STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

April 19, 2021 - 12:16 p.m.

[Remote Hearing conducted via Webex]

RE: **DG 21-050**
LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP. d/b/a LIBERTY-KEENE DIVISION:
Summer 2021 Cost of Gas.
(Hearing regarding the issue of the cost of gas rates portion only)

PRESENT: Chairwoman Dianne H. Martin, Presiding
Commissioner Kathryn M. Bailey

Doreen Borden, Clerk
Corrine Lemay, PUC Remote Hearing Host

APPEARANCES: **Reptg. Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty-Keene Division:**
Michael J. Sheehan, Esq.

Reptg. Residential Ratepayers:
Christa B. Shute, Esq.
Office of Consumer Advocate

Reptg. PUC Staff:
Mary E. Schwarzer, Esq.
Stephen Frink, Dir./Gas & Water Div.
Randall Knepper, Dir./Safety Division

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

I N D E X

E X H I B I T S

EXHIBIT NO.	**D E S C R I P T I O N**	**PAGE NO.**
1	Summer 2021 Cost of Gas filing, including a Table of Contents, Testimony of Deborah Gilbertson and Catherine McNamara, Tariff Pages, and Schedules **(CONFIDENTIAL VERSION)**	*premarked*
2	Summer 2021 Cost of Gas filing, including a Table of Contents, Testimony of Deborah Gilbertson and Catherine McNamara, Tariff Pages, and Schedules *(REDACTED - For PUBLIC Use)*	*premarked*
3	Order of Notice	*premarked*
4	Confirmation of the Executive Director of posting	*premarked*
5	Liberty Response to Staff 1-1 *(REDACTED - For PUBLIC Use)*	*premarked*
6	Liberty Response to Staff 1-1 **(CONFIDENTIAL VERSION)**	*premarked*
7	Liberty Response to Staff 1-3	*premarked*
8	Liberty Response to Staff 1-7 and attachment	*premarked*
13	Liberty Response to Staff TS 1-4 and attachments *(REDACTED - For PUBLIC Use)*	*premarked*

E X H I B I T S *(continued)*

EXHIBIT NO.	**D E S C R I P T I O N**	**PAGE NO.**
14	Liberty Response to Staff TS 1-4 and attachments **(CONFIDENTIAL VERSION)**	*premarked*
15	Stephen Frink Proposed Modifications *(REDACTED - For PUBLIC Use)*	*premarked*
16	Stephen Frink Proposed Modifications **(CONFIDENTIAL VERSION)**	*premarked*
17	Direct Testimony of Stephen P. Frink as submitted in Docket No. DG 20-152 as Exhibit 9	*premarked*
19	**RESERVED** *(For record request to describe the process for determining interest on over- and under-collections, and why, as described on Bates 005 of the Gilbertson/McNamara testimony, there is a charge of $150 for interest associated with a ($7,009) over-collection. Please reference Schedule F from Bates 023 of the Company's filing)*	102

REPORTER'S NOTE: *The missing exhibit numbers from the list above were used for "ID only" and not entered as full exhibits in this proceeding.*

P R O C E E D I N G

CHAIRWOMAN MARTIN: We're here this afternoon in Docket DG 21-050 for a hearing regarding the Liberty Utilities Corporation's Keene Summer 2021 cost of gas filing.

I still have to make remote findings in order to hold this hearing.

As Chairwoman of the Public Utilities Commission, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic, and in accordance with the Governor's Emergency Order Number 12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to this hearing, which was authorized pursuant to the Governor's Emergency Order.

However, in accordance with the Emergency Order, I am confirming that we are utilizing Webex for this electronic hearing. All members of the Commission have the ability to communicate contemporaneously during this hearing, and the public has access to contemporaneously listen and, if necessary, participate. We previously gave notice to the public of the necessary information for accessing this hearing in the Order of Notice. If anyone has a problem during the hearing, please call (603)271-2431. In the event the public is unable to access the hearing, the hearing will be adjourned and rescheduled.

Okay. We have to take a roll call attendance. My name is Dianne Martin. I am the Chairwoman of the Public Utilities Commission. And I am alone.

Commissioner Bailey.

COMMISSIONER BAILEY: Good afternoon, everyone. Kathryn Bailey, Commissioner at the Public Utilities Commission. And I am alone.

CHAIRWOMAN MARTIN: Okay. And let's take appearances, starting with Mr. Sheehan.

MR. SHEEHAN: Good afternoon. I'm Mike Sheehan, for Liberty Utilities (EnergyNorth Natural Gas) Corp.

CHAIRWOMAN MARTIN: Good afternoon. And Ms. Schwarzer.

MS. SCHWARZER: Mary Schwarzer, Staff

Attorney at the PUC.

CHAIRWOMAN MARTIN: And Ms. Shute.

MS. SHUTE: Good afternoon. Christa Shute, Staff Attorney for the Office of the Consumer Advocate, on behalf of residential customers.

CHAIRWOMAN MARTIN: Okay. Thank you.

I have Exhibits 1 through 21 prefiled and premarked, although 19 and 20 have been reserved. Is there any update related to those?

MS. SCHWARZER: Madam Chairwoman, Staff agreed to file a joint witness list. And, when the updated list was filed, it was not clear to me that the exhibits were going to be filed in the form that they have been tentatively provided. So, I didn't include them, I just put in placeholders.

Liberty filed its exhibits I think Friday afternoon, and provided them Thursday night.

CHAIRWOMAN MARTIN: Mr. Sheehan, would you like to speak to that?

MR. SHEEHAN: Sure. We filed Exhibits 1 and 2, the filing, confidential and redacted, on Wednesday, I think it was Wednesday, I'm losing track of the days, but certainly timely.

Based on exhibits that Staff subsequently filed, and the shortness of time in discovery responses, we did file 19 And 20 after the two-day rule, so to speak, and those are 20 and 21. And, of course, we would ask that the Commission accept those as full exhibits at the end of this hearing, if appropriate.

CHAIRWOMAN MARTIN: And that's 19 and 20?

MR. SHEEHAN: You know, I've got in my handwriting "20" and "21", but I may be remembering the numbers wrong unfortunately.

CHAIRWOMAN MARTIN: I had 21 as a Staff exhibit.

MR. SHEEHAN: You're correct. It's 19 and 20 from the Company. My apologies.

CHAIRWOMAN MARTIN: Okay. Thank you. Anything else related to exhibits?

MR. SHEEHAN: Just to say the usual, that we are asserting confidentiality of the filing and some of the exhibits under the rule that presumes confidentiality of such information in cost of gas filings, which is Puc 201.06(a)(11), and applies to discovery responses, which Staff has marked as well.

CHAIRWOMAN MARTIN: Note that as well. Ms. Schwarzer.

MS. SCHWARZER: Thank you, Madam Chairwoman.

Staff also made a late filing on Wednesday, for Exhibits 3 through 18, just due to the magnitude of what we were trying to get in in the expedited timeframe. So, we are also asking for a waiver. Liberty and the OCA have assented to our request. So, I would just ask the Commission to waive that late filing.

And, for 21, Liberty's -- Staff's technical questions to Liberty included a request for photographs and marked site plans that were not provided. And, so, we filed our Exhibit 21 in order to address some of the issues that the photographs best address. We would ask that this be admitted late as well.

CHAIRWOMAN MARTIN: Okay. We will waive the requirement and admit both Liberty and Staff's late filings, and determine whether to admit those as full exhibits at the end of this proceeding.

Any other preliminary matters before we get started?

MR. SHEEHAN: If I may, Chairwoman. This case will likely have a couple issues that are not the usual cost of gas issues. And I would like permission to give a literally two-minute opening to give the Commission a heads up of what's coming. And I understand Ms. Schwarzer, I told her I was going to request that, and, obviously, she and, of course, the OCA could as well.

CHAIRWOMAN MARTIN: Okay. I want to note that I am having intermittent broadband issues. So, I will let you know if that continues.

I did hear that you're asking to make an opening. I missed a little bit of that.

Ms. Schwarzer, I see your hand is up.

MS. SCHWARZER: Thank you, Madam Chairwoman.

Before we go to openings, I wonder if we could talk about the structure of the hearing.

It would seem to me prudent to do rates first with the Liberty panel and a Staff panel, and then move to the other issue with regard to the new proposed contract. That would guarantee that we get the information we need with regard to rates, and perhaps better organize the proceeding.

CHAIRWOMAN MARTIN: Any objection to proceeding in that way?

MR. SHEEHAN: None from the Company. Although, the rates witnesses, Ms. Gilbertson and -- mostly Ms. Gilbertson, does have some information relevant to the other topic. And I was planning to ask her right at the outset, so that will already be out there, and probably would be no need to recall her later, although we would reserve the right to. But that was my plan.

CHAIRWOMAN MARTIN: I presume she will still be available?

MR. SHEEHAN: Correct.

CHAIRWOMAN MARTIN: Okay. All right. Then, why don't we proceed in that way, and start with openings. Mr. Sheehan.

MR. SHEEHAN: Thank you.

First, the Company is asking for approval of the rates as filed. The opening witnesses, Ms. Gilbertson and Ms. McNamara, will address three relatively minor issues that were discussed at the tech session and through discovery that affect the rates. And, shorthand, one of them is the treatment of the incremental CNG costs from last summer, and we have agreed with Staff's suggestion in that regard. The second is to provide the update of futures prices through Friday, I believe, and they will describe that impact. And third is the issue of how to allocate the CNG demand costs, whether it's 80/20, as the Company proposes, or 75/25, as the Staff proposes. And we'll get into the details. But that's the core of the cost of gas proceeding.

As Ms. Schwarzer mentioned, there will be another discussion over the non-price language in the CNG contracts. Just so you know, to put a context in the evidence, Liberty's position is that it is not relevant to this proceeding, because (a) we did not seek approval of that contract, we are seeking approval of some of the costs in that contract that are embedded in rates; (b) any inconsistencies between that contract and our O&M manuals and applicable law, can be and will be addressed by a contract amendment that we have marked; and (c) because there is no -- nothing in front of the Commission that is ripe for discussion on these non-price terms, we think that the Commission doesn't need to get into that, and would only be if the Company came back later and sought recovery of costs coming from those non-price terms or some other reason that it would be appropriate to dive into the reasonableness of that contract.

So, that's sort of the outline of how we see the case going. Thank you.

CHAIRWOMAN MARTIN: Ms. Shute, did you want to make an opening?

MS. SHUTE: No thank you.

CHAIRWOMAN MARTIN: Okay. And Ms. Schwarzer.

MS. SCHWARZER: Thank you, Madam Chairwoman. I would like to address the issues that Mr. Sheehan has raised.

In this matter, particularly in the context of previous hearings for the winter cost of gas, Liberty has put the contract terms at issue in a variety of ways. In this filing, in a response to Tech Question 1-2, in Exhibit 11 **[10?]**, Liberty explicitly took the position that the underlying contract was reasonable, because it had already been found reasonable by this Commission in prior dockets, and that the new contract was much like the current contract. It's a legal position that Staff disagrees with.

Liberty has also taken a position in the winter docket that, by the mere act of approving prospective rates in a cost of gas proceeding, the Commission has implicitly found the underlying contract reasonable. Again, a position that Staff disagrees with.

In the prefiled testimony in this docket, Liberty's witnesses explicitly addressed that there was a new contract, discussed the procedure for its selection, and put at issue that new contract. And the Commission's own Order of Notice describing the scope of this hearing includes the justness and reasonableness of rates, fares, and charges, supplier prices, operational issues, the revenue and rate impacts resulting from the proposed rate change, and the calculation of per therm costs for both propane air and the CNG.

