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

**Reptg. New Hampshire Department of
Environmental Services:**
Rebecca Ohler
Philip LeMoreaux

Reptg. Residential Ratepayers:
Donald M. Kreis, Esq., Consumer Adv.
Maureen Reno, Dir./Rates & Markets
Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:
David K. Wiesner, Esq.
Elizabeth Nixon, Director/Electric Group
Scott Balise, Electric Group
Heidi Lemay, Electric Group

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I N D E X

PAGE NO.

ROLL CALL OF THOSE IN ATTENDANCE

5

OPENING STATEMENTS BY:

Ms. Chiavara

6

Mr. Kreis

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Mr. Krakoff

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Mr. Skoglund

19

Mr. Wiesner

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QUESTIONS BY CMSR. SIMPSON

22

(to NH DOE/Atty. Wiesner)

QUESTIONS BY CMSR. SIMPSON

26

(to NH DES/Ms. Ohler)

QUESTIONS BY CMSR. SIMPSON

27

(to Eversource/Atty. Chiavara)

QUESTIONS BY CMSR. CHATTOPADHYAY

32

(to Eversource/Atty. Chiavara)

QUESTIONS BY CHAIRMAN GOLDNER

39

(to Eversource/Atty. Chiavara)

FURTHER COMMENTS BY:

Ms. Chiavara

42

P R O C E E D I N G

1
2 CHAIRMAN GOLDNER: Okay. Good morning.
3 This is the rehearing for Docket DE 21-078, the
4 Eversource Petition for Approval of Electric
5 Vehicle Make-Ready and Demand Charge Alternative
6 Proposals. The rehearing was requested by the
7 Company and several other parties, and was
8 granted by the Commission in Order 26,690, on
9 September 28th, 2022, which was subsequently
10 clarified by Commission Order Number 26,699, on
11 October 10th, 2022.

12 What I understand our order to do is to
13 preapprove 2.1 million for the VW Make-Ready
14 Program, and to preapprove a subset of that
15 amount as a discrete capital investment, and thus
16 eligible for a return on investment in the
17 Company's rate base.

18 Specifically, we approved \$650,000 for
19 capital investment. That's not something we
20 unusually do. But these are somewhat unusual
21 circumstances, because of the VW Settlement. I
22 don't think our order says anything about what
23 happens to the other 1.45 million.

24 But the Parties to the Motion for

1 Rehearing appear to have a different
2 interpretation. I hope that we can use this
3 hearing today to sort out that difference in
4 interpretation.

5 So, in the interest of having a
6 productive, efficient proceeding, I'll take a
7 roll call, invite opening statements of ten
8 minutes each, and then proceed with Commissioner
9 Bench questions. I'll remind the parties to
10 limit their comments to the topic of the
11 rehearing, that is the pre-approval of the 650K
12 in capital.

13 Okay. I'll go through the list of
14 Moving Parties and ask that you state present
15 when called.

16 Eversource?

17 MS. CHIAVARA: Present.

18 CHAIRMAN GOLDNER: The New Hampshire
19 Department of Environmental Services?

20 MS. OHLER: Present.

21 CHAIRMAN GOLDNER: The Office of
22 Consumer Advocate?

23 MR. KREIS: Present.

24 CHAIRMAN GOLDNER: The Conservation Law

1 Foundation?

2 MR. KRAKOFF: Present.

3 CHAIRMAN GOLDNER: Clean Energy New
4 Hampshire?

5 MR. SKOGLUND: Present.

6 CHAIRMAN GOLDNER: And the New
7 Hampshire Department of Energy?

8 MR. WIESNER: Present.

9 CHAIRMAN GOLDNER: Okay. Are there any
10 other parties or persons here today that wish to
11 be acknowledged?

12 *[No indication given.]*

13 CHAIRMAN GOLDNER: Okay. All right. I
14 will now invite opening statements of up to ten
15 minutes each from each of the Moving Parties.
16 Please identify yourself and your position for
17 the record, beginning with Eversource.

18 MS. CHIAVARA: Good morning,
19 Commission. Jessica Chiavara, here on behalf of
20 Public Service Company of New Hampshire, doing
21 business as Eversource Energy.

22 I want to thank the Commission for
23 having this hearing. I do think it will be a
24 productive way to sort out the issues at hand. I

1 do have a statement to make at this time.

2 In the most recent order that was
3 issued on October 10th, the Commission outlined
4 two -- the two issues that comprise the scope of
5 this hearing. The first is, whether the
6 pre-approval for eligibility for a portion of the
7 \$2.1 million constitutes a pre-denial on any
8 additional capital expenditures beyond that
9 portion?

10 As a point of clarification, the
11 Company would first like to discuss what
12 "pre-approval" means in this context. It does
13 not strike the Company that it means
14 "pre-approval of recovery", as all costs incurred
15 by a utility are subject to a prudence review,
16 and only after that review, if the costs are
17 found to be just, reasonable, and prudent may
18 they be recovered.

