, or non-advisability more like it, of
7 approving the Petition at the present time, do you have
8 any thoughts regarding the competitive bidding
9 requirement that NG Advantage has suggested?

10 A. (Frink) As was stated by NG, the longer the term, the
11 better the price, typically. So, I don't have a
12 problem with signing a long-term contract. And, in
13 fact, Chico DaFonte, when he was with Northern, signed
14 peaking contracts for 20 years. So, I don't have an
15 issue with that. But I don't have a position as to
16 what the ideal number is. And, I think it's a good
17 proposal that it should be the RFP should look at
18 prices over a number of years. And, I have no problem
19 with them taking service over seven years, if that's
20 what looks like the most economic way of doing it.

21 MR. SPEIDEL: Thank you, Mr. Frink. The
22 Staff has no further direct questions of Mr. Frink.

23 CHAIRMAN HONIGBERG: And, Mr. Cicale,
24 you have no questions for Mr. Frink?

[WITNESS PANEL: Chattopadhyay~Frink]

1 MR. CICALÉ: None, Chairman and
2 Commissioners. Thank you.

3 CHAIRMAN HONIGBERG: All right. We're
4 going to go around the room the other way. Ms. Arwen, do
5 you have any questions for these witnesses?

6 MS. ARWEN: No, I don't.

7 CHAIRMAN HONIGBERG: Mr. Willing, do you
8 have any questions?

9 MR. WILLING: We don't.

10 CHAIRMAN HONIGBERG: Mr. Corwin, do you
11 have any questions?

12 MR. CORWIN: No. Thank you.

13 CHAIRMAN HONIGBERG: Ms. Geiger?

14 MS. GEIGER: I think I have one
15 follow-up for Mr. Frink, and I just want to make sure I
16 understood his answer to the last question that Attorney
17 Speidel posed.

18 **CROSS-EXAMINATION**

19 BY MS. GEIGER:

20 Q. Is it your testimony, Mr. Frink, that you believe that
21 Liberty or any other franchisee should employ the RFP
22 process in obtaining gas supply and trucking services?

23 A. (Frink) I do believe that's correct, yes. They should
24 do that.

[WITNESS PANEL: Chattopadhyay~Frink]

1 MS. GEIGER: Thank you. I have no
2 further questions.

3 CHAIRMAN HONIGBERG: Mr. Patch.

4 MR. PATCH: Thank you. I'm going to
5 starts with Dr. Chattopadhyay. I have a couple of
6 questions for you, if I could.

7 BY MR. PATCH:

8 Q. First of all, what do you understand the legal standard
9 that the Commission is, based on precedent, uses to
10 decide whether or not to grant a franchise petition?

11 A. (Chattopadhyay) I have only responded using my economic
12 analysis. I'm not a legal expert. So, I wouldn't be
13 able to respond to that.

14 Q. Well, would you disagree that, based on Commission
15 precedent, it's whether or not the petitioner has the
16 financial, technical, and managerial ability to operate
17 as a public utility?

18 A. (Chattopadhyay) Those thresholds, like the ability to,
19 you know, to be prudent financially or otherwise, those
20 are necessary conditions in my mind. But, again, I'm
21 just responding as an economist. And, I looked at the
22 other factors in my testimony.

23 Q. So, it's possible that the factors you looked at are
24 not necessarily part of the standard that the

1 Commission is supposed to use in evaluating the
2 capability of a prospective franchisee?

3 A. (Chattopadhyay) I wouldn't know.

4 Q. Okay. Would you agree that EnergyNorth currently
5 serves over 90,000 customers in 30 municipalities in
6 New Hampshire?

7 A. (Chattopadhyay) Yes. That is something that I know
8 about, yes.

9 Q. And, so, would you agree that they've, obviously,
10 demonstrated the capability, financial, technical, and
11 managerial, to operate as a public utility vis-a-vis
12 those customers?

13 A. (Chattopadhyay) I'm going to repeat what I just said a
14 while ago. I think those conditions, I don't have the
15 wherewithal to necessarily judge that question. But
16 I'm just going to give you my sense. Given what you
17 just said, and what I know about Liberty Utilities, I
18 would tend to agree with that.

19 Q. I'm looking at Page 5 of your testimony. And, I'm
20 looking at Lines 2 to 3. And, I'll quote you from
21 that, and you can tell me if I quoted it correctly. It
22 says "The OCA finds that without a demonstrated need,
23 through commitments from anchor customers, the
24 requested franchise does not appear to be a viable

[WITNESS PANEL: Chattopadhyay~Frink]

1 business proposition." Did I say that correctly?

2 A. (Chattopadhyay) Yes.

3 Q. Have you reviewed Mr. Frink's testimony in this docket?

4 A. (Chattopadhyay) I have, yes.

5 Q. And, I would direct you to Page 13 of his testimony.

6 Let me just get you the Bates Page. I think that's 14,
7 the Bates Page.

8 A. (Chattopadhyay) I don't have that.

9 MR. SPEIDEL: I'll give you one.

10 *[Atty. Speidel handing document to*
11 *Witness Chattopadhyay.]*

12 WITNESS CHATTOPADHYAY: Say that
13 again -- I'm sorry, say that again please.

14 BY MR. PATCH:

15 Q. It's Page 13 of your testimony, Bates Page 14 of the
16 document that Mr. Speidel handed out. You know, this,
17 again, is Mr. Frink's testimony.

18 A. (Chattopadhyay) Bates Page 14?

19 Q. Yes. And, I'm looking at line -- starting on Line 10.

20 And, I'm going to read this, and you can tell me if

21 I've read it correctly. "Is there a 'demonstrated

22 need' requirement for approval", I think it means "of a

23 major expansion?" And, the answer is "Not *per se*.

24 Unlike the Federal Energy Regulatory Commission, where

[WITNESS PANEL: Chattopadhyay~Frink]

1 approval of a new pipeline is highly contingent upon
2 demonstrated market need as evidenced by long-term
3 contracted customer commitments, there is no such
4 requirement for New Hampshire utilities regarding a
5 major expansion." Did I read that correctly?

6 A. (Chattopadhyay) Yes, you did.

7 Q. Do you have any reason to disagree with that?

8 A. (Chattopadhyay) The real issue here is, again,
9 regardless of the legal issues involved, for me the
10 real issue is, when you are already recommending rates,
11 we need to understand whether the demand that's out
12 there, that you are projecting, first of all, is
13 sensible, in view of the rates. Number two, I also
14 want to understand whether the projections of those --
15 of the natural gas demand is demonstrably needed, and
16 that doesn't mean that you have to have 100 percent of
17 it.

18 The point I'm making is, you need to
19 have at least some anchor customers to give some
20 assurance that you will be able to reach out to the --
21 given my concern about residential customers, that
22 you'll be able to provide service to them at reasonable
23 cost. So, that's how I view my position.

24 Q. Did you hear just a few minutes ago, I think

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 Mr. Speidel had asked some specific questions about
2 Liberty's rebuttal testimony? And, one of those of Mr.
3 Frink was with regard to the mechanism that Liberty had
4 suggested in its rebuttal testimony. And, I believe
5 what Mr. Frink said was that he believed that mechanism
6 has merit, and it may address concerns about
7 subsidization. Do you recall that testimony?

8 A. (Chattopadhyay) Yes.

9 Q. And, do you agree with that?

10 A. (Chattopadhyay) My answer would be, there are details
11 that need to be seen to totally come to a conclusion
12 whether I definitively agree with that approach or not.
13 In essence, what the rebuttal testimony has suggested
14 was the Company is willing to look at an approach to
15 address the cross-subsidization issue. And, that is a
16 good starting point, in my opinion. But, clearly, the
17 details aren't there.