Although Liberty has tried to suggest that there's a difference between non-price and price aspects of the contract, because there are significant issues with the contract, in terms of its compliance with Puc 506.01, and orders in what we call the "franchise docket", docket 17-068, as well as what Liberty has already conceded are inconsistencies and contradictions with the procedural manual and the emergency manual, as approved by Safety, and with regards to the CNG facility, there may very well be costs and concerns, and there are certainly safety -- significant safety concerns with proceeding with the contract as drafted.

Whether or not it's appropriate to discuss Liberty's proposed amendment, as of this time, XNG has certainly not signed the amendment, and a contract is really only amended if all the parties agree to do that.

Staff has a proposed remedy for moving forward, and is not interested in an explicit determination by the Commission as to whether specific terms are reasonable or unreasonable. But both because the Staff believes the Commission must direct Liberty to resolve the problems, specifically within the language of the four corners of the new contract, and to respond to the articulated arguments that somehow by adjudicating the rate, the Commission would find the contract implicitly reasonable overall, we're asking the Commission to address the issues Staff has raised and to permit Staff to be heard on the new contract issues.

CHAIRWOMAN MARTIN: Are you all done, Ms. Schwarzer?

MS. SCHWARZER: I am. Thank you, Madam Chairwoman.

CHAIRWOMAN MARTIN: Okay. I have a question for Mr. Sheehan.

Mr. Sheehan, is it your position -- you said that "Liberty is not seeking approval of the contract as part of this." Is it your position then, you just heard Staff's concerns related to approving the cost of gas rates somehow resulting in an implicit finding that the contract itself is reasonable, that seems inconsistent with what you just said. Can you respond to that and articulate your position here today?

Because I think, frankly, what may make sense is to bifurcate the issue related to the other contract terms, and have further process related to that, which would give Staff, Liberty, and the OCA an opportunity to have further discussions related to that, which I frankly don't think we need to get into today, if you are in agreement that approval of the cost of gas rates would in no way constitute approval of the contract as a whole?

MR. SHEEHAN: I agree with your proposal going forward at the end, of carving this off and not having to deal with it today. And I can say clearly that a approval of the rates in this case, based on the CNG rates in that contract, we will not consider it approval of the other terms of the contract.

And, to the extent our argument, our

statements in those regard in the past weren't as clear, it's partly because this other issue of the conflict between the contract and procedures wasn't raised. And, so, we didn't articulate it in the past as "approval of rates equals approval of contract", but we didn't mean it in the sense of the whole contract, we meant it in the sense of the rates in that contract.

So, here we have been asked to be a little more specific, and we can be, to say our position is approval of rates is a finding that those rates are reasonable, and is not a finding that the balance of the contract is reasonable. And I can -- I'll be happy to articulate that in any way that best satisfies the Commission and the parties.

CHAIRWOMAN MARTIN: Okay. Thank you for that.

Commissioner Bailey.

COMMISSIONER BAILEY: Thank you.

Mr. Sheehan, if we approve the rates in the -- if we approve your proposed rates, would you interpret that to mean that we, in some way, believe the contract is prudent or the rates in the contract are prudent?

MR. SHEEHAN: Our interpret -- if you approve the rates as filed, and Mr. Frink's alternate proposal is also based on those same rates coming out of the CNG contract, our argument is that you have made a finding that the dollar amounts in that CNG contract are reasonable, because they form the basis of rates that you have found are reasonable.

So, yes. To that limited extent, you have approved those terms of the contract. And what I'm happy to say today is that's as far as we will ever argue that that -- going forward, that's what we will argue, is that the finding of rates as reasonable equals the finding of the costs charged under the contract are reasonable, and nothing further.

I hope I answered your question.

COMMISSIONER BAILEY: I think so. But, if the Commission approves the rates in the contract as reasonable, but the actual rates are much higher, can the Commission find that the contract was not prudent at a later date?

MR. SHEEHAN: This is an issue with all

contracts that feed into cost of gas rates. I mean, rates are based on supply contracts and capacity contracts; some of them are fixed, some of them are variable. And, when the Commission approves a cost of gas rate, it is doing so knowing that some of them are fixed and some of them are variable. And, so -- and this is a perfect example. The CNG contract has a fixed demand charge. So, if you approve rates that have that fixed demand charge built into it, you are necessarily finding that that fixed demand charge is reasonable. And, if you're approving rates that are based on a NYMEX plus, yes, NYMEX can change and the costs can go up and down, so you see what makes that, allowing that to happen.

And that's the same with all cost of gas all the time. So, that's how we see it.

COMMISSIONER BAILEY: Thank you.

CHAIRWOMAN MARTIN: Ms. Schwarzer.

MS. SCHWARZER: If Commissioner Bailey is finished, I did have a concern that I wanted to address with Liberty's argument. Thank you.

Which is that the significant ways in which the contract is inconsistent with the PUC rules and orders from the franchise docket have been gone over before, and Liberty certainly had notice that the terms were at least inconsistent from Staff's perspective.

And, so, my concern here is that there are safety -- there are ambiguities with regard to safety requirements and responsibility for operating and tracking and monitoring, as well as ambiguity regarding Liberty's status, and whether the contract might perhaps be void or voidable. They're not small issues. I suggested that we go into confidential status to discuss Staff's concerns, and Liberty declined and said it didn't think it was necessary.

So, because Liberty has introduced its Exhibit 20, it seems to think these concerns can be remedied simply by incorporating by reference 86 pages of procedural manuals that do not explicitly -- and not explicitly resolving ambiguities or contradictions in any way.

So, at the very least, Staff would like to be able to proceed and get some direction from the Commission about the specificity or the problems at issue, because this new contract will go into effect July 1st. And, if the parties can't reach agreement as to even the scope of the issue and how specifically it must be addressed, i.e., within the four corners of the contract or not, I don't anticipate us making much progress.

CHAIRWOMAN MARTIN: But, Ms. Schwarzer, do you disagree that the cost of gas rates could be determined today or heard today, and separately address those issues you just raised at a later date? If the Commission were to order that to happen and by bifurcate this proceeding, do you agree that we can proceed with the rates here? Or, it sounded like you may be suggesting that these issues may be so significant that they could undermine that whole contract, which could have an impact on the rates. Can you address that?

MS. SCHWARZER: Yes. It certainly gives me no pleasure to raise these significant concerns, but they are, in fact, fundamental. And, to the extent that whether or not XNG is willing to make the changes, there may be other parties, such as XNG's third party insurer, that are not interested in making the changes that might be necessary.

In particular, the contract from the getgo describes Liberty as an "end-user", when, by plain definition, *Merriam's* online dictionary, an "end-user" is "an entity that makes use of the product." And Liberty is a utility. It redistributes CNG. It is not an end-user of the product. And there is a New York State case for its Public Utilities Commission that very clearly establishes how a CNG facility must be treated and must be seen.

And, so, were there to be some sort of event with 12,000 gallons leaking into the ground, the demarcation point and the delivery point, which are defined ambiguously and then somewhat contradictorily in the existing new contract, could be quite relevant as to who is responsible for liability and how the parties would proceed.

So, because -- and because the very contract itself is premised on Liberty's status as an end-user, because Liberty is not, in fact, an end-user, one might imagine a diligent insurer challenging any of the terms as they might or might not apply.

So, I think it's important for the Commission to hear some of the concerns, and at least perhaps set a schedule for Liberty's drafting terms within the four corners of the contract that are in compliance with the franchise docket orders and Puc 506.01, and the procedural manuals that took such time for the Staff and OCA's review and the Commission's ultimate approval.

These are not small issues. And, in fact, the current contract, Liberty has taken the position in Exhibit -- I believe it's Exhibit 10, the answer to Tech Session 1-2, Mr. Mullen opined that the Commission had already found the existing CNG contract reasonable. And that, therefore, because the terms are very similar, the terms in this contract were also reasonable. Staff disagrees with that position.

CHAIRWOMAN MARTIN: For clarity, though, Ms. Schwarzer, are you saying that we cannot proceed to make a determination on rates until those issues are resolved?

MS. SCHWARZER: It's hard to address in

this factual situation, since the current contract is so similar to the existing one. And I do believe there are similar risks in both. It would be up to the Commission to decide if it wanted to proceed to allow a contract to go into effect in July, without the impetus behind the parties to reach resolution before that July 1 effective date.

It is not difficult to imagine a scenario where everyone agrees that this will be addressed later. But come next summer cost of gas, where Summer 2021 costs are reconciled as prudent, and we haven't necessarily made headway on what Liberty must require XNG to do. XNG is not subject to the Commission's jurisdiction directly. And I certainly don't doubt that they are eager to sell CNG to Liberty, and perhaps even eager to make the changes that are necessary, which I believe Mr. Knepper would testify are not extensive. The Commission is not -- excuse me -- Staff is not interested in reviewing the contract overall in every detail, but only in highlighting those points where the current contract, which will go into effect July

1st, directly contradicts orders and administrative rules about what and how Liberty operates as a utility.

And if the Commission -- it's for the Commission to decide. But I do think it's in the ratepayers' interests, and even Liberty's interest, for guidance from the Commission about the scope of what changes must be made and when they must be made. And Staff would propose that these changes be made and approved by the Commission no later than the end of June, and that Liberty make changes within the four corners of the contract by May 15th, so that Staff -- we can certainly discuss it before then. I ask that the new contract matters be addressed, because I do think they're significant, and I think the Commission needs to be aware of what they are.

CHAIRWOMAN MARTIN: Getting back, though, to the underlying question. It sounds like you are saying we can proceed with setting the rate today, and those issues can be addressed. Your certain is just with making sure that they are addressed prior to this contract going into effect, is that right?

MS. SCHWARZER: I believe, if Liberty is willing to go on the record, both that approving the proposed rates does not mean that the contract is reasonable, and I'm not sure what to do with its position that the Commission has already found a relatively identical contract reasonable. I find that troubling.

If there were some guarantee that the terms would be resolved before the contract goes into effect, I think that would be acceptable.

CHAIRWOMAN MARTIN: Mr. Sheehan, do you want to respond to that? I mean, my sense of this is that, if there is some suggestion that we can't set rates based upon this contract, that you all should go off and do that work now. You've already got an amendment filed, although I do see a difference between that and what you put in your communications last week. So, I would ask you to look at that language change. But what is your response to this?

MR. SHEEHAN: First, to clarify, what was said in the data response Ms. Schwarzer just referred to of Mr. Mullen, what he said was "the Commission has previously approved CNG costs under a CNG contract with similar terms." We did not make the allegation that the Commission has previously approved a full contract with these so-called "contradictory terms".

To answer your question, I don't think there is anything in these non-price terms that needs to be resolved in order to approve rates. There are two ways we can satisfy Staff's concerns. One is the amendment I proposed, and admittedly, that was done quickly, because this all came to a head in the middle of last week. And, so, what I think I put in the data response and what I put in the amendment did change over those couple days.

But the gist of it is obviously that the Company is absolutely clear that the O&M procedures and the laws and the rules are what govern our entire operation of the CNG skid, and Mr. Rokes is here to say just that. He does not pick up the contract and say "what does that tell me to do?"

Second, the revision is either to make that --

CHAIRWOMAN MARTIN: If I could

interject, Mr. Sheehan. Just for clarity, to the extent an amendment is entered into, if you can make sure it's more consistent with that language than with what you put in the -- what was actually filed with the Commission. I think that's a lot clearer.

MR. SHEEHAN: Okay.

CHAIRWOMAN MARTIN: Apologize for interjecting.

MR. SHEEHAN: No, that's okay. And that's fine.

