

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

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June 18, 2018 - 1:35 p.m.  
Concord, New Hampshire

**CERTIFIED  
ORIGINAL TRANSCRIPT**

RE: DE 18-049  
EVERSOURCE ENERGY INVESTIGATION TO  
DETERMINE RATE EFFECTS OF FEDERAL  
AND STATE CORPORATE TAX REDUCTION  
(*Prehearing Conference*)

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

Sandy Deno, Clerk

**APPEARANCES:** **Reptg. Eversource Energy:**  
Matthew J. Fossum, Esq.

**Reptg. Residential Ratepayers:**  
D. Maurice Kreis, Esq., Consumer Adv.  
Office of Consumer Advocate

**Reptg. PUC Staff:**  
Suzanne G. Amidon, Esq.  
Richard Chagnon, Electric Div.

**Court Reporter:** Susan J. Robidas, NH LCR No. 44

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## 1 P R O C E E D I N G S

2 CHAIRMAN HONIGBERG: We are  
3 here this afternoon in Docket DE 18-049, which  
4 is Eversource's filing regarding changes in  
5 the tax laws. Before we do anything else,  
6 let's take appearances.

7 MR. FOSSUM: Good afternoon,  
8 Commissioners. Matthew Fossum here for Public  
9 Service Company of New Hampshire, doing  
10 business as Eversource Energy.

11 MR. KREIS: Good afternoon.  
12 I'm D. Maurice Kreis, the Consumer Advocate,  
13 here on behalf of the beleaguered residential  
14 electric customers of Eversource yearning for  
15 rate relief.

16 MS. AMIDON: Suzanne Amidon for  
17 Commission Staff. And I'm here today with  
18 Rich Chagnon, who is an analyst in the  
19 Electric Division.

20 CHAIRMAN HONIGBERG: And how  
21 are we going to proceed this afternoon?  
22 Mr. Fossum?

23 MR. FOSSUM: I guess my  
24 understanding is this is a fairly standard

1 prehearing conference. We were prepared to  
2 give our initial position and perhaps answer a  
3 question or two as may be needed.

4 CHAIRMAN HONIGBERG: Fair  
5 enough. Any preliminary matters before we  
6 hear from everyone?

7 Ms. Amidon?

8 MS. AMIDON: Well, I just want  
9 to make the observation, and I think that the  
10 Consumer Advocate and Attorney Fossum agree  
11 with me, that this is really an outcome from  
12 an investigation docket, so in that sense, we  
13 don't expect to have an adjudication with  
14 testimony and things like that. We hope to be  
15 able to resolve the issue of returning this  
16 money to customers through some kind of  
17 settlement or other agreement. Thank you.

18 CHAIRMAN HONIGBERG: Okay.  
19 Well, this is an opportunity to provide  
20 preliminary positions. So, Mr. Fossum, why  
21 don't you start us off.

22 MR. FOSSUM: Thank you. As  
23 part of Eversource's filing in this docket  
24 back on March 30th, we had included the

1           calculations that had been required by the  
2           Commission, as well as the proposal for  
3           addressing the accrued and continuing to  
4           accrue liability.

5                         With respect to the  
6           calculations of the tax changes, we believe  
7           we've appropriately accounted for that tax  
8           liability and accurately calculated the  
9           impact, both in the short term for what I  
10          think has been what some colloquially  
11          referred to as "gross-up" and in the long  
12          term, referring to the excess deferred income  
13          tax.

14                        With respect to the proposal  
15          itself, Eversource's initial proposal to  
16          address the liability had been to address  
17          this as part of a comprehensive rate review  
18          or rate case. And this was for a number of  
19          reasons. As divestiture was concluded  
20          following that process, and given the long  
21          period since Eversource's last rate filing, a  
22          comprehensive rate review made sense, both as  
23          a matter of appropriate timing and as a  
24          method to return -- or address this tax

1 liability.

2                   Additionally, as we put in our  
3 comments in our March 30th filing, addressing  
4 things in this way would avoid a matter that  
5 the Commission regularly seeks to avoid,  
6 which is that of single-issue ratemaking. It  
7 would give us an opportunity to deal with a  
8 rate adjustment that takes into account other  
9 impacts on cost and revenues. However, as  
10 the Commission I'm sure is aware, with the  
11 somewhat drawn-out process at FERC for  
12 transfer of the hydro licenses and the  
13 resulting delay in the divestitures of the  
14 hydro assets, time is not yet right for  
15 Eversource to have filed a rate review. So  
16 there was -- there is a need, therefore, to  
17 revise the proposal that we had included in  
18 our initial comments. We still believe that  
19 the revised proposal should be comprehensive,  
20 in that it should avoid single-issue  
21 ratemaking and that it should take into  
22 account other impacts on the Company. While  
23 we do have some ideas and proposals, rather  
24 than offer those up on the record today, we

1 would appreciate having the time to discuss  
2 our ideas and proposals with the Staff and  
3 the OCA, and to see, as Attorney Amidon has  
4 noted, whether there might be room to find an  
5 agreed-upon method for addressing the tax  
6 changes.