18 As OCA, we are more than happy to sit
19 down and discuss the details. Because that is what the
20 Company has also suggested, they're willing to discuss
21 it.

22 But, for me, I will use this opportunity
23 to point out that there could be some issues with it
24 that needs to be addressed when we talk about it. One

[WITNESS PANEL: Chattopadhyay~Frink]

1 of them would be, for example, really what's going on
2 is, if you're not able to provide service at the rates
3 that you're requesting would be in place, and you are
4 unable to have sufficient revenue, the Company is
5 basically taking the losses. That's how I am viewing
6 it. That's, in a way, it's below-cost provision of
7 service. And, that can be a problem, because it could
8 be considered anti-competitive. But does that mean
9 that there aren't other ways to deal with that problem?
10 No. I'm more than happy to discuss it.

11 There's also the issue of, you know,
12 it's not directly related, but the fact that you don't
13 have an anchor customer, that also tells me that we
14 need to look at the mechanism overall. Generally
15 speaking, I'm glad that at least there is a recognition
16 that the cross-subsidy problem would be addressed.

17 Q. Okay. Mr. Frink, I have a few questions for you.
18 Unless I missed it --

19 Okay. Just one more question, actually,
20 Doctor, if I could ask you that. In this docket, it's
21 not -- Liberty isn't asking for any rate approval, are
22 they? I mean, that would come subsequently?

23 A. (Chattopadhyay) That is my understanding, yes.

24 Q. Mr. Frink, you heard me ask Dr. Chattopadhyay about the

[WITNESS PANEL: Chattopadhyay~Frink]

1 legal standard that the Commission has, as a matter of
2 precedent, used in determining whether or not to grant
3 a franchise. I'm sure you heard that, and I'm sure
4 you've heard those words before, am I correct?

5 A. (Frink) You're correct.

6 Q. And, you agree that that's the standard the Commission
7 should use?

8 A. (Frink) That's the standard the Commission should use,
9 yes.

10 Q. And, it's curious to me, you put that standard in your
11 Valley Green testimony on Page 3, but not in this
12 testimony. And, I'm just curious as to why you did not
13 do that?

14 A. (Frink) In the Valley Green testimony, I didn't go --
15 I'm looking, I believe, that the fact that Liberty has
16 an existing utility, and, so, on that basis, it's
17 demonstrated the ability to do most of the things that
18 are a part of that standard. So, really, what I
19 focused on was the economic feasibility, and whether
20 the rates would be fair and reasonable if you were
21 granted this franchise. And, when I say "fair and
22 reasonable", when I'm talking "reasonable", whether it
23 would be competitive with alternative supplies to the
24 point that people would be willing -- enough people

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 would be willing to take that service to produce a
2 reasonable rate of return.

3 Q. But aren't you jumping ahead a little bit, if you're
4 looking at rates? I mean, we're talking about a
5 standard the Commission has used for years. It sounds
6 like you don't disagree that Liberty has the financial,
7 managerial, and technical capability to own and operate
8 this franchise. Am I correct?

9 A. (Frink) Well, they have demonstrated the ability to do
10 those things. And, there is a targeted audit that's
11 looking at just how well they do those things. So, I'm
12 not making an opinion on that. That's really Gas
13 Safety, the Director, you know, put in testimony in
14 Valley Green.

15 But, the fact is, Staff didn't really
16 look at that as part of this proceeding. It is being
17 looked at in another proceeding. So, I didn't go
18 there.

19 But, again, the economic feasibility,
20 and every expansion that I've been involved with, that
21 has been a major consideration. And, typically, a
22 major expansion is undertaken to serve an anchor
23 customer, because that's what makes it economically
24 feasible and viable.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 Q. So, a major expansion, like the Bedford one that has
2 been discussed, or a major expansion like that, that's
3 really what you're talking about, correct?

4 A. (Frink) I'm talking about back in '91, when EnergyNorth
5 went out to Derry, and went many miles, and also when
6 they went out to Hitchner. And, so, -- and, when
7 Northern went to Durham, those type of expansions. Not
8 so much -- that really wasn't a very long expansion to
9 get to Bedford, and there was a lot of new
10 construction. And, also, that was within the service
11 territory, so, the line extension policy is in effect.
12 And, when a customer asks for service within the
13 proposed service territory, that has to be honored.
14 So, it's not really the same thing.

15 Q. Well, as I understand it, the last time that the
16 Commission really evaluated EnergyNorth's managerial,
17 financial, and technical capability was in 2014, when
18 the Commission approved the sale of New Hampshire Gas
19 Corporation to Liberty, correct? You remember that
20 docket?

21 A. (Frink) I certainly do.

22 Q. Were you involved in that?

23 A. (Frink) Yes, I was.

24 Q. And, there was an order the Commission issued there

[WITNESS PANEL: Chattopadhyay~Frink]

1 where it noted that it "has a longstanding practice of
2 evaluating the managerial, financial, and technical
3 ability of the proposed transferee to operate a public
4 utility", and that was Order Number 25,736. And, it
5 also noted that "EnergyNorth is an existing utility in
6 this state", and "no party to that docket", and I
7 assume Staff was a party to that, "challenged its
8 managerial, financial, and technical ability to operate
9 a public utility". Is that fair to say? And, do you
10 agree with that?

11 A. (Frink) Staff -- my original testimony in that
12 proceeding was that I had major reservations about the
13 fact that Algonquin had not operated a natural gas
14 utility, and there were concerns with the -- that there
15 would be some difficulties in doing what they had
16 proposed to do. But, based on G3, our consultant on
17 the IT systems, which are a major cost and hugely
18 important, they provided enough information that we
19 signed off on a settlement.

20 Now, as the Company knows, and I think
21 everybody -- most everybody in this room, there were a
22 lot of bumps along the way, and it is a big undertaking
23 and it is a big concern. So, the fact that the
24 Commission found that -- believed that they had the

[WITNESS PANEL: Chattopadhyay~Frink]

1 managerial and financial expertise to do -- to run a
2 utility, doesn't mean that they actually had it, it
3 means they believe they had it. And, to the extent
4 you've done that, well, okay, you've proven it to a
5 degree.

6 But it doesn't -- again, there are
7 different levels of, you know, ability, and where
8 you're at may not be ideal and, you know, it's
9 something that should be considered.

10 But I do think the gist of what you said
11 that, yes, we believe they had the ability, and I
12 believe you have demonstrated that ability. But
13 there's an audit that is in the works that might shed
14 more light on that.

15 Q. Actually, why don't we take up the audit, and I just
16 have a couple of questions I'd like to ask you about
17 that. And, that audit apparently was a targeted audit,
18 is that correct?

19 A. (Frink) That is correct.

20 Q. And, it was negotiated as part of an overall settlement
21 in DG 14-180, which was a rate case?

22 A. (Frink) That's correct.

23 Q. And, the main reason for the audit was to review the
24 facts and circumstances related to things such as

1 delayed bills?

2 A. (Frink) That was one of the things that had started it,
3 yes. That primarily had started it, yes.

4 Q. And, the main reason was to review the Company's
5 policies and procedures in the customer service and
6 finance, you know, the financing and accounting areas,
7 to see if there were some things that could be improved
8 by the Company, is that fair to say?

9 A. (Frink) That was another targeted area, yes.

10 Q. And, the Company was in agreement with the audit, as it
11 was interested in reviewing the policies and
12 procedures. So, it essentially agreed, it was a good
13 idea to do that?

14 A. (Frink) Yes.

15 Q. I mean, that's pretty typical thing with public
16 utilities, isn't it? You go through an audit,
17 sometimes you find things, they look to correct them,
18 and then you move on. Is that fair to say?

