



ORIGINAL

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

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March 22, 2018 - 1:05 p.m.
Concord, New Hampshire

DAY 4
Afternoon Session ONLY

RE: DG 17-048
LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP. d/b/a LIBERTY
UTILITIES: Request for Change in
Rates. (*Hearing on the Merits*)

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Kathryn M. Bailey
Commissioner Michael S. Giaimo

Sandy Deno, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth
Natural Gas) Corp. d/b/a Liberty
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Court Reporter: Susan J. Robidas, NH LCR No. 44

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I N D E X

WITNESS: STEPHEN P. FRINK

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P R O C E E D I N G S

(Hearing resumed at 1:05 p.m.)

CHAIRMAN HONIGBERG: Mr. Sheehan, ready to go?

MR. SHEEHAN: Yes, sir.

CHAIRMAN HONIGBERG: You may proceed.

CROSS-EXAMINATION

BY MR. SHEEHAN:

Q. Good afternoon. I'm going to run through the same topics you did this morning with some follow-up. First, Keene.

The docket in which Liberty bought Keene acknowledged that the Company would probably be looking to consolidate and grow; correct?

A. That's correct.

Q. In fact, the largest -- some of the largest energy users in Keene are not on the propane air system, such as the hospital, Keene State, Markem and some of the other manufacturers.

A. That's true.

Q. If Liberty were able to get those three or

1 four customers onto a new system, CNG or LNG,
2 that would more than triple the output of the
3 system as it is today, or roughly triple.

4 A. Well, it would -- the system today couldn't
5 accommodate those customers. So, basically
6 it would replace the system and triple the
7 capacity.

8 Q. Right. And you understand that the plan is
9 to essentially build a ring around Keene with
10 new pipe and go into where these large
11 customers are.

12 A. I haven't actually reviewed the physical
13 plans, but --

14 Q. But the point being there's a lot of growth
15 potential in Keene.

16 A. That's what I have read, yes.

17 Q. Okay. Your objection to the rate
18 consolidation is the issue of subsidy, that
19 the EnergyNorth customers will pay for what
20 is now the Keene deficiency.

21 A. Yes.

22 Q. And as we talked about, it's a relatively
23 small number for the EnergyNorth customers, a
24 couple dollars a year, and it could be a

1 relatively large savings for the Keene
2 customers; correct?

3 A. Yes.

4 Q. Keene customers will have whatever the number
5 is, 20, 30 percent reduction in their
6 distribution rates if they move to
7 EnergyNorth.

8 A. There's your bill analysis in rebuttal
9 testimony that indicates that. I don't --
10 I'm not sure what the -- where the cost of
11 gas numbers came from. I understand the
12 delivery rate because that's existing
13 temporary rates, but...

14 Q. And the difference there in distribution
15 rates, as Mr. Clark testified, the fuel cost
16 he projects will be comparable. The CNG is
17 comparable to the existing. I can't remember
18 if he said slightly more or slightly less.

19 A. He said it would be slightly less was his
20 testimony.

21 Q. And if those costs turned out to be slightly
22 higher than projected, there's still a big
23 delta in distribution rates. So the Keene
24 customers may still benefit even if the fuel

1 cost ends up being a little higher than
2 projected.

3 A. Yes.

4 Q. There's room there.

5 A. Yes.

6 Q. And certainly if the Company started
7 designing its large permanent facility and
8 saw that the entire delta would be erased by
9 those fuel costs, the Company wouldn't go
10 forward, or it would be unwise to go forward;
11 correct?

12 A. Correct.

13 Q. And that's something that would be discussed
14 at future, as we propose, cost of gas
15 hearings.

16 A. You're talking about the investment in the
17 supply plant?

18 Q. Correct.

19 A. Okay.

20 Q. Is it Staff's position that any extra cost
21 put on the EnergyNorth customers makes it --
22 would support you rejecting or recommending
23 that the consolidation not occur, that
24 there's no de minimus threshold?

1 A. No. No. Actually, it's not that Staff is
2 opposed to the consolidation of rates. And
3 as with iNATGAS, we recognize that in early
4 years there could be higher deficiency as a
5 result. But over time, if it provides a
6 positive return, then that's typically
7 evaluating -- well, as you know, expansions
8 and other things, we look -- the Commission
9 looks for a 10-year payback. So if it's
10 subsidized for a few years, but ultimately
11 benefits customers, then Staff would be
12 supportive of that.

13 Q. And you've seen that in the testimony
14 Mr. Clark did do projections through his
15 Phase 1, 2, 3, 4, 5 of what the cost would be
16 and what the potential revenues would be, and
17 they are positive; correct?

18 A. I have seen that analysis and I have seen
19 that they produce positive results, yes.

20 Q. And he was the first to acknowledge that they
21 are estimates because we don't have
22 particular customers that will sign up for
23 their particular loads, and we have not spent
24 the money and time to do the real detailed

1 engineering that it would require; correct?

2 A. That would definitely be part of it, yes.

3 Q. And the same "chicken and egg" problem we had
4 with Hanover-Lebanon, where it's hard to talk
5 to customers until you know you have the
6 right to talk to customers. Fair enough?

7 A. Fair enough.

8 Q. And you mentioned briefly, and so did
9 Mr. Hall, the precedent -- the Commission
10 precedent approving rate consolidation, where
11 there were substantial subsidiaries by the
12 acquiring entity; correct?

13 A. I don't know if the testimony goes into how
14 substantial those were. But I know it
15 varies. There have been substantial --

16 Q. There is a quote from one of the cases in
17 Mr. Hall's testimony, where it has the rates
18 of the acquiring water company, I think it
19 was Pennichuck -- and the acquiree, which was
20 Pennichuck East -- and one was \$14 per
21 whatever, and the other was a
22 dollar-something per unit, which is three or
23 four times difference. Do you acknowledge
24 that would be a substantial cost shift, at

1 least based on those high line numbers?

2 A. Yes, I'll accept that.

3 Q. And you said water is different because you
4 have no choice with water.

5 A. Right. There are many water systems that
6 have failed, systems that the Commission has
7 taken into receivership. And you seek to
8 find someone who has the resources and
9 ability to take that system over. And in
10 cases like that, it's typical that they get
11 to make that investment and recover those
12 through their overall rates.

13 Q. And not to be flip, but if a system had to be
14 shut down, you can drill a well.

15 A. Not necessarily.

16 Q. In some areas you can't.

17 A. Generally when a developer puts in a water
18 system, it's so he'll have greater density.
19 He can browse those lots, and there's not the
20 space to put in a well, or it violates the
21 regulations.

22 Q. Fair enough. And there are options -- strike
23 that.

24 And absent consolidation, if the

1 Commission does not approve our request, the
2 options are: Do nothing, and the Company
3 continues to lose money; file a rate case,
4 which would hike the Keene rates, and you may
5 dispute how much, but certainly 20, 30,
6 40 percent, whatever the number is; or close
7 the system down. Is that a fair list of
8 options?

9 A. Well, another option is the Company could
10 file for consolidated rates and demonstrate
11 that this does indeed provide a benefit.

12 Q. And obviously you don't think we've met that.

13 A. No, I do not. Plus, I would want to see more
14 details. The saying goes, "The devil's in
15 the details." I'd like, you know, what's in
16 those costs. Will it be included in the DCF?

17 Q. To the extent there's a subsidy now of 25
18 cents a month, and we are able to grow Keene,
19 that will shrink as we add more customers.

20 A. Again, it depends on the cost of adding those
21 customers. We're here discussing iNATGAS,
22 Staff adjustment for that, because costs were
23 something very different than what was
24 originally anticipated. Timing. I look at

1 the temporary CNG facility. That was
2 supposed to go into service back in
3 December 2016 and be located behind the
4 marketplace facilities, and that wound up
5 being a much bigger project, a much bigger
6 undertaking, at a much greater cost than was
7 originally envisioned. And those things
8 happened.

9 Q. The Hanover-Lebanon franchise that the
10 Commission just approved, approved
11 EnergyNorth rates for those customers;
12 correct?

13 A. That's correct. Yes.

14 Q. And there's no question that whatever the
15 cost of Hanover-Lebanon, it's not going to be
16 the same as any particular area of the
17 existing system. It might be more, it might
18 be less; right?

19 A. Are you talking about distribution or --

20 Q. Yes.

21 A. Well, you would think that the cost of
22 installing a pipe is fairly uniform.
23 Obviously it depends on -- in Concord and
24 Manchester, it tends to be more now, but

1 that's -- I would expect installing pipes in
2 Lebanon and Hanover would be a fairly average
3 cost of what it is to install pipe anyplace
4 else.

5 Q. My point was simply that with a system as
6 large as ours, there are going to be costs
7 that vary, for whatever reason. Some part of
8 the system's older and requires more repairs.
9 Some part of the system is newer and has more
10 capital on the ground. And that's part of --

11 A. That's part of ratemaking, yes.

12 Q. Part of ratemaking. And in the
13 Hanover-Lebanon situation, Staff was okay
14 with that distribution cost being the same as
15 EnergyNorth's --

16 A. Right.

17 Q. -- distribution rate.

18 A. Yes.

19 Q. And that's exactly what we are proposing in
20 Keene, that Keene pay EnergyNorth
21 distribution and its own cost of gas, which
22 would be unique to Keene.

23 A. Yes.

24 Q. There are a couple Keene issues that you

1 raised several times, one being the so-called
2 "production costs." And we looked at a page
3 in the settlement that said the production
4 costs would be amortized over five years, I
5 believe.

6 A. Recovered, right, over five years to the
7 Keene cost of gas.

8 Q. And then later in the settlement agreement it
9 talks about the Keene-specific cost of gas
10 that would include production costs.

11 A. Right.

12 Q. And I think there's been a confusion over
13 what we're referring to when we use the term
14 "production costs," and it might be the fault
15 of the settlement agreement.

16 So I'd like to ask you, when you're
17 looking at that first reference to
18 "production costs" that would be included in
19 the cost of gas, what do you interpret that
20 to mean?

21 A. I interpret that to be the production costs
22 that were not allowed for recovery in a prior
23 cost of gas proceeding, and the Company is
24 now seeking to recover over five years

1 through the Keene cost of gas.

2 Q. You're aware that we originally proposed to
3 recover those costs in distribution rates in
4 that matter; right?

5 A. Yes.

6 Q. And I think we have a schedule here, but it
7 was to recover them over three years. Do you
8 recall that?

9 A. Yeah, I do recall that.

10 Q. And as part of the settlement agreement, we
11 agreed with the OCA to move them to the
12 Keene-specific cost of gas so that only the
13 Keene customers would pay for those
14 Keene-specific costs. Do you understand
15 that?

16 A. Yes.

17 Q. And your objection to those costs are what?

18 A. You can look at my Staff report filed in DG
19 16 --

20 Q. 812.

21 A. -- 812. That explains what my objection is.

22 Q. Okay. And part of that is you did not think
23 the Company should have spent what turned out
24 to be about \$150,000 for the response of all

1 the various fire departments and, I forget
2 the number, costs related to the 24/7
3 coverage of the facility. Is that the bulk
4 of the cost that you --

5 A. That's the bulk of the cost. I think my
6 stronger objection is to the manning of the
7 plant 24/7, that that's a -- I thought it
8 was, in that filing, I thought it was more
9 like \$186,000.

10 Q. You're aware that on the response cost,
11 there's a statute that compelled us to pay
12 those costs.

13 A. In the investigation into that, I believe the
14 safety director had a different
15 interpretation of the rules and didn't feel
16 that what they were -- the PHMSA rules that
17 allow -- that would have allowed for recovery
18 of those costs was not -- that this incident
19 didn't qualify.