And the other way to fix the contract is to strip out everything that has to do with operation and make it clear it's a simple supply contract. That XNG just promises to deliver X quantity gas at Y price "period". And not even, you know, not even spend any time on operations, other than to incorporate the Company's O&M.

So, either way, we can get there without affecting today's hearing on COG rates.

CHAIRWOMAN MARTIN: I see your hand, Ms. Schwarzer. I just want to go to Ms. Shute, to see if she has anything she would like to say at this point?

MS. SHUTE: Thank you, Chairwoman Martin.

I just want to comment on the original question around whether or not approval of rates in this case, based on the CNG rates in the contract, would be -- would mean that the contract -- the rates in the contract were reasonable. And just bring into the discussion what I am sure that this Commission knows, but to put it on the record that, in the last cost of gas proceeding, the last order, we stated that "whether incremental CNG costs should be recovered requires a consideration of delivery and supply factors, as well as a prudence review of the Keene conversion itself, matters that are to be addressed in Liberty's pending rate case, in Docket Number DG 20-105."

And, so, to the degree that we're talking about the approval of rates, I just wanted to bring back into the discussion the exclusion of incremental costs, which is related to the question of the third item that Mike -- I'm sorry, that Mr. Sheehan alluded to to be addressed in this proceeding.

And I think that we can establish rates with that condition, and the condition of addressing the contract issues, you know, before July 1st.

CHAIRWOMAN MARTIN: Thank you, Ms. Shute. Ms. Schwarzer.

MS. SCHWARZER: Thank you, Madam Chairwoman.

I think we could proceed to have the Commission consider and prospectively approve the proposed rates contingent upon resolution of the underlying contract matters. I'm certainly supportive of that model.

CHAIRWOMAN MARTIN: Mr. Sheehan.

MR. SHEEHAN: The problem there is simply, mechanically, can it get done? The rates are set to go into effect May 1. So, I just raise that.

I do think, again, the issues Staff has with the contract do not affect rates. They affect the way we operate the skid and what rules govern the operation of the skid. And I don't think there's any disagreement. I think it's simply a matter of making sure all parties are comfortable with how the contract reads. And that's something we can certainly do in a matter of weeks, not months.

CHAIRWOMAN MARTIN: And there's no question that the administrative rules and the laws apply, regardless of what your contract says, correct?

MR. SHEEHAN: And that's been part of my point in this conversation is, contracts don't violate rules; people operating violate rules. So, yes.

And it doesn't -- at some level, it doesn't matter what it says in the contract. We acknowledge it should be cleaned up. But it does not govern how we operate. In fact, Mr. Knepper looks at our rules -- the rules and our manuals to decide whether we are operating properly.

CHAIRWOMAN MARTIN: Okay. Thank you, Mr. Sheehan.

Ms. Schwarzer, I'm going to take your response, and then I'm going to take a five-minute recess so the Commission can discuss, and we'll come back.

MS. SCHWARZER: Thank you, Madam

Chairwoman.

In this instance, although certainly, normally -- well, in this instance, the contract as drafted does, in fact, make ambiguous where the demarcation point and the delivery point are and whether -- and they seem not to match where the responsibility for Liberty -- where Liberty must assume responsibility for the CNG facility.

So, Liberty's assertion that the contract language is not relevant to the Commission's authority here is incorrect, because, to the extent it is inconsistent, XNG might not be responsible at all for costs and problems or issues. That would certainly have a bearing on ratepayers.

So, while, certainly, we can resolve the rates in this instance as proposed, with regard to the information Liberty has provided and market rates, and the Commission can consider whether those are reasonable or whether they should be modified as Staff suggests, it is artificial for Liberty to suggest that a contract that defines the transfer responsibility as the delivery point at the meter right at the end of the CNG process, doesn't contradict and control with regard to XNG and Liberty what the procedural manual says, which is it's the demarcation point off the back of the CNG truck. Those are simply different. There is nothing in the contract as written that refers to anything that the Commission has approved with regard to procedures or emergency operation. And that is -- that's relevant.

That said, of course, Staff will proceed as the Commission wishes. We would ask that the contract be reformed by July 1st. The existing contract is what it is. Either Liberty's view is that it's been found reasonable; Staff's view is that the current contract has not been found reasonable. But, certainly, it makes sense to have a new start, a clean slate, a contract going forward on July 1 that meets the safety requirements, and includes reasonable rates.

Thank you, Madam Chairwoman.

CHAIRWOMAN MARTIN: Commissioner Bailey, any questions before we recess?

(Commissioner Bailey indicating in the

negative.)

CHAIRWOMAN MARTIN: Okay. We'll take a five-minute recess.

(Recess taken at 12:51 p.m. and the hearing resumed at 12:59 p.m.)

CHAIRWOMAN MARTIN: Okay. Let's go back on the record please.

All right. The Commission discussed this, and we will bifurcate the issue related to the terms of the contract that we were discussing that are not cost terms. And we will ask that Liberty work with Staff and the OCA to come up with amendment terms that are consistent with the applicable rules and laws, and file an executed amended contract by June 1st, or we will hold a further hearing on that issue.

Okay. And, with that, let's proceed with the cost of gas rate portion of this proceeding, and get the witnesses sworn in please, Mr. Patnaude.

(Whereupon ***Deborah Gilbertson*** and ***Catherine McNamara*** were duly sworn by the Court Reporter.)

CHAIRWOMAN MARTIN: Mr. Sheehan.

MR. SHEEHAN: Thank you.

DEBORAH GILBERTSON, SWORN

CATHERINE McNAMARA, SWORN

DIRECT EXAMINATION

BY MR. SHEEHAN:

Q Ms. McNamara, please identify yourself and your role with liberty?

A (McNamara) My name is Catherine McNamara. I'm a Rates Analyst for Rates and Regulatory Affairs for Liberty.

Q Ms. McNamara, did you prepare at least a portion of the Company's filing, which has been marked as "Exhibit 1", confidential, and "Exhibit 2", redacted?

A (McNamara) Yes, I did.

Q Do you have any corrections to that filing you'd like to make before we go ahead with this hearing?

A (McNamara) I do have one correction.

Q And what is that?

A (McNamara) On Bates Page 016, which is marked "Tariff Page 85", the distribution rates were incorrect for the Gas Assistance Program, Rate Code R-4. The correct delivery charge should have been "$15.50", and the correct volumetric charge should have been "0.5678" cents per therm for all therms. The total --

Q Thank you. Does this -- go ahead.

A (McNamara) Sorry. The total customer charge fixed rate portion is "15.50", and the total volumetric charge, including the cost of gas and LDAC, is "$1.8432".

Q Does this correction change any other aspect of the rates we are seeking approval for today?

A (McNamara) No, it does not. This does not impact the cost of gas rate. And the bill impact schedules are created on R-3 customers only.

Q So, there are no -- there's no reason to change the bill impact either, correct?

A (McNamara) Correct.

Q Can you tell us what the proposed cost of gas rate the Company is seeking approval of today?

A (McNamara) We are seeking approval of a $1.2165 per therm cost of gas rate.

Q And this is the cost of gas rate that was in that initial filing, Exhibits 1 and 2, is that correct?

A (McNamara) Correct.

Q And, although there were some conversations of some adjustments, and we'll get to them in a moment, the agreement among the parties was that we would proceed with approval of this rate, and address those adjustments through the monthly adjustment filing. Is that your understanding?

A (McNamara) That is my understanding, yes.

Q Okay. Can you compare the rate that you just mentioned for approval today with the rate customers paid over the course of last summer?

A (McNamara) Yes. Hold on one second.

So, last summer, the average customer rate was 0.7049 cents per therm. And the difference is $51 -- "$51" -- 0.5116 cents.

Q And that's the difference between the rate we're seeking to be approved today with the rate the customers paid over the course of last summer. Is that correct?

A (McNamara) Correct.

Q And what is the impact of that rate differential? How much more are customers paying this summer over the course of the summer period?

A (McNamara) Let's see. The total bill impact is -- sorry, I'm just -- I had compared it against a different factor, I believe. I just want to make sure I give you the right information.

Okay. So, the total bill impact is $45.08 over the six-month summer period, or 21.6 percent.

Q And that's the total bill impact. Have you carved out the cost of gas impact from last summer to this proposed rate?

A (McNamara) Yes. The cost of gas impact is $44.52, or a 72.6 percent increase.

Q As mentioned earlier, there were a couple adjustments discussed, and let's go through each of them.

The first involves the --

MS. SCHWARZER: Objection.

CHAIRWOMAN MARTIN: Ms. Schwarzer.

MS. SCHWARZER: Thank you, Madam Chair. I believe the tech session discussions Mr. Sheehan is referring to were in the context of settlement. So, I have no objection to him putting on the rates or discussing implementation, and if they agree to modifications now, that's fine.

But I do object to a discussion of what was said under the context of settlement in the tech session.

CHAIRWOMAN MARTIN: Mr. Sheehan, do you have a response to that?

MR. SHEEHAN: We never mentioned the word "settlement discussion" during the tech session. I thought it was a regular tech session, which is open to the public and not confidential.

CHAIRWOMAN MARTIN: Ms. Shute, were you involved in the tech session?

MS. SHUTE: I was, and I -- maybe I should check with my colleagues, but I don't remember it being a settlement agreement. I assumed that this was going to hearing, so --

CHAIRWOMAN MARTIN: Do you need to check with your colleagues?

MS. SHUTE: Just to ask --

CHAIRWOMAN MARTIN: Do you need to put this on the record right now, Mr. Sheehan?

MR. SHEEHAN: No. We can move on and come back to it.

CHAIRWOMAN MARTIN: Okay. Thank you.

BY MR. SHEEHAN:

Q I think what prompted it was saying "there were three adjustments that were at least discussed", and I'm not asking for that discussion now. I'm asking for a description of those three adjustments, and what the Company is proposing today.

The first has to deal with what's been called the "incremental CNG cost". That is the difference, the slightly higher CNG costs spent last summer than propane. How did the Company propose to -- initially propose to deal with those 2020 incremental costs?

A (McNamara) Initially, we proposed to deal with that in the first rate adjustment.

Q And, when you say "deal with it", what is it that we're going to do? We were going to remove them, is that right?

A (McNamara) Correct. We're going to remove the incremental CNG costs from Summer of 2020.

Q Okay. And the Company agrees to do that, is that correct?

A (McNamara) Correct.

Q And we propose to do that in the first monthly

what we call "trigger filings", is that fair?
A (McNamara) That's correct.
Q The second issue in no particular order is, as is customary, the Company updates future prices on which the rates are based, and presents that figure to the Commission at hearing. Have we done that calculation?
A (McNamara) We have that calculation as well, yes.
Q And the Company agrees to include that adjustment as well in the first monthly trigger filing?
A (McNamara) Correct.
Q Can you tell us what the impact, if the trigger filing were to be made today, what impact those two adjustments would have on the proposed cost of gas rate?
A (McNamara) Sure. The proposed cost of gas rate would be approximately $1.14.
Q As compared to what? Refresh our memory of what the --
A (McNamara) Sure. As compared to the $1.21, $1.2165 rate that is proposed in the original filing.

Q And can you tell us what moved between the original filing and today?

A (McNamara) What do you mean by "moved"?

Q What caused the change?

A (McNamara) Oh.

Q Of those two items -- of those two items, was one more of a factor than the other?

A (McNamara) I believe -- actually, I don't that for certain to answer that.

Q Okay. I'll ask Ms. Gilbertson shortly.