19 Therefore, the Company interprets
20 "pre-approval" to mean "authorization to spend".
21 This interpretation seems to be further
22 reinforced by the Commission's language that "The
23 pre-approval applies to only a portion of the
24 2.1 million eligible for a rate of return."

1 Constitutionally, all capital spending
2 at the time it is spent must be eligible for a
3 rate of return. There is no capital spending
4 that is automatically ineligible for a rate of
5 return prior to a prudence review, as the New
6 Hampshire Supreme Court has held that all
7 prudently incurred spending is entitled to a
8 "minimum rate of return equal to the cost of
9 capital". It is only after a prudence review
10 that costs may be deemed ineligible for a rate of
11 return, and only in the event that those costs
12 are deemed to have been imprudently incurred.
13 Since no determination of prudence can be made at
14 this time, no capital expenditures can be deemed
15 ineligible for a rate of return.

16 The Parties to the Settlement Agreement
17 only sought a determination that spending on the
18 EV infrastructure, as described in the Settlement
19 Agreement, was a reasonable application for the
20 spending of up to \$2.1 million, without
21 restriction on how that money was spent; either
22 behind-the-meter, customer-side program funding,
23 also referred to in this docket as "O&M expense",
24 or front-of-the-meter, utility-owned capital

1 expenditures. The Parties did not expect any
2 preapproved designation of prudence.

3 In Order Number 26,667 approving the
4 Settlement Agreement, the Commission approved the
5 \$2.1 million Make-Ready Program, finding it to be
6 just and reasonable, concordant with the New
7 Hampshire Energy Policy, will result in just and
8 reasonable rates, and will not result in
9 unreasonable and unlawful cross-subsidization,
10 and are in the public interest.

11 While the Commission approved this
12 spending, any spending would still be subject to
13 a subsequent prudence review in the Company's
14 next distribution rate case. But the order goes
15 further to say that "up to 650,000 in capital
16 expenditures are eligible for Eversource's return
17 on capital."

18 To the Commission's question in the
19 October 10th order, as to whether "pre-approval
20 for eligibility for a portion of the \$2.1 million
21 constitutes a pre-denial on any additional
22 capital expenditures beyond that portion?", the
23 Company's interpretation is that the plain
24 language of Order 26,667 does indeed do that by

1 saying "up to \$650,000 is eligible", which
2 implies that any additional capital spending is,
3 therefore, ineligible.

4 However, if the Commission did not
5 intend for that language to create a pre-denial
6 of eligibility for a rate of return, then
7 resolution would be as simple as the Commission
8 stating that "it did not intend for such a
9 result."

10 However, there is more to this inquiry,
11 because the true legal question is in the
12 following sentence of the October 10th order that
13 states: "Furthermore, if such a pre-denial does
14 function as a "cap", it is a legal question as to
15 whether the Commission may lawfully impose such a
16 "cap"." The Company believes that the answer to
17 this question is "it depends."

18 Specifically, it depends on whether the
19 Commission intended to create any limitation on
20 spending, and, if so, what that limitation is.
21 If it intended to limit all capital spending for
22 the Make-Ready Program to \$650,000, the
23 Commission unquestionably has the authority to do
24 so.

1 If, on the other hand, the Commission
2 did not intend to limit capital spending, but
3 instead set a limit on capital spending eligible
4 for a rate of return, therefore, making any
5 capital expenditures between \$650,000 and
6 \$2.1 million preemptively ineligible for a rate
7 of return prior to a prudence review, such a
8 limitation is inconsistent with U.S. and New
9 Hampshire Supreme Court precedent, and is,
10 therefore, impermissible.

11 I have a string of case citations,
12 which I can submit in writing, rather than
13 awkwardly read them into the record. Okay?

14 CHAIRMAN GOLDNER: Thank you.

15 MS. CHIAVARA: Fantastic. Since the
16 Commission found the entire \$2.1 million to be
17 just, reasonable, in the public interest, and
18 consistent with state policy, the only remaining
19 question is, "Did the Commission intend to limit
20 capital spending to \$650,000, leaving the rest of
21 the program funding to be restricted to
22 customer-side, behind-the-meter O&M expense?"

23 This brings us to the second issue of
24 whether the designation of up to \$650,000 of

1 capital expenditures as eligible for a rate of
2 return plan is arbitrary? In the October 10th
3 order, the Commission references the legal
4 standard described in RSA 378:28 for including
5 returns on capital in rate base when fixing
6 permanent rates during a distribution rate case.
7 That standard is that the capital expenditures
8 that correlate to those returns be prudent, used
9 and useful. And the Company concurs that this is
10 the appropriate standard for determining which
11 capital spending should be included in base
12 rates.

13 But the Commission's October 10th order
14 asserts that the \$650,000 limit on capital
15 spending eligible for a rate of return is a
16 factual matter that must be examined at this time
17 using that standard.

18 The Company respectfully disagrees with
19 this assessment, as it conflates the timing of
20 capital spending with the subsequent rate-making
21 based on that spending, which happens
22 after-the-fact.