20 Q. I'll agree with you there was a disagreement
21 between the way the Company read the statute
22 and the Safety Division did. The statute,
23 for the record, is 154:8-a II-a. And it's a
24 question of what is a hazardous material

1 under the statute versus what's a hazardous
2 material under PHMSA law. I'm not going to
3 ask you for an interpretation. But that's
4 what you recall the dispute being between --

5 A. Yes, that's it.

6 Q. And the other cost, the "24/7 cost" we call
7 them, your objection to including those is
8 that there was a small risk of another event
9 and that these costs were rather high. Is
10 that fair to say?

11 A. Yes. Again, as part of my Staff report on
12 that cost of gas, there's a lot of detail in
13 that as to why Staff objected. And I
14 prepared that report as to why I objected.
15 And we had technical sessions. We sat down
16 with the engineers, and none of that was
17 presented as part of this proceeding. I
18 tried to get at that somewhat. But our
19 chief -- our director of safety isn't here
20 and your engineers aren't here. But from my
21 participation and from what we heard from the
22 Company, Mr. Brouillard, who prepared that
23 response, it seemed like a high expense for a
24 very low reduction in risk.

1 Q. And you got Mr. Brouillard's data responses
2 where he basically lays that out. We've made
3 improvements to the system. We think there's
4 a small risk, but we think it's still a real
5 risk, so we're going to continue manning
6 24/7.

7 A. Yes, Exhibit 55.

8 Q. Okay. Fair to say Mr. Brouillard knows more
9 about the safety risks of that system than
10 you do; is that fair?

11 A. Yes, it is.

12 Q. And is it also fair to say that, although a
13 small risk, the harm that would flow would be
14 very large if we had another event like we
15 did in December of 2015?

16 A. If you had a similar event, yes.

17 Q. And in the 2015 event, there was massive
18 amounts of carbon monoxide produced, and
19 there was at least one person removed
20 unconscious from a store, having passed out.
21 You're aware of that?

22 A. I'm aware of what I read in the investigation
23 and the enhancements that were done, the
24 cause -- how the measures addressed the

1 cause. And there were a lot of measures that
2 were taken that greatly reduced the risk of
3 that incident occurring again. There was
4 another failure that the other measures took
5 effect and didn't have any consequences. At
6 some point it becomes unreasonable to put in
7 another level of risk. I mean, you have a
8 guy out there, you have people coming from
9 Nashua, operators coming from Nashua and
10 Manchester traveling there, being paid for
11 travel and overtime. You have -- okay. He
12 passes out, has a heart attack. Maybe you
13 should have two people. But it becomes
14 ridiculous at some point. There's a certain
15 level of risk that comes with running a
16 distribution system.

17 Q. And you just disagree with how we balance
18 that risk.

19 A. In this instance, yes.

20 Q. You're aware that the Safety Division was
21 actually in favor of 24/7 for the short term.

22 A. And I would be, too.

23 Q. And I'm pointing to Bates 058 of your
24 testimony, which is the report, and it's got

1 a list of Liberty actions taken and the
2 Safety Division comments. And the action
3 taken was staff the Keene production plant
4 24/7 with experienced Keene-based personnel
5 available. And the Safety Division's
6 response was, and it's longer than this, but
7 the bottom line was, it is questionable this
8 action being a long-term, viable solution in
9 terms of cost," which suggests that it's a --
10 short-term, it's the way to go. Fair enough?

11 A. Right. And by "short term," I believe he
12 meant until some of these other measures were
13 implemented.

14 Q. He didn't say that, did he?

15 A. Not in this report.

16 Q. And the measures that we intend to implement
17 is a temporary CNG to shut down those
18 blowers. You understand that?

19 A. That was one of the temporary measures, yes.

20 Q. Are you also aware these costs which you --
21 your other objection to including them in the
22 settlement agreement is that they should be
23 addressed elsewhere; is that correct?

24 A. Yes.

1 Q. Rather than this case.

2 A. Yes. Again, I am against consolidating rates
3 in this rate case because I think the basis
4 for it is simply that Keene can't afford the
5 \$900,000 revenue deficiency. And there needs
6 to be a lot more -- I am not opposed to rate
7 consolidation for Keene. But this is not
8 adequate for Staff to make an informed
9 judgment as to whether this is how it should
10 be done.

11 Q. I was focusing more on the recovery of this
12 recent definition of the production costs.

13 A. Oh, okay. Sure.

14 Q. I think you said in your testimony this
15 morning that that should be addressed
16 somewhere else.

17 A. Right. I do think the Company should
18 essentially make a new filing just for the
19 Keene rate consolidation. And if they want
20 to recover those costs, then include that in
21 there.

22 Q. You're aware that we resolved, at least
23 temporarily, these production costs in the
24 812 docket. Do you recall that?

1 A. Yes.

2 Q. We had the cost of gas hearing in the fall,
3 but we continued to process this issue
4 through the spring of '17, with an order in
5 the fall of '17. Do you recall that?

6 A. Yes, I do.

7 Q. And the order in front of me, and I'll read
8 it to you, suggests that the agreement was to
9 address the production costs in this
10 proceeding. It says, and this is summarizing
11 Staff's position, "Staff explained that
12 Liberty-Keene could seek to recover
13 production costs that would not be recovered
14 in COG rates in a future rate filing and that
15 the prudence of those costs could be
16 considered in that future docket."

17 A. That's true.

18 Q. And wouldn't that be this docket?

19 A. That is this docket, and that is why this
20 report is attached to my testimony; whereas,
21 the Company did not provide any testimony,
22 rebuttal testimony as to whether those costs
23 were -- you know, to justify those costs.

24 Q. Didn't we just have that discussion, where

1 the statute required it, that our --

2 A. That was not in your testimony or rebuttal
3 testimony.

4 Q. And the testimony you just had from Mr.
5 Brouillard explains why we staff the plant
6 24/7.

7 A. That was admitted as an exhibit by Staff.

8 Q. And those costs were also in the revenue
9 requirement testimony that we filed in this
10 case.

11 A. Yes, it was.

12 Q. Okay. So that is telling the Commission from
13 the first day we want to recover these
14 production costs.

15 A. Right.

16 Q. Okay.

17 CHAIRMAN HONIGBERG: Mr.
18 Sheehan, I am now a little confused. I want
19 to make sure I have clear in my mind the
20 different positions the Company has. There's
21 the original filing and there's the rebuttal
22 filing position, which are slightly
23 different, and then there's the settlement
24 position. And I know conceptually, for a

1 variety of reasons, I need to keep those
2 straight in my mind. But I thought I
3 understood from the testimony yesterday that
4 the settlement position is that the prudence
5 of the costs you're just discussing with Mr.
6 Frink would be dealt with in a subsequent
7 cost of gas.

8 MR. SHEEHAN: No. And that's
9 what I was trying to clear up. Obviously I
10 haven't done it yet.

11 CHAIRMAN HONIGBERG: No, I
12 think you now have made it clear, although
13 your witnesses, I believe, gave me a
14 different answer yesterday when I asked them
15 this question.

16 MR. SHEEHAN: And that's why I
17 think there was some disconnect when we say
18 "production costs." Are we talking about the
19 Keene --

20 CHAIRMAN HONIGBERG: Well, I
21 could be wrong, and the transcript will tell
22 me if I'm wrong, but I think I asked the
23 question about whether the production costs
24 on Page 7 were different from the production

1 costs later in the document and was told the
2 answer was "Yes." And so in each instance I
3 believe the point I was trying to get out
4 was, am I being asked to rule on the prudence
5 of the 2015 production cost figure in this
6 proceeding? I now understand you to be
7 saying, yes, not only under the original
8 position and the rebuttal position, but under
9 the settlement as well.

10 MR. SHEEHAN: Yes. And I
11 think a bigger simplification of your
12 perception of the case is the difference from
13 the initial filing to the rebuttal filing is
14 minimal. So you can really look at rebuttal
15 to settlement. And of course, what we're
16 asking you to approve today is the
17 settlement. The settlement language that we
18 started with on Keene, which is Page 7, I
19 believe, that's the one that says production
20 costs related to the 2015 incident should be
21 recovered through a Keene-specific cost of
22 gas for five years. That is the cost we just
23 talked about.

24 CHAIRMAN HONIGBERG: Right.

1 And the exhibits to the settlement agreement
2 then presumably include those dollars in what
3 is being recovered.

4 MR. SHEEHAN: And as we move
5 down from the distribution rates, those
6 dollars are not in the \$10.3 million
7 distribution rates.

8 CHAIRMAN HONIGBERG: But in
9 your view of how the settlement would be
10 implemented, they would be already liquidated
11 a known amount for the next cost of gas
12 proceeding, because you're asking us to rule
13 on the prudence of them now.

14 MR. SHEEHAN: Right. We have
15 a specific amount in our filing, which,
16 again, for the record, is the -- this page is
17 from the permanent rate filing, Bates 063.
18 It's the schedule that just lists the cost, a
19 total of \$350,000. And here it's proposed
20 over three years, and we've modified that to
21 recover them over five years.

22 So, yes, we're asking you to
23 find that those costs were prudent in this
24 case, as the 16-812 order directed. And if

1 they're found prudent by approving the
2 settlement, they would go into the cost of
3 gas this fall.

4 CHAIRMAN HONIGBERG: Okay. I
5 think that I'm not the only person who was
6 confused then.

7 MR. SHEEHAN: And of course,
8 the other production costs --

9 CHAIRMAN HONIGBERG: I think
10 we're all on the same page, understanding
11 what that means going forward, that those
12 haven't been incurred. Who knows what will
13 be incurred.

14 MR. SHEEHAN: And I'll jump to
15 my closing. We're fine with a different
16 proceeding this fall to approve those new
17 LNG, CNG costs. We don't expect to cram that
18 into a two-week, regular cost of gas
19 proceeding.

20 BY MR. SHEEHAN:

21 Q. Changing to iNATGAS gas. First I'd like to
22 correct I think something that you said this
23 morning. You mentioned the revenue that has
24 come from the facility, and you said the

1 first three years have no revenues. And I
2 think the correction is it went into service
3 in 2016, so it has only been one year plus
4 when we would be eligible to collect
5 revenues; correct?

6 A. Right.

7 Q. Because it took two years to get it in
8 service.

9 A. Right.

10 Q. So it's only been one year of --

11 A. Since they've been in operation -- well,
12 since it's been in service.

13 Q. So the year of December 2016 to December 2017
14 was essentially nothing, and from
15 December '17 to the present, we've had the
16 volumes that have been talked about in this
17 proceeding.

18 A. Yes.

19 Q. And second, a clarification I think you've
20 made already, that the minimum take-or-pay
21 requirements exist throughout the life of the
22 15-year contract.

23 A. It does.

24 Q. And so there is some security there that in

1 your seven -- if they're not meeting their
2 minimum take-or-pays, we could take whatever
3 enforcement action is provided for in those
4 documents.

5 A. That's in the contract. Yes.

6 Q. And those enforcement actions include a
7 guaranty by Mr. Alizadeh, personal guaranty,
8 that allows us to take ownership of the
9 facility.

10 A. Again, I have my recommendation in that
11 proceeding as an attachment to my testimony,
12 and it points out that those guaranties -- if
13 iNATGAS fails, you can very well be bankrupt.
14 And if it fails, it may be because the CNG
15 market has failed and there's no value to the
16 asset and there's no money in his -- behind
17 his personal guaranty.