And the third issue that was discussed was the allocation of demand charges over the course of the year. And am I correct in saying that up until now the Company has always allocated 80 percent of the demand charges to winter and 20 percent of the demand charges to summer, is that correct?

A (McNamara) Yes.

Q And, as part of the conversations, the Company looked again to see whether the 80/20 allocation was appropriate. And is it fair to say we have included the 80/20 allocation in the proposed rates, is that right?

A (McNamara) That is correct.

Q And it's the Company's position not to change that going forward, is that right?

A (McNamara) That is correct.

Q And Ms. Gilbertson --

A (McNamara) And Ms. Gilbertson would have --

Q Exactly.

A (McNamara) Yes.

Q And I did ask you the last of the leading questions. Ms. McNamara, do you adopt your testimony today with the one -- with the corrections you mentioned at the opening?

A (McNamara) Yes, I do.

Q Thank you. Ms. Gilbertson, can you please introduce yourself?

A (Gilbertson) Yes. Hi. Deborah Gilbertson. I'm the Senior Manager of Energy Procurement.

Q Ms. Gilbertson, did you participate with Ms. McNamara in the preparation of Exhibits 1 and 2, the confidential and redacted versions of the filing?

A (Gilbertson) Yes.

Q And do you have any changes or corrections to the portions for which you were responsible?

A (Gilbertson) No, I don't.

Q Why don't we take the 80/20 issue first. Did I correctly characterize that it is the allocation of the demand charges, and it has been 80/20 up until now?
A (Gilbertson) That is correct. Yes.
Q And did you evaluate whether it should change?
A (Gilbertson) I did.
Q And what did you look at when you did that evaluation?
A (Gilbertson) Well, initially, when I came up with the 80/20, I was looking at the projected winter and the projected summer usage, and the proportion of each, coming up with 21.5 for off-peak and 78.5 percent for peak.

So, after the discussion at the technical, I went back and revisited the actuals. And, when I did that, the most current actuals, the percentage is 77 percent off-peak and 23 percent -- I'm sorry, 77 percent peak and 23 percent off-peak. Which is -- which is actuals, the most recent period, but that's not weather-normalized.

So, I think the 21.5/78.5 rounded to 80/20 is fair. You're on mute.

Q Sorry. The actuals that you looked at were for what period of time? From when until when?
A (Gilbertson) It was last summer, because, obviously, we don't have this summer, and the winter we're just leaving. So, I don't have April, but I had the entire winter besides April.
Q And, based on last summer's actual and this winter's actual, you came up with the calculation you just said, 77 and change?
A (Gilbertson) Yes.
Q And you say that's "not weather-normalized". What do you mean by that?
A (Gilbertson) Well, usually, when we do a forecast, we take the actuals and we weather-normalize them, because, obviously, even if you have a colder winter, you're going to get more usage and, you know, vice versa. So, that's just standard procedure. We weather-normalize every forecast. So, I think that was the best indicator of what the split should be, using the weather-normalized, rather than the actual.
Q Is it fair to say, if you base the split on an actual winter that was too cold or too -- or, not "too cold", but out-of-normal cold or

out-of-normal warm, you may not end up with the best chance of getting an accurate allocation going forward?

A (Gilbertson) Correct. It would be -- it would be skewed.

Q Okay. And, so, you did the calculation of the 80/20 -- you did the calculation of the 80/20 split, and essentially gave that figure to Ms. McNamara to plug into the rate calculation, is that fair?

A (Gilbertson) Yes.

Q Have you reviewed Staff's proposed allocation of 75/25?

A (Gilbertson) I did, yes.

Q And, if I were to ask you what your critique of that is, what would it be?

A (Gilbertson) I don't think that that's correct. I think that, based on recent, you know, this recent portfolio, every indicator suggests that it would be -- I mean, if you want to get really precise, we could do 21.5/78.5. That would be precise. But I think that the 80/20 is probably a better depiction than the 25/75.

Q Can you tell us what the -- do you know what the impact would be from moving from a 80/20 to a 75/25 in the actual overall rate?

A (Gilbertson) I don't know what the rate is. I think it's about $5,700 that would move from one season to the next.

Q Okay. And I don't know if I asked you as well, do you adopt your testimony today as your sworn testimony?

A (Gilbertson) Yes.

MR. SHEEHAN: My other questions to you were about the contract, which I understand we have segregated. So, I will leave them for another day. Thank you.

CHAIRWOMAN MARTIN: Thank you. Ms. Shute.

MS. SHUTE: Thank you. And to your previous question, Iqbal Al-Azad and Pradip Chattopadhyay both confirmed that it was not viewed as a settlement agreement, just a discussion, just a technical session discussion.

CROSS-EXAMINATION

BY MS. SHUTE:

Q So, I want to go to the question on the demand charges. And ask, those numbers, are they an

average of the propane and CNG usages for determining that split or are they CNG only?
A (Gilbertson) No, it's everything.
Q Okay.
A (Gilbertson) Yes.
Q And do you have what the numbers are for propane and for CNG?
A (Gilbertson) Yes. I do have that.
Q And do you remember what roughly the CNG split is?
A (Gilbertson) The CNG split from off-peak to peak, is that you're asking?
Q Yes.
A (Gilbertson) That would be a 70/30.
Q Okay. And, so, that's why the contract reflects a 70/30 split in the CNG contract or is that the 70/30 and the demand charge split?
A (Gilbertson) If you extract just the CNG, and looked at the, you know, the off-peak and peak times, yes.
Q And do you -- have you run the split separately for residential and commercial?
A (Gilbertson) No.
Q And, generally speaking, everybody on CNG is

commercial, but not everyone that is commercial is on CNG, correct?

A (Gilbertson) Correct.

MS. SHUTE: Okay. I have no further questions at this time.

I would like to say, I meant to say at the beginning, if either of my colleagues are needed by the Commission to answer questions, they are available in the attendee pool.

Thank you.

CHAIRWOMAN MARTIN: Thank you, Ms. Shute. Ms. Schwarzer.

MS. SCHWARZER: Thank you, Madam Chairwoman.

BY MS. SCHWARZER:

Q I'd ask the panel, did Commission Staff complete an audit of the Keene Summer 2020 reconciliation?

A (McNamara) Yes, they did.

Q And the audit was issued to the Company?

A (McNamara) Yes. So, the Company made the audit filing on December 15th. The Final Audit Report was issued on March 30th, 2021.

Q And, as filed, Liberty addressed all the audit

findings, is that correct?
A (McNamara) No, that's not correct. Audit Issue Number 1 were CNG marketer costs that needed to be moved to winter. That was addressed in our original filing. Audit Issue Number 2 has to do with the incremental CNG costs. And, as stated previously, we have the numbers, based on that change, to remove those from the rates. The official filing did not remove those costs.
Q Thank you. And are you aware of a December 2nd order from the Commission regarding incremental costs of gas not being included at that time, for the winter?
A (McNamara) I recollect that, yes.
Q With the details you provided, other than the incremental costs, have all the issues raised in the audit been addressed in Liberty's initial filing?
A (McNamara) Yes.
Q What does Liberty identify as the drivers for an increase in this Summer's 2021 cost of gas compared to last summer?
A (McNamara) The biggest change is the carryforward amount, the over-collection amount. And the

over-collection amount for -- actually, let me just pull up that section of my testimony so I make sure I give you the right information.

Can you repeat that question for me please?

Q I'll just unmute myself. What does Liberty identify as the main drivers for the increase in this summer's cost of gas rate compared to last summer?

A (McNamara) Okay. That actually was addressed in a technical session. In the technical session, it was a data request from the OCA.

A (Gilbertson) I believe it's also in the testimony, on Bates Page 006.

A (McNamara) Thank you, Debbie. Yes. So, the prior period over-collection was $81,000. And the current filing was actually an under-collection of $6,000, almost $7,000. And most of the $81,000 was the removal of production costs. And some of the CNG demand costs were prior to "go live" in October of 2019.

Q I'm not -- we may be a bit off track. I'm asking about why the cost for this summer increased. Just why does Liberty think the prices for this summer are higher?

A (McNamara) The prices for this summer are higher because last summer's were lower due to a large over-collection. So, we had to give back the customers' money in the cost of gas rate, because the production costs and prior period demand costs were moved to, I believe, the rate case, which is 20-105.

Q I'm sorry.

A (McNamara) You're on mute, Mary.

Q Did Liberty believe the cost of propane had increased significantly when they first made the filing?

A (Gilbertson) Yes. That's the other factor, is that the cost of propane doubled. So, there's two things. There was not a big downward pressure on the rate due to an over-collection this year, as there was last year. And the price of propane is much more this year than it was last year.

Q And there was some discussion of market rates that were recently checked. Did propane go down?

A (Gilbertson) Just recently we looked at the price of propane. And, yes, propane did go down.

Q Can you estimate by how much it went down?
A (Gilbertson) Four cents.
Q Does that seem like a lot?
A (Gilbertson) Yes. And the thing -- well, throughout the period, between February, when we put the filing together, and the date of the technical session, which was April 1st, the propane prices were pretty much stable. They were high. Just last week, at the end of the week, I looked at them, and they went down four cents.
So, it is very volatile. It could go up tomorrow or could it go down more. We'll see.
Q Before we just talk about the allocation of CNG demand charges, broadly speaking, if the demand charges are allocated 25/75, would the overall cost of CNG be higher than the overall cost of propane?
A (Gilbertson) Yes.
Q Given --
A (Gilbertson) Well, it won't be, I mean, overall, through the course of the year, you don't know what it's going to be. If you looked at just

everything else being constant, and we moved $6,000 into the summer that wasn't there before, yes, it would flip it.

Q Did you help prepare Liberty's Exhibit Number 14 -- sorry, Staff Exhibit 14, a Liberty response, tech response?

A (Gilbertson) Yes. I did.

Q And does that show the three-year division of demand charges between the summer and the winter periods based on actual use?

A (Gilbertson) No. That would be weather-normalized use.

Q So, Exhibit 14 is weather-normalized use?

A (Gilbertson) Yes.

Q Isn't the average of the past three years a 25/75 division?

A (Gilbertson) I don't know if that is correct.

MS. SCHWARZER: Madam Chairwoman, I don't believe I have any additional questions. But if I could have a moment?

CHAIRWOMAN MARTIN: Go ahead. Why don't we take a two-minute recess while Ms. Schwarzer texts with her people.

(Recess taken at 1:29 p.m. and the

hearing resumed at 1:31 p.m.)

CHAIRWOMAN MARTIN: Let's go back on the record. Ms. Schwarzer.

MS. SCHWARZER: Thank you, Madam Chairwoman. No further questions.

CHAIRWOMAN MARTIN: Okay. Thank you. Commissioner Bailey.

COMMISSIONER BAILEY: Thank you.

BY COMMISSIONER BAILEY:

Q Ms. Gilbertson, a follow-up to the last line of questions on the percentage of the split. In your response to, well, in Exhibit 14, I'm trying to understand, the 21 and a half/78 and a half split is based on last winter's usage, which you weather-normalized, and your projected summer usage. Does the summer usage get weather-normalized?

A (Gilbertson) So, it was last winter's weather-normalized projections for the winter that we're in right now, and it's the next -- well, the summer that we're entering into, that weather-normalized, added together.