19 A. (Frink) Yes, it is.

20 Q. So, utilities, as a matter of sort of the normal -- in
21 the normal course of business, should be subject to a
22 review of their policies and procedures, as is being
23 done there?

24 A. (Frink) That's correct. But I would say, in most rate

1 cases, we don't go to the extent of hiring a third
2 party to review a company's customer service or
3 accounting and finance. So, I'd say this is not the
4 normal for a rate case. And, it is a result of
5 concerns that had been expressed by Staff and others
6 since the acquisition.

7 Q. Two of the orders that you cite in your testimony, you
8 know, in support of -- I think this is Page 5 in the
9 footnote, so, I guess that would be Bates Page 6. But
10 you cite two orders, a '96 order and a '97 order, to
11 support your contention that, basically, as a matter of
12 precedent, EnergyNorth ought to be required to do a DCF
13 analysis. Is that right?

14 A. (Frink) That's correct.

15 Q. And, both of those orders really related to special
16 contracts, is that fair to say?

17 A. (Frink) As I just stated, every major expansion I've
18 seen has involved an anchor customer that made it
19 economically feasible. So, when the utilities came to
20 the Commission looking for the franchise, they -- that
21 was part of the presentation. Is that, "we're going to
22 UNH, in Durham", and "we're going to Milford". And,
23 so, this is a -- that's what makes it work, and that's
24 why the franchises -- well, okay.

[WITNESS PANEL: Chattopadhyay~Frink]

1 Q. When the Commission analyzes a special contract, it's
2 using a different statute, I'm sure you've -- in all
3 the years you've been here, I'm sure you've seen it,
4 378:18, which is the statute that authorizes special
5 contracts, in the event that a utility wants to provide
6 service at rates other than those that are fixed by its
7 schedules of general application. Is that fair to say?
8 I mean, that's the statute, I believe.

9 A. (Frink) Yes. No, that's fair to say.

10 Q. Okay. And, so, the analysis used in that statute is
11 arguably different than one where the Commission is
12 trying to decide, under 374:26, whether or not to give
13 permission to operate as a public utility in a
14 particular franchise area. Would you say that's
15 correct?

16 A. (Frink) Not necessarily. Because, when you're looking
17 at whether you should grant a franchise, you have to
18 take into account whether it's going to result in fair
19 and reasonable rates. And, again, when I talk about
20 "reasonable rates", I'm talking about a competitive
21 rate. And, I think that needs to be considered, before
22 you can determine if it makes sense to invest in a
23 franchise territory.

24 Why would you grant a franchise where

[WITNESS PANEL: Chattopadhyay~Frink]

1 you expect that the utility is going to fail? In this
2 case, Liberty has an existing 90,000 other customers
3 that can absorb that cost. So, maybe it wouldn't be
4 the same burden on Liberty as, for instance, Valley
5 Green. But it doesn't make sense to me that the
6 Commission would grant a franchise, unless they had a
7 reasonable assurance that it would produce a reasonable
8 rate of return.

9 Q. But what order, what statute, where's the authority for
10 that? I mean, I understand you may think that's the
11 right thing to do. But, as a matter of precedent,
12 doesn't the Commission typically look to laws and
13 Commission decisions?

14 A. (Frink) Well, I'm not a lawyer. But, it's pretty high,
15 you know, managerial, financial. So, I would put that
16 under the "financial". I mean, it's a high-level
17 standard, and how far you want to go in looking into
18 each of those categories. I focused on the financial,
19 because that's where my major concern is. And, I
20 believe that is where the major concern is. And, I
21 think the Commissioners need to look at that very
22 closely. And, I also think the DCF methodology,
23 whether it's required or not, is the appropriate
24 methodology to do that.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 Q. I mean, that's what you think. But the Commission
2 hasn't really said that in any other order --

3 A. (Frink) That's correct.

4 Q. -- where it was reviewing a franchise petition?

5 A. (Frink) I'd have to look back at that Northern order,
6 but I'll accept that.

7 Q. Okay. As I understand it, and I'm looking at Page 5 of
8 your testimony again, it's probably Bates Page 6, but
9 part of the reason you think the DCF analysis is better
10 is because of the dramatic drop in oil and propane
11 prices, since the Commission approved the line
12 extension policy in 2014. Is that correct?

13 A. (Frink) No. Use of the DCF knowledge really has
14 nothing to do with the drop in the oil prices. And,
15 whether the oil prices dropped or not, I would still
16 recommend use of the DCF methodology.

17 Q. Well, I thought, from your testimony, you seem to --
18 you seem to make a straight -- a pretty strong point
19 that the fact that oil and propane prices have dropped,
20 you know, is a significant reason as to why you think,
21 basically, the Commission needs to look a little bit
22 color?

23 A. (Frink) Yes, it is.

24 Q. And, I guess I took from your testimony, and you're

[WITNESS PANEL: Chattopadhyay~Frink]

1 telling me it's not correct to take that, but that oil
2 and propane prices dropping has nothing to do with the
3 DCF analysis? You're saying --

4 A. (Frink) Yes. It has nothing to do with the use of the
5 DCF methodology.

6 Q. Okay.

7 A. (Frink) What it has to do is, it's another -- you
8 should do the DCF methodology regardless of what oil
9 and gas prices are doing. But the drop in oil prices
10 is a concern regarding your ability to -- as to whether
11 your rates are going to be competitive and you're going
12 to be able to accomplish the sales projections that you
13 use in showing that this is a financially viable
14 project.

15 Q. I think we asked you this in a data request. But do
16 you think oil prices and propane prices are going to
17 stay low?

18 A. (Frink) I've seen things that say they will stay low
19 for ten years, going up gradually. I've seen lots of
20 things. I don't -- I'm not expecting a dramatic
21 increase in oil and propane prices. But I wouldn't
22 forecast it, one way or the other.

23 Q. I mean, you didn't really do an analysis for the
24 purpose of this docket, you know, of futures contracts

[WITNESS PANEL: Chattopadhyay~Frink]

1 or anything like that, to try to determine whether the
2 prices would stay low?

3 A. (Frink) Well, I did look at the NYMEX futures going out
4 five years. But, again, it's different every day. So,
5 again, I'm not in the business of forecasting energy
6 prices.

7 Q. And, you also expressed a concern that customers may
8 choose to stay with their current fuel source because
9 of the market prices, is that correct?

10 A. (Frink) Absolutely. If you look at Kleen -- well,
11 actually, Kleen has already committed. And, it may be
12 that other customers are locking in prices for a long
13 term, just because the prices are very attractive now
14 to what they have been historically. And, so, it
15 wouldn't surprise me in the least if a lot of
16 commercial/industrial customers are signing contracts
17 for service for two or three years.

18 Q. Although, I think you also admitted, and this was on
19 Page 13, probably Bates Page 14, that there are a
20 number of other reasons that customers make decisions
21 about whether or not to stay with a particular fuel
22 source, correct? I mean, it's not just price. There
23 are a lot of other things?

24 A. (Frink) Oh, yes. Absolutely.

[WITNESS PANEL: Chattopadhyay~Frink]

1 Q. Now, you said on Page 15 of your testimony, and this
2 would, I believe, be Bates Page 16, that one of the
3 advantages of approving Liberty's franchise request is
4 that "having the legal authority could make it easier
5 to attain customer commitments"?

6 A. (Frink) Yes. I believe it would.

7 Q. So, until Liberty gets that approval, you would
8 basically admit it is kind of hard for them to get
9 customer commitments?

10 A. (Frink) I think it will be hard to get customer
11 commitments, unless there's a significant difference,
12 they can offer a significant price break and other
13 advantages. So, I don't think the primary reason is
14 because Liberty doesn't have the franchise. I think
15 you could sign up customers, and we've had contracts
16 come in that are subject to Commission approval.