18 Q. And is it fair to say that this was all known
19 when -- effectively in the settlement
20 agreement, I think it was actually a
21 recommendation that Staff would sign on if --

22 A. Oh, it was definitely known. That's why
23 we -- the escrow is part of addressing that
24 concern.

1 Q. And what was known is that it's a high risk,
2 high reward project.

3 A. Yes, it was.

4 Q. If it goes well, this could be a huge
5 money-maker for customers.

6 A. Yes, that's the impression we had.

7 Q. And where we are now, a little over a year
8 into the operation, it's starting slowly;
9 correct?

10 A. Three years from when it was supposed to have
11 started, it is now just starting and has one
12 customer. And he does have some trailer fill
13 now. So, yeah, it's very -- it's early in --
14 well, when you put in the -- when you started
15 service to iNATGAS, I wouldn't know if he --
16 the station was up and running -- if he had
17 all his commitments done at that point. But
18 whether he did or didn't, he didn't have any
19 customers, apparently.

20 And so it is -- I don't know how his
21 business plan's working. I know the
22 Company's three scenarios had a take-or-pay
23 requirement, which was a worst-case scenario,
24 and then a scenario based on what iNATGAS was

1 expecting, and then an accelerated scenario.
2 So I would say where we're at now is
3 something below or close to the take-or-pay
4 requirement, but not close to what the
5 iNATGAS expectations were, and well below the
6 accelerated.

7 Q. And even at the minimum take-or-pays, and
8 even at the increased cost, that actual cost,
9 there's still a positive DCF over the 15-year
10 life of the contract; right?

11 A. I don't know if I ran that one out, but I
12 believe that's correct.

13 Q. Obviously less positive than if the
14 construction costs were two million. But
15 it's still, again, based with the tools we
16 have, it should work based on these minimum
17 take-or-pays; correct?

18 A. I think that's true.

19 Q. You've recommended a reduction in what we can
20 recover for the facility, but there's no -- I
21 didn't see any testimony from you that a
22 particular line item in the 4 million-plus
23 was inappropriate; correct?

24 A. I pretty much said that what was over the

1 budget amount shouldn't be -- customers
2 shouldn't be charged for that.

3 Q. So we shouldn't have fixed the road that the
4 city required us to fix.

5 A. I'm saying that you should have had that
6 information before you made your filing, or
7 had a good idea of that before you made your
8 filing, and the decision may have been very
9 different.

10 Q. But that's not the question today. Today the
11 question is: We spent money to fix the road.
12 Should we have done that? And you nowhere
13 say we shouldn't have spent the money to fix
14 the road.

15 A. Well, I have seen, I think it's an updated
16 business plan or something in the Liberty
17 Consulting report that says the internal rate
18 of return basically went from 14 to
19 7 percent. And I think we said, well, we
20 need to go forward if we have any hope to
21 recover, something to that effect.

22 But when these costs started escalating,
23 when you knew you needed to fix the road,
24 which was very shortly after that order came

1 out -- or maybe before the order came out, I
2 don't recall -- when you put that bid out and
3 found out it was going to be that much more,
4 another -- why would you build a full
5 build-out, which our assumption was the
6 reason you proposed a phase-in is to see if
7 the project is going to be successful. And
8 at that point there was no reason to think
9 that you needed that capacity in the near
10 future, yet -- I mean, that was just few
11 months after the filing. So it's hard to
12 justify a \$6- or \$700,000 full build-out at
13 that point when it wasn't -- that should have
14 been in the proposal. And all that -- when
15 all that started to happen, I would expect
16 the Company would reconsider that project.
17 And I don't know what was happening with
18 iNATGAS at that time. I know they were
19 building a facility in Worcester and focusing
20 on that. I don't know if they're -- again,
21 I'm pretty sure they didn't want to start
22 taking service until they actually had a
23 customer. But, you know, I think it should
24 have been re-looked at by the Company, and

1 maybe the decision to go forward with it
2 might have been a more prudent decision.

3 Q. Going back to my question, though. You did
4 not go through the \$4 million and say
5 particular items in that \$4 million were
6 unreasonable.

7 A. I did not go through it item by item and say
8 this cost is unreasonable.

9 Q. You took the more global look that you just
10 described before of what we should have been
11 thinking as those costs increased.

12 A. That's the approach I took, yes.

13 Q. Liberty Consulting also looked at this
14 project. And similarly, after reciting the
15 sequence of changes and costs, similarly made
16 no recommendation to disallow any of these
17 costs; correct?

18 A. That's correct.

19 Q. The Audit Division looked at this project as
20 well and similarly made no recommendations of
21 any -- maybe some small ones, I don't
22 recall -- but of any large items to be not
23 included.

24 A. No, and I wouldn't expect them to make that

1 recommendation.

2 Q. They will flag issues, though, if they see
3 something they think is --

4 A. That's true. On the training center, they
5 recognized there were additional costs due to
6 an accelerated schedule or doing --
7 getting -- so, yes, I do recall that in the
8 audit record they did make a recommendation
9 for disallowance, recommended that Staff
10 should -- there should be disallowances
11 related to those costs, specific costs.

12 Q. And in this case they did not.

13 A. They did not, right.

14 Q. I have to say "AFUDC" once or twice. Just to
15 be clear, when this was up for review in
16 14-091, AFUDC was not included in anyone's
17 DCF; correct?

18 A. Correct.

19 Q. And in the Hanover-Lebanon analyses, AFUDC
20 was not included in anyone DCFs.

21 A. I don't recall, but I'll accept that.

22 Q. Same with the Windham-Pelham project. No
23 AFUDCs in their analysis?

24 A. I'll accept that.

1 Q. And I heard you say this morning that, maybe
2 from now on it may be a good idea to include.
3 But is it to say that has never been a
4 requirement or a practice to include AFUDC in
5 DCF analyses?

6 A. As far as I know, it hasn't ever been done
7 for EnergyNorth, or at least not since
8 Liberty has been doing it. I don't know if
9 other utilities do that. I'd have to look at
10 the -- I could look at the Northern model and
11 see if that's in there. It may be that other
12 utilities, when they do a discounted cash
13 flow analysis, include it.

14 Q. At the end of day on iNATGAS, you're
15 recommending that we not recover almost
16 \$400,000 per year for that project.

17 A. Until your next rate case, yes.

18 Q. And that's an annual number. So by the next
19 rate case, it will be, depending on whether
20 it's three or four years, \$1.2 or \$1.6
21 million we would not have recovered for
22 iNATGAS.

23 A. Correct.

24 Q. And let's assume things go great and at the

1 next rate case we've got more business than
2 it can handle. We will never recover that
3 \$1.2 or \$1.6 million that we would have lost
4 during these three or four years.

5 A. Well, there's nothing to preclude the Company
6 from, as they do in other instances, tracking
7 that and then asking for deferred recovery.

8 Q. Right. And that would require a Commission
9 order to allow us to make that deferral and
10 to bring that deferral forward in the next
11 rate case; correct?

12 A. I don't know if it would require a Commission
13 order to actually defer those costs. But it
14 would certainly require a Commission order to
15 recover those deferred costs. That's what
16 the Company did.

17 Q. And the other question I have for you on that
18 \$396,000 number is the way you calculated it
19 was to take the expected revenue in year one
20 with the expected revenue requirement for
21 year one, and that's the difference.

22 A. Yes.

23 Q. When one does a DCF, those numbers change
24 over time, the expected revenue and the

1 expected revenue requirement.

2 A. Right. That's generally why the Commission
3 looks for a 10-year payback on those.

4 Q. And the revenues, especially in this case
5 with the minimum take-or-pays, and the
6 hopeful expansion of iNATGAS, the revenues
7 are going to go up, and somewhat dramatically
8 if they meet their minimum take-or-pays;
9 correct?

10 A. That's certainly our hope.

11 Q. And the cost of revenue requirement will go
12 down over time as the project is depreciated.

13 A. Absolutely.

14 Q. So your one calculation here would be smaller
15 if we looked at year two, even under your
16 approach.

17 A. The revenue requirement will go down each
18 year, yes. So in year two the revenue
19 requirement will be less.

20 Q. So by asking for a \$396,000 reduction in
21 years 1, 2, 3, 4, depending how long, it's
22 higher than the DCF would show for those
23 years one, two, three, four --

24 A. Yes.

1 Q. And you understand that the settlement
2 agreement, to the extent it contains some
3 acknowledgment of the iNATGAS issue and
4 has -- again, it does not have a particular
5 number associated to it. But to the extent
6 it does have some recognition of reduced
7 recovery for iNATGAS, the same concept
8 applies, in that, if we're short X dollars,
9 we'll be short X-dollars next year and the
10 next year until we go to the next rate case;
11 correct?

12 A. Well, again, I walked through the numbers
13 this morning. There's basically \$800,000
14 allowance, a reduction of \$800,000 for all
15 the issues raised in the settlement agreement
16 as having been a consideration in reaching
17 the settlement agreement. So, some amount of
18 that, if iNATGAS was worked into that, is
19 reflected, yes.

20 Q. And it would be reflected each year until the
21 next rate case.

22 A. Correct.

23 Q. And as sort of a measure of scope, \$100,000
24 for a capital project is what's required

1 roughly to recover a million-dollar
2 investment. Is that a fair benchmark
3 estimation?

4 A. I'd have to look at it. Ten percent? That's
5 not unreasonable.

6 Q. Again, just as a rough measure.

7 A. Right, right.

8 Q. So if you were to -- if we had agreed to not
9 recover a million dollars of the iNATGAS
10 facility, that would result in \$100,000
11 reduction in the revenue requirement. Again,
12 rough math.

13 A. Yeah, I'm just going to look at this schedule
14 and see. This is Exhibit 57. And there was,
15 we'll say, a \$2.2 million investment, and the
16 revenue requirement in year one was 155. So
17 that's... the annual revenue requirement is
18 about 350. So I'd say it's probably more
19 than 10 percent. Probably 15 percent would
20 be more accurate. But anyway...

21 Q. Okay. Thank you.

22 On capacity credits, are you aware that
23 in both the Granite Bridge docket and in the
24 IRP there is a zero figure next to capacity

1 for iNATGAS?

2 A. I'll accept that.

3 Q. And so when -- hopefully if the Granite
4 Bridge project is built and iNATGAS is using
5 substantial amounts of that capacity, that
6 would be to the benefit of the Granite Bridge
7 project and all of its customers; is that
8 correct?

9 A. Yes, that's correct.

10 Q. And between now and when the next Granite
11 Bridge or whatever is in place, there is
12 still some benefit to customers if there is
13 excess capacity that is now being picked up
14 by iNATGAS.

15 A. Well, those investigations are underway, and
16 it may be that the revenue requirement -- not
17 the revenue requirement, but the deficiency,
18 the capacity, the load and the IRP, there may
19 be adjustments made for iNATGAS. I don't
20 know what the final verdict was or will be.
21 But it may be that a determination is made
22 that there's a small deficiency.

23 And in the Granite Bridge project, your
24 daily design day requirement is 150,000,

1 roughly, decatherms a day. The proposed
2 project is for an additional 150. So it
3 doubles. It may be that a review of the IRP
4 and a review of the supply options to meet
5 that is something much smaller, and iNATGAS
6 could be part of that. And it may be there's
7 an alternative to just find capacity for an
8 extra 10,000 or whatever that might be. So
9 to say, you know, base it on -- well, if
10 Granite Bridge is approved and there's a lot
11 of excess capacity, then that would be a
12 benefit to ratepayers. But if it's not
13 approved, if something else is selected, and
14 if the IRP is adjusted to reflect the
15 iNATGAS, new developments with iNATGAS, then
16 it may be -- harm customers.

17 Q. Staff's original testimony in this case
18 requested a revenue increase of about
19 \$4 million; correct?

20 A. Yes.

21 Q. And that was based on an eight-point
22 something ROE.

23 A. I believe it was 8.55.

24 Q. And Staff unilaterally moved to 9.4, walking

1 away from its initial proposal; correct?