7 We believe, as I'm certain  
8 that the OCA and Staff do, that the effects  
9 of these changes should be addressed sooner  
10 rather than later. We would appreciate  
11 having the opportunity to explore whether an  
12 agreement might be reached to avoid delay or  
13 inefficiency of having to litigate a  
14 proposal, and we stand ready today to discuss  
15 ideas and proposals for the Staff and the OCA  
16 in the session following this prehearing  
17 conference.

18 CHAIRMAN HONIGBERG: Thank you,  
19 Mr. Fossum.

20 I will note for the record  
21 there's a technical session scheduled  
22 following this.

23 Commissioner Bailey.

24 COMMISSIONER BAILEY: Mr.

1           Fossum, you mentioned a couple of times, and  
2           also in your pleading, that you want to avoid  
3           single-issue ratemaking. Wouldn't you  
4           consider this an exogenous event?

5                       MR. FOSSUM: It could perhaps  
6           be considered an exogenous event. But it  
7           would not be an exogenous event until next  
8           year, under the way that our current -- the  
9           divestiture settlement works. The exogenous  
10          events provision in there continues forward  
11          until Eversource has filed for its next rate  
12          case. When those filings are made, they are  
13          retrospective. It's a filing in March  
14          relating to the prior calendar year. Since  
15          this change officially occurred on January 1  
16          of 2018, we wouldn't be making a filing until  
17          March of 2019. And that presumes that the  
18          best course of action, I guess in that case,  
19          would be to return all of whatever might be  
20          accrued as a liability until that time, to  
21          return that directly to customers through some  
22          sort of rate change. Having looked at what a  
23          number of the other utilities in New Hampshire  
24          have done, some of that money has gone back in

1 the form of a rate credit. But for others,  
2 it's been used as an offset for other  
3 expenses.

4 So, yes, this could qualify as  
5 an exogenous event. For it to do so, it  
6 wouldn't qualify, under the way our  
7 settlement is written, until next year, and  
8 we had thought that there may be a more  
9 useful and meaningful way to address it prior  
10 to that time.

11 COMMISSIONER BAILEY: So if the  
12 tax rate had gone up rather than gone down,  
13 you wouldn't have been able to collect the  
14 increased tax expense until more than a year  
15 later?

16 MR. FOSSUM: Well, to be  
17 honest, I mean, our taxes have gone up. For  
18 example, our property taxes have increased  
19 year over year. They've just never  
20 increased in any -- unless someone is going to  
21 correct me if I'm wrong -- they've never  
22 increased in any single year large enough to  
23 qualify as an exogenous event. So these  
24 things do happen. In the event this change

1 had gone in the other direction, I think it  
2 would qualify as an exogenous event, probably,  
3 and we would probably be bound to the timing  
4 restraints in that settlement. I am doubting  
5 that the customers that Mr. Kreis refers to as  
6 "yearning" for rate relief would want us  
7 coming in making a proposal earlier had the  
8 change gone in the other direction.

9 But nonetheless, maybe in this  
10 case, and we're not opposed to it, to the  
11 extent that we may need to address some of  
12 the requirements of that settlement, we could  
13 do that. But I believe, yes, we would have  
14 been bound by the timing requirements.

15 COMMISSIONER BAILEY: How do  
16 you think an exogenous event differs from  
17 single-issue ratemaking?

18 MR. FOSSUM: Well, the  
19 exogenous event is already something that's  
20 been called out in a more comprehensive  
21 document. It is, I would grant you, it's sort  
22 of a -- I can't think of a better word for it.  
23 In a pure sense, it is single-issue  
24 ratemaking. It is an issue that has been

1 called out for specific rate treatment. But  
2 that's known in advance and provided for in  
3 those specific instances.

4 I think the concern here is  
5 that, if there is a decision not to treat  
6 this as an exogenous event and ask us to wait  
7 either until a rate case is filed or until an  
8 exogenous event filing is made next year,  
9 then to look at it in a vacuum just because  
10 it happened to go down I think would be  
11 inappropriate. If it had gone up and we had  
12 made -- if we had come in seeking some  
13 similar treatment going the other direction,  
14 I think that would have garnered some  
15 opposition.