Q Have you looked at the actual winter and summer splits for the last, say, three years? And do

they vary at all?
A (Gilbertson) I looked at last winter, and -- well, last year and the year before, and the split was 77/23, for both. They're very, very close.
Q So, was 77/23, for a year ago, is that weather-normalized or not weather-normalized?
A (Gilbertson) No. That's actual.
Q Do you think that this summer was particularly -- I mean, sorry, this winter was -- this past winter was particularly cold?
A (Gilbertson) No. I don't. I don't have the numbers. I don't have the HDDs. So, I can't say with 100 percent certainty. But, just in my opinion, it did not seem to be an excessively cold winter.
Q So, wouldn't that imply that the weather-normalized numbers would be closer to 77/23, they wouldn't be adjusted, because the weather wasn't extreme?
A (Gilbertson) I don't know. I mean, we would have to do it.
Q Okay. I think somebody asked you, it might have even been Mr. Sheehan, "what the drawback is to

making the allocations 75/25?" And I think your answer was -- it didn't really answer the question. It said "well, 80/20 is closer to reality than 75/25."

A (Gilbertson) Yes.

Q Are there drawbacks to making it 75/25? And, if so, what are they?

A (Gilbertson) No. I don't think there's any drawbacks. I think that, in total, the customers will pay what we pay. And I guess the only drawback would be, I don't think it's quite as accurate.

Q Okay. Thank you. And, Ms. Gilbertson, in response to Attorney Sheehan's first questions, he went through three points with you. And I didn't understand the first point. The second point was about the future prices and the third point was about the allocation of the demand charges. Do you remember what the first point was about? And could you walk me through that again please?

A (Gilbertson) This was -- I think this was Cathy's testimony, but it --

Q I apologize. You're right. I'm sorry. I meant

Ms. McNamara.
A (McNamara) Hi. I don't recall exactly what that first question was. Is it something that could be repeated from the record?

MR. SHEEHAN: It was the CNG incremental costs, how we treated that from the prior year.

BY COMMISSIONER BAILEY:
Q You said something about "it was going to be taken care of in the trigger filing"?
A (McNamara) Oh. So, based on the technical session discussion with Staff, we had agreed, in that session that we would remove the incremental CNG costs of $15,214 in the first month of our trigger filings.
Q So, is that the incremental costs of CNG from last summer?
A (McNamara) Yes. It's the incremental costs from Summer 2020. Correct.
Q Okay. All right. And then, what happens to that cost? Does it get set aside? Is there a chance for recovery later or are you just writing it off?
A (McNamara) I don't believe we're writing it off.

I believe, in the winter cost of gas case, if my memory serves me well, that those incremental costs were moved to the rate case.

Q Okay. Thank you. In your testimony, I don't know who's better to answer this, and I probably ask you this every single time because I can't keep track of the ups and downs. But, on Page 5, Lines 15 through 17, on Line 15 you show that there was an over-collection of $7,009, and, on Line 16, you show that there's interest on that. Is it on the $7,009 over-collection or is it some other interest calculation?

A (McNamara) Oh, you said "Page 5"?

Q Yes.

A (McNamara) So, the prior period over-collection was $7,009. There's interest on that over-collection of $150.

Q So, you owe that $150 to ratepayers, right?

A (McNamara) I would have to go back into the interest collection. I believe we do not owe that back to the ratepayers. I think it's an adjustment of the interest from what was originally.

Q Can you look into that and explain it more please?

A (McNamara) Absolutely.

COMMISSIONER BAILEY: Or, maybe your attorney can help on redirect.

WITNESS McNAMARA: Okay.

COMMISSIONER BAILEY: Okay. Thank you. That's all I have.

CHAIRWOMAN MARTIN: Okay. And I have no other questions.

Mr. Sheehan, redirect?

MR. SHEEHAN: Thank you. Just a couple questions.

REDIRECT EXAMINATION

BY MR. SHEEHAN:

Q Ms. Gilbertson, you were asked questions about separating the CNG costs and the propane costs for Keene customers, and what impact it would have, and one has more of a commercial mix, and CNG is all commercial, *etcetera*.

Can you explain why the Company has not and will not propose a separate cost of gas for those two groups of customers in Keene?

A (Gilbertson) Yes. Because it's a portfolio, it's a full portfolio. With EnergyNorth, we have many, many, many packages of gas. We don't assign packages of gas to different customers. We also have customers up in Berlin. Everything gets blended. That's how the portfolios work.

In the wintertime, for Keene, we've got, you know, we have the contract gas for the Stabilization Plan, we have got the Amherst storage gas, we've got spot propane, we've got CNG. It's all blended together to come up with one rate. We don't code the gas when it comes to the rates.

Q Thank you. I think Ms. McNamara made clear that the -- one of the reasons that the changed rates from Summer '20 to Summer 2021 was as large as it was was because of the over-collection that was being returned to customers in '20 depressed the '20 rate, creating more of a gap between the current rate.

Is that a fair characterization? No one's jumping at that.

A (Gilbertson) Mike, who are you asking?

Q Whoever can answer it.

A (McNamara) Can you repeat the question, Mike, so I understand?

Q Sure, Cathy. So, the Summer 2020 was significantly lower than Summer '21. One factor was the change in propane prices, that's easy to understand. The other one is that we had over-collected heading into 2020, and had to return that to customers, which made the rate even lower. Is that a fair statement?
A (McNamara) Correct.
Q And, so, then when we compare that I'll say "artificially lower rate" of Summer 2020 to the current '21, you end up with that, that's a piece of the big change. Is that fair?
A (McNamara) Correct. Correct. And I believe it's about 24 cents of the change.

MR. SHEEHAN: Okay. And, to Commissioner Bailey's question, I'm not sure I can clear up the interest question. There's a couple of e-mails heading my way behind the scenes, and I'm not getting the same answer.

So, if it's appropriate, we'd be happy to put together a record response in the form of a filed data request within a couple days and say "Here's why that 150 was a plus or a minus, or whatever it was"?

COMMISSIONER BAILEY: That's okay with me. I guess, really what I want to understand is, if you over-collected $7,000, it seems there would be an interest associated with that that you would return to customers for the cost of their money. So, the interest should increase the adjustment made to customers, rather than decrease it. And that's what I'm trying to understand.

MR. SHEEHAN: Right. And I think the initial reaction of the folks emailing me is just that, it doesn't look right. And, so, we have to dig a little.

I think the answer might be that the over-collection in our trigger filings, we try to compensate for it, and then so there might some pluses in some months and minuses in others, and then that results in the 150. But we'll get to the bottom of that for you.

COMMISSIONER BAILEY: Thank you.

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

CHAIRWOMAN MARTIN: Okay. Thank you, Mr. Sheehan.

All right. These witnesses are released. And if we could have Staff's witnesses sworn in please.

(Whereupon ***Stephen P. Frink*** was duly sworn by the Court Reporter.)

STEPHEN P. FRINK, SWORN

DIRECT EXAMINATION

BY MS. SCHWARZER:

Q Mr. Frink, would you please state your name for the record?

A Stephen Frink.

Q And what is your title?

A I'm the Director of the Gas and Water Division.

Q And have you prepared or directed others to prepare Exhibits 5 through 17 -- excuse me, 15 through 17?

A Yes. I prepared those exhibits.

Q And have you reviewed them? That would be the modification-redacted, the proposed modification-confidential, and your prior testimony in the winter cost of gas case?

A Yes.

Q And do you have any changes regarding any of those exhibits to make at this time?

A I do not.
Q So, do you adopt them as your testimony now?
A Yes, I do.
Q Can you please tell me, does Staff support Liberty's proposed rate?
A No. We made some slight changes, due to the issues that were previously discussed by the Company's witnesses. So, the Company's proposed rate of $1.2165 included the Summer 2020 incremental CNG costs. And, so, we don't think that belongs in there, consistent with the ruling the Commission made in last winter's cost of gas, that they wouldn't include incremental costs from the prior winter period.
So, to be consistent, that issue is still before the Commission in the rate case. So, it hasn't been decided if those are approved costs and should be allowed for recovery or refunded. But, in the meantime, the Commission ruled last winter that they shouldn't be in rates. So, that's one problem we had with it.
And the other problem is the allocation, which Liberty is using a 20/80 split, 20 summer/80 winter. They have done that based

on a total sendout for Keene. And the CNG demand -- the demand costs are strictly related to CNG. So, it makes no sense to allocate CNG demand costs based on total sendout that's propane and CNG. You need to look at what the CNG requirements are, and then appropriately assign the CNG costs to -- those demand costs to the usage in those seasons.

And, if you look at since they began using CNG, in October of '19, the allocation is roughly, let me see. So, this is in Exhibit 8, Bates Page 002, --

Q I'm sorry, I couldn't quite hear you. "Exhibit 8" did you say?

A Yes. Exhibit 8. Let me go there as well. On Bates Page 002, so, last year we were concerned about the allocation, what the basis was for, so we asked a question on it. And, unfortunately, like I said, they didn't begin using gas until October '19. So, the first full year of natural gas usage is -- you can see on the first block down below, one, two, three, four -- five lines, it says "2019-20". And then, you have "G", that would be the CNG usage, the natural gas. And you can see there's 160,677 in the winter, and 64,454 in the summer. And that -- that works out to -- that works out to a 79 -- 29 CNG that was consumed in the summer period, gas that was used in the summer, and 71 that was used in the winter.

And, if you look at the forecast for last winter's cost of gas, they forecast CNG usage of 170,575, and this summer they're forecasting CNG usage of 65,000. And that works out to a 72 percent winter and 28 percent summer.

So, to use the 20/80 is not close to what the actual usage was for the first full year. And it's not close to what the projected usage was for this year for CNG.

So, we proposed a modest increase in the allocation, from the 20/80 to 75 -- 25/75. So, that's the adjustment. That's why we're not supporting their proposed rate.

The first one, taking out the demand charges, is -- removes more costs than that change makes. That change, and actually the Company referenced it earlier, that the impact is around $6,000. So, that adds $6,000 to the summer costs. Overall, it doesn't have a big impact. So, we're proposing something -- a rate a little lower. And, actually, --

Q If I could ask you, Mr. Frink, you heard OCA's question as to whether the proposed new contract quantities are estimated at 30 percent summer and 70 percent winter. But Staff is not recommending a 30 percent/70 percent allocation?

A Not for this summer. I mean, the contract, just because the contract has that allocation, what will actually get used will obviously be different. I think the best way to do allocations is based on actual experience for the period that we have, and should be updated regularly. So, if it's off by a lot, then you need to make a change. And I would say 20/80 is off by a very significant amount.

So, we're moving closer to what the actual was for the first year. There's not a lot of data. And, after this year, we'll look at it again, and maybe move it a little farther, if it continues to be higher for the summer period than what's being allocated.

Q What is Staff's recommendation in terms of adjusting the proposed rates for those two items, as you apply it?

A So, Exhibit 16 is the confidential exhibit that I prepared, if everybody could go there. So, on Exhibit 16, Bates Page 002, you'll see the Staff's proposed rate. It's "$1.1821" per therm. And again, that was using the Company's filing, and simply adjusting to remove the incremental CNG costs, and taking out the incremental costs. So, if you look at Bates Page 002, you can see the prior period excess collected, that has gone up, to remove incremental costs from the last summer period. And, if you look at -- if you look on Bates Page 004, on Line 11, actually, between Lines 10 and 11, it's not numbered, you'll see incremental CNG supply costs that were removed from last summer.

You'll also see -- I'm looking for where the allocation changed. So, and on Bates Page 003, you can see, it's confidential information, but you'll see the CNG demand costs, that's changed slightly because of the 25 percent allocated to the summer versus 20 percent.

Q Mr. Frink, when Liberty filed its initial petition, it said that CNG was less expensive than the propane. Making the modifications Staff has recommended here, is that still the case?