2 A. Staff agreed not to -- agreed to accept the
3 9.4 for purposes of this proceeding. It was
4 a -- there are a lot of issues here, and we
5 didn't think that was unreasonable. So we
6 accepted that rather than go to hearing and
7 spend several -- a good amount of time on
8 that.

9 Q. And that brought your proposal up to 5.77 I
10 think I heard.

11 A. That's correct.

12 Q. And you know the temporary rates are now set
13 at \$6.75 million.

14 A. Okay.

15 Q. And so if the Commission were to adopt
16 Staff's proposal, we would have to give money
17 back, in effect.

18 A. Well, you also will be implementing a step
19 adjustment at the same time, so you won't be
20 giving money back.

21 Q. But it's less than the temporary rates.

22 A. But that's irrelevant. But yes, it is less.

23 Q. Has Staff done any analysis to determine what
24 effect the proposed rate level will have on

1 the Company's operations?

2 A. Yeah. It would return a 9.4 percent return
3 on equity.

4 Q. Has it determined how many employees may have
5 to be laid off to meet the new budget?

6 A. It reflects the number of employees the
7 Company has included in their filing.

8 Q. Did you analyze how it affects our growth
9 projects?

10 A. If you -- I don't see how that would impact
11 growth projects. If you have a project that
12 is promising and it meets your requirements
13 of the line extension policy, then I would
14 expect you -- by law, by tariff, you'd have
15 to install that line extension. So I don't
16 expect the Company to stop looking to expand
17 its system.

18 Q. But it is \$3- or \$4- or \$5 million per year
19 less than what the Company has proposed in
20 this settlement; correct? Four and a half
21 million dollars less?

22 A. Well, one thing is that 5.7 does not include
23 Keene. And we're not ruling out that you
24 make a filing for Keene and get recovery of

1 some of the deficiency associated with Keene.

2 Q. I'm going back just quickly to iNATGAS. I
3 think you did say at the end that you agree
4 that it was used and useful, and you agreed
5 that it could be in rate case; correct?

6 A. Yes. Correct.

7 Q. Doesn't that presume a finding by the
8 Commission that the costs were prudent?

9 A. Yes, I'll accept that.

10 Q. Ultimately, Mr. Frink, the goal of this whole
11 proceeding is to get rates that are just and
12 reasonable; correct?

13 A. Yes. Absolutely.

14 Q. And there are many ways to get there. You
15 can start from the bottom and assemble each
16 line item and build a rate, as we typically
17 do when putting the case together; correct?

18 A. Correct.

19 Q. And once you've done that exercise, then you
20 can, in effect, negotiate what's a number
21 that works for all parties; correct?

22 A. That's correct.

23 Q. And in this case, the parties that are
24 typically at opposite ends, the customers at

1 one end and the Company on the other, have
2 reached an agreement on \$10.3 million and the
3 other terms of this settlement.

4 A. Well, the OCA represents residential
5 ratepayers. They do not represent
6 commercial/industrial ratepayers. And so the
7 OCA and the Company have reached an agreement
8 that they obviously feel results in just and
9 reasonable rates.

10 Q. And what constituency do you think Staff
11 represents in this proceeding?

12 A. Staff takes a -- we take a balanced approach,
13 and we want to do what's best for the Company
14 and what's best for the ratepayers.

15 Q. And you place no weight on the fact that
16 those two players have reached an agreement
17 that is quite a distance from what you've
18 proposed.

19 A. Based on our analysis, that's what -- yes.

20 Q. The proposed rate increase of \$10.3 million,
21 if put into effect, you understand that it
22 would still be less than the existing
23 Northern rates.

24 A. I didn't compare to the Northern rates.

1 There's a different cost of service for
2 Northern than there is for Liberty.

3 Q. But the rates are, at the end of the day,
4 what need to be just and reasonable. And
5 Northern has rates that have been determined
6 to be just and reasonable that are higher
7 than Liberty's.

8 A. Based on the cost of service. You can't
9 compare your rates to Northern's rates and
10 say these are fair. That's not how it works.
11 What does it cost you to provide that
12 service? What is a reasonable return? And
13 that's the rates you -- the Commission will
14 decide is just and reasonable. It has no --
15 whatever everybody gets has no bearing.

16 Q. We respectfully disagree.

17 A. Okay.

18 Q. We've done the analysis, top of the envelope,
19 and there's about a 13 percent difference in
20 distribution rates at the residential level
21 now. If the settlement agreement were to go
22 in effect with existing Unitil rates, does
23 that surprise you?

24 MR. DEXTER: Objection.

1 There's nothing in this record that talks
2 about Northern's rates, whether they're
3 higher or lower than EnergyNorth's rates.
4 It's just a completely unfounded question.

5 CHAIRMAN HONIGBERG: I doubt
6 it's unfounded. It may be treated as a
7 hypothetical here, though.

8 So why don't you just assume
9 what Mr. Sheehan says is true, without
10 subscribing to the facts underlying it.
11 Assume that that's the difference between
12 Northern's rates and Liberty's rates.

13 WITNESS FRINK: Okay.

14 MR. SHEEHAN: Well, I actually
15 asked the question, having someone who just
16 worked through the Northern rate case, that
17 he may have knowledge of what Northern's
18 rates are.

19 CHAIRMAN HONIGBERG: He may,
20 but I think he -- it's true. He may. Why
21 don't you ask him that.

22 BY MR. SHEEHAN:

23 Q. Do you have knowledge of what Northern's
24 distribution rates are as compared to

1 Liberty's?

2 A. I have not made that comparison.

3 MR. SHEEHAN: That's all I
4 have. Thank you.

5 CHAIRMAN HONIGBERG: Mr.
6 Kreis.

7 MR. KREIS: Thank you, Mr.
8 Chairman. Let me snuggle right up to the
9 microphone so as to avoid trouble for the
10 court reporter.

11
12 CROSS-EXAMINATION

13 BY MR. KREIS:

14 Q. Mr. Frink, I just have very few questions for
15 you.

16 You talked at great length during your
17 direct and your cross-examination about
18 iNATGAS. And I thought I heard you say that
19 the settlement agreement, if it's adopted by
20 the Commission, would preclude any further
21 argument in future cases about the prudence
22 of expenditures related to iNATGAS. Did I
23 understand your testimony correctly?

24 A. That is correct. The way I look at it, if

1 the Commission were to accept Staff's
2 recommendation, as I already stated, those
3 costs would be in rate base. And when they
4 came in for the next rate case, they would be
5 in there. It could be -- it's not so much
6 that we're questioning the prudence of the
7 costs, it's more a question of they presented
8 one thing for approval of a Special Contract
9 that had significant risks, and the actual
10 work wound up costing a lot more. And so, in
11 essence, it looks like a bad investment. So
12 we've made an adjustment to the revenue
13 requirement, but we're not suggesting that
14 they -- we're not suggesting it be done by
15 taking -- by not having that in rate base.
16 We're just saying, in essence, right now it
17 does not look like a good investment. It may
18 turn around. We'll look at it again in the
19 next rate case. And if we think it was a bad
20 investment, if it looks -- if iNATGAS goes
21 belly up and everything's lost, then, again,
22 we're not going back and saying, okay, here's
23 the 2.2 million in the original proposal that
24 we signed off on, you shouldn't get recovery

1 on that. Because we recognized at that time
2 that was a risk. And actually, in that
3 proceeding the OCA opposed the contract,
4 but -- so we're not saying they shouldn't
5 recover something. We're not saying that the
6 work they did was imprudent. What we're
7 saying, the Commission made a decision that
8 supported and recommended that decision based
9 on the profitability of that project as
10 represented by the Company, and the risks.
11 And even in that proceeding, on the stand as
12 a panel with the Company, we talked about the
13 fact that, okay, if this project winds up
14 costing twice as much as we anticipated, then
15 we would be on the hook for -- you know, that
16 could be the subject of a future rate case.

17 Q. That was a long answer.

18 A. Yeah, it was.

19 Q. But one of the highlights I think I heard is
20 that Staff believes that the Company should
21 recover something in connection with iNATGAS;
22 correct?

23 A. Yes.

24 Q. You're concerned, in part, because the actual

1 cost of the project exceeded the original
2 estimates of the cost that were filed with
3 the Commission.

4 A. More than doubled.

5 Q. You would like the opportunity in the future
6 to challenge the prudence of certain
7 investment decisions associated with iNATGAS.
8 That's what I heard you testify.

9 A. Yeah.

10 Q. So here's a question, and I pose it in all
11 earnestness. I'm not trying to be cheeky.
12 I'm going to read you some language from the
13 settlement agreement, from Page 14. It says,
14 "The Settling Parties agree that the
15 Commission's approval of this Agreement will
16 not constitute continuing approval of, or
17 precedent for, any particular principle or
18 issue related to the revenue requirement."

19 And so my question for you is: Why does
20 that language, "should be adopted by the
21 Commission by approving the settlement
22 agreement," not allow for exactly the kind of
23 future prudence review that you would like to
24 be able to undertake on behalf of the Staff,

1 and frankly, that I might like to be able to
2 undertake on behalf of residential utility
3 customers?

4 A. I'm not sure we don't have that right without
5 that.

6 Q. Well, I'm just trying to understand why you
7 oppose the settlement agreement. And one of
8 the grounds that you gave for opposing it is
9 you think it unhealthily ties Staff's hands,
10 and presumably the Commission's hands, in the
11 future with respect to iNATGAS and the
12 prudence of the expenditures in connection
13 with that project.

14 A. I'm sorry. I think I misled you or we missed
15 on what I was trying to say.

16 I do have a problem with the Keene
17 production costs, the iNATGAS gas costs.
18 It's not -- what Staff's recommended is an
19 adjustment in this proceeding and that we're
20 going to watch this. And if it doesn't turn
21 around, then we look for adjustment in the
22 next proceeding. That's all it is.

23 Q. And so my question to you is: What is it
24 about this settlement agreement that thwarts

1 that objective you just stated?

2 A. Well, that the settlement agreement, as I
3 walked through two very specific items in the
4 settlement, the rate of return and the
5 depreciation adjustment, that only leaves
6 800,000 in total for -- to address all the
7 other adjustments and concerns that Staff
8 had, iNATGAS being one of them. And we don't
9 feel that's adequate. So, again, it's a
10 black box. I can't -- you can't say what it
11 is. The Company can't say what it is. But I
12 think it's safe to say, whatever it is, isn't
13 comparable to what Staff is recommending. If
14 you want to say that, okay, it accounts for
15 300,000, 400,000, but it's the total that
16 matters. This is a comprehensive black box
17 revenue requirement. There's only 800,000
18 available for anything other than the
19 adjustment, which we don't agree with, for
20 the depreciation and the adjustment for the
21 revenue requirement. So it's not -- it's
22 mainly just the size that's the problem, and
23 it's a cumulative effect.

24 Q. Thank you. I guess my question about all of

1 that is: Isn't your analysis -- and if I
2 might summarize it, you seem to just be
3 suggesting that the OCA did not extract
4 enough from the Company in order to make the
5 results of the settlement agreement just and
6 reasonable. That's basically the essence of
7 your critique; correct?

8 A. Okay. I'll go with that.

9 Q. Okay. And the settlement is actually not
10 completely a black box because it does pin
11 down ROE; correct?

12 A. That's correct.

13 Q. But that doesn't necessarily mean that the
14 ROE itself isn't part of the bargain and that
15 either the Company or the OCA gave up
16 something, and some of the value in the
17 settlement agreement is embedded in that ROE
18 number; true?

