

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION NHPUC 14NOV19PM4:04

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REDACTED - FOR PUBLIC USE

RE: DG 19-153
LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP., D/B/A
LIBERTY UTILITIES-KEENE
DIVISION
WINTER 2019/2020 COST OF GAS

PRESENT: Presiding Chairperson Kathryn M. Bailey
Commissioner Michael Giaimo

Doreen Borden, Clerk

APPEARANCES:

Reptg. Liberty Utilities (ENGI) Corp.:
Steven E. Mullen

Reptg. Residential Ratepayers:
D. Maurice Kreis, Esq. - Consumer Adv.

Reptg. Public Utilities Commission:
Mary E. Schwarzer, Esq.

COURT REPORTER: SUSAN J. ROBIDAS, N.H. LCR NO. 44

I N D E X

WITNESSES: DEBORAH M. GILBERTSON
 CATHERINE A. McNAMARA

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EXHIBITS

1
2
3 1 Liberty Utilities (ENGI) Corp. PREMARKED
4 d/b/a Liberty Utilities-Keene
5 Division Winter 2019/2020
6 Cost of Gas Filing
7 CONFIDENTIAL VERSION
8
9 2 Liberty Utilities (ENGI) Corp. PREMARKED
10 d/b/a Liberty Utilities-Keene
11 Division Winter 2019/2020
12 Cost of Gas Filing
13 REDACTED VERSION
14
15 3 Revised pages of tariff, PREMARKED
16 testimony and bill impact schedules
17
18 4 Exhibit - NOT USED
19
20 5 Operating and Propane Air Sales PREMARKED
21 Supply Agreement
22
23 6 Amended Operating and Propane PREMARKED
24 Air Sales Supply Agreement
25
26 7 Staff Testimony of Stephen Frink PREMARKED
27 CONFIDENTIAL
28
29 8 Staff Testimony of Stephen Frink PREMARKED
30 REDACTED VERSION
31
32 9 Highlighted version of Ex. 3 PREMARKED
33 (Oct. 17th) testimony of
34 Deborah M. Gilbertson and
35 Catherine A. McNamara

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

2 PRESIDING CHAIRPERSON BAILEY: Good
3 morning. We're here in Docket No. DG 19-153,
4 Liberty Utilities-Keene Division Cost of Gas.
5 I note for the record that an affidavit of
6 publication was filed by the Company on
7 October 3rd and that the Office of Consumer
8 Advocate has filed its letter informing us that
9 they will participate. Before we get started,
10 let's take appearances.

11 MR. MULLEN: Good morning,
12 Commissioners. Steve Mullen for Liberty
13 Utilities (EnergyNorth Natural Gas) Corp.

14 MR. KREIS: Good morning,
15 Commissioners. I'm Don Kreis, the Consumer
16 Advocate, here on behalf of residential utility
17 customers. I apologize to the Commission for
18 entering our letter of appearance so late in
19 the process. We don't usually do that. I
20 think I just filed it yesterday. And I promise
21 to avoid doing that in the future.

22 PRESIDING CHAIRPERSON BAILEY: Thank
23 you.

24 MS. SCHWARZER: Good morning

1 Commissioners. My name is Mary Schwarzer. I'm
2 a staff attorney representing PUC Staff. With
3 me today are Steven Frink, director of Gas and
4 Water Division, and Al-azad Iqbal, who is an
5 analyst in that division.

6 PRESIDING CHAIRPERSON BAILEY: Okay.
7 Are there any preliminary matters we need to
8 address before we get to the witnesses?

9 MS. SCHWARZER: Yes, Commissioner.
10 There's a concern about proposed exhibits, if
11 you'd like to address that now. Liberty has
12 offered what's been marked Exhibits 4, 5 and 6,
13 and I'm objecting on the basis of relevance.

14 PRESIDING CHAIRPERSON BAILEY: Okay.
15 Let's premark the exhibits first, and then we
16 can talk about that.

17 Mr. Mullen, do you want to take us
18 through the exhibit list?

19 MR. MULLEN: Sure. We have agreed on
20 a list of premarked exhibits. Exhibit 1 would
21 be the Company's original filing, dated
22 September 16th of 2019. That's the
23 confidential version.

24 Exhibit 2 would be the redacted

1 version of that same filing.

2 Exhibit 3 is a set of revised pages
3 that we filed on October 17th.

4 Exhibit 4 is a redacted version of
5 a document that's titled, "Settlement
6 Agreement with Mutual Releases," and that's
7 from Docket DG 14-155.

8 Also from that docket is Exhibit 5,
9 which is a document entitled, "Operating and
10 Propane Air Sales Supply Agreement," that's
11 dated November 1st, 1998.

12 PRESIDING CHAIRPERSON BAILEY: Was
13 that also from 14-155 did you say?

14 MR. MULLEN: Yes.

15 And Exhibit 6 is a third document
16 from Docket DG 14-155 that's entitled,
17 "Amended Operating and Propane Air Sales
18 Supply Agreement," dated March 21st, 2014.

19 PRESIDING CHAIRPERSON BAILEY: Okay.
20 And can you address the objection to these
21 Exhibits 4 through 6?

22 MS. SCHWARZER: Sure. Can I add to
23 my objection?

24 PRESIDING CHAIRPERSON BAILEY: Sure.

1 MS. SCHWARZER: Thank you.

2 Commissioner, it's my understanding that these
3 exhibits go to whether air propane conversion
4 to CNG is a prudent investment. Liberty is
5 raising those issues now. This is not the
6 docket for that discussion. We have not had
7 discovery on that question of a prudent or
8 imprudent decision on Liberty's behalf. We
9 have not prepared to address that issue. Those
10 exhibits were sent to us Thursday on an exhibit
11 list. This is going to be addressed in the
12 Liberty rate case. But the cost of gas case
13 for Keene winter 2019-2020 is not the place to
14 do that. Thank you.

15 PRESIDING CHAIRPERSON BAILEY: Mr.
16 Kreis.

17 MR. KREIS: Commissioners, I think
18 that I join in Staff's objection to the
19 admission of these three exhibits, although my
20 preference would be to hear what questions the
21 Company intends to ask about the exhibits
22 before I really determine whether there is
23 really a sound objection to their admission. I
24 will say, in part because of our late filing of

1 an appearance letter, I had no idea until these
2 three exhibits were handed to me this morning
3 that they would be at issue here today. And I
4 haven't had a chance to look at them to review
5 the record and the 2014 docket that these come
6 from. And if they really are going to be
7 discussed extensively today, and if they are
8 relevant to whatever the decision the
9 Commission needs to make in this docket, I
10 think we might need further opportunities to
11 conduct discovery and talk to the Company and
12 Staff about what's really going on because
13 otherwise it's potentially unfair.

14 PRESIDING CHAIRPERSON BAILEY: Mr.
15 Mullen.

16 MR. MULLEN: Yes. In Mr. Frink's
17 testimony, he raised the issue of prudence of
18 the conversion. And these documents just go to
19 the effect of basically making the Commission
20 aware that the propane facility is currently
21 leased, and there's a termination on the date
22 on that lease. So as the Company looks to plan
23 for its system, that's one of the things that
24 has to be taken into account. So when the

1 issue of prudence is raised, we think the
2 Commission needs to just know that this lease
3 is out there and that that's something else
4 that needs to be taken into account. I plan to
5 explore with Mr. Frink what he meant by "if
6 it's ultimately decided that the conversion is
7 not prudent." In order to do that, I want
8 to -- we need to have this information out
9 there because that's part of the discussion.

10 PRESIDING CHAIRPERSON BAILEY: You
11 understand that we're not making any
12 determination about whether the conversion is
13 prudent in this docket.

14 MR. MULLEN: Absolutely. However,
15 Mr. Frink wants the Commission to put us on
16 notice that if things are found imprudent, that
17 we may have to refund some money in the future.
18 And because of that, I think it's important to
19 start making the Commission aware of some of
20 the other things that are out there if it's
21 going to put us on notice of such.

22 PRESIDING CHAIRPERSON BAILEY: Okay.

23 (Off-the-record discussion between
24 Commissioners.)

1 MS. SCHWARZER: I might direct the
2 Commissioners to the only place where Mr. Frink
3 raises this is on Page 5 of the confidential
4 testimony.