A No. Again, on Exhibit 16, the last page on Exhibit 16, Schedule K, so that's Bates Page 006, Line 28 shows the per cost of CNG per therm, the average cost. And then, if you go down to Line 40, you can see the spot purchases of propane and what that average cost is, based on projected costs for the period. So, it changes. As I said, it's not a big total dollar number, but it does change the projected difference between the spot purchases, which would have been used if the Company wasn't using CNG.

Q And, if you compare Staff's proposed revised rate of $1.1821 per therm to Liberty's filed rate of $1.2165 per therm, it's approximately a three cent difference, is that correct?

A That is correct. It's 3.44 cents less.

Q Staff's is 3.44 cents less?

A Yes.

Q What is the bill impact?

A So, again, on Exhibit 16, Bates Page 005 shows the bill impact. And it's not very different from what the Company presented. In the Company's initial filing, that schedule has, on Line -- if you go down to Lines 54-55, that's your total bill impacts. Column (14), you can see there's a $42 increase in a residential customer's heating bill for the entire summer. And, in the Company's filing, that was $45. So, it's only a $3.00 decrease in the total bill.

But, as we heard the Company say, you update it for today's futures prices, $1.14 is probably a better number to be using. But it's easy enough to accommodate that in the monthly adjustment. So, we just made adjustments to those two items. It's not a big adjustment. It moves the rate more in line with what current market prices -- futures prices are. But it also, more importantly, adjusts for the incremental costs from last summer to be consistent with what the Commission ruled last year, and to more accurately allocate the CNG demand costs.

Q In terms of the monthly adjustment for last minute price updates with the market rate, that's a pretty standard thing for the Commission to do, is that correct? If it were only adjusting for future rates, that's something that is done through the monthly trigger filing?

A Oh, absolutely. So, the day they file their rates, it's not correct. I mean, you use a futures price that, in advance of the filing, and then it changes every day. So, it's going to, well, as the Company witness said, it goes -- Ms. Gilbertson said, it goes up and down. So, it's very normal. That's why we have monthly adjustments, and why there's a cap on it. Because the idea is to eliminate any over- or under-collection, or to the extent possible, so you don't get distortions in prices. Like, as also was noted, the prior summer there was an $80,000 over-collection, and you're looking at total costs of 300 or 400,000 for the winter. So, it can have a very significant impact on rates.

This year, it's a much lower over-collection. So, that credit to the forecasted cost is much less. So, that's what you really want. You want current rates to reflect current pricing. So, that's why we do those monthly adjustments.

In this case, it's gone down, which is good, because the maximum rate that you can make adjustments to, it gives you a little more leeway there. And, typically, in the summer, you don't see a lot of -- the prices are -- propane prices in the summer typically don't go up a whole lot, more often they go down.

CHAIRWOMAN MARTIN: Ms. Schwarzer, you're on mute.

MS. SCHWARZER: Excuse me. Thank you, Madam Chairwoman.

BY MS. SCHWARZER:

Q So, Staff has no concerns that there's been a recent drop in propane with regard to adjusting the filing at this time? That can be accommodated in the next trigger filing?

A Yes. There is no bottom to how much the Company can decrease prices without filing a -- without making a revised filing. So, they could easily, depending if rates stay where they are, go down further, they can easily accommodate that.

Q Have you identified the maximum rate in your Exhibit 16?

A Yes. It's on Page 2. The maximum rate, at the bottom of the page, would be, if the Commission approves the $1.1821, would be $1.4776.

Q And how does that compare to Liberty's proposed maximum rate?

A I don't have that filing in front of me. But, as I stated earlier, we're looking at a three-cent difference. So, the max rate would be something similar. It's in their filing, I just don't have it in front of me.

Q It would be higher, though, is that correct?

A The Liberty max rate would be higher, yes, because it's 25 percent of the proposed rate.

Q So, I believe you've said that the bill impact is $42 more this summer than last summer. And what is the total bill impact?

A That is the total bill impact.

Q I'm sorry. I thought $250 from May through October, compared to 208 for last summer?

A So, again, if you go to Column (14), that shows the summer impacts. And, in that column, it breaks it out between what the -- compares just the gas costs. If you look at just the gas costs, let's see, down on Lines 50-51, you can see that, on Line 50, Column (14), it's $41.54. So, we're saying there's a $42 increase in this summer's rates, and $41 of that is related to the increase in the cost of gas. Delivery rates haven't changed. They're off a dollar difference. The LDAC is off a dollar difference. They wash. So, really, the increase is all related to this increase in the cost of gas.

And, as Ms. Gilbertson stated, the propane futures are much higher this year than what the actual propane costs were last winter.

Q Is that roughly a 20 percent increase?

A For the total bill, yes. That's on Line 55, shows the total bill increase of "20.2 percent".

Q Do you believe that the revised rates, as explained by Staff, as modified from Liberty's initial filing, are just and reasonable?

A Oh, yes. Based on the information provided by Liberty, and Staff's review of Liberty's schedules and market rates, specifically, in the prior summer period, revenues and costs have been reviewed and audited, and the over-recovery, excluding the 2020 incremental CNG costs, which were deducted, we've done a review of those actual costs, and those are all reasonable. We have no objection or issues with those.

The projected 2021 Summer costs, they appear reasonable, based on the current future prices and the demand forecast. So, the demand forecast is similar to 2019, which was -- 2020, which is a little lower than '19, but that was pandemic-impacted. And this summer's might be as well. So, it's reasonable.

Q Excluding the question as to whether conversion of the Keene system to CNG is reasonable or prudent, which is not an issue in this docket, is the cost of the CNG supply under this contract reasonable as proposed, as modified?

A So, excluding the question of whether the conversion of the Keene system to CNG is reasonable or prudent, which, as you said, isn't an issue here, yes. Liberty converted a section of its propane system to natural gas in 2019. So, they need CNG supplies. And there are a limited number of CNG suppliers available. The contract is expiring that they have in place. They issued an RFP to the suppliers that are out there. They received numerous bids. They

evaluated the bids. And they chose the least-cost supply option. That didn't include buying the skid, which Liberty elected not to do. So, they have to have CNG. They went about their process of acquiring CNG for the summer period in a prudent fashion, and made a choice, found the best cost supply based on that information.
Q I just want to ask, just to clarify your answer. To the extent that Liberty made a selection here of the bidder, and decided not to buy a skid, you used the word "prudent". But you just meant you don't find it unreasonable that they made those choices, correct? There's no prudent review here. We're not doing a prudency review in any way. Just the rate is reasonable?
A So, the -- right. The rate is reasonable.
Q And we're not looking at really any other aspects of the contract?
A No, we're not.
Q Okay. Could you give some examples of how a purchase under the terms of the current CNG contract supply demand could be found imprudent?
A Yes. So, again, these are forecasted prices, based on the contract. The contract the Company

has entered into, that contract actually has two pricing indices that they can use. And the Company has to elect one or the other before they use the gas. And it's nice to have that option. It's a good feature that the Company included in that contract. And one of those pricing locations is cheaper, but more volatile, typically cheaper, but more volatile. And the other one is less volatile. So, you would expect for normal -- normally, they would be selecting the indice that they expect to be cheaper. But, when you get into the high demand period, and you want to protect against that volatility, it would make sense to elect the more stable pricing.

So, if the Company were to go out and use a more expensive indice throughout the year, that might be considered imprudent. But, if they do, through their normal analysis, elect to use what they feel is an appropriate indice for that period of time, it's not always going to turn out to be the least cost. But, you know, if it's a reasonable expectation at the time they make that decision, that would be a prudent decision, and we would have no issue with that. So, that's one example where, you know, prudency could come up based on actual costs.

So, that's -- and another example would be, we've raised the issue of operation, the contract piece related to operations. It's not expected to impact the pricing. I have no idea if it would or wouldn't. But, if it were to impact the pricing, then that might be a topic of discussion, because that issue was raised last winter, that Safety had concerns with that. But, again, that's not expected to. But that would be an example where, "okay, you entered a contract without -- and there were these issues that you hadn't considered and should have considered." So, that's another example. It's unlikely.

But that's why, in approving a cost of gas with projected costs, until you actually see the reconciliation for that period, what actually occurred, if it followed what the Company was expecting to do, then -- and what was reasonably considered, then that's not an issue. But, if you find something that is contrary to what you're expecting, and you have actual costs, then that could be a basis for, Staff would look at that and advise the Commission on it.

Q So, given that you've summarized that this is not a prudency finding, but there might be prudency findings in the future, are there any other comments you'd like to make about Staff's proposed recommendations?

A No. I think, other than to say, because the market's moved to where it has, I think it makes sense. And, again, it just corrects something to be consistent with what the Commission ruled last year. And I think it's a much more accurate allocation.

So, those three points are the only things I wanted to emphasize.

MS. SCHWARZER: Thank you. I don't have any further questions.

CHAIRWOMAN MARTIN: Okay. Thank you. Ms. Shute.

MS. SHUTE: Thank you. I just have a couple of quick questions.

CROSS-EXAMINATION

BY MS. SHUTE:

Q You indicated that going forward the split should be based on actuals, and that the Company, you know, has just started the CNG in 2019. So, is it your opinion that going forward it be based on actuals that are averaged? And is three years the right rolling average moving forward or do you have another recommended timeframe?

A Well, in the end, assuming, whatever the Commission decides on incremental costs, which is being addressed in the rate case, if they say "it was prudent and full recovery is allowed", or they say "none is recoverable", that's a nonissue, but the demand costs will get recovered over the course of the year. So, it's an annual demand cost. And, whether you put 20 or 30 in the summer, all it does is recover those costs in different periods. So, I'm comfortable with a reasonable estimate.

A more accurate -- the more accurate you can make it, the better. I wouldn't want to make a decision, you know, a three-year average is better than maybe a one-year average, but let's say you have a large customer that just goes out of business and is in that site, you might want to make an adjustment for that.

So, it's -- you should look at it every

year. And, if it's consistent throughout the years, you can feel pretty comfortable with it. If there is some significant change, then you would want to explore that and maybe change it to make it more accurate or what you expect.

MS. SHUTE: Okay. That makes sense. That's all the questions that I have.

CHAIRWOMAN MARTIN: Okay. Thank you. Mr. Sheehan.

MR. SHEEHAN: Thank you.

BY MR. SHEEHAN:

Q Mr. Frink, a couple preliminary things. I think you testified that you reviewed the Company's RFP process for the CNG, and were generally satisfied with that process, that we chose the lowest cost provider, and indeed the contract had some benefits this year that weren't there before, and you're okay with the numbers that come out of that contract. Is that fair?

A Yes.

Q And I think you also just said the demand costs are paid regardless of how they're allocated, it is simply an allocation issue that we've been talking about?

A Yes.
Q And, so, the ultimate cost of gas that the Commission finally approves, whether the route that the Company proposed or the route you proposed, you find is a reasonable cost, based on, in part, those CNG costs?
A So, the rates that the Commission is approving for this summer would appear reasonable, yes.
Q Okay. And, to the extent there's a disagreement between Staff and the Company, it's over pennies, as a practical matter?
A It's a small percentage.
Q And the reason that Staff proposed its way of calculating the rate is to make CNG more expensive than propane, is that correct?
A Is to more accurately allocate between summer and winter costs. So, our goal isn't to make CNG more expensive than propane. Our goal is to -- rates are set, you know, cost causation. So, if those demand costs belong in the summer, they belong in the summer.
Q On the allocation, that most of the projections for cost of gas rate are just that, projections, based on weather-normalized data. Is that

correct?
A That's correct.
Q And weather-normalized data is a way to avoid the ups and downs of historical data?
A Well, I would like to say, when I looked at, again, I compared the winter forecast for 2021 and the summer forecast for this summer, and that's weather-normalized, and you have the 28/72 split. So, that's, again, that's weather-normalized.