23 While the Company agrees that a
24 prudence determination is a factual inquiry, no

1 such inquiry can be made here, and would be
2 inappropriate, as the costs have yet to be
3 incurred. Prudence reviews must necessarily
4 occur after the costs have been incurred. There
5 are no facts that could be added to the record in
6 this matter that could aid in a prudence
7 determination before any spending occurs, because
8 no assessment of "prudent, used and useful" can
9 be made until the spending is done. Therefore,
10 reopening the record is not justified, nor would
11 it be useful, as it would not aid in resolving
12 the matter in dispute. Rather, the appropriate
13 place for any prudence review of capital
14 expenditures and O&M expenses incurred from the
15 Make-Ready Program funding is in the next
16 Eversource rate -- distribution rate case.

17 Additionally, the arbitrariness of
18 setting a limit on capital spending to \$650,000
19 is a legal question, rather than a factual one.
20 The issue of arbitrariness goes to whether the
21 Commission's decision is sufficiently supported
22 by the record, and, in this instance, it is not.

23 The only evidence that references a
24 figure of \$650,000 is the Company's original

1 testimony filed more than a year and a half ago,
2 and was presented in that testimony as an
3 illustrative estimate. Since that estimate was
4 provided, circumstances have changed, primarily,
5 the DES issued an RFP with very different funding
6 criteria. And, as the Eversource Make-Ready
7 Program is a fund-matching program, the change to
8 the DES RFP will impact the type of spending
9 required of the Eversource Make-Ready Program to
10 best meet the needs of the VW award sites.

11 However, due to the many variables
12 specific to the needs of each site, the extent to
13 which the Program's funding distribution is
14 affected is still unknown. All that can be
15 reasonably said, and which was said on the record
16 at hearing and in closing statements, and
17 reiterated in the Motion for Rehearing of Order
18 26,667, is that, due to the current DES RFP
19 picking up more of the customer-side,
20 behind-the-meter O&M expense category of the
21 cost, the Eversource Make-Ready Program will
22 almost certainly require more utility-side,
23 front-of-the-meter capital expenditures than the
24 650,000 illustrative estimate presented in the

1 Company's original prefiled testimony.

2 And this is the crux of the issue. The
3 record reflects that the \$650,000 figure is not a
4 number that should be relied upon as a limit for
5 capital spending. And that no limit as to type
6 of spending be put on the \$2.1 million program
7 funding. There is nothing in the record that
8 supports the decision to rely on the \$650,000
9 figure.

10 It is because of this record evidence
11 that the Company and the Moving Parties in their
12 motion assert that the "650,000" designation is
13 arbitrary. For the reasons previously described,
14 if the Commission designates only 650,000 as
15 eligible for a rate of return, the Commission
16 has, in all practicality, capped all capital
17 spending at 650,000.

18 While the Commission has the general
19 authority to cap a program spending, in this
20 instance, such a designation conflicts with the
21 Commission's larger finding, that the
22 "\$2.1 million Make-Ready Program is just,
23 reasonable, and in the public interest." Given
24 that finding, and the record evidence that the

1 650,000 figure in the Company's original
2 testimony should not be the foundation of any
3 program funding limitation, such a limitation on
4 spending is not appropriate. And the Company
5 respectfully requests that the Commission lift
6 this restriction.

7 That's all I have to say at this time.
8 And I welcome questions on any of the topics
9 here. Thank you.

10 CHAIRMAN GOLDNER: Okay. Thank you. I
11 think we'll go through all of the Moving Parties,
12 and then come back for Commissioner questions at
13 the end.

14 Okay. Let's move to the New Hampshire
15 Department of Environmental Services?

16 MS. OHLER: Hi. Rebecca Ohler, for the
17 Department of Environmental Services, and with me
18 is Phil LaMoreaux.

19 And I have no opening statement. Thank
20 you.

21 CHAIRMAN GOLDNER: Okay. Thank you,
22 Ms. Ohler.

23 Let's move to the Office of Consumer
24 Advocate.

1 MR. KREIS: Good morning, Mr. Chairman,
2 Commissioners.

3 I've listened carefully to what Ms.
4 Chiavara just said, and I've also thought a lot
5 about the questions that are here today for
6 resolution. The OCA is a signatory to the
7 Settlement Agreement that is the subject of your
8 previous rulings. We joined the Motion that's
9 pending before you. I would just point out that
10 the Settlement Agreement is, in fact, a
11 Settlement that represents a compromise of
12 various issues that were germane to this
13 particular proceeding.

14 I guess, for those reasons, I, too, am
15 going to askew making an opening statement. I'm
16 not going to disagree with anything that Ms.
17 Chiavara said. But, since I did sign a
18 settlement agreement, I don't consider the OCA to
19 be bound by any of the positions that Eversource
20 or any other party might be laying out here in
21 support of what ultimately was a settlement
22 agreement. I just don't want to be -- I don't
23 want anything that happens here to be cited as
24 binding the OCA in some future proceeding where

1 the circumstances might be very different. As
2 the Chairman pointed out when he began the
3 hearing, this case is somewhat unique, because of
4 the role that it -- the role of what the
5 Commission is been reviewing here plays with the
6 relationship between that and the VW Settlement.