5 PRESIDING CHAIRPERSON BAILEY: I read
6 the testimony.

7 Okay. We're going to mark it for
8 identification and we will talk about it at
9 the end, okay.

10 All right. Is there anything else
11 we need to do before we swear the witnesses?

12 MR. MULLEN: We have three more
13 exhibits that we didn't get to yet.

14 PRESIDING CHAIRPERSON BAILEY: Oh,
15 okay.

16 MR. MULLEN: Exhibit 7 is Mr. Frink's
17 testimony, the confidential version.

18 Exhibit 8 would be the redacted
19 version of his testimony.

20 And Exhibit 9 is a highlighted
21 version of essentially what's also Exhibit 3;
22 this one's just a little easier to follow.

23 PRESIDING CHAIRPERSON BAILEY: Thank
24 you. Okay. Now are we ready to begin with the

1 witness panel?

2 MR. MULLEN: Yes.

3 PRESIDING CHAIRPERSON BAILEY: All
4 right. Will you swear the witnesses in,
5 please.

6 (WHEREUPON, DEBORAH M. GILBERTSON
7 CATHERINE A. McNAMARA were duly sworn
8 and cautioned by the Court Reporter.)

9

10 DEBORAH M. GILBERTSON, SWORN

11 CATHERINE A. McNAMARA, SWORN

12 DIRECT EXAMINATION

13 BY MR. MULLEN:

14 Q. Ms. Gilbertson, would you please state your
15 name and position with the Company.

16 A. (Gilbertson) My name is Deborah Gilbertson,
17 and I am a senior manager of energy
18 procurement.

19 PRESIDING CHAIRPERSON BAILEY: Ms.
20 Gilbertson, maybe you can just move the
21 microphone a little closer. Pull it toward
22 you.

23 BY MR. MULLEN:

24 Q. All right. Do you have in front of you

1 what's been marked as Exhibits 1 and 2, the
2 confidential and redacted versions of your
3 testimony?

4 A. (Gilbertson) Yes.

5 Q. Do you have any changes to that testimony?

6 A. (Gilbertson) No, I don't.

7 Q. Ms. McNamara, could you please state your
8 name and your position with the Company.

9 A. (McNamara) Catherine McNamara. I'm a rates
10 analyst with regulatory affairs for Liberty.

11 Q. Do you have in front of you Exhibits 1 and 2,
12 the confidential and redacted versions of
13 your testimony?

14 A. (McNamara) Yes, I do.

15 Q. Do you have any changes to that testimony?

16 A. (McNamara) No, I do not.

17 Q. Do you also have in front of you what's been
18 marked as Exhibit 3, which is a set of
19 revised pages?

20 A. (McNamara) I do.

21 Q. Could you explain for the Commission what the
22 purpose of that filing was and what the
23 highlight, what the changes were? Without
24 going through every single one of them, but

1 generally speaking, what was the purpose of
2 the filing?

3 A. (McNamara) Sure. So the main change in the
4 filing is the LDAC calculation from the
5 EnergyNorth case. When that changed, it also
6 changed the LDAC rate for Keene. So we
7 updated rates pages and bill impact schedules
8 to reflect that.

9 Q. Okay. Before you go too much further, as I
10 said earlier, Exhibit 9 is essentially the
11 same as Exhibit 3. And so you prepared both
12 Exhibits 3 and Exhibit 9?

13 A. (McNamara) Correct.

14 Q. So if you walk through -- if people flip
15 through Exhibit 9, they would clearly see
16 where the changes occurred that you're
17 talking about.

18 A. (McNamara) Correct.

19 Q. Okay. Please continue with your description
20 of the filing.

21 A. (McNamara) Sure. So the main purpose is, as
22 I said, for the change at the EnergyNorth
23 rates to the LDAC rate. We updated the rates
24 pages to reflect that. We updated the bill

1 impact schedules for that purpose as well.

2 And we updated the testimony that related to
3 the bill impact schedule.

4 Q. And if need be, you can respond to any
5 questions about Exhibits 3 or 9?

6 A. (McNamara) Correct.

7 Q. Thank you.

8 MR. MULLEN: The witnesses are
9 available for cross-examination.

10 PRESIDING CHAIRPERSON BAILEY: All
11 right. Mr. Kreis.

12 CROSS-EXAMINATION

13 BY MR. KREIS:

14 Q. Thank you. I have just a few questions. I'm
15 working, at least initially, off of
16 Exhibit 1, which is the confidential version
17 of the Company's filing. But I don't intend
18 to ask any questions about confidential
19 information. And if I do, someone can leap
20 out of their chair and tell me that I asked a
21 question that I shouldn't have. But I won't
22 do that, so you won't need to do that.

23 I think my questions are going to be for
24 Ms. Gilbertson, although I don't really mind

1 whether both witnesses answer.

2 On Bates Page 11 of the Company's
3 filing, the witnesses were asked the
4 question: What is the primary reason for the
5 change in rates?

6 And their answer at Lines 14 and 15 is
7 that a primary reason for the decrease in
8 rates is the removal of production costs from
9 the cost of gas rate. And I wonder if I
10 could have Ms. Gilbertson explain what she
11 meant by "removal of the production costs."

12 A. (Gilbertson) Well, actually, that's a
13 question for Ms. McNamara, the production.
14 But I could expand on the change in rates and
15 let you know that the price of the gas has
16 gone down significantly since last year. But
17 the production cost is not my area, so...

18 A. (McNamara) So, initially when we filed last
19 year, we had production costs in our
20 calculated rate. We ended up taking them out
21 for the final rate purposes, I believe, if I
22 recall correctly. So the reason for the
23 rates as filed last year compared to this
24 year, they would have gone down to remove all

1 of the production costs.

2 Q. Why did they get removed?

3 A. (McNamara) I'm not sure of the exact docket
4 number, but we had worked with Staff and with
5 the OCA to look at production costs to decide
6 what should be included and not included.

7 And we determined that that would be
8 addressed, I believe, in the EnergyNorth rate
9 case -- I'm sorry -- yeah, the EnergyNorth
10 rate case.

11 Q. On Bates Page 13, at Line 13, there is the
12 use of a term that I hadn't seen before.
13 That term is "heel," H-E-E-L. Can you
14 explain what heel is?

15 A. (Gilbertson) Yes. The heel is a requirement
16 of the New Hampshire Fire Code, that we have
17 to maintain 15 percent at the bottom of the
18 tanks. So that would be the heel. So we
19 can't use -- we can't go lower than 15. We
20 can't deplete it more than 85 percent.

21 Q. There has to be a -- basically there always
22 has to be at least 15 percent -- the tank
23 always has to be at least 15 percent full.

24 A. (Gilbertson) Correct. That's what I'm trying

1 to say, yes.

2 Q. That's what I was trying to ask. Good.

3 And what has been marked for
4 identification as Exhibit 7 and 8 -- these
5 would be Mr. Frink's prefiled testimony --
6 Bates Page 5 of I think both of those
7 documents, Mr. Frink testifies that it is
8 reasonable to provide for the recovery of
9 CNG's supply costs, with the understanding
10 that if the Company [sic] finds that the
11 Liberty gas conversion was imprudent,
12 incremental CNG supply costs are subject to
13 refunds.

14 Do you disagree with that statement from
15 Mr. Frink?

16 A. (McNamara) I do.

17 Q. What is the basis of your disagree -- what is
18 the nature of your disagreement?

19 A. (McNamara) So I don't have a lot of
20 background on this, but the -- hold on one
21 second, please.

22 (Witness reviews document.)

23 A. (McNamara) So, actually, I'm sorry. I can't
24 answer that question at this point.

1 Q. Why not?

2 A. (McNamara) I don't know the answer.

3 Q. Well, Mr. Frink's testimony is simply that if
4 the Commission finds that the Liberty-Keene
5 conversion was imprudent, incremental CNG
6 supply costs are subject to refund. That
7 seems pretty unexceptionable to me.

8 A. (Gilbertson) Well, I think the Commission has
9 to decide.

10 Q. Right. And so my question to the witness is:
11 Do you disagree with that assertion in Mr.
12 Frink's testimony?

13 MR. MULLEN: If I may, I would think
14 that there would be a lot that might go into a
15 certain decision like that. So I think it's a
16 little unfair to ask the witnesses, in light of
17 not having a decision, because a lot of things
18 go into prudence. So I don't think it's fair
19 to ask them that in a vacuum without having any
20 decision to look at.

21 MR. KREIS: Well, I'm not asking them
22 to opine about imprudence. I don't have an
23 opinion about that myself at this point. But
24 I'm just asking them to acknowledge that if

1 something is ultimately deemed to be imprudent,
2 it's subject to disallowance. That seems to me
3 to be Utility Regulation 101.

