

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

November 1, 2022 - 9:02 a.m.
21 South Fruit Street
Suite 10
Concord, NH

RE: DG 22-041
LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP. d/b/a LIBERTY
UTILITIES: Petition for Approval
to Recover Revenue Decoupling
Adjustment Factor Costs.
(Prehearing conference)

PRESENT: Chairman Daniel C. Goldner, Presiding
Commissioner Carleton B. Simpson

Eric Wind, Esq. (*PUC Legal Advisor*)

Tracey Russo, Clerk

APPEARANCES: **Reptg. Liberty Utilities (EnergyNorth**
Natural Gas) Corp. d/b/a Liberty
Utilities:

Michael J. Sheehan, Esq.

Reptg. Residential Ratepayers:

Julianne M. Desmet, Esq.
Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:

Paul B. Dexter, Esq.
Mary E. Schwarzer, Esq.
Faisal Deen Arif, Director/Gas Group
(Regulatory Support Division)

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

PAGE NO.

SUMMARY BY CHAIRMAN GOLDNER

4

RESPONSES TO THE SUMMARY BY:

Ms. Desmet

4

Mr. Dexter

5

Mr. Sheehan

8

QUESTION BY CHAIRMAN GOLDNER

10

(Re: Agreement on the issues)

QUESTIONS BY CMSR. SIMPSON

11

(Re: Horizon for "old" RDAF and "new" RDAF)

QUESTIONS BY CHAIRMAN GOLDNER

16

(Re: Carve-outs)

OPENING STATEMENTS BY:

Ms. Desmet

19

Mr. Dexter

20

Mr. Sheehan

32

QUESTIONS BY CMSR. SIMPSON

37

QUESTIONS BY CHAIRMAN GOLDNER

63

P R O C E E D I N G

1
2 CHAIRMAN GOLDNER: Okay. Good morning.
3 We're here in Docket DG 22-041 for a prehearing
4 conference regarding Liberty's Petition for
5 Approval to Recover Revenue Decoupling Adjustment
6 Factor Costs.

7 Let's take appearances, beginning with
8 the Company.

9 MR. SHEEHAN: Good morning. Mike
10 Sheehan, for Liberty Utilities (EnergyNorth
11 Natural Gas). And with me today are folks from
12 the Keegan firm, who have been helping on this
13 case, Cheryl Kimball and Kevin Penders.

14 CHAIRMAN GOLDNER: Okay. Very good.
15 And the Office of Consumer Advocate?

16 MS. DESMET: Good morning. Julianne
17 Desmet, with the Office of the Consumer Advocate.

18 CHAIRMAN GOLDNER: Okay. Very good.
19 Just a moment.

20 And the New Hampshire Department of
21 Energy?

22 MR. DEXTER: Good morning, Mr.
23 Chairman. Paul Dexter, for the Department of
24 Energy, joined by co-counsel, Mary Schwarzer.

1 Sitting at the table with us today is Faisal Deen
2 Arif, the Director of the Department's Gas
3 Division.

4 CHAIRMAN GOLDNER: Okay. Thank you.
5 Very good.

6 Okay. My understanding, as a
7 preliminary issue, is that there are two disputed
8 issues. One, is Liberty entitled to recover
9 amounts refunded from 2018 to 2020, based on the
10 tariff in place at that time? And, two, if so,
11 did Liberty correctly calculate the amounts it
12 claimed were improperly refunded?

13 Additionally, I'll note that, pursuant
14 to Order 26,663, by agreement of the parties,
15 investigation of the RDAF applied during the
16 2021/2022 decoupling years also allowed in this
17 proceeding.

18 So, I'll begin with the OCA, and just
19 check in to see if all the parties agree with
20 that summary?

21 MS. DESMET: I would say, yes. I know
22 I am just covering this today. Attorney Kreis is
23 the one assigned, even though he said "you will
24 be here."

1 So, yes, preliminarily, pending
2 discovery in the process.

3 CHAIRMAN GOLDNER: Okay. Very good.
4 Very good. Attorney Dexter?

5 MR. DEXTER: Thank you, Mr. Chairman.
6 My understanding is that today's case, which is
7 22-141 [22-041?], is what we've been referring to
8 upstairs as the "old RDAF" docket, and that it
9 covers request that the Company has made to
10 collect money that was already passed back for a
11 two-year period. And those two-year periods were
12 2018/2019 and 2019/2020. And I believe that was
13 the subject of the July 6 testimony by Liberty.