7 So, I think that's all I have to say at
8 this time.

9 CHAIRMAN GOLDNER: Okay. Thank you,
10 Attorney Kreis.

11 Let's move to the Conservation Law
12 Foundation.

13 MR. KRAKOFF: Good morning, Chairman
14 and Commissioners.

15 I generally agree with everything that
16 Eversource just stated a few minutes ago. You
17 know, I agree with them that, you know, any
18 capital expenditures, you know, on the EV Program
19 will be subject to a further prudence review in a
20 general distribution rate case, and that there
21 may be some confusion here as to what the
22 Commission has approved or not approved. But I
23 think Eversource, you know, makes it clear that,
24 you know, those determinations will be subject to

1 further preview by the Commission.

2 You know, I also agree with Eversource
3 that, you know, it was arbitrary to limit capital
4 spending to \$650,000, and that is not supported
5 by the record. As was, you know, as the record
6 demonstrated at the hearing, you know, the DES
7 program for the VW Trust money, you know, is very
8 different than was initially proposed, and that
9 there's record evidence to support spending more
10 on capital expenditures than the \$650,000, and
11 this is supported by the record.

12 So, you know, generally agree with
13 everything Eversource has said today.

14 Thank you.

15 CHAIRMAN GOLDNER: Okay. Thank you,
16 Attorney Krakoff.

17 Let's move to Clean Energy New
18 Hampshire.

19 MR. SKOGLUND: Thank you, Chairman
20 Goldner.

21 Just wanted to reiterate that Clean
22 Energy New Hampshire was a party to the
23 Settlement. And, when we had signed on, it was
24 our understanding that the 650,000 was, in fact,

1 illustrative. And had it been carved out, that
2 would have changed our calculus when signing on.

3 So, we also generally support and
4 signed onto the Motion for this rehearing, but
5 generally support the comments that Eversource
6 has made today.

7 Thank you.

8 CHAIRMAN GOLDNER: Thank you. And,
9 finally, the New Hampshire Department of Energy.

10 MR. WIESNER: Good morning,
11 Commissioners. David Wiesner, representing the
12 Department of Energy.

13 We generally agree with all of the key
14 arguments you heard from Eversource. I think
15 it's important to note that we -- that this is a
16 unique program. What has been pre-approved is
17 spending up to a total cap of \$2.1 million on
18 make-ready infrastructure that may be on either
19 side of the customer's meter, in order to support
20 the development of EV public fast-charging
21 stations in the state, with respect to those that
22 are selected through the DES RFP using Volkswagen
23 funds.

24 So, there's a strong public policy

1 underlay for this, which I think is the primary
2 driver for the various parties to have agreed in
3 settlement that it should be approved. None of
4 the parties propose that there be any sort of a
5 sublimit, nor is there any need for a sublimit,
6 on the types of expenditures that may be eligible
7 for recovery by the Company.

8 It's important to note that all
9 eligible spending up to the \$2.1 million cap
10 should be collected from the Company's
11 ratepayers, pursuant to the Commission's approval
12 of the Settlement Agreement. And it's our view
13 that that should be done without limit on which
14 buckets those dollars go into.

15 There's no basis for imposing a
16 sublimit on either category of costs. However,
17 as noted by the Company and others, no costs will
18 be recovered until they're incurred, and they
19 have been demonstrated to have been prudently
20 incurred by the Company, and they have also
21 established which category they should go into.

22 Effectively, imposing a \$650,000 cap
23 does impose an effective limit on the dollars
24 that could be expended on the front side of the

1 meter, the utility side, representing capital
2 expenditures, which should be eligible for a rate
3 of return in this context. There's no basis for
4 doing that. There's no need to do that. And the
5 decision to impose it at that level is arbitrary,
6 because it's inconsistent with the record that's
7 been adduced in this case.

8 So, we urge the Commission to remove
9 that limitation from its approval of the Program,
10 and leave it to the Company and the individual
11 developers, perhaps in consultation with the DES,
12 to determine the most effective way to spend the
13 total pot of money, up to the effective
14 \$2.1 million limitation.

15 Thank you.

16 CHAIRMAN GOLDNER: Okay. The
17 Commission will now engage in questions for the
18 Company and the other parties, beginning with
19 Commissioner Simpson.

20 CMSR. SIMPSON: Thank you, Chairman
21 Goldner.

22 I'll follow up on a question for
23 Attorney Wiesner.

24 We've heard that the \$650,000 cap on

1 capital expenditures eligible to earn a return
2 has been perceived by the parties as a "cap" on
3 capital spending. Our original order, I believe,
4 is clear that the Company would be eligible to
5 recover those costs from customers, but would not
6 be eligible to earn a return on anything over
7 650,000, for customers that are new and are
8 certainly revenue-generating for them.

9 So, can you elaborate a bit further on
10 why you believe or why the Department believes
11 that the \$650,000 cap on eligible spending to
12 earn a capital return is effectively a "cap on
13 capital spending"?