4 A. (Gilbertson) I think the conversion was
5 approved by the Commission, and I think we
6 went forward on that basis. And I think to
7 do a look-back now is a little -- it's kind
8 of late for that.

9 MR. MULLEN: And I think, as it was
10 stated earlier, the Commission is not making
11 any prudence determinations in this proceeding.
12 So, I mean we heard what Mr. Kreis had to say,
13 but I mean some of this I think gets into
14 perhaps legal determinations.

15 MR. KREIS: Okay. I have no further
16 questions.

17 PRESIDING CHAIRPERSON BAILEY: Ms.
18 Schwarzer.

19 MS. SCHWARZER: Thank you.

20 CROSS-EXAMINATION

21 BY MS. SCHWARZER:

22 Q. I have some questions going back to the
23 description of the changes that were made to
24 Liberty's filing in the revised testimony,

1 Liberty-Keene.

2 On Bates Page 21R, I believe a change
3 was made. Can you describe that change,
4 please?

5 A. (McNamara) Sure. Let me just get to that
6 page. So the change to this page relates to
7 Order Number 26,241 in Keene's Summer Cost of
8 Gas 2019. And in that order it was -- we
9 were instructed to supply the CNG specific
10 cost of gas purchases separate from propane
11 cost of gas purchases, and this footnote
12 provides that information.

13 Q. And the cost, the CNG cost is a \$1.5742 per
14 therm? It's highlighted. And is the CNG
15 cost higher or lower than the air propane
16 cost?

17 A. (McNamara) Higher.

18 PRESIDING CHAIRPERSON BAILEY: Does
19 "highlighted" mean it's confidential?

20 MS. SCHWARZER: I'm sorry. It does.
21 I apologize. It does.

22 PRESIDING CHAIRPERSON BAILEY: Can we
23 close the door in the back of the room, please?

24 And Mr. Mullen, I'm going to ask

1 you to work with the court reporter --

2 MS. SCHWARZER: Oh, I'm sorry. I
3 said it was confidential. The highlights are
4 just the changes. Normally in an unrevised
5 exhibit it would indicate confidentiality. In
6 this instance, the highlight reflects a change.
7 It is not confidential.

8 PRESIDING CHAIRPERSON BAILEY: Okay.
9 All right.

10 MR. MULLEN: And the pages are not
11 marked confidential.

12 PRESIDING CHAIRPERSON BAILEY: Okay.
13 Good.

14 MS. SCHWARZER: I'm sorry,
15 Commissioner. It's challenging sometimes to
16 tell the difference between changes and
17 confidential.

18 PRESIDING CHAIRPERSON BAILEY: Okay.
19 Thank you.

20 MS. SCHWARZER: And I meant to state
21 it in the opening, and with your permission
22 I'll just say it now. Because the changes all
23 either increase the savings for the customers
24 or lower the price, we don't have any concerns

1 as to the sufficiency of the notice. But had
2 the changes been otherwise, there might have
3 been concerns. Thank you.

4 BY MS. SCHWARZER:

5 Q. So with that addition, the discussion about
6 the change indicates the propane and the CNG
7 costs. Does that complete your description
8 of the changes made in the revised filing?

9 A. (McNamara) Yes.

10 Q. How do current Nymex future prices compare to
11 those used in the cost of gas filing?

12 A. (McNamara) So I looked at the propane Nymex
13 schedule at Mont Belvieu, and the overall
14 rate went down. Wait one second. I can give
15 you that info. It went down approximately
16 one cent. And that particular change would
17 be a .002 cent change to the rate. I believe
18 Ms. Gilbertson has looked at the CNG change.

19 A. (Gilbertson) Right. So the price at
20 Algonquin Citygate, which is the index that
21 we used for CNG, did go up slightly. So the
22 net difference would be a penny more for the
23 overall rate, incorporating both the Mont
24 Belvieu and the CNG.

1 Q. So can you give me your Company's position as
2 to whether Liberty-Keene were to use the
3 current Nymex future prices, how would that
4 impact the COG rate?

5 A. (Gilbertson) It would go up a penny. But it
6 could change tomorrow, so it's...

7 Q. I'm sorry. I meant combined. I believe in
8 addition to separating the prices for CNG and
9 air propane, you provide an overall cost of
10 gas?

11 A. (Gilbertson) Hmm-hmm.

12 Q. So overall, given the volume of CNG and the
13 volume of air propane, if you were to use the
14 current Nymex future prices, how would that
15 impact the combined cost of gas rate?

16 A. (Gilbertson) It would go up one penny. It
17 would increase by a penny.

18 Q. I'm sorry. I thought air propane went down a
19 penny and CNG went up a penny. Is that -- am
20 I correct?

21 A. (Gilbertson) Put it all together, the CNG
22 went up a little more -- the propane went
23 down slightly, the CNG went up slightly; the
24 net together is one penny more than what's in

1 the filing right now.

2 Q. Oh, for both.

3 A. For both.

4 Q. Oh, thank you. I didn't understand.

5 Okay. So how much did the CNG increase
6 itself?

7 A. (Gilbertson) Every month was a little bit
8 different. I really didn't --

9 Q. I think I'm asking a question that's
10 confusing you. I will tell you what I
11 understood you to say.

12 If the propane price using the current
13 Nymex goes down a penny and the CNG goes up,
14 so that the net increase is a penny
15 increase --

16 A. (Gilbertson) Overall, yes --

17 Q. -- overall --

18 A. -- for the period.

19 Q. -- then the missing factor is how much did
20 the CNG go up independently.

21 (Witness reviews document.)

22 A. (Gilbertson) So in Schedule 6 -- Schedule C
23 the overall cost of the CNG per gallon,
24 because this is in gallons, is .9380. As of

1 yesterday with the Algonquin Citygate, it was
2 increased to .9817. So, what's that? So, 4
3 cents, 4-1/2 cents.

4 Q. And overall, how would you characterize the
5 change in those costs? A slight increase or
6 a slight decrease, or something different?

7 A. (Gilbertson) Well, overall, it was a penny
8 for the entire portfolio for that period.
9 And again, that was yesterday. Today could
10 be different because it changes every single
11 day.

12 Q. Thank you.

13 Turning to Bates Page 17, projected
14 winter sales are 3 percent higher than last
15 winter's forecasted sales. Is that due to
16 actual forecasted customer growth in Keene or
17 some other reason?

18 A. (Gilbertson) Actually, it is just, as with
19 EnergyNorth, it really is use per customer.
20 The customers are burning a little bit more
21 gas.

22 As far as growth, it is not growth
23 because the customer base is steady, 1200
24 customers approximately.

1 Q. Has there been a change in Liberty Keene's
2 billing that would account for that change
3 with regard to billing on actual heat content
4 rather than fixed value?

5 A. (Gilbertson) No.

6 Q. Could you please update the Commission on the
7 Keene system conversion to natural gas, CNG.
8 Has the Company began providing natural gas
9 service; and if so, when, and how many
10 customers have been converted?

11 A. (Gilbertson) Yes, the Company has converted
12 20 customers at the Monadnock Plaza. The
13 conversion started on October 1st, and they
14 finished on October 4th. Everything has been
15 running smoothly. They have two tankers
16 there which have switched over automatically,
17 which is a good thing. It seems to be
18 working as expected.

19 Q. Can you tell me the percentage of total sales
20 for Liberty-Keene that those customers
21 represent?

22 A. (Gilbertson) Approximately 10 to 15 percent,
23 I believe.

24 Q. Have any new customers been added at this

1 time?

2 A. (Gilbertson) To the CNG?

3 Q. Yes.

4 A. (Gilbertson) No.

5 Q. Could you please describe the first phase of
6 natural gas expansion and when that's
7 expected to begin.

8 MR. MULLEN: Commissioners, if I may,
9 I don't believe either one of these witnesses
10 are involved in the conversion aspect. It's
11 not really an issue for today. There's lots of
12 information that we have to provide with
13 respect to Docket DG 17-068. So I don't think
14 they're in a position to be able to expand on
15 that. Essentially, I mean, any of that's going
16 to happen after we get the permanent facility
17 sited. So I think that, you know, for purposes
18 of this cost of gas hearing, I don't think
19 these witnesses can really shed any light on
20 that.