14 I didn't quite catch the third year
15 that you put in, but I don't recall that being in
16 this docket.

17 CHAIRMAN GOLDNER: So, --

18 MR. DEXTER: And I will say that, also
19 upstairs, we're referring to Liberty's current
20 request, in the most recent cost of gas case,
21 where they have requested a \$4.2 million
22 decoupling adjustment, we've been calling that
23 the "new RDAF". And, by that, we mean that's
24 current in the case that I guess just wrapped up

1 this morning, with that issue carved out.

2 So, I'm not sure where that third
3 sentence that you read falls into that rubric.

4 CHAIRMAN GOLDNER: So, we're
5 referencing Order 26,663, and Page 2. Do I have
6 that right?

7 *[Chairman Goldner and Atty. Wind*
8 *conferring.]*

9 CHAIRMAN GOLDNER: Okay. Pages 2 and 4
10 of that Order. And, if you'd like to take a
11 moment, Attorney Dexter, to pull it up or consult
12 with your team, that would be fine.

13 MR. DEXTER: What's the date of that
14 Order please?

15 CHAIRMAN GOLDNER: It is "August 4th,
16 2022". And I'll just read from the "Commission
17 Analysis" on Page 4. It says "to the extent that
18 there is a need to further investigate the RDAF
19 applied in 2021-2022 or to further refine tariff
20 language, such review may occur in Docket DG
21 22-041."

22 MR. DEXTER: Yes. I would like a
23 minute to consult with co-counsel.

24 CHAIRMAN GOLDNER: Of course.

1 *[Atty. Dexter and Atty. Schwarzer*
2 *conferring.]*

3 CHAIRMAN GOLDNER: Mr. Dexter.

4 MR. DEXTER: Yes. Thanks.

5 So, having consulted, we've used the
6 term "old RDAF" and "new RDAF" for a reason. The
7 old RDAF, which is the primary focus of this
8 case, asks for a fairly extraordinary remedy,
9 which is to go back and undo things that have
10 been -- that have happened pursuant to approved
11 tariffs and approved rates.

12 The issues that -- and the other thing
13 is, the decoupling tariff that the Company used
14 changed in 20-105. The issues that would have
15 arisen in the order that you referenced apply to
16 the 2021-2022 timeframe, they would have been --
17 those RDAF decoupling dollars would have been
18 calculated pursuant to the new tariff.

19 So, it would be our understanding that
20 they would be handled in the current docket, and
21 I'm sorry, I don't know the number, but the one
22 that just wrapped up yesterday, 22-045. Because
23 every decoupling calculation starts with a
24 beginning balance, and the beginning balance at

1 issue in 20-045 [22-045?] would have been the
2 result of the 2021-2022 decoupling year. So, it
3 was our understanding that that year was carved
4 out in 20-045 [22-045?].

5 And so, that the focus of this case
6 would be the two years that I mentioned,
7 2018/2019, 2019/2020.

8 CHAIRMAN GOLDNER: Okay. Thank you,
9 Attorney Dexter.

10 Yes. Let's turn to the Company. The
11 prehearing conferences are nice for a
12 simplification of issues. If that's something we
13 can simplify, that would be encouraging.

14 So, Attorney Sheehan.

15 MR. SHEEHAN: Sure. I was just about
16 to pull up the order in 22-045 that carved out
17 the newer RDAF, as well as the gas holder costs.
18 And I just don't recall the details of that
19 order.

20 But I agree with counsel that the old
21 RDAF issue is the old tariff, how it was applied,
22 *et cetera*. And the new RDAF is a completely
23 different issue. We think we applied the tariff
24 correctly, calculated the numbers correctly.

1 Staff and OCA, understandably, said "It's a big
2 number. We want to make sure we understand it.
3 Can we have more time?" And, so, that was the
4 thinking of carving it out.

5 Whether it's officially attached to
6 this docket or not, I don't think matters a whole
7 lot, as long as everyone understands that they
8 don't talk to each other at all. The reason we
9 would put them in this docket is more for
10 administrative efficiency, we can be in the same
11 room at the same time. DOE has proposed a
12 schedule that we'll talk about afterwards that
13 could certainly accommodate both, with a
14 hearing -- the rough schedule is a six or
15 eight-month schedule, with a hearing in June.