So, yes. It's differently better to use weather-normalized. But it's far better to use just the CNG numbers than propane and CNG.

CHAIRWOMAN MARTIN: Can I just interject please? Ms. Schwarzer, can you mute if you are not muted? We're getting some background noise.

Go ahead.

BY MR. SHEEHAN:
Q But you're not proposing separate rates of CNG rates and propane rates for Keene?
A No. Absolutely not.
Q And you would think that's probably not the way to go, would you agree with that?

A I definitely agree with that. Yes.
Q Okay. And the Company's proposal was to remove the last summer's CNG incremental difference through the trigger filing. I'm not trying to pick hairs here, but that is what was discussed at our tech session, was it not? To address it through a trigger filing?
A Well, we discussed changing the allocation. We discussed that piece. We discussed whether the Company would file their monthly over/under report in the docket or not.
So, there were three issues that we had discussed that we asked the Company if they'd be willing to do. And the Company was willing to remove those costs through the monthly adjustments, to file the reports. But they weren't willing to do the allocation that we thought was the appropriate allocation. So, that's why we filed what we did.
Q One last thing, and it's a side issue. And I don't mean to ambush you a little. But the question came -- Commissioner Bailey asked about the interest. Maybe you can save us a record request.

If we all turn to the Company's filing, Attachment F, and it's at Bates 023. Is that the interest calculation that the Company performed to get to the $150?

A Yes. I'm glad you brought that up, because that is -- you can see there that it's a monthly adjustment. "23" you say?

Q Bates 023, yes.

A Right. So, you had a beginning balance, when you come out of the last summer, so what this is telling you on Line 1, on Bates Page 023 of Exhibit 2, you can see here that you came out of the summer with a $15,000 under-collection. And that earns interest throughout the winter period, because you're not having any summer sales, so that you get some periods of interest there. There was a -- yes. So, I'm trying to figure out, I think that 30,000 was an adjustment the Company made to remove, yes, to remove CNG costs from the prior winter period in that winter. So, that's what that is.

So that that interest business is a little distorting. Normally, you wouldn't have that big adjustment in there. But, because the

Commission ruled not to include those, the prior winter incremental costs in the rate, that those are going to be decided in the rate case, there was an adjustment there.

So, you're right. But that's typically how it works. You come out of the summer, you have an over-/under-recovery. There's no sales throughout the winter. So, you get interest all those six months. Then, you get to the projected summer period, you start getting interest, it wipes out the prior over-/under-recovery and recovers interest on the imbalances each month.

So, Commissioner Bailey is right. She understood how it works.

MR. SHEEHAN: Thank you for that. I appreciate you walking through that. And I'll certainly ask the Commissioners at the close of the case if they still want us to write something out that would repeat that, if that's the case.

Those are all the questions I have for Mr. Frink. Thank you.

CHAIRWOMAN MARTIN: I'm going to go to Commissioner Bailey, but I see Ms. Schwarzer has her hand up. Ms. Schwarzer, did you have something?

MS. SCHWARZER: I'm sorry. I thought we were going to go to Commissioner Bailey first?

CHAIRWOMAN MARTIN: Well, I was going to, but I want to make sure there's nothing we need to address with you first.

MS. SCHWARZER: Okay. Thank you.

BY MS. SCHWARZER:

Q Mr. Frink, as between the 25/75 or the 20/80 percent, which do you believe is more accurate?

CHAIRWOMAN MARTIN: Ms. Schwarzer, I am going to stop you then, because I will go to Commissioner Bailey first, if you were going to do redirect.

Commissioner Bailey.

COMMISSIONER BAILEY: Okay.

BY COMMISSIONER BAILEY:

Q So, I understand how the calculation is supposed to work. Can you go back to Exhibit 2, Bates Page 023?

A Yup.

Q And tell me how you get the $150 derived on Line 16? Because I see the total interest in Column (7) for the year comes out as a $61, is that an under-collection, because it's not in parentheses?

A Okay. So, if it's in parentheses, it's an over-collection. That 7,000 -- yes, I think you're going to have to ask the Company witness about that number. I'm not -- so, 150 -- actually, if you give me a minute, I think I have an Excel file for that. That would be helpful.

Q Okay.

A And maybe it would be better off being a record request, getting the Company to answer that.

COMMISSIONER BAILEY: Okay. All right. Okay. That's fine. You know, it looks to me like there was a $61 total for the year under-collection in interest, if you add all the things in Column (7). And, so, now I don't understand the difference between the $61 under-collection and the $150 that's shown on Line 16. So, if the Company can answer that as well.

BY COMMISSIONER BAILEY:

Q Okay. Back to your testimony, Mr. Frink. You're suggesting that we should use the allocation based on just the CNG used, rather than the sum of CNG and propane for the allocation?

A Yes, because the demand charge that is being allocated is the fixed charge that the CNG supplier is charging the Company. So, that amount is the same every month. So, actually, half of it is charged to the Company in the summer and half is charged in the winter. But, obviously, they don't use half in the summer, they use approximately 30 percent in the summer, and they use 70 percent in the winter. So, that is strictly a CNG charge, and should be allocated based on CNG usage.

Q But it's being charged to all customers, not just customers that use CNG, isn't that right?

A Well, so, those customers that are on CNG had no choice. The Company converted a section of the system to CNG. And the customers agreed to take CNG, but -- so, it's a blended rate. And, if the commercial customers that are taking CNG were told in advance it was going to cost more, they would have said "no". So, it's a blended rate. That's what we've got. And it wouldn't be fair to charge those customers something higher than everybody else.

Q Okay. But what I'm trying to understand is, then why would you base the allocation between winter and summer just on CNG, if they're going to spread the cost as a blended rate? Why wouldn't you use a blended allocation of winter versus summer usage?

A Because the CNG, that -- so each supply is charged based on what's being used for that period. So, if propane had a -- they have some fixed charges as well that are in there that are reflected summer/winter. But, if it's a CNG -- if it's a specific cost that you can identify to a specific supply, that's where it belongs.

I mean, it's like any other allocation. If you have a -- these utilities have multiple allocation methodologies for different costs. If you can identify specific costs, you want to do it as accurately as possible. And, in this case, it's very easy to accurately allocate what the CNG demand cost is for the summer. It's not -- if they're buying that contract for CNG to use 70 percent in the winter and 30 percent in the summer, that's how that cost should be charged.

Q Okay. I think I get it. So, then why -- why wouldn't you allocate 70/30 rather than 25/75?

A There's not a lot of history. And we did look at the year before, and asked for -- and specifically asked for the history of those customers that are going to CNG, but the response seems to just be for total system. So, it wasn't a very accurate -- it wasn't what we asked for. So, and then the Company was arguing that 20/80 was the better cost. So, conservatively, we suggested 75/25.

We had, at the tech session, we talked, you know, "should it be 30/70 or 20/80?" And, so, we basically said "well, let's do 25" -- "would you agree to 25/75?" The Company got back to us and said "no." But that was our proposal and that's what I proposed here.

Q Okay. The Company's calculation where they get to 21.something percent for the winter, is that based on the blended or the total sendout?

A Yes.

Q So, that's really where you differ in how you would allocate the costs?

A Yes.

COMMISSIONER BAILEY: Okay. I think

all my other questions were answered. Thank you.

CHAIRWOMAN MARTIN: Okay. Commissioner Bailey, before we go back to Ms. Schwarzer, on the record request, where do you stand? Would you like to have that filed?

COMMISSIONER BAILEY: Yes. I don't understand what this table was supposed to be showing me. So, that needs to be explained. And I apologize for that.

CHAIRWOMAN MARTIN: No, that's fine. Thank you.

Okay. Ms. Schwarzer.

MS. SCHWARZER: Thank you, Madam Chair.

REDIRECT EXAMINATION

BY MS. SCHWARZER:

Q Mr. Frink, you mentioned the ERF filing for the cost of gas calculations and the tariff pages. Does Staff have a position as to whether those filings should also be filed into the docket?

A Oh, yes. Staff would definitely prefer those not just filed in the -- electronically, but be part of the docket. That's what Northern does with cost of gas rates. They file those monthly over/under reports. And, if they are proposing a rate change, they include those in the docket, those reports, and, when they have rate changes, they provide the tariff.

For somebody that isn't at the Commission and doesn't have access to our electronic files, they can follow and see these things through the docket. So, it's just for more transparency.

And the Company said they were willing to do that. So, it's -- it's very handy, if you want to go back and look in the record and see what the rates were for the summer period and how it had changed throughout the period, or where the over/under stood at any given point in time.

MS. SCHWARZER: And it's your understanding that the Company is willing to do that, and it's my understanding, too. I just didn't ask at the time. So, maybe Mr. Sheehan can confirm that?

MR. SHEEHAN: Yes. And, given the opportunity, the follow-up question is, do we do both or do we do just the docket filing?

MS. SCHWARZER: I believe Northern does both. I would defer to Mr. Frink.

WITNESS FRINK: Well, I -- yes, I would -- actually, Northern does both. I think it's helpful. Because what happens with the electronic filing is we get a notice of those reports, so, when you make that filing, I get notice that you've made it. So, I typically open that up. I guess, if you file the reports in the docket, as part of the service list, we would also get that.

So, I guess, pending something different, but I would prefer in that, number one, I really think it needs to be in the docket.

MR. SHEEHAN: And that's fine. I was just trying to eliminate another step. We'll be happy to file it in the docket and copy everyone on the service list.

BY MS. SCHWARZER:

Q And, Mr. Frink, if I could briefly go back to the incremental costs.

There was some discussion about perhaps using the monthly trigger filing to make that adjustment. But I believe there was some concern that any payment of the incremental costs might be construed as a prudence finding, in that the winter docket spent a great deal of time focusing on when it is that prudence attaches in a cost of gas proceeding.

And I believe your position was, and please do correct me if I'm wrong, that, in a cost of gas proceeding, the only part of the rate that is prudent is that portion that is based on the cost -- actual costs from the prior period that are reconciled, is that correct?

A That is correct.

Q And, so, it would be important, to avoid any appearance that Staff believes any portion of the incremental costs from Summer 2020 should be paid in this docket, to the extent that it is Staff's position that those costs should continue to be tracked and resolved in the docket, is that correct?

A That's correct. And the Commission, in their last winter's order, specifically said "the incremental CNG costs were to be addressed in the rate case."

Q And, finally, do you have any reason to believe that any Staff member suggested the 25/75 percent change, as Mr. Sheehan has suggested, in order to artificially make CNG more expensive than propane?

A No. Staff did not. There's no suggestion by Staff that that was our objective in changing the allocation. If that were the case, we probably would have gone with 30/70.

MS. SCHWARZER: Thank you very much. I have no further follow-up.

CHAIRWOMAN MARTIN: Okay. And, for clarity, we have Exhibits 1 through 21. Are all of those for full admission today, based upon the bifurcation, or should any of them be allocated, and if so which?

MR. SHEEHAN: The Company would withdraw 19 and 20, because those are related to the bifurcated issue. And leave in 1 and 2, which is, obviously, the cost of gas filing.

CHAIRWOMAN MARTIN: Thank you. And Staff?

MS. SCHWARZER: Thank you, Madam Chairwoman. I'm just going to pull up the exhibit list, which I have on my laptop.

So, the Order of Notice should remain in; the confirmation of the Executive Director posting consistent with that Order of Notice should remain in; Staff 5, 6, and 7 are related to the contract matter. No, I'm sorry. Yes. Staff 5 and 6 are related to the contract matter. I believe that 7 through 14 are related to the contract matter -- oh, sorry, no, 7 through 13 are related to the contract matter; and 13 and 14 and 15 and 16 and 17 are related to the rates themselves; and 18 and 21 are the contract matter.