21 MS. SCHWARZER: If I may,
22 Commissioners. It's relevant to the usage for
23 this winter as to whether they're going to --
24 Liberty-Keene intends to increase its volume of

1 CNG.

2 PRESIDING CHAIRPERSON BAILEY: Did
3 you hear Mr. Mullen say they have to have it
4 sited before they can go to Phase I?

5 Is that what you said, Mr. Mullen?

6 MR. MULLEN: Well, Phase I is
7 essentially the temporary CNG.

8 PRESIDING CHAIRPERSON BAILEY: Okay.

9 MR. MULLEN: So, to be clear, that
10 would be Phase II. But in order to go to Phase
11 II, we have to have the permanent facility
12 sited. And we've been looking at a lot of
13 sites and going through all the environmental
14 and zoning characteristics and all that. So
15 anything that would be in this filing would
16 have been included in the forecast.

17 MS. SCHWARZER: I apologize. Mr.
18 Mullen isn't a witness. And I believe my
19 understanding was that since CNG is
20 transported, were Liberty-Keene to be able to
21 develop additional customers, it's not clear to
22 me that a new facility is required. But I'm
23 not a witness and Mr. Mullen is not a witness.
24 So I'm not sure --

1 PRESIDING CHAIRPERSON BAILEY: So can
2 you restate your question?

3 MS. SCHWARZER: Sure.

4 BY MS. SCHWARZER:

5 Q. Does this filing allow for the possibility
6 that Liberty-Keene may have new CNG customers
7 in this winter period?

8 A. (Gilbertson) No, there's not going to be.
9 There's not going to be new customers for
10 this winter period.

11 Q. Thank you.

12 I believe Liberty-Keene is and will
13 continue to receive CNG supplies under the
14 terms of a contract that's been in place for
15 a number of years. When did that contract
16 begin and when does it expire?

17 A. (Gilbertson) The contract began on July 1st,
18 2017, and it will expire on June 30th, 2021.

19 Q. What are Liberty-Keene's plans to meet its
20 natural gas requirements in the following
21 winter period?

22 A. (Gilbertson) As with every territory, we'll
23 have a demand forecast. And we will finish
24 using this contract. If we need to have more

1 CNG, or if we put out an RFP as we do with
2 every other territory, we pick the most
3 reliable, lowest-priced vendor.

4 Q. Thank you.

5 Could you please explain how
6 Liberty-Keene is meeting its seven-day
7 storage requirement for natural gas
8 customers.

9 A. (Gilbertson) Yes. We submitted our filing to
10 the Safety Division on October 1st. We have
11 adequate supply to meet our seven-day
12 requirement for both natural gas and propane.
13 For the propane, we have on site
14 77,350 gallons, plus we're allowed to count
15 five days of guaranteed trucking at
16 70 percent. For the CNG, we'll have two
17 tankers on site at all times. And again,
18 we're allowed to count five days of
19 guaranteed trucking at 70 percent. We have
20 sufficient supply for both natural gas and
21 propane to meet the seven-day requirement.

22 Q. When you say you'll have two tankers on site,
23 is that in addition to a tanker unloading and
24 a tanker waiting, or is that part of the

1 transfer process?

2 A. (Gilbertson) There's space on the site for
3 three tankers. So there's two that are
4 always hooked up. When one depletes, the
5 other one automatically refills. Then they
6 take out the empty truck, and they'll have
7 another one waiting. They'll put the full
8 truck next to the one that's being used. So
9 there's always room for three to be able to
10 off-load and reload another truck.

11 Q. Can you explain -- strike that.

12 My understanding is that there's some
13 storage for Liberty-Keene in Amherst. Can
14 you talk about that?

15 A. (Gilbertson) Yes. Well, traditionally, or in
16 the last many years, we've split the Amherst
17 tank between Keene and EnergyNorth. But this
18 year EnergyNorth was struggling with the
19 seven-day requirement and needed the supply,
20 so we took back half of the amount that we
21 were giving to Keene. So Keene gets a
22 quarter now, and EnergyNorth gets three
23 quarters of that tank.

24 Q. And is that still sufficient to meet your

1 requirement for Keene?

2 A. (Gilbertson) Yes.

3 Q. I believe you covered this earlier, but just
4 to confirm. Did the Company include any
5 Keene production costs in its 2019-2020
6 winter cost of gas?

7 A. (McNamara) No, we did not.

8 Q. And you mentioned a decision upon which
9 that -- you didn't include production cost
10 because of an agreement that was reached in a
11 docket. If I suggested to you that was
12 Docket DG 19-068, Keene summer cost of gas
13 filing --

14 A. (McNamara) That sounds correct.

15 Q. In its next general rate filing, does
16 Liberty-Keene intend to clearly define what
17 non-supply costs are to be recovered through
18 the Keene cost of gas and adjust proposed
19 delivery rates accordingly?

20 A. (McNamara) Yes.

21 Q. When did the Company mail the FPO information
22 to Keene customers?

23 A. (McNamara) Keene customers were notified by
24 mail on September 12th, 2019.

1 Q. And how many customers have enrolled?

2 A. (McNamara) Currently there's 97 customers
3 enrolled. The enrollment period has ended,
4 but there are still a number of customers
5 that have not yet been entered into the
6 system. So it's going to increase from 97,
7 but we don't know exactly by how much.

8 Q. What percentage of your load is that?

9 A. (McNamara) What percentage of the -- I'm
10 sorry. You'll have to rephrase the question.

11 Q. For the FPO customers, 97 plus or minus some
12 amount, what percentage of your load does
13 that -- do the FPO customers represent?

14 A. (McNamara) I would have to look into that. I
15 don't have that.

16 Q. Do you know how this year's enrollment
17 compares to last year's enrollment?

18 A. (McNamara) Last year we had 163 customers
19 enrolled.

20 Q. One hundred fifty-three?

21 A. (McNamara) Hundred and 63.

22 Q. Oh, 163.

23 Has the Company received a final or
24 draft audit report from the Commission Audit

1 Staff on its audit of last year's COG
2 reconciliation?

3 A. (McNamara) Yes, we have.

4 Q. Would you summarize, please, Audit Staff's
5 findings and conclusions?

6 A. (McNamara) The audit report was finalized,
7 and there were no audit findings, per se.
8 There was discussion regarding production
9 costs that needed to be removed at that point
10 in time, which we did remove all the
11 production costs.

12 MS. SCHWARZER: Thank you very much.
13 No further questions.

14 PRESIDING CHAIRPERSON BAILEY:
15 Commissioner Giaimo.

16 QUESTIONS BY COMMISSIONER GIAIMO:

17 Q. So I jotted down a couple questions about the
18 FPO, so I want to make sure I heard things
19 properly.

20 So the FPO letter did go out.

21 A. (McNamara) Correct.

22 Q. And there was a question of -- I had a
23 question. Any idea with respect to the
24 response rate? What I thought I heard was 97

1 customers are enrolled.

2 A. (McNamara) Correct. And there are still some
3 that have enrolled but haven't been updated
4 in the system, so they're not counted yet in
5 the 97.

6 Q. And Ms. Schwarzer asked how this compared to
7 last year. And I heard 157?

8 A. (McNamara) There was 163 customers.

9 Q. Sorry, 163. So you're only two thirds of the
10 way to 163. Do you see the remaining that
11 haven't been put in the system, will that get
12 you to the 163?

13 A. (McNamara) I am not sure of that.

14 Q. Okay. And currently, if it's 97, 97
15 customers, that represents about what,
16 eight percent? I thought I --

17 A. (Gilbertson) Yes.

18 Q. I thought I saw you doing the math. We
19 should put that on the record.

20 A. (Gilbertson) Yes.

21 Q. So I'm actually on Page 11 of the testimony,
22 Bates 11, Exhibit 1. And there's a
23 discussion with respect to PERC, truck fees
24 and pipeline impacts, and all those have gone

1 up. Maybe you can elaborate on why all those
2 have gone up. And specifically, I wonder why
3 trucking fees may have gone up. It seems
4 like the price of gasoline and diesel have
5 gown down recently. So maybe it's a timing
6 issue?

7 A. (Gilbertson) Right. These are taken right
8 from publications. I really don't know. I
9 just want to get it as accurate as possible
10 to kind of figure what the price is going to
11 be for these prices. But these I got right
12 out of publications.

13 Q. Okay. So you got them out of publications.
14 So is it a timing issue then?

15 A. (Gilbertson) I don't know. I imagine they'll
16 stay this way for this year because I think
17 they go up every end of July every year for
18 the winter. So I just checked it and they
19 did, and they seem to go up every year.