14 MR. WIESNER: I mean, I think we, in
15 particular, in this context, I think we generally
16 agree with the Company that anything that is
17 going to be added to its rate base, once it's
18 been found to be used, useful, and the
19 expenditures to have been prudently incurred,
20 should be eligible for a reasonable rate of
21 return as to be determined in its next rate case.
22 And we don't see any reason to depart from that
23 in this instance.

24 So, effectively, imposing a \$650,000

1 limitation on eligibility to earn a rate of
2 return, for what would clearly be the Company's
3 investments, is going too far. It's imposing an
4 unnecessary cap, a "sublimit", if you will, on
5 the dollars that can flow into that particular
6 bucket for cost recovery.

7 And it's -- I think it's probably fair
8 to say that's based on a mistaken conception by
9 the Commission, which is one of the grounds for
10 rehearing, and that's why we're urging the
11 Commission to rethink its conclusion on that
12 issue.

13 CMSR. SIMPSON: And what mistake do you
14 feel that is?

15 MR. WIESNER: The -- I guess I'll just
16 repeat what I just said, which is capital
17 expenditures, which increase the Company's rate
18 base, and are determined to be prudently
19 incurred, used and useful, and providing service
20 to customers, should be eligible for a reasonable
21 rate of return. That's the crux of public
22 utility rate-making. And we don't see any reason
23 for there to be an exception in this instance.

24 CMSR. SIMPSON: And, with respect to

1 determining whether these investments will be
2 prudently incurred, how would you envision, or,
3 as a party that signed the Settlement Agreement,
4 how are you, or the Department, supportive of a
5 pre-approval prior to determination of whether
6 the investments were prudently incurred?

7 MR. WIESNER: I mean, this is -- I
8 think this can be characterized as a
9 "pre-approval of a type of spending", up to a
10 limited total amount, to support an important
11 public policy goal of the state. And the
12 ultimate determination about how much may be
13 recovered by the Company will be made in
14 connection with its next rate case, at which time
15 all of its capital expenditures will be subject
16 to close review by parties, including the
17 Department, and by the Commission itself. And,
18 at that time, when the costs incurred are known,
19 and the purposes for which they were incurred are
20 known, that is when it would be appropriate to
21 have a prudency review.

22 And, if, for example, the Company put
23 the costs in the wrong category, if they spent
24 more than they needed to, if there were

1 reasonable alternatives that might have been
2 pursued in order to provide the service, then
3 that -- a disallowance might be in order. But
4 that's a determination for another day, once the
5 costs have actually been incurred.

6 CMSR. SIMPSON: And do you have any
7 thoughts on how we might protect customers from
8 increased rate impacts, while supporting the
9 Program?

10 MR. WIESNER: I mean, the Commission
11 has found that up to \$2.1 million is an
12 appropriate amount for the Company to spend, and,
13 if prudently incurred, to recover. I think the
14 only question is whether the portion of that that
15 would be considered capital investments by the
16 Company increasing its rate base would be subject
17 to a reasonable rate of return on its recovery of
18 that portion of the revenue requirement? And we
19 see no reason for it not to be.

20 CMSR. SIMPSON: Okay. Thank you,
21 Attorney Wiesner.

22 Ms. Ohler, I'd like to just ask you,
23 how is the DES process going with respect to the
24 VW Settlement? Have you been able to proceed on

1 your timeframe post this order?

2 Because I can tell you that we worked
3 diligently to issue our initial order on the
4 timeframe requested by the parties, in an effort
5 to support you moving forward.

6 MS. OHLER: Thank you, Commissioner.

7 As you are probably aware, one contract
8 has gone to the Governor & Executive Council for
9 approval. We are still in discussions with the
10 remaining applicants. And, as you well know, we
11 may not discuss that prior to it going to the
12 G&C.

13 CMSR. SIMPSON: Yes. Just asking you
14 generally, if you're able to -- if you're still
15 moving forward?

16 MS. OHLER: We are continuing
17 discussions.

18 CMSR. SIMPSON: Okay. Thank you.

19 Ms. Chiavara -- Attorney Chiavara,
20 excuse me, in your Motion, it's claimed that the
21 provision for capital expenditures being eligible
22 for Eversource's ROE is effectively a taking. Is
23 that a fair characterization?

24 MS. CHIAVARA: I don't -- I don't know

1 that the Motion went so far as to say it was a
2 "taking". However, any capital expenditures, at
3 the time that they are made, inherently need to
4 be eligible for a rate of return. There is no
5 category of capital spending that is, at the time
6 it is made, ineligible for a rate of return.
7 That happens, as Attorney Wiesner was just
8 discussing, that happens once a prudence review
9 is done in the context of a rate case.

10 So, I -- perhaps an argument could be
11 made that it would be a "taking", because there
12 is, if those costs were determined to be prudent,
13 used and useful, then that pre-disqualification
14 of a rate of return would, in fact, be a taking,
15 if that's how it played out.

16 CMSR. SIMPSON: So, in terms of, I
17 think, setting expectations, the only information
18 that we had on the record, in terms of allocation
19 of costs, was in the Company's initially filed
20 testimony. And I recognize that the parties at
21 hearing all encouraged the Commission to not rely
22 on those figures that were in the initial
23 testimony. And it was challenging for us,
24 because that was really our only guidance, in

1 terms of cost allocation, and what investments
2 within this program would be eligible for the
3 Company's return on capital.