MR. FRINK: I just want to clarify, I think maybe I misheard, Exhibits 5 and 6, that was the RFP process and how they -- so, it was more than just operations.

MS. SCHWARZER: Oh. Yes. I'm sorry. It is -- Mr. Frink is correct, it's more than just -- sorry, my screen just did a very strange thing. I'm not sure how we would adjust that at this time, because it is more than just the contract, the contested part of the contract. So, --

CHAIRWOMAN MARTIN: Can I just check and make sure I have understood what you're saying? One (1) through 6 would be admitted in this part of the proceeding, and 13 through 17, and all others related to the contract issue?

MS. SCHWARZER: Can I confirm with Mr. Frink? Is there anything else related to the rate, because I wasn't looking at --

CHAIRWOMAN MARTIN: I see Mr. Knepper shaking his head.

MS. SCHWARZER: Okay.

MR. KNEPPER: I can't testify, but that's not right.

CHAIRWOMAN MARTIN: Can you just share with us which?

MR. KNEPPER: I know Mr. Frink went on extensively about Exhibit 16, so that should be at least included.

MR. FRINK: Looking at the exhibit list, I'd say 1 through 8 are all rates-related; Exhibit 9 is not; 10 is not; 11 is not.

MS. SCHWARZER: Twelve (12) is not.

MR. FRINK: Twelve (12), okay. Thirteen (13), I'd have to look at that. I had that down as being --

CHAIRWOMAN MARTIN: I believe Ms. Schwarzer said "13 through 17" were related to this part of the proceeding.

MR. FRINK: Okay. Right. And I'd agree with that. And then, 18 on I think are not.

CHAIRWOMAN MARTIN: Okay. That looks consistent with what Mr. Sheehan said as well.

Any objection from Ms. Shute or Ms. Sheehan to that -- Mr. Sheehan, sorry?

MR. SHEEHAN: No.

MS. SHUTE: No.

CHAIRWOMAN MARTIN: All right. Then, we will strike the ID on Exhibits 1 through 8 and 13 through 17 and admit them as full exhibits. We will also leave the record open for what I had labeled "Exhibit 22" for Commissioner Bailey's record request, which I understood would be filed by Thursday, April 22nd.

And we can change that to, if you're -- well, Mr. Sheehan withdrew his, so we could change that to "Exhibit 19". Does that make sense, Mr. Sheehan? Either way. "Exhibit 22", if you want it to be perfectly clean, or you withdrew your Exhibits 19 and 20, so it could be "Exhibit 19"?

MR. SHEEHAN: We could make it -- yes, we'll make it "19".

CHAIRWOMAN MARTIN: Okay.

(Exhibit 19 reserved)

CHAIRWOMAN MARTIN: Okay. Anything else, before we take closings? Ms. Schwarzer. You're on mute.

MS. SCHWARZER: I'm sorry, I'm just having trouble with that today.

I understood the ruling on bifurcation was to include a request that Liberty file a corrected contract into the docket by June 1st, and that part of that process would include working with Staff and the OCA?

CHAIRWOMAN MARTIN: Yes.

MS. SCHWARZER: Will this docket be left open for further proceedings, if necessary?

CHAIRWOMAN MARTIN: It will be, related to the -- so, it's being bifurcated. So, essentially, there are two issues that will be addressed. We're leaving that part of the proceeding open to address those. And, if a executed amended contract is not filed by June 1st, we will hold further hearings on that issue.

MS. SCHWARZER: Thank you, Madam Chairwoman.

CHAIRWOMAN MARTIN: Okay. Anything else, before closings?

[No verbal response.]

CHAIRWOMAN MARTIN: Okay. Ms. Shute. You're on mute.

MS. SHUTE: Sorry. Thank you.

Once again, the primary concerns in this cost of gas proceeding are around compressed natural gas. The Office of the Consumer Advocate continues to have concerns about those impacts, about the impacts of CNG in Keene. The 80/20 demand cost split, as proposed in the Petition, appears to provide -- it appears to show that CNG has minimal savings over propane. However, had the Company used that demand cost split of 70/30 that is in the new proposed contract, rather than the proposed 80/20 in this Petition, the CNG costs would have exceeded the propane costs. This is also the case of the Staff's proposed 75/25 split.

And the proportions that the rate is

approved impacts whether there are incremental CNG costs or savings, and would impact the next winter's cost of gas.

Ms. Gilbertson indicated that the actual CNG split was 70/30 between off-peak and peak amounts. The CNG contract itself reflects a 70/30 split. The primary impact of the split on ratepayers is entirely related to the CNG because of the associated demand costs.

Therefore, in the OCA's opinion, the split should be 70/30, in the same way that it is in the contract. The change in the split will impact, as I said, the incremental CNG costs, and the result will be that, even with propane costs being doubled, the CNG costs could still be higher than the propane costs for the summer period.

The OCA agrees that the allocation should be based on and updated according to actuals of the CNG. And those actuals could be averaged, you know, on a rolling basis moving forward.

Even though Ms. Gilbertson indicated the actuals of CNG were 70/30, and that's what we think that it should be, we do support Staff's interim recommendation of 75/25 for this summer, given the limited amount of actual data available. We also recognize that the primary importance in the allocation is not so much how much is collected over the year, because, obviously, that will even out, but is relative to proper rates and cost alignment, and the accurate calculation of the incremental costs of CNG, which we do not view as reasonable to the extent they exceed propane costs.

In Order 26,428, the Commission indicated it would provide a future order in DG 20-152 to rule on Liberty's request to recover historical demand charges, and deferred the issue of whether the incremental CNG costs should be recovered to the pending rate case in Docket DG 20-105.

Receiving the referenced future order on the DG 20-152, that is whether the Company may recover those historical demand charges, would be useful as we consider the prudency issues, and any potential settlement proceedings in DG 20-105. And, so, we urge the Commission, respectfully, to expedite that order if at all possible.

In the last Keene cost of gas proceeding, the Company took the position that, if the rates were approved, then by implication the underlying contract was approved, referencing the 2018 cost of gas proceeding. So, to the degree the Commission approves rates that are based on this contract, we do suggest that the Commission should specifically identify that an approval on rates does not represent approval of the contract.

As we have stated before, the OCA is of the opinion that there should be, as there is with the remainder of EnergyNorth, a cost of gas rate established for residential customers and one for commercial customers. We also think that it would be better to combine the winter cost of gas proceeding and the summer cost of gas proceeding into one annual proceeding.

So, in summary, we support the Staff's position. And we urge the Commission to issue an order in the previous COG proceeding as quickly as possible.

Thank you.

CHAIRWOMAN MARTIN: Thank you, Ms. Shute. Ms. Schwarzer.

MS. SCHWARZER: Thank you very much.

Staff asks the Commission to adopt Liberty's proposed rates, as modified by Staff's testimony and filed exhibits, to exclude the incremental costs in the Summer 2020 period, consistent with the order in the winter case on December 2nd, 2020; and to apportion the CNG demand charges between the winter/summer period, based on usage of CNG between those periods and historic usage over the past three years.

So, Staff asks the Commission to approve a revised Summer 2021 rate for Keene customers of $1.1821 per therm, with the overall bill impact of $42, which is just over 20 percent, for the May '21 through October 2021 period.

Staff shares the OCA's concerns that the Company clearly has been on the record saying that approving the rate does not represent the overall -- does not represent an overall approval of the contract as reasonable, and understands that this hearing has now been bifurcated to address the issues that Staff raised as to the underlying terms in that contract.

Staff asks the Commission to direct that Liberty file its trigger filings, its cost of gas and tariff pages both into the ERF and the docket.

And, to the extent that the OCA has asked that there be an annual Keene proceeding, Staff would ask that that Keene -- that annual proceeding occur in the summer, and not in the fall, because there's already a winter Northern and EnergyNorth cost of gas, and this particular franchise seems to have a habit of challenging cost of gas proceedings.

That said, we appreciate the parties efforts to work together in this docket, and submit our argument.

CHAIRWOMAN MARTIN: Thank, Ms. Schwarzer. Mr. Sheehan.

MR. SHEEHAN: Thank you. We do appreciate both Staff's and OCA's basic agreement that the rates as proposed are just and reasonable and should be approved with the modest modifications in their recommendations.

We, obviously, stand by our recommendation, which is slightly different for the reasons we just went through over the last couple hours. And I'll touch on it very briefly.

The 80/20 allocation, or 75/25, or whatever it may be, that we have used, as Ms. Gilbertson described, includes the best of, the most accurate way to match the demand costs with the usage. Using historical for a small system over a short period of time, that does not include weather-normalization, will lead to ups and downs as we have cold winters and warm winters. Using weather-normalized will have a evening effect, so that over time the number will be more accurate.

Second, if you measure it based only on CNG use, that sets you on a slippery slope of what other cost of gas rates when we start examining based on who is using the particular fuel.

And one example that jumps to mind is we have customers in Berlin, who are not really physically connected to the rest of our system.

Do we start having a separate cost of gas or allocate demand charges to them differently than we do to the rest of the EnergyNorth system? Do we allocate demand charges to customers served off of one gate station in Nashua versus differing costs to come off another gate station in Manchester? Just opens a whole pandora's box of complicators that ultimately are unnecessary.

The phrase that's often used for a cost of gas is it is a "postage stamp rate", everyone pays the same rate. And we think deviating from that, again, sets up some dangerous precedent that could cause problems down the road.

So, that being said, the method that Ms. Gilbertson described seems to be the most accurate over time, and we ask that you approve it as we filed it.

Last, we -- or not "last", on the rate issue, we have agreed to remove the CNG costs, the incremental CNG costs from last summer. That's the answer to the question, those dollars are parked until resolution of the overall issues, and that's where they sit. We, obviously, maintain our position that they are recoverable for the reasons we talked about last year.

And, so, the last two items are the mechanical ones. We ask -- we certainly agree to file these monthly adjustment filings in the docket. It doesn't make sense to file them in both, because the same people who get the docket filings are the ones on the ERF filings. And, given that we make about 500 filings per year, even a modest simplification on a couple of them do help. So, we would ask that you limit that requirement to just in the docket.

And last, just to note on the combining summer and winter. I know there will be a lot more conversation before we make that move for Keene. But doing a summer filing for a year is probably not the way that it should go, although I appreciate the logjam of cases in the fall. But, since those filings are based on projections, and since the dollars in the winter are so much more significant than the summer, you would be projecting in February and March what the following winter is going to be for a cost of gas. And, yes, there's an opportunity to adjust them, but it would set up, again, possibly an unworkable, where you approve a winter cost of gas in May that turns out to be just wildly off base by the time that winter rolls around.

The way the EnergyNorth one works now, by approving the summer cost of gas in the fall, there is less fluctuation in the summer cost of gas, and it's easier to deal with some market changes that happen between the following summer. So, again, just keep that a thought as the parties talk about whether we should have a combined filing, and, if so, how.

So, with that, we do ask that you approve the rates as filed, with the requirement that we make the incremental cost adjustment and the appropriate market adjustment with the June 1 trigger filing.

Thank you.

CHAIRWOMAN MARTIN: Okay. Thank you, Mr. Sheehan.

And thank you, everyone, for getting through today. We will take the matter under advisement and issue an order on the rates as we discussed.

Thank you. Have a good rest of the day. We are adjourned.

(Whereupon the hearing was adjourned at 2:49 p.m.)