17 I think, for instance, the expansion out
18 to Hitchner, they entered that contract before they had
19 the franchise. And, I believe that was probably the
20 case in UNH, and they used that, but it was subject to
21 them getting the franchise and getting approval. And,
22 that's fairly common.

23 Q. But was that a situation where there were two competing
24 petitioners for the franchise or was there just one?

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 A. (Frink) This is a very unique situation. I've never
2 seen this.

3 Q. So, admittedly, a customer that's approached by one of
4 the two petitioners before this Commission, you would
5 admit that they would have more reluctance perhaps in a
6 situation where there was only one utility that wanted
7 to expand out there?

8 MR. SPEIDEL: I object to that question,
9 because I don't think Mr. Frink has direct knowledge of
10 what the customers would or would not believe, based on
11 the current situation.

12 CHAIRMAN HONIGBERG: Mr. Patch?

13 MR. PATCH: I'll withdraw the question.

14 Thank you.

15 BY MR. PATCH:

16 Q. One of the questions that I believe the Liberty panel
17 was asked was with regard to the exercise of the
18 authority, assume that they got the authority to have a
19 franchise in Lebanon and Hanover. And, I think we
20 asked you a data request about this, too, because you
21 had a statement about a concern, this was on Line 17 to
22 19, of Page 15 of your testimony, Page 16 Bates Page,
23 you had a concern that, if the Commission were to
24 approve the Petition, Liberty could delay provision of

1 utility service indefinitely.

2 But isn't there -- there's a statute on
3 that, isn't there, 374:27, that imposes a time limit?
4 It basically says it "has to be exercised within two
5 years after it's granted." And, if it isn't, then it
6 can't be exercised after that, presumably, without
7 coming back to the Commission?

8 A. (Frink) That's correct. But, as we just noted, this is
9 a unique situation, where there's a competing entity
10 for the franchise. And, if Liberty were granted the
11 franchise, and given a two-year period to actually do
12 something, and didn't do anything, then there's the
13 possibility that the competing entity would no longer
14 be in a position to offer service. And, who knows who
15 else would be available to step forward at that time.

16 So, in essence, if you granted Liberty
17 the franchise today, and Liberty doesn't do anything
18 for two years, then you may not have another -- there
19 may not be something out there in two years. So, it
20 could be an indefinite period before somebody, if ever,
21 stepped forward with another proposal.

22 Q. But that wouldn't be Liberty delaying the service, what
23 you're describing, right?

24 A. (Frink) Well, I'm saying -- I'm suggesting that, if you

[WITNESS PANEL: Chattopadhyay~Frink]

1 granted the franchise, that would be -- could
2 potentially delay it indefinitely.

3 But, no, it would be Liberty delaying
4 it.

5 MR. PATCH: Thank you, Mr. Frink. Thank
6 you, Dr. Chattopadhyay. I appreciate your questions.
7 And, thank you very much.

8 CHAIRMAN HONIGBERG: Commissioner Scott.

9 COMMISSIONER SCOTT: Thank you.

10 BY COMMISSIONER SCOTT:

11 Q. I think my questions are for Mr. Frink. And, since
12 we've spent a lot of time on the financial, managerial,
13 and technical ability question, I had read your
14 testimony, and I was wondering if you could comment on
15 this, that what I thought you were saying, without --
16 I'm paraphrasing, is, without a robust business plan
17 and without a sufficient customer base, I thought you
18 were questioning that ability to operate in that
19 environment. Is that a fair characterization?

20 A. (Frink) Well, again, if you don't have the sales and
21 don't generate the cash flows to be able to operate,
22 then, in their case, an existing utility, but, if you
23 don't allow cross-subsidization, then you're going to
24 have trouble operating, and, eventually, you're not

[WITNESS PANEL: Chattopadhyay~Frink]

1 going to be able to operate. So, that's really my
2 concern.

3 Q. Okay. And, you just mentioned the cross-subsidization
4 proposal, for want of a better word. Again, I just
5 want to verify, that's notional, it was brought up
6 today, it was mentioned in the testimony as a
7 possibility, but there is no thing for us to evaluate
8 currently, correct?

9 A. (Frink) There is -- no, there isn't. And, I would just
10 like to add that, while that would address the
11 cross-subsidization issue, if you grant the franchise
12 and it ultimately fails, then you have a mess on your
13 hands, where you have customers that are getting --
14 have converted to natural gas, and now don't have
15 natural gas service. So, it's not just a concern that
16 natural gas customers -- that existing customers are
17 going to be subsidizing it. It's a concern that, you
18 know, there are other concerns that go along with that.

19 Q. The other thing I had asked about earlier, to the
20 earlier panel, was this concept, without anchor
21 customers, Liberty had alluded to, well, they could
22 just do a smaller franchise to meet smaller demand.
23 What's your thought on that?

24 A. (Frink) That's true. They could do a smaller system.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 I don't know how easy it is to size everything, and
2 then expand to a -- if it's cost-effective. I mean, if
3 you sign Dartmouth College, for instance, and go eleven
4 miles, then your plant and everything else is going to
5 be sized and planned to satisfy that customer, which
6 is, you know, ideal.

7 If you start with a very small system,
8 with properly sized pipes for that system, then I don't
9 know -- and then you get that growth, that may be more
10 expensive. So, and even then, a properly sized system,
11 there's still some level of load that you need for that
12 system. And, at this point, they don't have any load.
13 And, with oil and gas prices where they're at, I
14 realize we've seen very good growth relative to when
15 National Grid was -- owned and operated the system.
16 But that also coincided with prices -- gas prices that
17 were 50-60 percent cheaper than oil prices. So,
18 without that benefit, I don't know if, going forward,
19 you're going to see that same kind of growth. And,
20 that's -- so, that's really, yes, the competitive
21 pricing is hugely important in this.

22 COMMISSIONER SCOTT: I had another
23 question, I can't remember what it was now.

24 WITNESS FRINK: I'll make my answers

[WITNESS PANEL: Chattopadhyay~Frink]

1 more brief.

2 CHAIRMAN HONIGBERG: Commissioner
3 Bailey.

4 COMMISSIONER BAILEY: Thank you.

5 BY COMMISSIONER BAILEY:

6 Q. I know neither one of you are lawyers, and neither am
7 I. But we've been at this for a long time. And, so,
8 my question is, isn't the statutory requirement for the
9 Commission to find that it's in the public good to
10 grant a franchise?

11 A. (Frink) I believe so.

12 Q. And, the way that we often analyze that is whether
13 they're financially, managerially, and technically
14 competent when there are no other existing customers
15 involved?

16 A. (Frink) Yes.

17 Q. But, when there are existing customers involved, who
18 may have to share in some of the risk, I take it that
19 that's your concern?

20 A. (Frink) That is our concern. Liberty recently acquired
21 Keene. And, as part of that settlement, they have to
22 keep separate rates for Keene. So, that,
23 theoretically, prevents cross-subsidization. So, yes.
24 It's always a concern, when you have an existing

[WITNESS PANEL: Chattopadhyay~Frink]

1 utility that could recover through their overall rates
2 for the cost to provide that, to serve the -- maybe
3 excessive cost to provide that franchise area.

4 Q. Now, if you were able to come to an agreement on their
5 proposal to isolate the existing customers from any
6 risk, by keeping the books separate for all the
7 investment, and making sure that everything was
8 accounted for separately, would that alleviate the
9 concern?

10 A. (Frink) It would for me, yes.

11 A. (Chattopadhyay) Can I -- I'll just respond.

12 Q. Please.

13 A. (Chattopadhyay) Whether that can be done is also a
14 question. And, to the extent you try and do it, if you
15 are part of the EnergyNorth umbrella, the reality
16 remains that, if you're accepting losses, and let's say
17 it goes on for several years, it could have impact on
18 the cost of equity for your entire company.