20 Q. Okay. On Page 7 there's a discussion with
21 respect to unaccounted-for gas. And it seems
22 like the number, at least according to
23 Lines 5 through 7, the Company sees about
24 .90 percent on unaccounted-for volumes of

1 gas. How does that compare with industry
2 standards and the rest of EnergyNorth?

3 A. (Gilbertson) So I think EnergyNorth is
4 like -- I don't want to misspeak. But I
5 think it's under 2 percent. And, again, this
6 is the -- what this is is lost and
7 unaccounted-for gas along the lines. So
8 what's metered at the propane facility versus
9 what's metered at the customer's residence or
10 place of business, whatever is lost along the
11 line between those two meter reads is what
12 this represents. So if this percentage goes
13 down, that means we have to buy less gas
14 because we don't have to account for what's
15 being lost in the lines. So this is a good
16 thing.

17 Q. Yup. I suspected as much. So, thank you.

18 A. (Gilbertson) Oh, okay.

19 Q. You said the projected sales are up
20 3 percent?

21 A. (Gilbertson) Yes.

22 Q. And that's a result of growth in use,
23 customer use?

24 A. (Gilbertson) We just take what we had last

1 year and weather-normalize it.

2 Q. And is that 3 percent also factored in the
3 reduction in the loss of gas?

4 A. (Gilbertson) No, it's not, because we're
5 going to buy a certain amount of gas. What
6 customers use is what's metered. So I don't
7 know that they -- they may be billed for it
8 on their bill because of the line loss. But
9 the sales that we're looking at, the revenue
10 sales, that's what's actually metered at the
11 customer's place of business or home. So
12 they may be billed for the loss or
13 unaccounted-for in another manner. I don't
14 really know the billing that well.

15 Q. I guess fundamentally the question is: Is
16 3 percent even -- given the new loss of gas
17 numbers that are being used, is 3 percent
18 growth even higher because of the reduction
19 of --

20 A. (Gilbertson) No.

21 Q. No. Okay. Thank you.

22 INTERROGATORIES BY PRESIDING CHAIRPERSON BAILEY:

23 Q. Following up on that, can you look at Page 7,
24 Bates Page 7, Line 13 through 15, that says

1 the calculated unaccounted-for gas rate
2 properly reflects the unaccounted-for gas.
3 Do you see that? It's on Lines 14 and 15 on
4 Bates Page 7.

5 A. (McNamara) Yeah.

6 Q. Does that mean that the previous filings
7 miscounted the unaccounted-for gas,
8 over-counted it?

9 A. (McNamara) So the way we used to bill
10 customers before they were in Keene, before
11 they were converted to the Cogsdale billing
12 system, was a therm factor of .74. With the
13 integration with the new billing system,
14 they're getting a more accurate number daily
15 so that the customer is being billed for
16 exactly the line loss that -- because the
17 therm factor and line loss percentage is
18 built into the customer's bill. I'm not
19 saying that very clearly.

20 Q. I don't think you're answering my question.
21 My question is did you over-count line loss
22 in the previous filings based on the way you
23 used to do it?

24 A. (McNamara) I guess we would have. Let me

1 just think about that for a second. I
2 believe so. And with the more accurate
3 billing system now, we have a more accurate
4 line loss factored in.

5 Q. So is there a way to reconcile that?

6 A. (McNamara) I am not positive about that. It
7 certainly could be looked at.

8 Q. Okay. You testified that the production
9 costs have been removed from the cost of gas.
10 Where will the production costs be recovered
11 going forward?

12 A. (McNamara) It's intended to bring them up in
13 the EnergyNorth rate case.

14 Q. So they'll go into distribution rates?

15 A. (McNamara) It will be discussed at that
16 point.

17 Q. Okay. And about the 8 percent of customers
18 that took the FPO rate, that doesn't
19 represent 8 percent of load necessarily; is
20 that correct?

21 A. (McNamara) Just customers.

22 Q. Just customers.

23 A. (Gilbertson) Yes.

24 PRESIDING CHAIRPERSON BAILEY: Okay.

1 All right. I think all of the other questions
2 I have have been asked and answered.

3 Mr. Mullen, do you have any
4 redirect?

5 MR. MULLEN: I do.

6 PRESIDING CHAIRPERSON BAILEY: Okay.

7 REDIRECT EXAMINATION

8 BY MR. MULLEN:

9 Q. I just want to go back to what Commissioner
10 Bailey was just asking you about related to
11 the unaccounted-for. And this also ties into
12 a question earlier from Ms. Schwarzer.

13 When the Company converted customers to
14 the Cogsdale billing system, did they go from
15 a billing system that had been in place for
16 quite a long time?

17 A. (McNamara) Yes.

18 Q. And there was a fixed heat content that was
19 factored into that calculation; is that
20 correct?

21 A. (McNamara) Correct.

22 Q. That was an approved heat content rate that
23 was in the Commission's approved tariff; is
24 that right?

1 A. (McNamara) Correct.

2 Q. So any billing that was done over the years
3 using that fixed heat content was done in
4 accordance with the Commission-approved
5 tariff and based on the capabilities of the
6 billing system that the Company had in place
7 prior to converting to our Cogsdale billing
8 system.

9 A. (McNamara) Correct.

10 Q. So is it correct that the Cogsdale billing
11 system now bills the heat content more
12 accurately than what the prior system could
13 previously do?

14 A. (McNamara) Correct.

15 Q. To your knowledge, was that billing system in
16 place through at least the prior owner, if
17 not even before that?

18 A. (McNamara) That's my understanding.

19 Q. Okay. Thank you.

20 MR. MULLEN: That's all I have.

21 PRESIDING CHAIRPERSON BAILEY: All
22 right. Thank you for your testimony. You may
23 be excused.

24 (Witnesses excused.)

1 PRESIDING CHAIRPERSON BAILEY: Off
2 the record.

3 (Discussion off the record.)

4 PRESIDING CHAIRPERSON BAILEY: Back
5 on the record. We'll take the Staff witness
6 next.

7 (WHEREUPON, STEPHEN P. FRINK was duly
8 sworn and cautioned by the Court
9 Reporter.)

10 STEPHEN P. FRINK, SWORN

11 MS. SCHWARZER: Thank you.

12 DIRECT EXAMINATION

13 BY MS. SCHWARZER:

14 Q. Mr. Frink, would you please introduce
15 yourself and state your position with the
16 Public Utilities Commission.

17 A. My name is Stephen Frink. I work at the
18 Commission. I'm the director of the Gas and
19 Water Division.

20 Q. Did you prepare testimony that was filed in
21 this docket?

22 A. Yes, I did.

23 Q. And for the record, is that testimony
24 Confidential Exhibit 7?

1 A. Yes, it is.

2 Q. And Redacted Exhibit 8?

3 A. Yes.

4 Q. Do you have any changes to your testimony?

5 A. I have one change, and that's on Bates
6 Page 3, Line 21. It says towards the end of
7 that line, CNG to meet some Keene natural gas
8 supply requirements. It should just be
9 "some" should be deleted. CNG is going to
10 meet all Keene natural gas requirements.

11 Q. Do you have any other changes?

12 A. I do not.

13 Q. So do you adopt your written testimony as
14 your sworn testimony here today?

15 A. I do.

16 Q. Briefly, did you -- you were present when Ms.
17 McNamara said that the 3 percent higher than
18 last winter's forecasted sales figure was due
19 solely to the customer use?

20 A. Yeah, I heard that. Yes.

21 Q. Do you agree with that?

22 A. No, I don't. And in my testimony on Bates
23 page, starting on the bottom of Bates Page 5
24 and going on to 6, I talk about that. So the

1 unaccounted-for gas, the way it works is the
2 send-out is what comes from the plant and
3 goes into the system, and then they bill
4 customers for gas. And the difference
5 between what went out from the plant and what
6 gets billed is unaccounted for. So when they
7 fixed how they measure the heat content,
8 apparently the actual heat content is higher
9 than the 740 that was used -- that had been
10 used for years. And so what was happening,
11 because they weren't billing as much as the
12 actual heat content was, there was more
13 unaccounted for. And it was recovered
14 through rates by everybody. Now they're
15 charging the actual heat content, and it's
16 getting billed to customers more fairly
17 because each customer, based on their use,
18 will pick up more of that cost.