16 And I'll pull up the order in 045, to
17 see -- I don't remember how clear it was to the
18 order you just read. I'm not finding it.

19 There it is. So, it's Order Number
20 26,692, issued September 29. The first ordering
21 clause "Ordered, that the RDAF under-collection
22 issue and gas holder costs are severed and shall
23 be adjudicated on a separate procedural
24 schedule."

1 So, that order, I mean, they can talk
2 to each other, they weren't explicitly talking to
3 each other. But, if the Commission's preference
4 is to fold that separate schedule into this
5 docket, we don't have a problem with that. With
6 the understanding that they are, other than the
7 label "RDAF", they are two different issues.

8 CHAIRMAN GOLDNER: Okay. So, if I can
9 summarize, I think, where we have agreement is
10 on -- what Attorney Dexter calls the "old
11 tariff", we summarized it as "2018 through 2020",
12 which is the 2018-2019 and 2019-2020 years. That
13 calculation, that refund is clearly in this
14 docket, everyone agrees with that.

15 And then, we have this question of what
16 to do about with the new -- I'll call it the "new
17 tariff", the 20-105 tariff, and where sort of
18 that, I'll call it a "reconciliation", what
19 docket that takes place in?

20 That's fair, Attorney Dexter?

21 MR. DEXTER: Yes.

22 CHAIRMAN GOLDNER: Okay. Thank you.
23 Okay. Very good. So, thank you. That is
24 helpful.

1 Anything, Commissioner Simpson?

2 CMSR. SIMPSON: I just want to
3 understand the horizon for each of these RDAFs.

4 So, when we refer to the "old RDAF",
5 that was from 2017 until 2020, correct, as a
6 model?

7 MR. SHEEHAN: It went into effect
8 November 1 of '18.

9 CMSR. SIMPSON: Okay.

10 MR. SHEEHAN: So, it's a 2017 rate
11 case, settled in 2018, in the summer, put into
12 effect that fall. So, it's the -- as the Chair
13 said, it's the two years beginning 2018-2019 and
14 then 2019-2020.

15 CMSR. SIMPSON: And you didn't have
16 revenue decoupling prior to that?

17 MR. SHEEHAN: Correct.

18 CMSR. SIMPSON: Okay.

19 MR. SHEEHAN: And that's the first two
20 years of decoupling under the new tariff, the
21 very new tariff.

22 CMSR. SIMPSON: So, November 2018
23 through, what was the date certain in 2020?

24 MR. SHEEHAN: Would be October 31.

1 CMSR. SIMPSON: October 31. And then,
2 that change, the subsequent change, that came out
3 of 20-105?

4 MR. SHEEHAN: Correct.

5 CMSR. SIMPSON: Okay.

6 MR. SHEEHAN: So, we have a Settlement
7 in the Summer of '21, and that new language went
8 into effect beginning -- I mean, went into effect
9 earlier, but, as far as the RDAF application, it
10 went into effect November 1 of '21.

11 We had a -- the first year
12 reconciliation under that new tariff, '21 to
13 '22 -- I guess that's what we're dealing with
14 here. Never mind. I was thinking there was
15 another year in there.

16 CMSR. SIMPSON: So, then, November 2020
17 to November 2021, what that -- there's a gap
18 there?

19 MR. SHEEHAN: That's right. That's the
20 one I was thinking of, and that was the cost of
21 gas order issued a year ago, that I don't
22 remember what the adjustment was, that approved
23 the RDAF reconciliation, and, as counsel said,
24 gave a new beginning balance for this year, and

1 that one went without difficulty.

2 So, if we were here a year ago,
3 everyone would say "The new tariff worked, the
4 reconciliation is approved, we're all good." And
5 then, this year comes, and again, it's a
6 significant number, which -- and new folks at the
7 table said "Let's slow down and take a closer
8 look."

9 CMSR. SIMPSON: Okay. So, your
10 Petition was just for the November '18 to end of
11 October 2020?

12 MR. SHEEHAN: Correct.

13 CMSR. SIMPSON: And then, the
14 November 2020 through October 2021, that was
15 resolved in cost of gas order?

16 MR. SHEEHAN: A year ago.

17 CMSR. SIMPSON: A year ago. And then,
18 pursuant to 20-105 rate case, your Settlement,
19 that November 2021 is a subsequent change?

20 MR. SHEEHAN: I'm scratching the memory
21 now. My recollection is the -- that the
22 reconciliation that was approved a year ago was
23 under the new language.