16 So I think we're trying to  
17 find an appropriate symmetry here in this  
18 case. This was technically, perhaps, an  
19 exogenous event. But in this case, the  
20 Commission has asked for specific treatment  
21 of it to record a liability in a particular  
22 way and to make a proposal for dealing with  
23 it, and that's what we have done and that's  
24 what we remain proposed to do. And

1 ultimately, based upon discussions, if the  
2 decision is we have to wait and file it as an  
3 exogenous event last year -- or next year,  
4 then that's what we'll do.

5 COMMISSIONER BAILEY: Isn't the  
6 definition of "an exogenous event" -- and I'm  
7 not saying that you should wait until next  
8 year to return this money to customers. But  
9 isn't an exogenous event, if the taxes had  
10 increased, you would expect to be able to just  
11 recover that increase without having anybody  
12 look at anything else that was going on,  
13 whether you were over or under-earning at that  
14 time? I mean, that's the point of an  
15 exogenous change is to just make it right for  
16 customers one way or the other, or the  
17 Company, I guess.

18 MR. FOSSUM: I think at some  
19 level you're correct, yes. In the event where  
20 it is an item that's called out specifically  
21 for individualized treatment, whether it's up  
22 or down, then that individualized treatment  
23 may be appropriate. I think in this case  
24 we've been asked to make a proposal, and we

1 have. And as I've already said, we're here to  
2 talk about the fact that that proposal does  
3 need to be modified. The proposal that we had  
4 originally made would have been in line with  
5 the settlement agreement, non-divestiture.  
6 And, you know, hopefully we can come to a new  
7 proposal that will as well. I think at  
8 bottom -- well, I'll leave it at that.

9 COMMISSIONER BAILEY: All  
10 right. Thank you.

11 CHAIRMAN HONIGBERG: Mr. Kreis.

12 MR. KREIS: Thank you, Mr.  
13 Chairman, and thank you, Commissioner Bailey,  
14 for those incisive questions. Nobody abhors  
15 single-issue ratemaking more than the Consumer  
16 Advocate. And I guess I can't agree with the  
17 notion that adjusting rates to reflect the  
18 effects of the tax reform bill that became law  
19 at the beginning of the year is an example of  
20 single-issue ratemaking for exactly the  
21 reasons that were hinted about in the last  
22 colloquy. Whether you characterize this as an  
23 "exogenous event" within the meaning of  
24 agreements that affect how Eversource is

1 regulated or whether you simply think of this  
2 as an application of the statutory requirement  
3 for just and reasonable rates, it makes a lot  
4 of sense to pass through the effects of the  
5 tax reform bill to customers. Indeed, one  
6 would argue that a key purpose of the tax  
7 reform legislation as adopted by Congress and  
8 signed into law by the President was to make  
9 certain changes to the national economy, and  
10 one of them is through utility rates.

11 So if I were sitting up on the  
12 Bench today, I would, having read the  
13 Company's filing, ask the Company for more  
14 specific information about when the so-called  
15 "rate review" will occur, because the Company  
16 is asking you to determine that the rate  
17 effects of the tax reform await this future  
18 rate review that the filing said will happen  
19 in 2018. I've had informal conversations  
20 with the Company, but it's not my job to  
21 characterize those conversations and  
22 represent the Company. But if I were a  
23 Commissioner, I would want to know when  
24 realistically can consumers expect to see the

1 effects of this tax reform in their bills.

2 My opening peroration about  
3 the oppressed ratepayers at Eversource  
4 yearning for rate relief notwithstanding, I  
5 actually share Eversource's optimism that we  
6 will be able to come to some agreement with  
7 the Company and with the Staff of the  
8 Commission about how to handle this  
9 particular thing. I know the Commission is  
10 very concerned about tax reform because it  
11 is, after all, the very first thing the  
12 Commission did. Its very first docket of the  
13 year basically told every utility in the  
14 state, "Tell us what you're going to do about  
15 this." And I assume that "Tell us what  
16 you're going to do about this" means we want  
17 you to do something about this. And I'm  
18 confident that we'll be able to persuade  
19 Eversource to do the right thing.

20 CHAIRMAN HONIGBERG: Thank you,  
21 Mr. Kreis.

22 Ms. Amidon.

23 MS. AMIDON: I agree with the  
24 Consumer Advocate, and I also interpreted the

1 Commission's order in 18-001 to try to get the  
2 rate relief to ratepayers as soon as possible  
3 and not to defer it.

4 Furthermore, we're now dealing  
5 with a situation where there is a deferral of  
6 what -- I forget what the appropriate  
7 terminology is, but the deferred excess of  
8 seven months, at least, building -- I guess  
9 it would be six months at this point in time  
10 from January through the end of June and not  
11 just the annual amount of \$12 million because  
12 the tax changes were effective January 1.