19 And so what is happening is the
20 billing -- the sales have gone up 3 percent
21 in this forecast, and the unaccounted-for has
22 gone down. But if you look at the send-out
23 number that they have in the forecast, what
24 they're actually sending out from the plant,

1 that's essentially unchanged from last year's
2 forecast. It's 0.7 percent lower. So the
3 send-out is actually higher. The send-out in
4 this forecast is 0.7 percent higher; whereas,
5 the sales increase is 3 percent higher.

6 Q. Thank you. Given the brevity and clarity of
7 your testimony as filed, I'm not going to ask
8 for a summary.

9 MS. SCHWARZER: And the witness is
10 available for cross.

11 PRESIDING CHAIRPERSON BAILEY: Mr.
12 Kreis, do you have any questions?

13 CROSS-EXAMINATION

14 BY MR. KREIS:

15 Q. Mr. Frink, just briefly. You heard, I
16 believe it was Ms. McNamara testify, and I
17 believe it was on redirect, that there really
18 is no way to recapture the fact that
19 customers were essentially over-billed based
20 on a pre-existing method for calculating the
21 amount of gas that's unaccounted for. Do you
22 agree with what she had to say about that,
23 that basically those over-billings are sort
24 of done and gone?

1 A. I agree with that. It was -- as Mr. Mullen
2 pointed out, that was a tariffed heat content
3 charge. It did get charged to customers as
4 part of the unaccounted-for gas. They got
5 charged for all the gas costs, and they were
6 actually using it because it wasn't as well
7 defined per customer. But the customers did
8 pay all those costs, and they did use all
9 that gas, other than the line losses, which
10 are now about less than 1 percent.

11 Q. And I think my only other question is really
12 aimed at making sure that I understand
13 exactly what your reference to "prudence" in
14 your prefiled testimony really means. And
15 I'm referring to what you had to say on that
16 subject at Lines 9 through 12 of Bates Page 5
17 of your testimony in both of its versions.

18 Would it be correct to say that your
19 point is simply that the prudence
20 determination will be made at some later
21 time.

22 A. That's exactly correct.

23 Q. You are not asking the Commission to make any
24 prudence determinations in this docket?

1 A. I am certainly not.

2 Q. Would the fact that the Commission gets to
3 make any prudence determination at a later
4 time be true whether or not there was any
5 reference to that subject in your testimony?

6 A. That's correct.

7 Q. And so would it be fair to conclude that your
8 reference to "prudence" in your testimony is
9 really just a courtesy to the Company?

10 A. That is correct.

11 Q. Thank you.

12 MR. KREIS: Those are all the
13 questions I have.

14 PRESIDING CHAIRPERSON BAILEY: Mr.
15 Mullen.

16 CROSS-EXAMINATION

17 BY MR. MULLEN:

18 Q. Good morning, Mr. Frink.

19 A. Good morning.

20 Q. Discussing the heat content and the more --
21 us using the actual heat content now through
22 our Cogsdale billing system, that's a good
23 thing; correct?

24 A. Yes, it is.

1 Q. And that was something that was initiated by
2 the Company; correct?

3 A. I know when the tariff change was made for
4 thermal billing, because you were adding
5 natural gas, that was all -- I don't know if
6 it was raised by Staff or the Company, but
7 certainly that issue was addressed as to your
8 proper way to do it. And I know it was
9 between Safety and the Company and the rest
10 of Staff. That's what was all agreed on was
11 the appropriate way to do it and a better
12 way.

13 Q. This would not be available under the prior
14 billing system; isn't that correct?

15 A. That is correct.

16 Q. Because the Company's billing system allows
17 for this improvement.

18 A. It does, yes.

19 Q. And if you looked back over the past, the
20 .74, that, my understanding, is an average
21 heat content for propane?

22 A. Yes.

23 Q. So at times it could have been below, or the
24 actual heat content could have been below or

1 above .74.

2 A. Correct.

3 Q. So anyone who wanted to go back and do any
4 calculations, there really would be no way to
5 do that at this point.

6 A. That's a good point.

7 Q. If you could turn to Bates 4 of your
8 testimony.

9 A. I'm there.

10 Q. If you go to Table 2, which is between
11 Lines 12 and 13 --

12 A. Yes.

13 Q. -- if you look at the line that says "Propane
14 Fixed Price."

15 A. Yes.

16 Q. All the way over on the right you have a
17 number of .04577.

18 A. Yes.

19 Q. If you look at Table 1, that same line, the
20 number is 0.9942.

21 A. Yup, that's correct.

22 Q. Should the rate -- the cost per therm in
23 Table 2 be corrected to reflect the same as
24 Table 1?

1 A. For the fixed price?

2 Q. Yes.

3 A. I'll have to check, but I believe that's
4 correct. That would come off Schedule C of
5 the Company's filing.

6 Q. I do see that the volume and the costs are
7 the same.

8 A. Oh, right. Okay.

9 Q. I just want to make sure that when somebody's
10 looking at this, they get the proper
11 reflection of the cost.

12 A. Right. And again, let me just look at the
13 filing and I'll confirm that.

14 (Witness reviews document.)

15 A. I'm looking at the purchase price cost per
16 gallon. Okay, that's not a therm number.
17 Yes, the --

18 (Court Reporter interrupts.)

19 A. So there's a gallon charge of .9097, which I
20 believe when you convert it to therms is the
21 .9942. So you were correct on Table 2. The
22 propane fixed price number should be .9942.

23 Q. Thank you. Just below Table 2, starting on
24 Page 4 and going to the top of Page 5, you

1 discussed the impact of CNG on the proposed
2 cost of gas rate; correct?

3 A. Correct.

4 Q. And that's in looking at as compared to if it
5 was just propane.

6 A. Right.

7 Q. You are aware that the propane facility,
8 there is a lease on that facility?

9 MS. SCHWARZER: Objection.
10 Irrelevant.

11 MR. MULLEN: There's an implicit cost
12 associated with that, and I'm just trying to
13 get a -- make sure we have a apples-to-apples
14 comparison.

15 A. The amount --

16 PRESIDING CHAIRPERSON BAILEY: Mr.
17 Frink, hang on a second. I'm thinking about
18 it.

19 Ms. Schwarzer, can you flush out
20 your objection a little bit more?

21 MS. SCHWARZER: Sure. I'm objecting
22 because the figures are based upon information
23 provided by the Company in its filing, and
24 those figures probably include many things that

1 weren't subject to extensive discussion or
2 representation. I don't believe discussing a
3 particular aspect of that figure which was
4 taken from the Company's filing is relevant.

5 PRESIDING CHAIRPERSON BAILEY: Which
6 figure are we talking about again?

7 MS. SCHWARZER: I believe we're
8 talking about the Company-filed information
9 comparing the CNG costs with the air propane
10 costs. And so that information was used by Mr.
11 Frink in his testimony. Whether or not the
12 Company's numbers accounted for buying land or
13 a facility or a particular contract is really
14 not relevant to this cost of gas proceeding.

15 PRESIDING CHAIRPERSON BAILEY: Mr.
16 Mullen.

17 MR. MULLEN: Where I'm going with
18 this leads into Mr. Frink's testimony on the
19 next page of his testimony, where he talks
20 about potential refunds of incremental costs of
21 CNG as compared to propane. So I'm trying to
22 make sure that the various factors are taken
23 into account as somebody looks ahead down the
24 road, because Mr. Frink's testimony says this

1 can sometimes take many years before you get to
2 a positive return, but then you can look back
3 afterwards. So I want to make sure that people
4 are aware that there are other costs out there,
5 and if you want to look at the incremental cost
6 of one commodity compared to another, then all
7 things are taken into account.

8 PRESIDING CHAIRPERSON BAILEY: Can
9 you ask him to -- can you maybe rephrase your
10 question to ask him to assume a hypothetical?

11 MR. MULLEN: Sure.

12 MR. KREIS: I would just say for the
13 record that I join Staff's objection. This is
14 not relevant to the current proceeding. I
15 asked Mr. Frink about his reference to
16 "prudence," and he confirmed that it isn't
17 really germane to the decision that you're
18 being asked to make today. It's not germane to
19 anything that the Staff is asking you to do or
20 that the OCA is asking you to do. These
21 questions are relevant to some future
22 proceeding, potentially. And so it is
23 essentially a distraction here. And, you know,
24 just looking ahead to the three exhibits that

1 the Company has marked for identification,
2 they're extracts from a purchase-and-sale
3 agreement that the Commission approved back in
4 2014 or 2015. But they're just parts of that
5 overall agreement. And I'm just concerned that
6 we're going down a bit of a rabbit hole here.