24 CMSR. SIMPSON: Okay.

1 MR. SHEEHAN: Yes. I'm getting nods
2 around the table.

3 CMSR. SIMPSON: Okay.

4 MR. SHEEHAN: So, even though it may
5 have happened mid stride, it was using the new
6 tariff language. And, so, the carved out RDAF
7 from the just completed cost of gas is the second
8 year of the new language.

9 CMSR. SIMPSON: Okay. Thank you.
10 Thanks, Chairman Goldner.

11 CHAIRMAN GOLDNER: Yes. And I think
12 I'll --

13 MR. DEXTER: May I respond?

14 CHAIRMAN GOLDNER: Yes, please.

15 MR. DEXTER: So, I believe I agree with
16 just about everything Attorney Sheehan said.
17 However, I want to point out that the 17-048 case
18 was not, in fact, settled, it was litigated. It
19 may not be important, but I just want to correct
20 the record on that. Particularly, the RDAF issue
21 was an issue that we brought before the
22 Commission back then. The Commission ultimately
23 adopted in their order a settlement that was a
24 contested settlement. So, I can understand why,

1 you know, people might called it the "settled
2 RDAF", but it was, in fact, a contested issue.

3 CMSR. SIMPSON: Was that issue -- the
4 RDAF issue specifically was contested?

5 MR. DEXTER: Yes.

6 CMSR. SIMPSON: Thank you.

7 MR. DEXTER: Yes. We had a full day of
8 hearing in 17-048 on the RDAF issue, on the
9 concept of decoupling itself, and then how it
10 would apply in the Liberty case, with a panel of
11 a couple of experts and Staff testimony at the
12 time. And, yes, it was contested.

13 Secondly, we have been, Attorney
14 Schwarzer and I, have been diligently trying to
15 preserve the RDAF issues, where possible, for
16 subsequent review. And you've just gone through
17 the four years.

18 The two years, the issue that was
19 carved out, that we're talking about today,
20 the old RDAF issue, was carved out in
21 20-130 [21-130?], which was the Cost of Gas/LDAC
22 case roughly a year ago this time.

23 So, again, I don't -- I'm not trying to
24 quibble, but I don't think it's, you know, we can

1 just say "Oh, well, that one went through without
2 issue" or anything like that. There was, in
3 fact, a very large issue, this \$4 million
4 proposal was raised in that case, that was carved
5 out.

6 And, as I said, it's also our
7 understanding that, in the most recent carve-out,
8 in 22-045, the beginning balance, the
9 under-/over-collection at the beginning of the
10 period, which I think would go back to August of
11 2021, that, as I understand, has been carved out
12 in 22-044 [22-045?], and everything forward.

13 CMSR. SIMPSON: Seems like we have a
14 lot of carve-outs, Chairman Goldner, with an
15 issue that is potentially a compounding issue.
16 I'll just make that comment on the record.

17 CHAIRMAN GOLDNER: Yes. Thank you.
18 Thank you, Commissioner Simpson. I agree with
19 you.

20 I'm looking also, Attorney Dexter, at
21 Order 26,611. And it talks about there being,
22 and it's a question, I guess, for Attorney
23 Sheehan as well, it talks about some question as
24 to the period of November 1st, 2020 to October of

1 2021. And then, that the Commission summarized
2 that period as being "in dispute", at least as of
3 the time of Order 26,611.

4 So, I think, and if you'd like to
5 further address this, no problem, but I think
6 what I have is clarity on what Attorney Dexter
7 calls the "old tariff", and I like that, because
8 we have clarity on that.

9 With respect to how we handled the
10 tariff since the old tariff, the "new tariff", I
11 think there's a lot of questions on carve-outs
12 and which dockets and so forth. And I think the
13 Commission needs to go back and look at, you
14 know, how to handle these various carve-outs.

15 And, of course, if the parties have an
16 opinion on how to best to do that, that would, of
17 course, be helpful.

18 MR. DEXTER: What was the date of that
19 order please, 26,611?

20 CHAIRMAN GOLDNER: That's a good
21 question, it is --

22 MR. SHEEHAN: April 15, '22.

23 CHAIRMAN GOLDNER: Yes, 2022. Yes.

24 MR. SHEEHAN: That was the first order

1 the Chair read from in this just a few minutes
2 ago, right?