19 A. That was part of negotiations to come up with
20 the 10.3, yes.

21 Q. Okay. You talked a little bit about your
22 concerns about the large group of Liberty
23 customers paying for, or basically providing
24 rate relief to the Keene customers. And the

1 comparisons -- you talked about comparisons
2 to the absorption of Connecticut Valley
3 Electric Company by Public Service Company
4 and also some of the water company
5 transactions that have had similar effects;
6 right?

7 A. That's correct. Yes.

8 Q. And you distinguish this situation from those
9 situations based on the fact that water and
10 electricity are essentially vital
11 commodities, and most people can't simply
12 refuse to do business with their water or
13 electric utility; whereas, natural gas
14 customers, they have alternatives. That's
15 what I heard you say.

16 A. That's correct.

17 Q. It is true, though, wouldn't you agree, that
18 it isn't always that easy for a natural gas
19 customer, say one living in Keene, to just
20 walk away from natural gas and switch
21 to something different.

22 A. Right. Well, first, it's a propane company.
23 And you're right. It's not easy for a
24 customer to convert to a different energy

1 source.

2 Q. But thinking about the larger body of Liberty
3 customers, the fact that there's at least
4 that potential to stop using natural gas and
5 rely on some other fuel, doesn't that tend to
6 militate in favor of an arrangement like
7 this? Because, after all, the greater body
8 of PSNH customers and the greater body of
9 water companies and those large water
10 companies that took over smaller ones, they
11 can't walk away.

12 A. That's true.

13 Q. I think the last question I want to pose
14 slightly delicately, because you -- well, you
15 briefly mentioned decoupling. And I would
16 like to mention decoupling. And the reason I
17 want to mention it only briefly is that it is
18 my understanding that Mr. Iqbal is really
19 presenting the Staff's perspective on
20 decoupling.

21 A. The experts will be taking the stand after
22 me.

23 Q. Indeed. But you did say, or at least I
24 thought I heard you say, that your concern

1 about the decoupling provisions in the
2 settlement agreement relate to the weather
3 adjustment provisions.

4 A. That is my primary concern, yes.

5 Q. So it's not your only concern.

6 A. Well, there's some rate design issues I think
7 tied to that. But, again, that wasn't my
8 area of expertise, or my testimony didn't
9 address that. I know what the primary issue
10 is, and that would be the weatherization
11 [sic].

12 Q. Thank you. I appreciate that clarification,
13 if only to help me and my colleagues prepare
14 for tomorrow's proceedings.

15 MR. KREIS: Those were my
16 only questions for this witness, Mr.
17 Chairman.

18 CHAIRMAN HONIGBERG: All
19 right. I think we're going to take a short
20 10-minute break. We'll try to keep it to 10
21 minutes.

22 (Brief recess taken at 2:10 p.m. and
23 the hearing resumed at 2:30 p.m.)

24 CHAIRMAN HONIGBERG: Commission

1 er Bailey.

2 QUESTIONS FROM COMMISSIONERS:

3 BY COMMISSIONER BAILEY:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. Can you go over with me the Liberty-Keene
7 revenue deficiency? The Company has, I guess
8 in its rebuttal testimony, come up with a
9 revenue deficiency of 870-something thousand
10 dollars; right?

11 A. Yes.

12 Q. And you think that that number is too high
13 and that there are things that should come
14 out of that number.

15 A. Yes.

16 Q. And some of that is because there were costs
17 outside the test year?

18 A. Yes.

19 Q. Is that the Keene, the 24/7 2015 costs?

20 A. The production, both. Some of the Keene
21 incident. And I don't know where those
22 costs -- when those came in and when they
23 were paid and when they fell off. They were
24 deferred. So some of those may have been

1 appropriately included in the test years,
2 some probably not. Well, and then the
3 production costs, some of those production
4 costs were from, I think carried over from
5 the prior cost of gas, and some were from
6 what was not allowed for recovery in that
7 cost of gas. So those span a couple years,
8 too. Some may have fallen in the test year
9 and some out of the test year. So I can't
10 give you a dollar amount as to what costs
11 were out of the test year and which ones were
12 in the test year.

13 Q. So you don't have a number for me that you
14 think is a revenue deficiency for Keene
15 because this case was not, in your opinion,
16 not dealing with that issue.

17 A. Staff's position in this case is that you
18 should not allow consolidated rates. And
19 Keene did not propose -- and the Company did
20 not propose rates for Keene. So we didn't
21 look at the -- there weren't rates specific
22 to Keene. I mean, one approach the Company
23 could have taken was: Here's Keene rates.
24 Based on revenue requirement, this is what it

1 would look like. This is the Company's and
2 this is what we're going to do under
3 consolidated rates. They just did
4 consolidated rates. So there was no proposed
5 rates for Keene other than they're going to
6 get EnergyNorth's rates. So we didn't go
7 individual by individual expense, revenue
8 analysis. We simply said there should be a
9 Keene filing and -- either for consolidated
10 rates that demonstrates the benefit or a rate
11 case for Keene. So that's -- we didn't do
12 the detailed analysis.

13 Now, as I said, I have my
14 recommendation, the Staff report from the
15 cost of gas proceeding as to what we thought
16 were imprudent costs and what the manning of
17 the 24-hour plant cost was in there. So if
18 you wanted to pick out some costs that has
19 some support as to what we considered to be
20 unreasonable or not prudent, you could find
21 that. The Company never had an opportunity
22 to respond to those costs because the
23 settlement said they would be deferred and
24 addressed in a future -- could be addressed

1 in a future distribution rate case. There's
2 no guaranty that they were going to seek
3 recovery of those deferred costs. But they
4 have, and it does need to be addressed.
5 Those costs need to be addressed if you're
6 going to approve the settlement agreement.

7 Q. If we were going to approve the --

8 A. Or actually, if you didn't approve the
9 settlement, you would have to. If you
10 approve the settlement, you essentially
11 address those costs.

12 Q. Right. So if we don't approve the
13 settlement --

14 A. Well, depending on whether you require them
15 to do a Keene filing or a supplemental filing
16 for rate consolidation. You could treat it
17 basically as a step adjustment if you approve
18 consolidated rates. There would be X amount
19 increase allowed for EnergyNorth. I mean, it
20 will be your order. You can approach it
21 however.

22 Q. Right. There's nothing in the record that we
23 could decide what the appropriate revenue
24 deficiency for the Keene system is at this

1 point.

2 A. True. But there's no Keene rates to --
3 you're not setting Keene rates, other than
4 giving them Liberty's rates. There is no
5 rate proposal for Keene other than just
6 saying they're going to get Liberty's rates.
7 These are the proposed Liberty rates.

8 Q. But in their rate filing, the
9 870,000-whatever dollars --

10 A. That's reflected in their --

11 Q. In the rebuttal testimony?

12 A. -- in the rebuttal testimony, in their filing
13 and in the settlement.

14 Q. So it's settled under the 10.3.

15 A. Yes.

16 Q. So they said it was going to cost
17 870-something thousand. We don't know what
18 the actual cost is. And they're asking us to
19 approve a settlement that includes --

20 A. All the costs that make up that. Well, some
21 of the costs would be shifted to the cost of
22 gas.

23 Q. The supply production costs and the --

24 A. Incident costs.

1 Q. -- incident costs?

2 A. Those, yes.

3 Q. Okay. About the incident costs. Yesterday,
4 I believe Mr. Clark and Mr. Hall testified
5 that we were not making a prudency
6 determination on the incident costs and that
7 that would be made in the next cost of gas
8 rate if we approve the settlement. Did you
9 hear that?

10 A. Yes, because they said that. But that isn't
11 correct. And I think that was clarified
12 today, that if you approve this settlement,
13 those costs are not going to be contested in
14 the cost of gas because the settlement says
15 these costs should be recovered through the
16 Keene cost of gas over five years. So you
17 can't approve the settlement and then say
18 Staff says this isn't -- you can't recover
19 these, it's imprudent. It's too late. You
20 make your finding here if you approve the
21 settlement.

22 Q. And your testimony is that those costs are
23 not prudent -- were not prudent? Or some of
24 those costs were not prudent?

1 A. Yes. Well, if it ever got down to, if they
2 say they'd file for recovery of these costs
3 as part of the Keene rates or as a possible
4 add-on to the EnergyNorth rates as part of
5 consolidation, then I would seek to have the
6 safety director file testimony on it because
7 he is the expert. I sat in on technical
8 sessions. I have my interpretation. I am
9 not the safety expert that our director is.
10 And I'm sure their engineering people are
11 better attuned as to what the risks are and
12 what the enhancements -- what percentage of
13 risk was eliminated by these multiple
14 enhancements they put in and what amount of
15 risk was addressed by having the plant manned
16 around the clock. So that's the kind of
17 analysis that the engineers do and not so
18 much the finance guys.

19 Q. And didn't we issue an order that said that
20 we were going to deal with that very issue in
21 this rate case, whether those costs were
22 prudently incurred?

23 A. The settlement said that could be addressed
24 in a -- or would be more appropriately

1 addressed in a distribution rate case. So if
2 the Company -- the Company could have elected
3 not to seek recovery of those costs. They
4 did put them in their Keene revenue
5 requirement, which in essence is their
6 EnergyNorth revenue requirement, I guess.
7 But they -- we look at it as there are no
8 Keene rates here. Those expenses tied to
9 Keene rates, we are against rate
10 consolidation in this proceeding. We're just
11 pulling out this Keene revenue requirement
12 and dealing with the EnergyNorth rates.

13 Q. Okay.

14 QUESTIONS BY CHAIRMAN HONIGBERG:

15 Q. Mr. Frink, if we hypothetically were to think
16 that consolidation of rates conceptually made
17 sense, even at this time, on terms similar to
18 what happened in Hanover and Lebanon, along
19 the same theory, how would we go about then
20 determining what to do with the Keene revenue
21 deficiency which Staff hasn't yet dealt with?
22 I'm trying to make sure that if that were the
23 direction we wanted to go, that we had in the
24 record the information we needed to make that

1 happen. Because I'm also concerned about
2 what's in the record with respect to the 2015
3 incident costs, because it's a little unclear
4 to me what's in the record supporting that,
5 supporting those numbers. Can you help me
6 out here?

7 A. I wish I could. I don't think there's a -- I
8 don't think there's enough in the record for
9 you to say this is what -- I don't think it
10 would be fair to the Company to disallow
11 those costs. There really hasn't been
12 testimony. There are reports from Staff
13 regarding the investigation regarding the
14 production costs that suggest they shouldn't
15 be in there. But the Company never really
16 had a chance to respond to that. And so I
17 don't know how you go about doing that.

18 I can appreciate wanting to consolidate
19 rates at this time. And I think the
20 Company's taken some positive steps in that
21 direction. But I don't know that adding
22 \$900,000 to the EnergyNorth rates is fair. I
23 don't think some of those costs are prudent
24 or fit in there. But I really don't think

1 it's been adequately addressed through this
2 proceeding. And partly that's Staff's
3 decision to approach it the way we did, that,
4 okay, we don't think this should be rate
5 consolidation, so we're going to close rate
6 consolidation and we'll deal with the Keene
7 revenue requirement rates when they come in
8 for Keene rates.

9 Q. But even in a case where all parties,
10 including Staff, are on the settlement, we
11 can't approve the settlement unless it meets
12 the underlying standards set by law. And
13 prudence, use and usefulness, those have to
14 be -- I guess prudence could be stipulated by
15 all the parties. Use and usefulness could
16 be stipulated by all the parties. We'd still
17 need record support probably. But when not
18 everyone is on a settlement, the parties who
19 are not Staff maybe agree, but Staff doesn't,
20 which is the case here, we need to have in
21 the record something, some testimony I think,
22 some documentation that would support the
23 prudence, use and usefulness of the assets
24 being put in the rate case; right?