7 (Off-the-record discussion between
8 Commissioners.)

9 PRESIDING CHAIRPERSON BAILEY: All
10 right. We're going to take a 10-minute recess
11 and we'll be back.

12 (Brief recess taken at 11:09 a.m.,
13 and the hearing resumed at 11:32 a.m.)

14 PRESIDING CHAIRPERSON BAILEY: All
15 right. I'm going to remind everybody once
16 again that we have not made a prudence
17 determination on this conversion, and we are
18 not making it in this case. With that, I'm
19 going to overrule the objection and allow you
20 to ask your questions and give the information
21 the weight that it deserves.

22 MR. MULLEN: Thank you.

23 PRESIDING CHAIRPERSON BAILEY: You
24 may proceed.

1 BY MR. MULLEN:

2 Q. Mr. Frink, were you involved in the
3 proceeding where Liberty acquired Keene?

4 A. Yes, I was.

5 Q. And that was Docket DG 14-155?

6 A. Yes.

7 Q. Do you recall from that proceeding that the
8 prior owner of Keene, Iberdrola, prepaid a
9 lease on the propane facility?

10 A. I do.

11 Q. And that had a fixed term; correct?

12 A. Yes.

13 Q. Do you recall the length?

14 A. It was 12 years and with the option to renew
15 for three additional years.

16 Q. Correct. So Liberty has to plan for the
17 termination of that lease; correct?

18 A. That lease will terminate. I don't know if
19 once it's up they couldn't enter into a new
20 lease or purchase a facility. But anyway...

21 Q. But you would agree that that's something
22 that the Company has to plan for as it looks
23 down the road.

24 A. Yes.

1 Q. And if you look at -- I think Exhibit 4 was
2 only discussing the payment. And it's
3 redacted, but it's not necessary to know the
4 amount. Exhibit 5 -- excuse me. Exhibit 5,
5 if you turn to what's marked as Page 3 of the
6 document at the bottom, there's also a Bates
7 number of 96.

8 A. I'm there.

9 Q. If you'd go to Section 5 in that document.

10 A. Term, yeah.

11 Q. If you read that section, is it correct to
12 say that -- and this document dates from
13 1998. Is it correct to say that at that
14 time, even that owner was looking for either
15 an alternative site or an alternative supply?

16 (Witness reviews document.)

17 A. Well --

18 MS. SCHWARZER: I'm sorry. Just to
19 the extent this calls for a legal conclusion,
20 the document speaks for itself I think.

21 MR. MULLEN: I'm just going by the
22 words on the document.

23 PRESIDING CHAIRPERSON BAILEY: And
24 are you asking him to agree that that's what

1 the words say?

2 MR. MULLEN: Yes.

3 PRESIDING CHAIRPERSON BAILEY: I
4 think he can answer that question.

5 A. So they could find an alternative site. This
6 allows them to find an alternative site.

7 BY MR. MULLEN:

8 Q. And if you turn to Exhibit 6, Page 3 of that
9 document, which has a Bates number of 64.

10 A. Okay.

11 Q. Section 5 I think discusses, in Part A, the
12 12-year term you talked about, and in Part B,
13 the three one-year potential renewals;
14 correct?

15 A. It does, yeah.

16 Q. And those renewals have a certain cost
17 associated with them for years, what did they
18 say, 14, 15 and 16; correct?

19 A. Yes.

20 Q. So with the current lease that was prepaid by
21 an owner, implicitly that means that there is
22 also a lease cost associated with the plant
23 now; it was just paid by the prior owner;
24 correct?

1 MS. SCHWARZER: Objection. I'm
2 sorry. I see the document, and certainly Mr.
3 Frink can read the document. I don't know
4 about the support for an "implicit" conclusion.

5 PRESIDING CHAIRPERSON BAILEY: Mr.
6 Mullen, are you asking him to get into somebody
7 else's head or understand an agreement that
8 somebody else made?

9 MR. MULLEN: No. I think, actually,
10 if I can refer back to Section 3, I think it --

11 MS. SCHWARZER: I'm sorry. Section 3
12 of this document?

13 MR. MULLEN: Correct.

14 A. Having been involved in that proceeding, I
15 know there was a settlement reached between
16 Iberdrola and the owners of the plant, and
17 there was a payment made. And part of that
18 settlement included essentially 12 years of
19 rent-free use of the plant.

20 BY MR. MULLEN:

21 Q. Rent free by whom?

22 A. By Iberdrola. Well, whoever the owner --
23 whoever they assigned it to or sold it to.
24 If they kept it, it would have been them.

1 Q. Is it correct that Section 3 says the buyer
2 has prepaid the agreed consideration -- I'm
3 paraphrasing -- for the initial 12-year term
4 of this supply agreement?

5 A. Yes, it does say the buyer has prepaid in
6 full the agreed consideration to be paid by
7 the buyer to seller for use of the property,
8 including all structures and equipment
9 thereon.

10 Q. So there is really a cost associated with
11 that.

12 A. That's what it reads.

13 Q. Okay. So this goes back to my discussion of
14 incremental costs before. So, even if you
15 look at the three-year renewals at the end
16 which were in Section 5 -- and those were
17 between \$71,300 and \$75,600; correct?

18 A. Yes.

19 Q. So, even if we got to those years, if you
20 assume that an average cost will be \$75,000,
21 that would add to --

22 MS. SCHWARZER: I'm sorry. Average
23 cost of what?

24 MR. MULLEN: Average annual lease

1 cost.

2 MS. SCHWARZER: For this property?

3 MR. MULLEN: In accordance with --
4 I'm looking at Section 5 here.

5 MS. SCHWARZER: So you're asking him
6 to assume that the average annual lease cost is
7 \$75,000?

8 MR. MULLEN: Yes.

9 PRESIDING CHAIRPERSON BAILEY: What's
10 the purpose of that question? Is it that if
11 the Commission ultimately finds that the
12 decision to convert was imprudent and we're
13 back discussing whether customers should be
14 refunded, the argument would be that this lease
15 cost should be taken into account?

16 MR. MULLEN: Yes.

17 PRESIDING CHAIRPERSON BAILEY: Okay.
18 I think that's going beyond what we need to do
19 today. You can argue that when we get to that
20 proceeding, if we ever do. Could you move on,
21 please.

22 MR. MULLEN: Sure.

23 BY MR. MULLEN:

24 Q. Also, before the Company does any further

1 conversion in Keene, is it correct that the
2 Commission has already ruled that any such
3 plans have to get approval by the Commission
4 before we go forward?

5 A. If I recall correctly, there's a risk-sharing
6 mechanism. And you can go ahead and -- under
7 the risk-sharing mechanism, the Company would
8 be subject to -- they could make the
9 investments, but they may not get to recover
10 those investments under the risk-sharing
11 mechanism.

12 Q. Are you familiar Docket 17-068?

13 A. 17-068 or 17-048?

14 Q. 17-048 --

15 A. The rate case.

16 Q. -- EnergyNorth's last distribution rate case.

17 A. Yeah.

18 Q. 17-068 was the docket where the Commission
19 ruled about whether we had the authority to
20 provide natural gas.

21 A. Oh, the declaratory ruling, yes.

22 Q. Yes. In that proceeding, the Commission has
23 a lot of reporting requirements. And is it
24 correct that before we do any conversion, we

1 have to submit information to the Safety
2 Division?

3 A. Yes.

4 Q. The Safety Division has to approve, and the
5 Commission has to approve the Safety
6 Division's approval?

7 A. That's for -- my understanding is that is to
8 ensure the safe operation, that your
9 operating manuals will accommodate that,
10 similar to when you did the conversion. I
11 don't think that's a prudence finding, it's
12 just a safety issue.

13 Q. The Company has to file financial forecasts
14 and DCF analyses; correct?

15 A. Yes, it does.

16 Q. So I guess I'm just trying to understand,
17 with all of those filings and all those
18 approvals required, how we might get to a
19 situation that you reference in your
20 testimony where the Commission might actually
21 find that it was imprudent to do so.

22 MS. SCHWARZER: Objection. Are you
23 asking him to assume that because there's
24 financial information that's filed, there's an

1 implicit prudence finding?

2 MR. MULLEN: I'm trying to understand
3 his testimony, and I'm trying understand from a
4 Company perspective how we could get to a point
5 that Mr. Frink references in his testimony
6 about if the Commission later finds it was
7 imprudent to do conversion, because I would
8 think that if we made a filing to go forward
9 and to convert certain parts of the system, and
10 the Commission looked at it and said don't do
11 it, I'm trying to understand how we could get
12 to the situation that's in Mr. Frink's
13 testimony.