3 CHAIRMAN GOLDNER: Yes. Well, I read
4 from a couple of orders, but I think that was one
5 of them.

6 MR. DEXTER: Okay. I thought you had
7 read from an order that you said was dated
8 "August 4th, 2022". This one is "April 15th,
9 2022". I'd have to go back and look. I'm not
10 sure why RDAF would have come up in a -- that
11 sounds -- I'm not familiar with that order, I'd
12 have to go back and look at it. It seems out of
13 cycle. Because I would expect a summer cost of
14 gas would (a) not deal with RDAF, and (b) would
15 not come out on April 15th of 2022. So, --

16 CHAIRMAN GOLDNER: I think that was our
17 attempt to clean up some things. It was actually
18 an order issued in three dockets: 20-105,
19 21-130, and 21-132.

20 But I think we have the picture. And
21 the picture is that this -- the period beginning
22 November 1st, 2020 and on, and whether that's
23 just the first year or the first year and the
24 second year, it's something that we need to

1 figure out where to handle it. So, --

2 MR. DEXTER: I agree with that. And I
3 do remember that order now. I think that's the
4 order that, the 4/15 order, that eventually
5 brought us here today, --

6 CHAIRMAN GOLDNER: I think so.

7 MR. DEXTER: -- that you issued in the
8 three dockets.

9 CHAIRMAN GOLDNER: I think so. Okay.
10 So, I think -- just a moment.

11 *[Chairman Goldner and Commissioner*
12 *Simpson conferring.]*

13 CHAIRMAN GOLDNER: Okay. Very good.
14 So, I think we can move on to opening
15 statements. So, we were hoping, from a
16 Commission perspective, to get a preliminary
17 position, a status update on any discovery that's
18 been conducted, and then advice on a procedural
19 schedule that's needed for the matter.

20 So, we can begin with the Attorney
21 Desmet, if you like?

22 MS. DESMET: I appreciate the offer.
23 I'm just a pinch-hitter today, as Attorney Kreis
24 had a conflict. So, I have nothing to add.

1 CHAIRMAN GOLDNER: Excellent. Very
2 good. Thank you.

3 Attorney Dexter.

4 MR. DEXTER: Okay. Well, thanks.

5 Our preliminary position is, as I said,
6 that the case presented before the Commission
7 asks for a very unusual remedy. And I don't
8 recall that I've dealt with this before. But
9 what we have here is we understand a situation
10 where there was a tariff approved, there were
11 rates approved, and a mechanism was approved
12 within that tariff. And money was returned to
13 customers pursuant to that tariff over a two-year
14 period. And then, one year later, the Company
15 has come in and has sought to undo those two
16 prior years.

17 That immediately raised an issue in our
18 minds, and I'll speak for the OCA, because the
19 OCA filed a motion on this, raised an issue of
20 "retroactive ratemaking". We believe that that
21 is still a key issue in this case that needs to
22 be explored.

23 However, our position at the time, and
24 our position remains today, that that's just not

1 allowed under the concept of "retroactive
2 ratemaking".

3 That said, "decoupling" is a new
4 concept in New Hampshire. And it's certainly
5 proving to be a complicated, while simple in
6 theory, fairly complicated to understand its
7 application. And we are willing to go forward on
8 an -- into an investigation to determine if, in
9 fact, there really is anything that needs to be
10 done for those two periods, 2018/2019 and
11 2019/2020. And, if it turns out there is
12 something that needs to be done, you know, then
13 maybe we address the legal issue. But it's not,
14 you know, I don't think it's been established
15 that there is something that needs to be done.

16 Secondly, what Liberty has laid out as
17 what needs to be done is to correct a mistake, a
18 claimed mistake in a particular clause in the
19 tariff. It's our position that, if we're going
20 to go back and unwind two years' worth of
21 decoupling, that, while we certainly will look at
22 the issue that Liberty has highlighted, we need
23 to look at the entire calculation. We're not
24 understanding that this case is just focused on

1 their \$4 million question.

2 And we believe that's consistent with
3 the Order of Notice that you issued back in
4 September, where you said "This filing presents,
5 *inter alia*, the following issues: (1) whether
6 Liberty is entitled to recover amounts refunded
7 from 2018 through 2020 pursuant to its
8 application of an approved RDM tariff in effect
9 at that time."