1 A. Yes.

2 Q. So what's -- maybe this question should be
3 addressed to Mr. Sheehan. But you looked at
4 this record, probably know it as well as
5 anyone. What did the Company put in to
6 support the 2015 incident costs and the
7 subsequent costs they incurred?

8 A. They did not put anything in, in support
9 of -- I think they -- well, I shouldn't speak
10 for the Company. I'm guessing the fact that
11 they didn't -- well, I guess the fact that we
12 raised it and said this should be addressed
13 in a distribution rate case, and then they
14 came in and sought recovery and didn't
15 address it falls on the Company. They
16 probably should have said we've included
17 these costs. It's been identified as an
18 issue in a prior docket, and this is why we
19 think it's prudent. That wasn't done. Staff
20 didn't go in and say, okay, we've identified
21 these costs that you've put in here, and that
22 was the issue of a prior docket, and so --

23 Q. I mean, those costs were part of the cost of
24 gas case that was filed in the fall of 2016,

1 I think; right?

2 A. Yes.

3 Q. This is not a memory test, but do you recall,
4 was there testimony and documentation
5 associated with those costs at that time?

6 A. What you have is Staff's report that covers
7 all that, and it's attached to my testimony.

8 So what happened is, at the hearing
9 Commissioner Scott stated that he understood
10 that there were -- it was the first time the
11 Company had sought recovery of production
12 costs. And Commissioner Scott said, well,
13 aren't some of those production costs related
14 to the 24-hour manning of the plant? We have
15 real concerns about these. We want the
16 parties -- well, Staff and the Company, and
17 maybe OCA -- to meet and discuss this. We
18 then held some technical sessions, issued
19 discovery. Staff subsequently filed the
20 report with recommendations, and ultimately
21 there was settlement reached on it that they
22 didn't recover -- they got to recover some
23 costs. Some costs they did not recover, and
24 some costs were left to be addressed in a

1 future rate case, or if the Company sought
2 recovery, it would be addressed in a future
3 rate case. But that report, Staff's
4 recommendation, is in the -- attached to my
5 testimony. So it's in this proceeding.

6 CHAIRMAN HONIGBERG: Thank
7 you.

8 BY COMMISSIONER BAILEY (CONT'D):

9 Q. And that's where I was going to go next. I
10 just couldn't remember where it was.

11 In your report attached to your
12 testimony, you have a whole section that says
13 Keene production costs should not be included
14 in the cost of gas rates.

15 A. That's correct.

16 Q. But didn't I hear you say earlier that it
17 made sense to put the -- especially if we
18 were going to consolidate the distribution
19 rates, that it made sense to put the
20 production costs now in cost of gas rates?
21 Or am I thinking -- talking about two
22 different things?

23 A. You're talking about two different production
24 costs. So the Company is proposing to have a

1 Keene-specific COG. And if you consolidate
2 rates and you do a Keene-specific COG, as in
3 Hanover-Lebanon, they're going to make an
4 investment to build a -- or expect to build a
5 CNG, LNG facility. Those costs, production
6 costs, that would go in the cost of gas. But
7 that is what I was referring to when I'm
8 saying that's appropriate, that the
9 production costs should be in the Keene cost
10 of gas going forward. But those costs that
11 were in the last, in that cost of gas for the
12 '16-'17 winter period, those were -- I don't
13 feel those were appropriate to be in there,
14 and my report explains why.

15 Q. Can you refresh my memory? So your position
16 is that those 2015 production costs that are
17 unresolved should be in the distribution
18 rates, in the Keene distribution rates;
19 correct?

20 A. Right.

21 Q. The prudent ones.

22 A. In the cost of gas, production costs
23 historically for Keene, up until that cost of
24 gas, had always been reflected in delivery

1 rates. So when New Hampshire Gas came in for
2 their rate cases, the employees at the plant,
3 the plant, all that stuff was in their
4 delivery rates. And at one point in that
5 '16-'17 winter period, for that winter
6 period, the Company decided that those costs
7 that were reflected in delivery rates were
8 inadequate to recover the production costs
9 they were experiencing for Keene. And so
10 they sought recovery through that, saying our
11 tariff says -- includes -- I forget the exact
12 wording. But we objected to that. We said,
13 you know, those aren't variable rates. Cost
14 of gas is a mechanism to deal with
15 fluctuating energy rates. There's no
16 transportation load here. There's no
17 competition. You don't have marketers. This
18 is -- those stable costs should be in your
19 delivery rates.

20 Q. Because that's where they always were --

21 A. Right. And there would be a part in the
22 delivery rates to recover that.

23 Q. And since they'd always been treated that
24 way, it would have benefited the Company to

1 get them through cost of gas rates so they
2 didn't have to deal with it in a rate case.
3 And you were saying these are costs that
4 historically had been dealt with in a rate
5 case, and so wait until a rate case.

6 A. That's correct. And then there was also the
7 issue of some of those production costs we
8 didn't feel were prudently incurred. We
9 didn't feel, once the Company had installed a
10 number of measures that addressed the risks
11 that precipitated the December 2015 incident,
12 once those were in place and functioning,
13 that there was a need for the continued
14 manning of the plant at a very high cost.
15 And I believe in that cost of gas, because it
16 included deferred costs from a prior -- the
17 last year and a forecast cost, it was a
18 pretty good number. So that's on top of
19 being a production cost, we also didn't think
20 it was prudent.

21 Q. Okay. In response to a question Mr. Sheehan
22 asked you about, I think it was about
23 iNATGAS, he said, "Didn't you say that
24 iNATGAS is used and useful?" Do you remember

1 that?

2 A. Well, I actually did say that. It is used,
3 it is useful, yes.

4 Q. Okay. But does that necessarily
5 automatically mean it's prudent?

6 A. You're right. I don't think it does.

7 Q. Okay.

8 A. So I could -- for instance, they did the full
9 build-out. Now, I don't think, given the
10 circumstances at the time, that was a prudent
11 decision. And so I could say that probably,
12 you know, maybe that shouldn't be in a rate
13 case, because why didn't you wait to see how
14 the market developed and then see if you
15 needed it before you actually spent that
16 money. They said there were savings that
17 justified it. We never saw the savings. I
18 can't speak to that.

19 So, yeah, just because it's used and
20 useful doesn't necessarily mean it was a
21 prudent investment.

22 Q. I think your testimony is, if I can summarize
23 it, and you can tell me if I understand it,
24 that the risk to customers that iNATGAS goes

1 bankrupt and ends up not paying the minimum
2 take-or-pay in the years past the surety
3 guaranty, or whatever it's called, the escrow
4 amount, is much greater because the costs
5 have more than doubled? Is that basically it
6 in a nutshell?

7 A. No.

8 Q. Or the risk to customers -- the amount of
9 risk to customers is much greater?

10 A. Not -- well, the risk to iNATGAS hasn't
11 changed because I don't know what their costs
12 were, except obviously they took service much
13 later. They didn't have a customer for the
14 first year. So I don't imagine that people
15 are beating down their door. But the risk is
16 really to the Liberty ratepayers.

17 Q. That's what I meant by "customer."

18 A. Yeah. They are the ones that -- the cost of
19 this project more than doubled because of the
20 delay, the financing costs from the -- the
21 AFUDC on the initial project, which wasn't
22 identified in the initial project, was
23 51,000, and what they wound up being is close
24 to 450,000. So that is a -- those obviously

1 have a much greater impact on the revenue
2 requirement that the Company's asking the
3 customers to pay.

4 Q. And if their projections are correct and they
5 get all the usage, then it will be a benefit
6 to customers.

7 A. It will be a benefit to the Company and to
8 the customers, even if you disallow the
9 400,000 for three years. They're going to --
10 hopefully sales will grow and they'll have a
11 positive return. It will reduce the revenue
12 requirement going forward. In between rate
13 cases the Company will keep that extra money
14 and they'll recover their full costs. That
15 could happen even if you disallow 400,000
16 here. It doesn't mean they're not eventually
17 going to get full recovery of that cost.

18 Q. But on the other hand, if that doesn't happen
19 and iNATGAS doesn't materialize or goes out
20 of business, then customers are on the hook
21 for all of that. That would be stranded
22 costs if nobody was using the facility?

23 A. Right. If the facility had no value and --
24 the contract with iNATGAS, the Company does

1 have the rights to --

2 Q. Sue them in court.

3 A. Well, no. Actually, they purchase the
4 equipment.

5 Q. Oh, okay.

6 A. They have the option to buy iNATGAS's
7 equipment at whatever the -- I believe it's
8 the book value. I could be wrong about that.
9 But anyway, they could acquire that system
10 and maybe make it work. But odds are, if
11 iNATGAS fails, there's not a big demand for
12 that, for those services. So you're right.
13 It could all wind up stranded cost.

14 What Staff has done here is looked at
15 the impact on ratepayers, the impact that is
16 due to what was either overspending or
17 mismanagement of the project. This is more
18 than double what they had represented to the
19 Commission and to Staff that this project was
20 going to cost. And the associated risks
21 obviously were a lot less, and so --

22 Q. Can I stop you there?

23 A. Sure.

24 Q. It's me. The associated risks were a lot

1 less when the project cost \$2.2 million? Is
2 that what you're saying?

3 A. Yes.

4 Q. That was my first question on this topic.

5 A. Oh, you're absolutely right.

6 Q. Okay. Thank you.

7 A. Well, if you look at the exhibit, the one I
8 submitted this morning, that shows the first
9 year revenue requirements, Exhibit 57.

10 Q. Yeah. Okay. Go ahead.

11 A. Yeah, you see a revenue requirement of 348
12 the first year at their projected cost, and
13 the actual revenue requirement and actual
14 cost now is 552. So it's a huge difference.

15 Q. Well, wait a minute. You compared 348 to
16 552?

17 A. Right, right. You're right. But this
18 assumes -- that's the net figure when you
19 take out the take-or-pay volumes or sales
20 revenues.

21 Q. So you would compare 155 to 552; right?

22 A. As to how that impacts ratepayers, yes.

23 Q. Okay. While we're here, on Line 52, the tax
24 rate, 39.41 percent, is that the new tax rate

1 or is that the old tax rate?

2 A. That is the old tax rate.

3 Q. Okay. In response to one of the questions
4 about whether you thought that even since the
5 costs came out the way they were, you thought
6 that there would be a positive return on the
7 net present value basis in the discounted
8 cash flow model?

9 A. Well, the question that was put to me was
10 absent AFUDC --

11 Q. Oh, that was my question. That was going to
12 be my question.

13 A. If you turn to Exhibit 46, that was the
14 Company's discounted cash flow analysis
15 updated for actual cost, including AFUDC.

16 Q. All right. Give me a second. All right.

17 A. And if you -- Line 46, the discounted cash
18 flow analysis, reflects revenue at the
19 take-or-pay level and includes these payments
20 over 15 years. And over the 15-year period
21 the net present value is 228, or a negative.
22 The project actually produces a negative
23 return over the 15 years.

24 Q. That's if they only get the minimum

1 take-or-pay?

2 A. Or less.

3 Q. Yeah. Well, they can't get less than the
4 minimum take-or-pay, can they?

5 A. Of course they can. The Company could go
6 bankrupt.

7 Q. Oh, all right.

8 CHAIRMAN HONIGBERG: Before
9 you leave that, there is a personal guaranty
10 associated with the take-or-pay; is there
11 not?