14 A. Well, first, it doesn't have to be Staff that
15 could take that position. Any party could
16 take that position that it was imprudent.
17 You can -- the Company can invest. They've
18 already invested in a conversion that the
19 Rate Order 26, 122 said that the conversion
20 was not part of the -- it was not for safety
21 and reliability. It's all part of the
22 conversion cost. So the Company has gone
23 ahead and started their conversion from
24 propane to CNG. But there's never been a

1 finding that that was a prudent decision.
2 And the Company could go on and do Phase I
3 without prior approval, other than they'd
4 have to satisfy Safety that it's being done
5 safely. They're going to have to file DCF
6 analysis. But that doesn't require any kind
7 of, other than the safety aspect, Commission
8 approval, not the financial piece of it.

9 Q. Well, I'll let the Commission's orders in
10 17-068 speak for themselves on that.

11 A. Sure.

12 MR. MULLEN: I have nothing further.

13 PRESIDING CHAIRPERSON BAILEY: All
14 right. Commissioner Giaimo.

15 QUESTIONS BY COMMISSIONER GIAIMO:

16 Q. Mr. Frink, Commissioner Bailey parsed out the
17 fact that there were over-billings and they
18 were done through the -- they were done as a
19 result of the tariff heat rate that was in
20 effect. And then in the conversation you had
21 with Mr. Mullen, you said that there was no
22 way to retroactively apply that heat rate.

23 A. So, first, they're incorrect billings, in
24 that it could have been higher or lower. So

1 they may not have been over-billed; it could
2 have been under-billed. And the heat content
3 as measured coming out of the plant is part
4 of the conversion to natural gas. They put
5 in new equipment that would measure the heat
6 content for the gas and the propane and then
7 start -- and again, the billing system now
8 allows them to apply that to the bill. But
9 they were always paying the price -- all the
10 gas that was used in Keene was billed out to
11 customers, and some overpaid and some
12 probably underpaid based on the heat content.
13 But basically the unaccounted piece was just
14 part of the rate.

15 Q. I just want to make sure I understand it.
16 There's no way to reconcile this.

17 A. There's no way to reconcile it unless the
18 Company has records of the heat content for
19 every day of dispatch going back in time, and
20 I don't think they do.

21 Q. And if they did, do you, given your
22 expertise, think that would probably just be
23 di minimus or negligible?

24 A. It would be di minimus and expensive to

1 calculate.

2 Q. Okay. Thank you.

3 QUESTIONS BY PRESIDING CHAIRPERSON BAILEY:

4 Q. Mr. Frink, is it a foregone conclusion that
5 the Company -- it's impossible for the
6 Company to renegotiate a lease for the
7 existing propane plant?

8 A. No, that's not a foregone conclusion.

9 Q. Okay. Is it possible that the Company has
10 other alternatives to address that issue and
11 the issue of how it should serve its
12 customers in the future?

13 A. Yes.

14 Q. Did you hear the Company's witness testify
15 that the Commission has approved the
16 conversion?

17 A. I heard that, yes.

18 Q. Do you agree with that?

19 A. The Company [sic] approved the Company's
20 plans on how they would implement the
21 conversion. So, again, it comes down to the
22 Company -- the Commission determined that
23 they could safely operate a natural gas
24 facility to serve the Monadnock marketplace.

1 So that's what the Commission approved. The
2 Commission did not make a prudency finding
3 regarding the economics of it, but they did
4 give them the go-ahead to, from a safety
5 perspective, go ahead and do it if they
6 wanted.

7 Q. The Commission approved that the facility
8 that they had installed was now adequately
9 safe.

10 A. In their operating manuals, yes.

11 Q. Okay. All right. Thank you.

12 PRESIDING CHAIRPERSON BAILEY: Ms.
13 Schwarzer, do you have any redirect?

14 MS. SCHWARZER: I don't. Thank you,
15 Commissioner Bailey.

16 PRESIDING CHAIRPERSON BAILEY: Okay.
17 All right. Thank you for your testimony.
18 You're excused.

19 (Witness excused.)

20 PRESIDING CHAIRPERSON BAILEY: I
21 think with that we will move on to -- oh, we
22 have to decide about the exhibits.

23 I don't think that Exhibit 4 was
24 used, so I don't think that we need to strike

1 that for I.D. I think we will strike for
2 I.D. Exhibits 5 and 6, and 1, 2, 3, 7, 8 and
3 9, and we will give Exhibits 5 and 6 the
4 weight they deserve. With that, we'll close
5 the record and take closing statements.

6 Mr. Kreis, you want to start us
7 off?

8 CLOSING STATEMENTS

9 MR. KREIS: Thank you. I will just
10 say briefly that I believe that the Commission
11 should do as recommended by the Staff, as
12 communicated by Mr. Frink in his learned,
13 prefiled, written direct testimony. His
14 recommendation is that you approve the
15 Company's cost of gas filing in this docket,
16 with the caveat that incremental CNG costs are
17 subject to refund if the Commission determines
18 that the Liberty-Keene conversion to compressed
19 natural gas is imprudent. That's all I have to
20 say.

21 PRESIDING CHAIRPERSON BAILEY: Ms.
22 Schwarzer.

23 MS. SCHWARZER: Thank you. This is
24 the first winter period in which Liberty-Keene

1 will be serving some customers with CNG. Staff
2 has reviewed Liberty-Keene's cost of gas filing
3 as revised on October 17th, 2019, and as
4 highlighted in changes in Exhibit 9, and
5 recommends that the Commission conditionally
6 approve the proposed rates, with the
7 understanding that if the Commission ultimately
8 finds the conversion of the Keene system to
9 natural gas was imprudent, then the incremental
10 costs of that conversion recovered through the
11 cost of gas should be subject to refund. In
12 order to determine CNG supply savings and
13 costs, Liberty-Keene should track actual CNG
14 costs, compare it to what the costs would have
15 been if propane had been purchased, and report
16 the results in its summer and winter cost of
17 gas reconciliations.

18 The Commission Audit Staff issued
19 its final report on its review of the 2018
20 2019 period cost of gas reconciliation and
21 identified one issue. But in a subsequent
22 memo, the Audit Staff stated that the matter
23 had been addressed and was no longer an
24 issue. Thank you.

1 PRESIDING CHAIRPERSON BAILEY: Ms.
2 Schwarzer, I have a question for you. If the
3 cost of CNG goes below the cost of propane, and
4 the Company lowers the cost or has to account
5 for that in reconciliation, would it make
6 sense, if the Commission determined that the
7 conversion was not prudent, to then charge
8 customers more to make up that difference?

9 MS. SCHWARZER: I don't think I
10 understand your question. I'm sorry. If the
11 overall cost of CNG over whatever period of
12 time it takes to expand or develop the business
13 that they're developing now were to result in a
14 cost that's lower than the air propane cost,
15 then I would imagine, assuming all costs are
16 accounted for, that that would have been a
17 prudent investment. Does that answer your
18 question? Subject to you -- I mean, it's your
19 decision. But it certainly would be useful
20 were CNG to develop and result in a lower cost
21 to the customers in Liberty Keene's area.

22 PRESIDING CHAIRPERSON BAILEY: Okay.
23 Thank you.

24 Mr. Mullen.

1 MR. MULLEN: Thank you. The Company
2 requests that the Commission approve the cost
3 of gas rate and the FPO rate as filed and as
4 subsequently revised, including the tariff
5 pages that include the changes to the LDAC.

6 Regarding the whole discussion
7 about prudence and all that, the Company
8 doesn't believe that the Commission, you
9 know, needs to put us on notice of anything
10 there. And in terms of, you know, the
11 incremental supply costs, as we were trying
12 to discuss today, there's some other things
13 that go into that. And if it's a matter of
14 just comparing one commodity to the other,
15 that's one thing, but if there are other
16 costs associated, I think those are things
17 that would all need to be taken into account
18 down the road. But the Company is confident
19 that we won't get there. Thank you.

20 PRESIDING CHAIRPERSON BAILEY: All
21 right. With that, we will adjourn the hearing
22 and take the matter under advisement and issue
23 an order as quickly as possible. Thank you.

24 (Hearing was adjourned at 11:56 a.m.)

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I, Susan J. Robidas, a Licensed
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