4 So, I wonder how -- or, do you have any
5 thoughts on how we could manage rate impacts on
6 customers, while supporting the Program? A
7 similar question that I asked the Department of
8 Energy.

9 MS. CHIAVARA: I can try my best. I
10 agree it's challenging to not have, you know,
11 even reasonable estimates to go on, as far as
12 what would be O&M expense and what would be
13 capital expenditures. However, the nature of the
14 Program itself, the fact that it is a
15 fund-matching program to DES's Fund, and right
16 now we're, basically, matching to a black box.
17 It just resists, because there are so many
18 variables that come with each site, and, I mean,
19 from, you know, geographic differences, to just
20 there are -- there are a number of variables, and
21 they can vary quite widely. So, the
22 categorization of funding just resists an
23 estimate.

24 But I would return back to the

1 Commission's overarching conclusion that the 2.1
2 million, I mean, that was a hard cap; it was
3 "spend no more than this." But the finding was
4 that it was, you know, just and reasonable, in
5 the public interest, would not create
6 cost-shifting. You know, it was consistent with
7 the New Hampshire Energy Policy, and would result
8 in just and reasonable rates.

9 And, while I do not anticipate that the
10 full 2.1 would be spent on capital expenditures,
11 I would say that, if the finding was that the
12 \$2.1 million Program was found to be just and
13 reasonable and in the public interest, then any
14 of that, regardless of what percentage that was,
15 that is capital expenditures, if it's prudently
16 incurred, and receives the Company's rate of
17 return, that would also result in just and
18 reasonable rates.

19 CMSR. SIMPSON: So, given that the
20 allocation of funds is somewhat of a "black box",
21 using your own words, how can you allay some of
22 our concerns that the Company isn't going to
23 simply book \$2.1 million of capital expenses and
24 mitigate behind-the-meter investment?

1 MS. CHIAVARA: Well, that's largely
2 going to be dependent on the DES VW Trust award
3 sites that are in Eversource's service territory.
4 But that would be the way to ensure that, because
5 I imagine we're going to have to demonstrate that
6 we appropriately matched the funding to the needs
7 of the sites. That is also why the witnesses
8 said at hearing that we anticipate that to be
9 more capital expense heavy on the Eversource
10 side, because the new DES RFP does cover a great
11 deal more of behind-the-meter customer-side
12 costs. So, that's why we anticipated that it was
13 going to be greater than \$650,000 in capital
14 expenditures.

15 However, I would say the way the
16 Company would ensure that we don't just book
17 2.1 million would be to look at the sites that we
18 pair with, and make sure that, you know, we're
19 allocating the proper amount of funds to both
20 behind-the-meter and front-of-the-meter.

21 CMSR. SIMPSON: And, in your view, are
22 there costs that could be in front-of-the-meter
23 that the DES RFP could pay for?

24 MS. CHIAVARA: I would have to review

1 the eligible costs in the DES RFP. I haven't
2 taken a look at that in a couple of months.

3 If they were to pick those up, we're --
4 DES kind of has the lead on this. So, you know,
5 it's -- we're picking up what DES doesn't cover.
6 So, --

7 CMSR. SIMPSON: Okay. That's all I
8 have, Mr. Chairman. Thank you.

9 CHAIRMAN GOLDNER: Thank you.
10 Commissioner Chattopadhyay.

11 CMSR. CHATTOPADHYAY: Good morning.
12 I'm going to take a different track. And my
13 questions are exclusively for the utility, so,
14 Eversource.

15 So, I'm going to focus on the delta
16 between the \$650,000 and the approved total of
17 \$2.1 million, okay? And I'll do this
18 hypothetically, because I want to keep it simple.

19 So, I think delta is spent entirely as
20 a non-capital expenditure. How would the Company
21 recover this one-time expense from the ratepayers
22 going forward?

23 MS. CHIAVARA: If it was -- if the
24 remaining, if anything over 650 was to be spent

1 as O&M expense, so, customer-side program
2 funding? We would follow what the Settlement
3 recommended and what the Commission approved,
4 which is to book that expense as a regulatory
5 asset, that would be deferred to Eversource's
6 next rate case, and we would recover it there.

7 CMSR. CHATTOPADHYAY: So, but how do
8 you, in the rate case, how do you recover those
9 costs? What do you recommend usually? What is
10 the process of recovery of those costs going
11 forward?

12 Is it simply, like, because it's part
13 of the regulatory asset, you're going to --
14 because you're not getting any return on it?

15 MS. CHIAVARA: Correct.

16 CMSR. CHATTOPADHYAY: You are,
17 essentially, divvying it up into different years
18 trying to recover those costs, perhaps using an
19 interest rate associated with it. So, I'm
20 asking, generally, how do you recover those
21 costs? That's my question.