12 WITNESS FRINK: Yes, there is.

13 CHAIRMAN HONIGBERG: So that
14 guarantor would also have to fail.

15 WITNESS FRINK: That's
16 correct.

17 CHAIRMAN HONIGBERG: And it's
18 possible that if one fails, the other fails.

19 WITNESS FRINK: Right.
20 There's a correlation there. If his business
21 fails, there's a good chance his finances
22 aren't too good.

23 CHAIRMAN HONIGBERG: But there
24 was another layer of protection in there.

1 WITNESS FRINK: Yes.

2 BY COMMISSIONER BAILEY:

3 Q. Okay. Back to the AFUDC. Is the AFUDC in
4 this analysis?

5 A. It is. If you go to Line 10, you'll see
6 AFUDC actual \$435,510.

7 Q. So this is the DCF analysis with all the
8 costs for the actual costs plus the AFUDC?

9 A. Yes.

10 Q. If they only get minimum take-or-pay, it's
11 not a positive return.

12 A. Right, if they only get take-or-pay or less,
13 it's not a positive return.

14 Q. Are the Excess Revenue or Deficiency, Line
15 49, are those numbers annual numbers or
16 cumulative numbers?

17 A. Those are cumulative. Yeah, it's a difficult
18 with... we should have broken out the revenue
19 and revenue requirement by year. It would
20 have been easier to follow if they
21 had included -- had done this cumulatively.

22 Q. But if cumulatively at the 15th year they
23 have 1.3 million, how is there a net present
24 value of negative 228? Is that just the

1 discounted cost of money from 1.3 million?

2 A. The -- okay. Right, that would be the
3 discounted.

4 Q. And you can go from a positive number to a
5 negative number by discounting?

6 A. Well, yeah. I mean, so you have to look at
7 what the cash flows are and what their -- so
8 you're losing money in the early years when
9 it's -- that's why you do these discounted
10 cash flow analyses, because the investment is
11 upfront and has a huge cost, and the revenues
12 come in over time and they erode. So you
13 have to -- basically, if you use an Excel
14 spreadsheet, you just pick up those 15 years
15 and put in the discount number, and this is
16 what you get.

17 Q. Okay. Thanks. I think when you were talking
18 about, possibly it was INATGAS deferring the
19 costs, the excess costs, the costs were over
20 what they originally gave us, you said we
21 could defer those costs and allow full
22 recovery of those in a future rate case?

23 A. What I said is the Company could elect to
24 track these revenues and the losses. And if

1 in their next rate case, say they had
2 accelerated sales and it's a huge hit and it
3 actually reduces the revenue requirement in
4 the next rate proceeding, and if they
5 disallow 400,000 a year, then they could come
6 back and say, well, look, in these years we
7 actually exceeded what the revenue
8 requirement is. We'd like to -- it's been a
9 benefit to the ratepayers. We'd like to
10 recover some of that. We're going to add
11 it -- you know, we deferred this, and we
12 would like to add it in this rate case. And
13 the project will pay for it. It's already
14 exceeding both the revenue requirement and
15 the -- well, the revenue requirement over
16 that period that we lost. So I think that
17 would be reasonable on the Company's part. I
18 would consider that, and I imagine the
19 Commission would, too. So that's one option.

20 Again, at this point, it's not
21 profitable, and it's still not looking like
22 it's going to achieve what was expected when
23 you approved the contract.

24 Q. All right. I have one last question. And

1 I'll ask, and I don't know if I should or
2 not, but... can you think of any risk-sharing
3 mechanism that we could craft that would
4 protect EnergyNorth and Keene customers if we
5 were going to consolidate?

6 A. Well, as I mentioned earlier, I think the
7 Lebanon-Hanover model does that. So that's
8 one. You've already crafted one, as far as
9 I'm concerned.

10 Q. Oh, we could -- yeah, I guess we could,
11 because Lebanon-Hanover, they're going to pay
12 the same distribution rates as EnergyNorth,
13 so that would just apply to the cost of gas
14 piece of it.

15 A. Right. The risk sharing covers both the
16 production rate base and the delivery rates.

17 Q. Back it up. I don't think the stenographer
18 got that.

19 A. Okay. The sharing mechanism in Hanover and
20 Lebanon provides a risk sharing for the rate
21 base items that are recovered through both
22 the delivery rates and the cost of gas.

23 Q. Okay. Thank you. That's all I have.

24 CHAIRMAN HONIGBERG: Commissio

1 ner Giaimo.

2 QUESTIONS BY COMMISSIONER GIAIMO:

3 Q. Good afternoon, Mr. Frink.

4 A. Good afternoon.

5 Q. I have only a few questions. Some of them
6 will actually be a repeat of yesterday's
7 questions, so it'll give you an opportunity
8 to respond to those.

9 A. Memory test.

10 Q. So, Exhibit 56 is your testimony. I have a
11 question relative to Page 14, Bates 14. And
12 you discuss what I think you refer to as "a
13 death spiral." So, starting on Line 8,
14 "Given the magnitude of the Liberty-Keene
15 revenue deficiency, if recovered solely from
16 Keene customers, the rate impact on
17 Liberty-Keene customers could lead to
18 customer losses and precipitate a death
19 spiral." So my question to you is how do you
20 avoid that "death spiral"?

21 A. Well, when New Hampshire Gas was in Keene,
22 they -- Keene has always been a break-even
23 proposition, at best. And going even before
24 New Hampshire Gas bought it, New Hampshire

1 Gas actually would implement rate plans.
2 They'd do a customer survey and see how their
3 rates compared to propane rates. And
4 basically it was the market that determined
5 their rates. They'd come in to the
6 Commission, kind of like what Concord Steam
7 used to do. They'd come up with a rate plan
8 and implement the increase over a number of
9 years what they didn't collect. So, say they
10 came in and said, I think one was like a
11 \$300,000 revenue requirement increase. Well,
12 they actually implemented it in three stages:
13 \$100,000, \$100,000, \$100,000. They
14 under-collected year one \$200,000, and that
15 was deferred. And then the next year they
16 were under a hundred. Then, once those three
17 years were up, they had that revenue
18 requirement, and they got to start recovering
19 the deferred revenues over basically the next
20 three years. So, basically they went six
21 years with small increases that kept them --
22 let them earn or break even or earn a modest
23 return, for the most part. And that's how
24 they dealt with it.

1 I will say, before they bought it, the
2 owner had a propane and utility service. He
3 sold the propane service, which was
4 80 percent of the business, and he actually
5 approached the Commission at a cost of gas
6 proceeding, suggested he was going to shut
7 down the utility. But he found a buyer, and
8 that -- at the time the expectation was there
9 was going to be a natural gas line built that
10 could serve Keene, and that didn't come to
11 fruition. And they inquired about shutting
12 down the system. But based on the Claremont
13 experience, they would rather continue to
14 operate it at a modest return than go through
15 the process of shutting the thing down. So
16 that's basically how they ran the system.

17 And then EnergyNorth came in, and they
18 were in a little different position. They
19 consolidated rates. So, rather than
20 deferring it and recovering later from the
21 Keene customers, you know, letting the market
22 set it, basically their initial proposal was
23 to keep rates low by shifting those costs to
24 EnergyNorth. And that's now in the

1 settlement that's -- in the rebuttal, I don't
2 know if -- the settlement now actually does
3 leave more of those costs -- will recover
4 more of those costs from Keene, and there's a
5 much smaller amount that would go to the
6 EnergyNorth customers. But, again, the
7 details are lacking. I don't know what would
8 be in the cost of gas rates and what's going
9 to be going to EnergyNorth's distribution
10 rates.

11 Q. On the next page, Page 15, starting at the
12 top, it says, "Liberty has chosen to address
13 that concern by addressing the Liberty-Keene
14 revenue deficiency through rate
15 consolidation, reducing Keene rates at a cost
16 to all other customers, despite the fact that
17 doing so would violate the 'no net harm'
18 standard that was satisfied in part by
19 Liberty agreeing to keep separate rates."

20 So my question is: If there is a
21 consolidation, how are we looking at this?
22 Are we to apply a "public good/public
23 interest" standard or "no net harm" standard?

24 A. Well, Liberty, when they acquired the

1 Company, were very optimistic, and I think
2 they still are, that Keene can produce a
3 profit over a reasonable period of time.
4 They provided some DCF analysis. There's
5 some potential load growth. So if I was more
6 comfortable with their cost estimating and
7 their revenue, you know, what they expect for
8 customers, then I think it could produce a
9 profit going forward. But that's why my
10 recommendation is let them file something
11 that demonstrates it and I'll support it.

12 Q. So is it possible, or would you be willing to
13 accept a cost shift, be it nominal or -- is
14 there a specific number where cost shifting
15 would make sense if in the long term you see
16 the value of --

17 A. Oh, absolutely, yes.

18 Q. Do you care to comment specifically on the 37
19 cent number that was discussed yesterday?

20 A. What number? Oh, you mean the 37 per
21 month --

22 Q. Yes.

23 A. -- revenue rate impact?

24 Q. Four and a half dollars a year, right.

1 A. Yeah. It's like I said, you could take any
2 expense, take a million-dollar expense and
3 divide it by the load of the 90,000
4 customers, and it has a de minimus impact.
5 So, yeah, I agree that when you shift costs
6 from a very small system to a very large
7 system, it will have a limited impact.

8 Q. So, yesterday, one of my final questions to
9 Mr. Hall had to do with the impact of your
10 testimony and the effect that it could
11 have -- or the effect that it may have on
12 them getting customers going forward. So I
13 wanted to give you the opportunity to respond
14 to the assertion that your testimony can
15 serve as a barrier to getting future
16 customers.

17 A. I am not buying that.

18 Q. Okay.

19 A. I don't know how closely customers in Keene
20 are following this. What they're going to
21 want to know is what's my cost going to be.
22 And they have to know if Liberty is going to
23 make that kind of investment, then they're
24 going to be around for a while.

1 Q. Okay. Switching gears briefly to iNATGAS. I
2 think this morning you stated that you don't
3 share, I think you referred to it as "the
4 Company's confidence," that the minimum take
5 this year will be enough absent -- or to
6 cover the rollover. Is that --

7 A. Right. I think iNATGAS, based on the sales,
8 the very limited sales we've had to date and
9 the circumstances associated with those
10 sales, it's unlikely -- and you would expect
11 the heaviest load to be in the winter
12 months -- it doesn't look promising to me.
13 So they would basically recover whatever
14 sales revenues they get at the iNATGAS rate,
15 and then they'll have to pay the shortfall at
16 the iNATGAS gas rate. And so in
17 December 2018, if they haven't achieved
18 \$600,000 in sales, they've achieved \$500,000,
19 then iNATGAS will have to write a check as
20 though they bought 100 decatherms more.

21 Q. So then the requirement for 2018 is 600.
22 What do you see as -- and there was basically
23 nothing in 2017. So then they need all 600
24 this year?

1 A. Right.

2 Q. Can you see them getting 300 this year, just
3 the share associated with this calendar year?

4 A. I really don't know. I only know what's in
5 the Company's testimony. They talked to the
6 iNATGAS owner, and I imagine they know better
7 than I do.

8 Q. I know it's been a long day for you, so thank
9 you for taking my questions.

10 A. My pleasure.

11 QUESTIONS BY CHAIRMAN HONIGBERG (CONT'D):

12 Q. Most of my questions have been answered. But
13 following up on something you were just
14 talking about with Commissioner Giaimo and
15 the Keene situation, from your answers to
16 questions from Mr. Sheehan, Commissioner
17 Bailey and Commissioner Giaimo, would you
18 agree that there's money to be made in Keene
19 for a gas utility?