19 And, so, it's not a very straightforward
20 answer. I mean, it depends on how you -- what kind of
21 arrangement you have to deal with the cross-subsidy
22 issue.

23 So, end of the day, if you are -- if
24 cross-subsidy is real, and you're continuing with the

[WITNESS PANEL: Chattopadhyay~Frink]

1 rates that EnergyNorth has for a region where the rates
2 are supposed to be higher, if you keep doing it, and
3 you're not able to address that issue, and you don't
4 have an end date, then that creates problems.

5 But we can always sit down and discuss
6 ways to work around it, and perhaps say, "you know
7 what, if this doesn't go the way that we are expecting
8 it to go, because you haven't had enough growth, then
9 at some point your rates have to be adjusted upwards
10 for that separate region."

11 So, I'm just -- I have no details as to
12 what the Company is thinking about, but I'm just
13 providing my thoughts here.

14 Q. Okay. Mr. Frink, on Page 3 of your testimony, Lines 15
15 and 16, you say "Are the investment criteria the same
16 for both utilities?"

17 A. (Frink) What a minute.

18 Q. Oh. Sorry.

19 A. (Frink) Give me the Bates page.

20 Q. Bates Page -- probably Bates Page 4.

21 A. (Frink) Page 4, okay. And, lines -- what lines were
22 those.

23 Q. 15 and 16.

24 A. (Frink) Okay.

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 Q. Yes. "Are the investment criteria the same for both
2 utilities?" And, the answer: "Both utilities have
3 roughly the same investment criteria". When you say
4 "both utilities", are you talking about the "electric
5 Liberty and the gas Liberty" or the "Valley Green and
6 EnergyNorth"?

7 A. (Frink) I'm talking about Northern and EnergyNorth.
8 The two gas utilities have basically the same
9 investment criteria.

10 Q. Okay.

11 A. (Frink) One uses a Discounted Cash Flow analysis and
12 one uses a revenue test.

13 Q. Thank you.

14 A. (Frink) But they basically provide the same return.

15 Q. Okay. Dr. Chattopadhyay, you said that, for the DCF to
16 work, you need good demand projections. How do you get
17 good demand projections?

18 A. (Chattopadhyay) I mean, I don't deal with day in/
19 day out how those projections are made. But I kind of
20 discussed it in my testimony. You need to have a
21 better sense of the vintage of the, you know, the
22 systems that you have in residences in that region.
23 You need to know how -- you know, we've already talked
24 about it, the prices and what people expect they're

[WITNESS PANEL: Chattopadhyay~Frink]

1 going to be in the future for the different fuel
2 sources. You need to know what kind of systems people
3 have. So, some may -- a region may have lots of
4 customers that have oil, as opposed to lots of propane.
5 So, those are the things that we need to understand
6 first, before there is a projection of what kind of
7 demand the Company can see out there over time.

8 Q. So, the ICF analysis would help inform that?

9 A. (Chattopadhyay) I believe so.

10 Q. Okay. Do either of you have any idea why the Company
11 is objecting so vehemently to the DCF model? I mean, I
12 would think, if they could prove their case using it,
13 they would produce it.

14 A. (Frink) I agree. I don't understand why they have --
15 when Staff requested a response that they provide this
16 DCF methodology, I really don't know why they didn't
17 just provide it. But they didn't.

18 Q. Maybe because of the tariff issue that they explained,
19 I guess.

20 A. (Frink) But it doesn't apply to a -- outside of its
21 franchise territory. Plus --

22 Q. Well, I understand that's your position.

23 A. (Frink) Well, plus, they had a revenue test in the
24 past, too, and they still did it, provided a DCF

[WITNESS PANEL: Chattopadhyay~Frink]

1 analysis in addition to that -- in spite of that, I
2 should say.

3 Q. I see.

4 A. (Frink) So, it would have -- I don't understand, but,
5 anyway.

6 Q. And, your testimony, in response to one of
7 Mr. Speidel's questions, was they wouldn't have to use
8 the results of that to produce the CIAC rates?

9 A. (Frink) No. Once, if their Petition is approved, you'd
10 use a DCF analysis to determine if this is economically
11 feasible, you approve it, approve their tariff, then
12 any customer in that franchise territory would be
13 subject to the revenue test.

14 COMMISSIONER BAILEY: Okay. Thank you.

15 CHAIRMAN HONIGBERG: Commissioner Scott,
16 you remembered your question.

17 COMMISSIONER SCOTT: Then I wrote it
18 down.

19 BY COMMISSIONER SCOTT:

20 Q. We've heard a lot of discussion about the catch-22 that
21 your suggestions in your testimony, which is "don't
22 grant this until such" -- or, "because there's no
23 anchor customers." And, of course, we've heard "well,
24 it's hard to get an anchor customer without a franchise

[WITNESS PANEL: Chattopadhyay~Frink]

1 area." So, we have this -- does not your suggestion
2 create a catch-22, where you never get a franchise? Is
3 that -- what happens? How does this work?

4 A. (Frink) You can sign up anchor customers without having
5 the franchise. There are two competing entities
6 looking for the franchise. But that doesn't prevent
7 you from signing a contract with somebody. And, I
8 think people are aware, in looking at the record and
9 what's in the paper, if an anchor customer wants
10 natural gas, I would think they would approach
11 whichever one or both and say "what kind of deal can
12 you give me?" And, they should be able to work that
13 out. So, -- and, then, of course, it would be subject
14 to Commission approval.

15 If I'm the Company, I'm going to an
16 anchor customer and saying, you know, "they're not
17 approving it until I get an anchor customer, but that's
18 the condition. If you sign up, you'll get gas. This
19 is what's holding it up."

20 So, I would think that a customer that
21 wanted natural gas, would see a benefit from it, would
22 go ahead and enter a contract. And, again, the
23 contract wouldn't go into force until it was -- that
24 gas was actually in service, until it got approved by

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 the Commission.

2 Q. So, in that hypothetical, perhaps a potential anchor
3 customer could sign with both potential franchise? For
4 instance, is that not similar to -- for precedent
5 agreements for pipelines? Is it not unheard of for a
6 potential customer to sign contracts for different
7 pipelines, hoping that one will happen? Is that a
8 correct question?

9 A. (Frink) Yes. I could see the potential for that.

10 COMMISSIONER SCOTT: Okay. Thank you.

11 CHAIRMAN HONIGBERG: I have no questions
12 for these witnesses.

13 Mr. Cicale, do you have any further
14 questions for your witness?

15 MR. CICALE: I do, Mr. Chairman. May I
16 proceed with the redirect?

17 CHAIRMAN HONIGBERG: You may.

18 MR. CICALE: Thank you.

19 **REDIRECT EXAMINATION**

20 BY MR. CICALE:

21 Q. Dr. Chattopadhyay, I want to briefly reference the case
22 law standard that Attorney Patch was discussing
23 regarding the granting of a franchisership, the public
24 interest standard, subparagraph (1), specifically,

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 financial backing. Now, in your opinion, financial
2 backing, as a part of that standard, it's pretty broad,
3 is that correct?

4 A. (Chattopadhyay) Yes. That is how I view it.

5 Q. Now, a part of financial backing, financial backing,
6 could that include contracting with anchor customers to
7 sell gas?

8 A. (Chattopadhyay) Yes.

9 Q. Now, I'd like to direct your attention to Mr. Frink's
10 testimony, Bates stamp Page 14, where Attorney Patch
11 was questioning you before, looking specifically on
12 Lines 15 through 17. Before I get there, I want to
13 simply ask you, is there a difference, in your opinion,
14 between a pipeline expansion and a franchisership?