22 MS. CHIAVARA: Okay. And we might be
23 straying a little outside of my field, and I
24 don't want to wing it necessarily. But, like,

1 Revenue Requirements might be the better folks to
2 answer that. But I believe that, since it is a
3 non-recurring expense, I believe it would be
4 recovered over a twelve-month period.

5 I don't want to say anything for sure.
6 I would prefer to leave that to a subject matter
7 expert of Eversource.

8 CMSR. CHATTOPADHYAY: Okay. So, let's
9 go to the other aspect of this.

10 If the delta is spent entirely as
11 capital expenditure, would it be correct to say
12 that the ratepayers will be paying the return on
13 that expenditure, appropriately adjusted for
14 depreciation, into the future?

15 MS. CHIAVARA: Yes. I believe that's
16 correct.

17 CMSR. CHATTOPADHYAY: And that is
18 certainly not twelve months?

19 MS. CHIAVARA: Correct.

20 CMSR. CHATTOPADHYAY: Okay. So, will
21 you agree that intertemporally the two
22 alternatives are different? And, under the
23 capital expenditure route, the ratepayers are
24 likely to be paying for recovery of the costs for

1 a longer period into the future?

2 MS. CHIAVARA: It would be a longer
3 period of time, yes.

4 CMSR. CHATTOPADHYAY: So, when we talk
5 about "cost-shifting", it's not merely about just
6 going from one group of customers to another in a
7 point in time, it's also about, intertemporally,
8 how we are dealing with the ratepayers.

9 So, if I'm going to decide what's going
10 to happen to ratepayers 50 years down the road, I
11 would think that I'm not doing my job. Because
12 I'm not going to live that long, I need to
13 understand what their interests are. And, so,
14 that's where I'm going.

15 So, for the delta being entirely a
16 capital expenditure, will you agree that, whether
17 the capital expenditure is prudent or not,
18 depends on whether the rate design reasonably
19 accommodates recovery of the costs from the
20 customers benefiting from the EV charging
21 facilities?

22 MS. CHIAVARA: To a degree, I would.
23 But I would also go back to the Commission's
24 original determination, that the full 2.1 million

1 doesn't create unreasonable cost-shifting.
2 Because I think there were a number of factors
3 that led to that determination, and that was
4 consistency with state policy, it was the size of
5 Eversource's customer base. There were a number
6 of factors that contributed to that.

7 And I don't know that the 1.45 million,
8 which is the nexus we're discussing, I don't know
9 that recovering that in capital, as opposed to
10 expense, would necessarily create the
11 intergenerational cost-shifting that you're
12 discussing.

13 CMSR. CHATTOPADHYAY: But you are --
14 clearly, I'm going somewhere. That it is
15 possible that I inferred that the breakout into
16 650,000 and 1.4, whatever the number is, that is
17 also about addressing the inter -- you know, the
18 intertemporal issue. That's possible, right? I
19 mean, I could have thought about that.

20 MS. CHIAVARA: Okay.

21 CMSR. CHATTOPADHYAY: So, just to focus
22 on \$2.1 million, the way you are accounting it,
23 I'm just letting you know that I think that
24 analysis is incomplete, regardless of how you

1 have couched it, I don't agree with you. Okay?

2 Would you agree that the Company will
3 have a better information on demand for the
4 instant EV charging service, and the appropriate
5 rate design, to reasonably require customers
6 benefiting from the service actually pay for the
7 service?

8 Perhaps that's going to happen quite a
9 few years into the future. So, your ability to
10 process the demand, the revenue stream, all of
11 that, you will be better placed to do that well
12 into the future. And, when I say "well into the
13 future", maybe three years, you know, four or
14 five years into the future. Will you agree with
15 that assessment?

16 MS. CHIAVARA: Yes. Just to clarify,
17 when you say for the "rate design", you mean the
18 "Demand Charge Alternative" --

19 CMSR. CHATTOPADHYAY: Yes.

20 MS. CHIAVARA: -- that was approved
21 with this? Yes. I think, and I think three
22 years' time was the initial period that we gave
23 this, I believe we will have at least some
24 initial data to go on to, you know, tailor --

1 further tailor this rate.

2 CMSR. CHATTOPADHYAY: So, I think what
3 I'm hearing from you, you do agree that the
4 revenue stream recovered from the beneficiaries
5 would depend on the rate design that is put into
6 place, and that took place in the future, I think
7 that's essentially what you're saying.

8 And that does have a bearing as to what
9 capital expenditure amount is prudent or not.
10 Will you agree with that?

11 MS. CHIAVARA: I think that might be
12 more a question for our Director of Rates, Ed
13 Davis. He --

14 CMSR. CHATTOPADHYAY: Okay.

15 MS. CHIAVARA: That gets into a bit of
16 who the beneficiaries are, what the cost of
17 capital ends up being, and how rates are
18 determined based off that cost of capital. And
19 that might be a little out of my wheelhouse.

20 CMSR. CHATTOPADHYAY: That's fine.
21 But, generally, what you're talking about here,
22 that you are not comfortable going into, is about
23 rate design?

24 MS. CHIAVARA: It's about -- it's about

1 setting base rates, yes.