10 So, we believe that the entire
11 calculation that was done back in those two years
12 is at issue here.

13 And our preliminary investigation has
14 indicated that this is, in fact, a very
15 complicated matter. Generally speaking, and I do
16 a lot of rate hearings before this Commission, we
17 focus on a utility's revenues at the time of the
18 base rate case. And all the other cases that I
19 can think of where we sit before you, we're
20 dealing with expenses. We're dealing with cost
21 of gas, we're dealing with LDAC, we're dealing
22 with property taxes, we're dealing with step
23 adjustments. That's all on the expense side.
24 And we adjust its rates to allow recovery of

1 certain expenses.

2 This is a situation where we're now
3 focused, in between a rate case, on the revenue
4 side of the ledger. And that's not an area that
5 I believe has received a lot of attention in
6 cases before the Commission outside of a general
7 rate case.

8 Now, my understanding of what happens
9 with a general rate case is, the revenue
10 requirement calculation that's presented before
11 the Commission starts with test year revenues, we
12 understand that. But, generally speaking, test
13 year revenues are verifiable to the PUC Report or
14 the FERC Form 1, depending on which report.
15 There are typically, in a gas case, a
16 weather-normalization adjustment that establishes
17 a process that was set up back in the '80s, I
18 understand. And there might be some discrete
19 revenue adjustments perhaps for a special
20 contract that started during the test year, or
21 dropped off during the test year, or was outside
22 the revenue requirement. There's usually a few
23 adjustments.

24 And, again, my understanding is that

1 it's a fairly simple process to trace those test
2 year revenues, which form the basis of the
3 revenue requirement calculation, you know, back
4 to verifiable reports that I mentioned.

5 What we have to do in decoupling is a
6 bit different. So, what we're saying in
7 decoupling is, we're going to set targets and --
8 revenue targets, and then we're going to look at
9 actual revenues outside of -- outside of a rate
10 case. And, so, the targets themselves have to be
11 able to tie back to the underlying rate case.
12 So, that's Step Number 1.

13 The actual revenues, we're now looking
14 at revenues beyond a test year. We're now
15 looking at revenues in between a test year. So,
16 and they are presented on a per-customer -- in
17 total and on a per-customer basis. So, the first
18 thing we have to verify, in going back and trying
19 to look at these two years, is "are we able to
20 verify the two years of actual revenues, in
21 total, to established reports, like the PUC
22 Report or the FERC Form 1?" I guess, in the case
23 of the gas companies, it's not the FERC Form 1,
24 it's the PUC Report. So, we need to do that,

1 which has not been done before.

2 Secondly, as I said, the targets and
3 the calculations are done on a per-customer
4 basis. So, now, we have to verify, you know,
5 what customers are we using. If we're going to
6 divide by number of customers, we have to
7 understand what customers we're using. And my
8 understanding is that there was actually a shift
9 in the tariff, old tariff versus new tariff, that
10 changed that calculation a bit. That's an issue
11 we have to explore.

12 Thirdly, and Ms. Menard's testimony
13 talks about the notion of "equivalent bills",
14 which is, again, a concept that I'm not sure
15 occurs in general revenue accounting in a rate
16 case, but it's certainly not something that we've
17 ever looked at. We need to explore this issue of
18 "equivalent bills", which the Company has
19 explained is necessary in order to make the
20 calculations work. But it's a little -- it's a
21 little -- it's a new concept for the Department,
22 let me put it that way. I don't recall ever
23 having delved into this concept of "equivalent
24 bills".

1 So, those are some issues that are just
2 built into the revenue per-customer decoupling
3 mechanism that we need to look at in this case.

4 You know, next, we have to look at --
5 so, that's the general calculation. Then, if we
6 want to move to the Company's issue that they
7 have highlighted, which is, you know, were the
8 targets and the revenues" -- sorry -- were the
9 revenue targets and the actual revenues
10 established on an apples-to-apples, equal footing
11 basis? Or, was there, in fact, a mismatch in how
12 the low-income discount was treated in the
13 targets. I understand that to be the essence of
14 their claim for the \$4 million.

15 And we will look at that. We actually
16 had a tech session with the Company before this
17 was carved out a year ago on that very issue.
18 So, we've got a head start on that. We need to
19 review that again.