15 Let me rephrase the question. Is there
16 a difference between granting a pipeline expansion and
17 granting a franchise territory?

18 A. (Chattopadhyay) I really need to know more details to
19 even answer that question. The way I would respond,
20 because I was involved in the -- in, you know, pipeline
21 contract approvals process, the precedent agreements,
22 that I'm -- that is not the same thing as what we are
23 discussing right now.

24 But, if you are talking about sort of,

[WITNESS PANEL: Chattopadhyay~Frink]

1 you know, a utility going out and expanding the
2 pipelines to reach new customers, that, if it's really
3 sort of line extensions, you already have a franchise,
4 and if you're using your existing footprint to further
5 reach out to other customers, that is -- that is also
6 very different from what is being discussed here,
7 because it's really a system that is completely on its
8 own.

9 Q. Okay. So, whether or not there's a demonstrated need
10 requirement for a pipeline expansion, that's not
11 relevant to a franchisanship proceeding, is it?

12 A. (Chattopadhyay) Not the way I understand it it's being
13 discussed in Mr. Frink's testimony here.

14 Q. So, in Lines 15 through 17 on that Bates stamp Page 14
15 of Mr. Frink's testimony, it reads that "line extension
16 policies for New Hampshire's natural gas utilities are
17 predicated on having sufficient demand and customer
18 commitments to take service that ensures the investment
19 is recovered over a reasonable period of time." Now,
20 in your opinion, is that "demonstrated need", as you
21 characterized it in your testimony?

22 A. (Chattopadhyay) I will -- you have to keep in mind that
23 the line extension policies, all of that that's being
24 addressed here, I have not been part of those

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 discussions in the past. But, as I had explained
2 before, the fact remains that when you are trying to
3 say that you're going to have the same rates as the
4 ones that you already have in place for the existing
5 customers, it becomes extremely important that -- to
6 know that, in the new region, you have enough demand to
7 justify those rates. And, that's where I was going.
8 So, I will, I think --

9 Q. So, I mean, this is a bit different. This is -- you
10 know, line extensions and an island gas facility are
11 different, correct?

12 A. (Chattopadhyay) Yes. That is something I've already
13 mentioned, yes.

14 Q. And, as we heard earlier, a island gas facility has not
15 been yet approved by this Commission or any state
16 commission, isn't that correct?

17 A. (Chattopadhyay) That is what I heard.

18 Q. Would you say that good precedent would state that a
19 demonstrated need would suffice as a condition for an
20 island gas facility?

21 A. (Chattopadhyay) Correct. And, that look is not simply
22 just taking a look at demand. There are other factors
23 that need to be taken a look at as well.

24 Q. Now, in your expert opinion as an economist, this

[WITNESS PANEL: Chattopadhyay~Frink]

1 demonstrated need, would you say that this demonstrated
2 need largely equates to the financial backing standard
3 in the case law as discussed earlier?

4 A. (Chattopadhyay) Again, I will -- I will be very clear,
5 I don't -- whenever you use the term "case law", I get
6 worried, because I'm not a legal expert. So, I would
7 not respond to that question in that way. I've already
8 explained it. What matters to me is, you have a
9 petition here where you're already recommending a rate.
10 And, I'm trying to understand whether that can be
11 justified, given this new franchise. And, to get to
12 the answer, it's important for me to know whether there
13 is demand out there, sufficient demand.

14 Q. Without customers, Dr. Chattopadhyay, is there a viable
15 franchise here?

16 A. (Chattopadhyay) Can you please repeat the question? I
17 missed the first part.

18 Q. Without anchor customers or any customers under
19 contract, is there a viable franchise here?

20 A. (Chattopadhyay) No.

21 MR. CICALÉ: No further questions.

22 CHAIRMAN HONIGBERG: Mr. Speidel, do you
23 have any further questions for Mr. Frink?

24 MR. SPEIDEL: I do, indeed,

[WITNESS PANEL: Chattopadhyay~Frink]

1 Mr. Chairman. And, I would like to ask leave to ask
2 redirect?

3 CHAIRMAN HONIGBERG: Oh. Go ahead.
4 That's why I asked if you had questions.

5 MR. SPEIDEL: Very good. Excellent.

6 BY MR. SPEIDEL:

7 Q. Mr. Frink, there was some discussion by Mr. Patch
8 regarding what was implicitly described as the public
9 good standard for granting a franchise under RSA
10 374:26. And, in your experience of more than 25 years
11 at the Commission, "public good" and "public interest"
12 tend to be congruent standards, is that right?

13 A. (Frink) I'd agree, yes.

14 Q. So, under the public interest standard, of whether or
15 not to grant a franchise, there was some discussion
16 that, in Liberty's view, and in your view as well, they
17 do have financial, managerial, and technical ability to
18 manage a utility. But isn't it fair to say that you're
19 also concerned about the financial, managerial, and
20 technical feasibility of an expansion project in
21 Hanover and Lebanon?

22 A. (Frink) That's correct, yes.

23 Q. And, as a consequence of your concerns regarding that,
24 you are very interested in making sure that there are

{DG 15-289} {03-17-16}

[WITNESS PANEL: Chattopadhyay~Frink]

1 firm customer commitments to enable the financial
2 feasibility of this specific project and this specific
3 franchise request?

4 A. (Frink) Absolutely.

5 Q. And, included in the concerns that you have about
6 financial feasibility, you are concerned about
7 cross-subsidization, wherein other customers of the
8 existing franchise territory of Liberty may be forced,
9 through one mechanism or another, to cover the costs of
10 the expansion into the new territory, isn't that right?

11 A. (Frink) That is a major concern.

12 Q. You may recall, and this is a little unusual, but, you
13 know, you and I, I think we had a lot of discussions
14 regarding informal consultations regarding the public
15 interest standard, in light of the fact that this is a
16 relatively new development, a franchise *de novo* request
17 for the first time in many years, do you recall that?

18 A. (Frink) Yes, I do.

19 Q. And, do you recall at one time I read from this old
20 book from the Plaistow Electric Light & Power Company
21 case?

22 A. (Frink) I do remember you reading from that book, yes.

23 MR. SPEIDEL: And, I'll just approach
24 the bench.

[WITNESS PANEL: Chattopadhyay~Frink]

1 *[Atty. Speidel showing book to*
2 *Witness Frink.]*

3 BY MR. SPEIDEL:

4 Q. And, this was actually in the data request as well -- a
5 data response to one of the Staff data requests that
6 you received. Would you please read this paragraph
7 that begins here, "[2]", and just to the end where it
8 says "time".

9 A. (Frink) "Not infrequently, utilities, in their desire
10 to please the public, make extensions which do not pay
11 and cannot be made to pay because there's not business
12 enough in the territory served. Such extensions are
13 not in the public interest, because they must be
14 carried by increasing the rates upon other consumers.
15 Before utilities make extensions into new territories,
16 they should be reasonably certain that the new business
17 to be obtained thereby can be made to pay, at least
18 within a reasonable time."

19 Q. Thank you.

20 MR. PATCH: Mr. Chairman, could we just
21 have a cite to that, because I don't think there was a
22 cite put in the record?

23 MR. SPEIDEL: Yes.

24 CHAIRMAN HONIGBERG: No doubt.

[WITNESS PANEL: Chattopadhyay~Frink]

1 MR. SPEIDEL: I will read it out right
2 now. It is, just to be sure, "New Hampshire Public
3 Service Commission Reports". And, I want to make sure
4 that I have the correct volume number, it is Volume VIII.
5 And, that is the January 1921 through December of 31, '22
6 volume. And, the specific citation is the "New Hampshire
7 Public Service Commission, C.J. Tuthill, T-u-t-h-i-l-l, et
8 al. e-t a-l. v. Plaistow Electric Light & Power Company,
9 and that is on Page 510.