2 CMSR. CHATTOPADHYAY: Okay. I think
3 I'm going to stop there. I think that's all I
4 have.

5 Thank you.

6 CHAIRMAN GOLDNER: I just have one
7 question, and then perhaps a follow-up. And
8 then, what we'll do is we'll take like a
9 ten-minute break, and let the Commissioners
10 confer, and then we'll come back and wrap up the
11 hearing.

12 So, the only question I have at the
13 moment is, why didn't the -- directed at Attorney
14 Chiavara, why didn't the Company update the 650K
15 illustrative number for the August hearing? You
16 mentioned it was a year and a half old, but you
17 came to hearing with a number that was old, and
18 didn't update it. Why? Why not?

19 MS. CHIAVARA: In hindsight, that would
20 have been the better thing to do. I believe, I
21 mean, at that time, and at this time, we still
22 aren't sure what to update that number to. And,
23 so, it was really more of a -- it was just a
24 decision to address it orally on the stand, that

1 we don't really have a guidepost at this point.

2 But we did try to provide, you know, in
3 a narrative context, how those elements have
4 shifted. We just -- we didn't have numbers, we
5 didn't have alternative numbers, we still don't,
6 to provide.

7 And, so, I don't know how much -- how
8 helpful that would have been. Although, maybe it
9 would have been at this point, I don't know.

10 CHAIRMAN GOLDNER: Is the Company
11 smarter now than it was two months ago? In other
12 words, it sounds like you have more data. You're
13 concerned about the 650, we wouldn't be here if
14 you weren't concerned about the 650. If the 650
15 was fine, we would have moved along, I would
16 imagine.

17 But it sounds like you've got more
18 information since then. Can you share what
19 you've learned since the August hearing?

20 MS. CHIAVARA: We actually have no new
21 information since the August hearing, and that's
22 part of why we do have the issue with the 650.
23 Because it's such a likely shift that we'll need
24 more capital spending to match -- to best match

1 the DES sites, just based on them covering so
2 much more of the behind-the-meter, which we
3 thought we originally would have had to cover.

4 So, the first concern was, you know,
5 that there will be a need beyond 650 to spend
6 that capital. And then, the secondary issue is,
7 if that need does exist, was the Company's issue
8 of, you know, the Company won't -- I mean, the
9 Company won't end up spending capital
10 expenditures that are prequalified to not -- or,
11 pre-disqualified from earning a rate of return.
12 So, we wanted to ensure that the Company could
13 spend whatever it's ultimately required by the
14 DES award sites.

15 CHAIRMAN GOLDNER: Okay. Okay, thank
16 you.

17 Okay. Let's just take a quick
18 ten-minute break, come back at five minutes of,
19 and we'll wrap up then. Okay? Thank you.

20 *(Recess taken at 10:44 a.m., and the*
21 *hearing resumed at 11:11 a.m.)*

22 CHAIRMAN GOLDNER: Okay. I think
23 you'll find that time well spent, because the
24 Commissioners have no further questions.

1 Okay. So, I would at this point like
2 to check to see if there's any comments from any
3 of the parties before we adjourn?

4 MS. CHIAVARA: If I may, Chair Goldner?

5 CHAIRMAN GOLDNER: Of course.

6 MS. CHIAVARA: I just wanted to speak a
7 moment, to circle back to Commissioner
8 Chattopadhyay's question about beneficiaries, "if
9 the 1.45 million, the delta between the 650 right
10 now and the 2.1, were to be capitalized, or any
11 portion of that were to be capitalized?"

12 I guess I wasn't entirely clear what
13 "beneficiaries" were being referred to. But I
14 would like to point out that the beneficiaries,
15 is these are sites that are being matched to all
16 of Eversource's service territory, and there are
17 a lot of beneficiaries here. And, since these
18 are stations that are being built, the benefits
19 are likely to be seen over the next number of
20 years, you know, ten, twenty years, as these are
21 going to, hopefully, stay in business.

22 And it's not just EV drivers, although
23 there will be an increasing amount of EV drivers
24 with used markets, and multiunit dwellings now

1 being able to avail themselves of EVs. But
2 travel and tourism, which is huge in this state,
3 that's what the DES Program is designed towards.
4 And that's not just Eversource customers, that's
5 everyone. And, hopefully, those are long-term
6 benefits, not just, you know, the twelve months,
7 if it were to be all expense money.

8 So, I think there is a justification
9 for additional capital expenses here.

10 Thank you.

11 CHAIRMAN GOLDNER: Do we have any other
12 comments from the parties?

13 *[No verbal response.]*

14 CHAIRMAN GOLDNER: Commissioner
15 Chattopadhyay, would you have any questions for
16 the Company? Or Commissioner Simpson?

17 CMSR. CHATTOPADHYAY: No, I don't.

18 CMSR. SIMPSON: No. I don't have any
19 further questions, Mr. Chairman. Thank you.

20 CHAIRMAN GOLDNER: Okay. Thank you.
21 We'll take the matter under advisement and issue
22 an order. We are adjourned.

23 ***(Whereupon the hearing was adjourned***
24 ***at 11:13 a.m.)***