13 I challenge Mr. Fossum's  
14 assertion that Liberty or other utilities --  
15 and he didn't mention Liberty by name --  
16 offset other expenses. What they did, in my  
17 interpretation, was they offset what would  
18 have otherwise been rate increases for  
19 ratepayers by applying the tax relief to  
20 those expenses -- for example, on the step  
21 increase in Liberty, I believe it was also  
22 the step increase in Unitil. And I would  
23 remind the Commission, these were capital  
24 investments that were authorized for both

1 utilities in their most recent rate cases  
2 that were filed in 2016. So it was something  
3 the Commission had reviewed in advance.

4 And I further think that the  
5 intent for the Commission was not to defray  
6 costs in what would be a test year. In other  
7 words, it would be inappropriate to apply any  
8 monies to pay, for example, the tax bill  
9 referenced by Mr. Fossum this year because it  
10 would affect the test year going forward.

11 So, Staff has considered a  
12 couple of things. We believe, though, that  
13 the rate relief should go back to customers  
14 effective August 1 with the other changes in  
15 rates that are proposed by Eversource. They  
16 have the energy service rate, the SCRC and  
17 the TCAM. And there might be an appropriate  
18 mechanism that they find in that point in  
19 time. And for the first six months, they  
20 could include not only the annualized amount,  
21 or they could just include the six or seven  
22 months at that point. It would be deferred  
23 liability. But our concern is that the rate  
24 relief be given to the customers sooner than

1 later. And we would not support waiting for  
2 this comprehensive rate review, whenever it  
3 might occur, because that's not the directive  
4 of the Commission. And I don't think it's an  
5 exogenous event or a single-issue rate matter  
6 that would prohibit the Commission from  
7 making that order.

8 So, while I believe Staff, you  
9 know, is intent on working with the Company  
10 and with the OCA to find a solution, there  
11 are certain parameters which I thought I  
12 would just articulate for you today.

13 CHAIRMAN HONIGBERG: Thank you,  
14 Ms. Amidon.

15 My reaction to what Mr. Fossum  
16 said in his opening there was essentially  
17 that the proposal that they filed is really  
18 no longer the proposal, or it won't be the  
19 proposal by the time you guys start your  
20 technical session.

21 But I guess, Mr. Fossum, let  
22 me ask one of Mr. Kreis's questions, which is  
23 when do you currently -- what's the current  
24 thinking on when the rate review will be

1 filed?

2 MR. FOSSUM: I do not have an  
3 answer to that right now. I know that the  
4 intent would be not until after divestiture is  
5 complete, an issue, sadly, over which we have  
6 essentially no control right now. But beyond  
7 that, I don't have any details for you today.

8 CHAIRMAN HONIGBERG: Okay. I  
9 guess I won't ask you to commit to anything  
10 because you chose not to do that in your  
11 opening. But was my sense correct, that  
12 you're prepared to have discussions with Staff  
13 and the OCA about other -- about their ideas  
14 about what should happen with the tax relief?

15 MR. FOSSUM: Certainly, and I  
16 would hope they would be open to our ideas as  
17 well.

18 CHAIRMAN HONIGBERG: I have no  
19 doubt that they're open to your ideas. Maybe  
20 not crazy about your initial filing, I think,  
21 but...

22 MR. FOSSUM: Well, I guess  
23 reasonable minds can differ. I don't know  
24 that our original filing when made was

1 something that would be particularly troubling  
2 in any way.

3 But your point is correct. At  
4 this point, what was originally filed is not  
5 the proposal, and we're here today to discuss  
6 with the Staff and the OCA what a reasonable  
7 new proposal might be.

8 And, you know, I would also  
9 point out that if the issue is getting money  
10 back to customers as quickly as possible, we  
11 have already done that at some measure. The  
12 reliability enhancement program in effect in  
13 2018 for Eversource took into account those  
14 tax changes, and customers have benefited  
15 from that already. This is sort of other  
16 pieces of that. And we're here today to  
17 discuss how best to address all of those  
18 things.

19 CHAIRMAN HONIGBERG: Thank you  
20 for that.

21 Unless there's anything else,  
22 we are prepared to adjourn the prehearing  
23 conference and leave you to your technical  
24 session. Thank you all.

(Hearing adjourned at 1:53 p.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed  
Shorthand Court Reporter and Notary Public  
of the State of New Hampshire, do hereby  
certify that the foregoing is a true and  
accurate transcript of my stenographic  
notes of these proceedings taken at the  
place and on the date hereinbefore set  
forth, to the best of my skill and ability  
under the conditions present at the time.

I further certify that I am neither  
attorney or counsel for, nor related to or  
employed by any of the parties to the  
action; and further, that I am not a  
relative or employee of any attorney or  
counsel employed in this case, nor am I  
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---

Susan J. Robidas, LCR/RPR  
Licensed Shorthand Court Reporter  
Registered Professional Reporter  
N.H. LCR No. 44 (RSA 310-A:173)

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