10 CHAIRMAN HONIGBERG: Mr. Patch, you
11 weren't the Chair of the Commission then, were you?

12 *[Laughter.]*

13 MR. PATCH: I won't answer that
14 question.

15 MR. HALL: I was around.

16 MR. SPEIDEL: And, the order was filed
17 on November the 16th, 1922.

18 BY MR. SPEIDEL:

19 Q. So, that language is generally familiar to you, is it
20 not?

21 A. (Frink) Yes, it is.

22 Q. Do you agree with the philosophy behind that language
23 that was elucidated nearly 100 years ago by the
24 Commission?

[WITNESS PANEL: Chattopadhyay~Frink]

1 A. (Frink) I certainly do.

2 Q. And, is the general idea behind your testimony to
3 demonstrate to the Commission and to the public that
4 you're trying to come up with a modern yardstick for
5 financial feasibility for this franchise request, is
6 that correct?

7 A. (Frink) That is correct.

8 Q. And, in your experience as an accountant and as a rate
9 analyst over many years, you believe that the
10 Discounted Cash Flow analysis is the best modern
11 yardstick to apply for financial feasibility of such an
12 expansion, is that correct, in a new franchise?

13 A. (Frink) That is the -- I believe the best methodology.
14 But it needs to be supported with a detailed business
15 plan, which attached to my testimony is a business plan
16 for Milford that did that. I think ICF has the
17 potential to produce something similar, which would --
18 could give the Commissioners a lot more confidence and
19 Staff a lot more confidence that they might actually
20 achieve their growth -- their demand projections.

21 Q. That's good to know. And, regarding the questions that
22 you received relating to the ability of the Company to
23 attract customers, in light of the fact that a
24 franchise isn't being awarded up front before a firm

1 customer commitment, certainly, I objected to that
2 question. But, in general terms, have you seen
3 instances in the special contract arena where motivated
4 customers have, in fact, signed contingent contracts,
5 special contracts with the utility expanding into a new
6 area?

7 A. (Frink) Oh, as I stated, I believe Milford and UNH had
8 contracts in place before they requested the franchise.

9 MR. SPEIDEL: Thank you. I have no
10 further questions.

11 CHAIRMAN HONIGBERG: And, gentlemen, you
12 can return to your seats. That's the last witness,
13 correct?

14 *[No verbal response]*

15 CHAIRMAN HONIGBERG: All right. So,
16 let's get the exhibits confirmed. By my reckoning,
17 Exhibits 1 through 18 were all used in one way or another.
18 Is there any objection to any of those exhibits being made
19 full exhibits, understanding that a few have already been
20 made full exhibits?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: All right. So, the
23 ID will be struck on all exhibits, and Exhibits 1 through
24 18 will be full exhibits. I will note for the record that

1 Exhibits 5, 6, 9, 13, and 18 are confidential, or have
2 confidential information within them. And, I believe
3 there's redacted versions that are also marked.

4 Is there anything else we need to do
5 before the Parties have the opportunity to briefly sum up?

6 *[No verbal response]*

7 CHAIRMAN HONIGBERG: All right. I will
8 remind all the Parties that Mr. Patnaude, Commissioner
9 Bailey, and I were all at a public hearing last night that
10 went until almost eleven o'clock. So, the hour is late,
11 and we expect that you will be able to sum up quickly.

12 So, Mr. Patch, you can go first. I was
13 planning on having you go last, since this is your show.
14 But you looked ready to grab the microphone. So, I'm
15 going to have you go last.

16 MR. PATCH: I'm trying to get you out of
17 here, Mr. Chairman.

18 CHAIRMAN HONIGBERG: I appreciate that.
19 Ms. Geiger.

20 MS. GEIGER: Yes. NG Advantage's
21 position is stated in its prefiled testimony. I don't see
22 the need, given the hour, to repeat what's in the prefiled
23 testimony. Thank you for the opportunity to participate.

24 CHAIRMAN HONIGBERG: Mr. Corwin.

1 MR. CORWIN: Does that work? No.

2 CHAIRMAN HONIGBERG: Project, Mr.
3 Corwin.

4 MR. CORWIN: Got it. Do the
5 Commission's rules of procedure allow a written statement
6 subsequent to the close of the hearing? If not, --

7 CHAIRMAN HONIGBERG: It will allow, if
8 it's appropriate, if the Commission orders that we will
9 take subsequent written statements from the Parties. I
10 don't know how the Parties feel about that. Do we want to
11 allow -- hang on, Mr. Corwin.

12 MR. SPEIDEL: If we can do it quickly,
13 let's do it here.

14 CHAIRMAN HONIGBERG: Yes. Our
15 inclination is to get it done and get this record closed.

16 MR. CORWIN: The only thing I really
17 wanted to add --

18 *[Court reporter interruption.]*

19 MR. CORWIN: Just wanted to add a point
20 of information that the City of Lebanon has, it's my
21 understanding, we have had discussions with Liberty
22 Utility regarding their proposed site, and the possible
23 use of methane at the landfill.

24 However, I just wanted to make very

1 clear to the Commission and to all the Parties and for the
2 record that there have been absolutely no decisions at all
3 made with respect to how, if, and when methane will be
4 used. All options for the City certainly remain on the
5 table. And, likewise, there's certainly no official
6 policy or position with respect to the preferability of
7 one site versus the other, and, of course, I'm referring
8 to the Valley Green application.

9 Having said that, I think there are
10 some -- the Liberty Utilities' site is probably more
11 consistent with what our land use plan provides for. But
12 I just, again, more as a point of information, there have
13 been no official decisions with respect to anything
14 related to these, these proceedings.

15 CHAIRMAN HONIGBERG: Thank you,
16 Mr. Corwin.

17 Mr. Willing.

18 MR. WILLING: I'll be brief. Liberty's
19 case for a franchise rests largely on the fact that they
20 are an incumbent utility. Liberty suggests that they have
21 thought about bringing gas to Lebanon and Hanover for a
22 few years, but they knew about the Valley Green project
23 well before they filed for a franchise and did nothing to
24 discourage it. Further, an employee from the Liberty

1 corporate family was actually encouraging Valley Green to
2 pursue a franchise.

3 Liberty has done very little work on its
4 project. They have not invested in purchasing a site
5 beyond any option payment they made. They have not
6 invested in a site plan. They have not invested in
7 permitting or design work or traffic studies. They have
8 spent some money on a local public relations campaign.
9 They have done about the minimum amount that one would do
10 in order to create the appearance of a project without
11 spending much money.

12 Liberty's objective is to preserve their
13 near monopoly and to prevent a competitor from entering
14 the marketplace. We respectfully ask the Commission to
15 recognize this monopoly tactic and not enable Liberty's
16 conduct.

17 We understand that Staff recommends a
18 suspension. However, we ask that the Petition be denied,
19 due to the lack of specificity in the Petition.

20 That's it.

21 CHAIRMAN HONIGBERG: Thank you, Mr.
22 Willing.

23 Ms. Arwen.

24 MS. ARWEN: Yes. First of all, thank

1 you for helping me navigate the process today. And,
2 please allow me to apologize for not having the source of
3 the comments that I made regarding greenhouse gas effects
4 of methane. Quickly come to mind, it's the 2014
5 Assessment Report of the UN Intergovernmental Panel on
6 Climate Change that offered the "86 times effect of
7 methane in the 20-year timeframe".

8 I had a longer statement, which I'm
9 shortening. The Commission has ruled in this docket, in
10 my case, that it does not find "questions regarding" --
11 "relating to the Climate Action Plan in New Hampshire
12 relevant to our inquiry concerning Liberty's ability to
13 operate as a natural gas public utility." Even after
14 acknowledging that the Commission enjoys "broad discretion
15 in the management of discovery".