20 A. The problem is there's never, to my
21 knowledge, been a CNG, LNG satellite system,
22 a utility system, that has been in operation.
23 I'm unaware of any of them other than on a
24 temporary basis. And I'm not -- I don't know

1 what the CNG market is from what the
2 Company -- for 2014, when they came forward
3 with this project, we had a lot of
4 discussions. The providers, the CNG
5 providers, the CNG station owners, we talked
6 to end users. I called Dartmouth Hospital.
7 I researched what the load looked like in New
8 Hampshire. I knew much more then, and I knew
9 it was risky then. It's in my report. But
10 I'm not sure how that market has developed
11 and what it looks like now, other than what
12 the Company has put in their testimony or
13 testified to.

14 Q. Okay. That's fair. Then what I would
15 follow-up with doesn't make any sense.

16 With respect to iNATGAS, what started to
17 come into my head during the discussion today
18 is that this sounds like the Scrubber divided
19 by 100, where the Company started to move
20 forward on a project with a cost estimate
21 early, and in this case maybe before shovels
22 were put in the ground. That cost estimate
23 doubled. Went up by a lot, anyway. We had
24 litigation for years over what should happen

1 with the Scrubber. Now, maybe that's because
2 it's a hundred times larger than what we're
3 talking about here.

4 What should have happened when the cost
5 estimates went up? Should they have --
6 should the Company have come back with the
7 new estimates and come to Staff and said
8 we've got different cost estimates, we still
9 want to go forward, or we need to make a
10 judgment about whether to go forward?

11 A. I do think they should have made a
12 supplemental filing and said this has changed
13 and this is what it looks like now, which is
14 radically different than what we presented
15 last month. And I think then -- I don't know
16 what the legal implications would have been
17 with iNATGAS. At that point they may have
18 signed a contract with them or had to
19 renegotiate something with iNATGAS. I really
20 don't know. But I do think it would have
21 made a lot of sense for the Company to notify
22 the Commission that there had been really --
23 that the project had changed dramatically.

24 Q. Another parallel with the Scrubber situation

1 is the deferral concept, because that's what
2 happened with their part of the Scrubber
3 costs; they were deferred. There was an
4 amount that was put into rates, but a big
5 chunk was deferred. I heard a discussion
6 that sounded similar here, that something you
7 thought might make sense would be to defer
8 recovery of the iNATGAS costs and come back
9 and revisit them once we have a better, once
10 everyone has a better sense of whether
11 iNATGAS is a boom or bust.

12 A. Right.

13 CMSR. BAILEY: But your
14 recommendation here is a little bit different
15 because you're saying they can only recover
16 those deferred costs if they make enough
17 money to recover them, unlike the Scrubber
18 where that never happened.

19 CHAIRMAN HONIGBERG: That's
20 not a perfect parallel.

21 WITNESS FRINK: Right. My
22 testimony does not say anything about
23 deferring the cost or deferring the
24 discrepancy between what their revenue

1 requirement is and what they're actually
2 recovering if this adjustment were approved.
3 I'm suggesting that the Company could do
4 that. And if it turned out to be successful
5 and they actually did recover those, actually
6 did have sales that covered those costs, and
7 they came in a future or next rate proceeding
8 and demonstrated to us that, okay, you didn't
9 let us recover these costs, but the project
10 more than paid for it, customers were better
11 off for it, we'd like to recover and put them
12 in our rates now, you know, over three years,
13 you know, we lost three years, and over the
14 next three years we'd like an opportunity to
15 recover those, I think I would certainly
16 consider supporting that.

17 CHAIRMAN HONIGBERG: That was
18 all I wanted to ask about.

19 Mr. Dexter, do you have any
20 further questions for Mr. Frink?

21 MR. DEXTER: Yes, just a few.

22 REDIRECT EXAMINATION

23 BY MR. DEXTER:

24 Q. Isn't the essence of Staff's position on

1 iNATGAS that the analysis that was presented
2 to the Commission, which was the same
3 analysis that was used by senior management
4 to decide whether to pursue this project, had
5 insufficient costs based on what the Company
6 knew or should have known at the time?

7 A. Based on what the Company should have known
8 at the time that -- you're right. There were
9 definitely insufficient costs reflected in
10 the proposal for approval of the Special
11 Contract.

12 Q. And didn't the Company's witness testify that
13 costs of the accelerated build-out were not
14 built into Exhibit 46 -- I'm sorry --
15 Exhibit 38, which was the DCF analysis that
16 was used to justify the project at
17 \$2.2 million?

18 A. Right. Mr. Hall testified that the
19 discounted cash flow analysis that had the
20 \$2.245 million in it, with a proposed
21 build-out for the accelerated schedule, did
22 not include the cost of that build-out in the
23 DCF analysis.

24 Q. That was actually Mr. Clark --

1 A. Was it Mr. Clark?

2 Q. I believe it was Mr. Clark.

3 So the revenues that were presented
4 could never have been achieved with the cost
5 level that was there at the accelerated --
6 under the accelerated scenario. Is that your
7 understanding?

8 A. Yes.

9 Q. And in fact, the volumes under the
10 accelerated scenario are no higher than the
11 baseline scenario. They're just accelerated;
12 is that correct?

13 A. I believe so. Do you have the exhibit number
14 on that?

15 Q. Yes. It's No. 37 -- 38. If you go to Bates
16 Page 3.

17 A. I don't have that exhibit with me.

18 MR. DEXTER: Can I provide a
19 copy to the witness?

20 (Document handed to witness.)

21 A. So I'm looking at Exhibit 38. And on Page 3,
22 I'm looking at the Baseline Assumption Level.
23 There's not a line number, but you can -- the
24 top line under -- in the middle of the page,

1 Baseline Assumption Level. And right below
2 it is Annual Estimated Revenue at Baseline
3 Level. If you look at, for instance, year
4 six -- so the years are across the top -- and
5 you come down to the Annual Estimated Revenue
6 at Baseline Level, you'll see 1,229,600. If
7 you look at the Accelerated Sales Assumption
8 Level, the first line says Annual Estimated
9 Revenue at Accelerated Level. That 1,229,600
10 of sales is identical to the number for the
11 baseline assumption in year six. So, year
12 four accelerated and year six baseline are
13 the exact same. And if you go down the line,
14 it appears to be the case all the way
15 through. Because actually when you get to
16 the 1.4 million, it stays the same through
17 the remainder of the years. So, from year
18 eight on in the baseline, it's 1.4 million,
19 which my understanding was the iNATGAS
20 estimate of what their purchases would be.
21 And the accelerated sales assumption
22 apparently just meant they expected to
23 achieve that level that iNATGAS was
24 forecasting earlier --

1 Q. I'm sorry. Go ahead.

2 A. That would just stay the same. Basically
3 just move things up to that number up two
4 years.

5 Q. Right. So is the inescapable conclusion from
6 this that the costs that were presented on
7 that schedule did not reflect investments
8 that were necessary to meet the load under
9 the two scenarios labeled "baseline" and
10 "accelerated"? Is there any other way to
11 read that, that you see?

12 A. No, because it was my understanding that they
13 had to do the phased build-in. That second
14 \$600- to \$700,000 cost was necessary
15 basically to add the two compressors that
16 were needed to meet the accelerated sales
17 level.

18 Q. Thank you. Were you in the room when Mr.
19 Clark testified that the compressor cost
20 included parts, but not labor?

21 A. I'm sure I was.

22 Q. Do you recall that there was no labor on this
23 cost associated with the compressors?

24 A. Yes.

1 Q. Were you also in the room when they talked
2 about the cost overruns regarding concrete
3 and asphalt totaling roughly \$1.7 million --
4 or \$1.5 million?

5 A. I followed all that, yes.

6 Q. And do you recall the line of questioning
7 that said in the original estimate on the
8 exhibit that you're holding, Exhibit 37, that
9 the asphalt and concrete costs were included
10 in the line, Piping, Meter Set, Survey, Et
11 Cetera?

12 A. Yes.

13 Q. So, isn't it true that it's Staff's position
14 that this analysis couldn't possibly have
15 captured the asphalt and concrete costs
16 because there just isn't room in that
17 \$615,000 figure?

18 A. You're right, there's no room in there. So I
19 don't see how they could possibly have had it
20 in there.

21 Q. So again I'll go back to my original
22 question. The essence of Staff's adjustment
23 in this case is that the decision to go
24 forward was not prudent because it was not

1 based on a robust, prudent analysis. Is that
2 the essence of Staff's position in this case?

3 A. At time of the investment, the analysis --
4 the analysis is flawed. It doesn't
5 necessarily mean that it wasn't prudent. If
6 they had put in the right costs, then under
7 their scenario -- we already know under the
8 take-or-pay requirement it wasn't prudent
9 based on the net present value analysis. If
10 you had included the build-out in the future
11 years for the others, it may not have been
12 prudent either. So it may be that the
13 decision -- if done correctly, they would
14 have all been imprudent. But I don't know --
15 at this point it looks like an imprudent
16 decision. Time will tell. But it is fair to
17 say that this analysis was flawed.

18 Q. Thank you. I just have one other question.

19 In response to questioning by the
20 Consumer Advocate, he asked, and I'm
21 paraphrasing, is the essence of Staff's
22 problem with the settlement that not enough
23 dollars were extracted from the Company in
24 the revenue requirement figure? Do you

1 recall that question?

2 A. Yes, I do.

3 Q. And do you recall your answer was, yes, that
4 was essentially it?

5 A. That is... that was my answer, yes.

6 Q. And would you agree that that's another way
7 of saying that the \$10.3 million revenue
8 requirement settled upon was too high to
9 represent a just and reasonable settlement in
10 this case?

11 A. Absolutely.

12 MR. DEXTER: Okay. I don't
13 have anything further.

14 CHAIRMAN HONIGBERG: All
15 right. Thank you, Mr. Frink. I don't think
16 we're doing any other substantive business
17 today, so you can probably just stay where
18 you are.

19 Is there anything we need to
20 discuss before we adjourn for the day? Hang
21 on, Mr. Kreis. Yes, Mr. Kreis.

22 MR. KREIS: I just wanted to
23 note, while we're reminiscing about my
24 questions for Mr. Frink, when I asked him

1 about decoupling earlier, he responded with a
2 reference to "weatherization," when he really
3 meant to say "weather normalization." Since
4 those are two very different things, I just
5 wanted to make sure the record is accurate.

6 WITNESS FRINK: He is
7 absolutely right. And I knew when I said it,
8 and I didn't correct the record at that time.
9 So, thank you for correcting the record. I
10 did mean to say "weather normalized."

11 CHAIRMAN HONIGBERG: All
12 right. So what are we going to be starting
13 with tomorrow morning?

14 MR. SHEEHAN: Decoupling.

15 CHAIRMAN HONIGBERG: Decouplin
16 g. Weather-normalized or otherwise.

17 MR. SHEEHAN: Staff and OCA
18 have put in the settlement agreement for
19 approval, and it consists of two panels: One
20 was at the very beginning, and this is sort
21 of Part B of that presentation. And it's
22 just the timing of people being available
23 makes it tomorrow.

24 MR. DEXTER: And that panel

1 will be Mr. Therrien and Dr. Johnson.

2 CHAIRMAN HONIGBERG: And best
3 guess, Mr. Sheehan, at this time do you
4 expect to be calling a rebuttal witness?

5 MR. SHEEHAN: Yes.

6 CHAIRMAN HONIGBERG: Anything
7 else we need to do?

8 [No verbal response]

9 CHAIRMAN HONIGBERG: All
10 right. We're adjourned for the day. Thank
11 you.

12 (Whereupon the Afternoon Session of
13 Day 4 of the hearing was adjourned at
14 3:37 p.m.)

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