16 By way of explanation of the denial of
17 my request to compel a response related to the Climate
18 Action Plan, the Commission wrote "If we perceive of no
19 circumstance in which the requested data would be
20 relevant, we will deny the request to compel it's
21 production."

22 I'm almost done. With respect, I find
23 it unconscionable that this Commission will not consider
24 the relevance of the state's climate plan in this docket,

1 or presumably in any case that comes before it. Every
2 build-out of new fossil fuel infrastructure locks in an
3 increment of greenhouse gas emissions for decades to come.

4 You may well decide that neither this
5 project, nor the one proposed by a competitor in another
6 docket, will be in the public good, based merely on
7 considerations of momentary energy prices and the number
8 of anchor customers, that would be a welcomed decision.

9 However, with time running out, to limit
10 the most catastrophic effect of climate change, the people
11 of New Hampshire need regulators to have the courage to
12 exercise the broad discretion that the law allows. I
13 encourage you to consider the effect on global climate.
14 Thank you very much.

15 CHAIRMAN HONIGBERG: Mr. Cicale.

16 MR. CICALÉ: Mr. Chairman and
17 Commissioners, Liberty's application comes a couple carts
18 before the horse. We have a case here of an application
19 here where they have mentioned the fact that they are
20 seeking to do an RFP for gas supply for CNG/LNG. And,
21 they would have had an opportunity to do -- they can do
22 their RFP at any time. It would most be beneficial to
23 residential customers if that RFP is done prior to their
24 application, so that we could understand the cost of gas

1 and potential rates that may come along with it, what
2 companies are supplying the CNG and the LNG, and the
3 landfill gas, if that is to occur.

4 Here we have no clue what the cost of
5 gas is going to be. And, we don't understand what other
6 companies are involved, how much, what the ratio is going
7 to be. So, therefore, we can't really determine that.

8 The cost of gas also hurts the Company
9 in securing its franchise and securing anchor customers
10 and residential customers, because they can't tell those
11 potential customers what the cost of gas will be. So,
12 they have come forward without securing contracts with
13 anchor customers or residential customers. Without those
14 anchor customers, OCA and Staff cannot look at the
15 application as being viable, because any securing of the
16 franchise at this point, it's appearance, it looks as
17 though it could be a cross-subsidization of rates.

18 So, at this time, we ask that the
19 application be suspended for a later day, that Liberty
20 secure these things, and come back forward with their
21 application once again. Thank you.

22 CHAIRMAN HONIGBERG: Mr. Speidel.

23 MR. SPEIDEL: Thank you, Mr. Chairman
24 and Commissioners.

1 In summary, Staff would concur with the
2 general OCA recommendation as indicated in Staff's own
3 testimony of Mr. Frink. The legal standard of whether or
4 not to grant a franchise in the State of New Hampshire
5 revolves around the public good or the public interest.
6 That, in turn, is derived from the financial, managerial,
7 and technical ability of the potential franchise holder.
8 But it also relates to the financial, managerial, and
9 technical feasibility of this specific project that is
10 being contemplated.

11 Even 100 years ago, I think the
12 Commission grasped the concept that, when you have
13 extensions of business, they must pay. What does that
14 mean? They must make engineering sense, financial sense,
15 and also managerial sense. They have to be congruent with
16 the general rules of thumb that have been developed for
17 financial feasibility of similar expansion projects in the
18 past. There has to be evidence of interested, motivated
19 customers that are willing to sign binding commitments
20 that are contingent on franchise approval.

21 And, I think Mr. Frink plainly indicated
22 that, if there is interest, if there is motivation, the
23 customers will come forward. And, in light of this, it is
24 prudent for the Commission to suspend this proceeding,

1 approve perhaps a more thorough examination of financials
2 and technical details and engineering details in the
3 future, but we don't have that before us right now.

4 So, in light of this, we would recommend
5 that Staff's testimony recommendations be adopted. Thank
6 you.

7 CHAIRMAN HONIGBERG: Mr. Patch.

8 MR. PATCH: Thank you, Mr. Chairman and
9 Commissioners.

10 Liberty Utilities believes, based on the
11 evidence that's been presented to the Commission in this
12 docket, that it has shown that it meets the legal standard
13 that the Commission has used for years to evaluate
14 franchise proposals. And, that is that it possesses the
15 necessary financial, technical, and managerial abilities
16 to operate a regulated natural gas franchise.

17 Staff and OCA have not really called the
18 Company's technical and managerial capability into
19 question. I think what they have done is to actually
20 propose additional requirements that are not there in
21 prior case law. And, so, I think the Commission needs to
22 be concerned about creating a standard that could be very
23 unrealistic and very difficult to meet.

24 I mean, as has been noted through

1 questions and answers of Company witnesses, creating a
2 situation whereby the Company can't get a customer because
3 it doesn't have a franchise, especially given the
4 competing nature of these two franchises, puts it in a
5 catch-22. And, so, I think that's an important point to
6 recognize.

7 The Company filed this Petition in good
8 faith, based on what it understood the standard to be.
9 And, it's concerned that it's now being asked to meet a
10 different standard. And, I would point you to the order
11 that -- Order Number 25,736, in the Keene Gas situation,
12 in 2014, when the Commission looked at that standard, and
13 determined that the same company that we're talking about
14 today met that standard.

15 We also believe that requiring
16 EnergyNorth to use the DCF methodology is not consistent
17 with Commission precedent. The citations that Staff has
18 used as a basis for requiring that are for special
19 contract cases. And, so, what the Company has done is to
20 put forth a proposal for evaluating its ability to be able
21 to serve customers in this area that's consistent with its
22 tariff. And, so, it came here in good faith, and followed
23 its tariff, and presented that information to you. And,
24 that's what's in the record.

1 I think it's also important to recognize
2 the time limit that is there in the statute, the two years
3 within which a company that's granted a franchise has to
4 exercise it. So, I think that's an important aspect of
5 what was considered today.

6 In addition, I think there's been a lot
7 of discussion about "current energy prices", and there's a
8 lot of speculation about what those prices might be. But,
9 as has been noted in the record, customers make decisions
10 based on a lot of different things. And, so, and the
11 environmental benefits, as Mr. Evslin pointed out through
12 his testimony, that granting this franchise would bring,
13 is an important thing that the Commission should keep in
14 mind.

15 Granting a franchise to a utility with a
16 proven track record would be good for residential and
17 business customers in Hanover. It would give them an
18 option they don't currently have. It would provide not
19 just that option, but it would also provide environmental
20 benefits that Mr. Evslin clearly pointed out. So, I
21 think, when you consider the public interest and you
22 consider the standard, it's important to take those things
23 into account.

24 In addition, I want to point out that

1 Staff seems to have reacted positively, and as has the
2 OCA, to the mechanism that was pointed out in the
3 Company's rebuttal testimony. I think that's an important
4 aspect. And, I would hope that that provides a mechanism
5 to be able to satisfy any concerns about
6 cross-subsidization.

7 And, so, when you put all of these
8 factors together, I would urge the Commission to take
9 these things into account, to look at precedent, to think
10 about the benefits this will provide to businesses and
11 customers, residential customers in that area, and to
12 grant the franchise. Thank you.

13 CHAIRMAN HONIGBERG: Thank you,
14 Mr. Patch.

15 Is there anything else we need to do
16 before we close the record in this matter?

17 *[No verbal response]*

18 CHAIRMAN HONIGBERG: All right. Seeing
19 none, we will adjourn this hearing and consider the merits
20 of the case. Thank you all.

21 ***(Whereupon the hearing was adjourned at***
22 ***4:59 p.m.)***