20 We also need to review the Concentric
21 report that was submitted in this docket, which
22 is a report that was done by a consultant that
23 Liberty hired to investigate why the decoupling
24 mechanism was passing back sums that I think

1 everybody was surprised by, in terms of how much
2 dollars they were. I don't think anybody that
3 was involved in setting up the decoupling
4 mechanism in 17-048 expected annual adjustments
5 in the 4 to \$7 million range. Maybe I'm just
6 speaking for myself. I guess I shouldn't speak
7 for others.

8 But Liberty, understandably, hired a
9 consultant to look at that. And my understanding
10 of the Concentric report is that they identified
11 a number of issues that could have led to this.
12 Not the issue that the Company is stating caused
13 the \$4 million issue. But Concentric identified
14 a number of issues, two of which come to mind.
15 One is, a customer reclassification that occurred
16 after the rate case. And what I mean by a
17 "customer reclassification" is a customer -- a
18 utility's customer base is divided into various
19 rate groups, Residential, Small C&I, Large C&I.
20 And, since the revenue decoupling calculation was
21 set up on a per-customer/per class basis, it
22 becomes very important to see which customers --
23 it's very important to examine what number of
24 customers were in each class when the targets

1 were set, and what number of customers were in
2 each class when the actuals were calculated.
3 Because, again, it's this difference that the
4 Company collects.

5 And our sense is that, on a Residential
6 class, where there's lots of customers and
7 probably some coming and going, it probably works
8 itself out. But, if we've set this up, you know,
9 for classes that are very large users, but have
10 very few customers, that the impact could be
11 significant. And I think, essentially, the
12 Concentric report agreed with that. So, we need
13 to review that, that issue as well.

14 You know, there is this question, and
15 I'm not sure -- I'm not sure what we do with it.
16 But another question lurking in the minds of the
17 people at the Department of Energy were, if there
18 was a mistake, and Liberty had collected the
19 \$4 million in the timeframe that it was set up
20 for, 2018/2019, 2019/2020, would DG 20-105 ever
21 have happened?

22 In other words, the Company came in for
23 a revenue deficiency, a claimed revenue
24 deficiency, I think it was in the \$13 million

1 range. I think, ultimately, we settled the case
2 at around \$7 million, and went on our way. You
3 know, is it possible that that rate case could
4 have been avoided, if the Company had collected
5 this \$4 million?

6 And I'm not sure what we can do with
7 that. But, again, we're trying to unwind
8 history. So, that's a concern for us, because we
9 don't know -- we don't know what would have
10 happened.

11 So, I bring all this up by way of
12 saying that, you know, it's unfortunate that
13 we're here however many years later. We
14 understand that we asked for carve-outs, and the
15 Company agreed, and that's great. We understand
16 that the Company took a substantial amount of
17 time to put their case together, which we
18 appreciate. We're not trying to rush things.
19 You know, the testimony came in eight or nine
20 months after the carve-out was accomplished last
21 fall; that's fine. We had a prehearing
22 conference in September, and we needed to move
23 that, the parties all agreed to move that. So,
24 here we are in November.

1 I bring all this up by way of saying
2 that we, at the Department, have proposed two
3 things: A six- to seven-month schedule to unwind
4 this case. And we'd like to, ourselves, engage
5 an outside expert, and that's one of the reasons
6 why we need the time. Contracting for experts at
7 the state is not a certainty. So, that is our
8 plan. And our plan is to retain a consultant
9 that could be on board roughly at the end of
10 January.

11 And we've worked out a proposed
12 schedule that I've sent to the Company and the
13 OCA, admittedly, you know, just in the last
14 24 hours or so, I haven't heard back yet. It
15 would have this case go to hearings in late June,
16 and then, presumably, a decision sometime
17 thereafter, maybe July 1st, whatever, you know,
18 whatever works for the Commission. And we think
19 it's reasonable under the circumstances.

20 I will say, if he turns out we don't
21 make it through the contracting process, we will
22 be prepared to deal with this in-house, and we
23 will do the best we can. I don't anticipate
24 looking for, you know, extensions beyond what's

1 laid out in the schedule that I proposed, you
2 know, that we've been talking about.

3 The schedule allows for discovery
4 before the consultant was retained, some
5 questions that we have. It allows for a couple
6 of rounds of discovery after the consultant is
7 retained. And then, a typical schedule involving
8 tech sessions, an updated -- Company updated
9 testimony, if necessary, Staff/OCA testimony,
10 settlement conferences. All the things that you
11 see in a typical schedule.

12 So, I guess what I'm saying is, we view
13 this as a very important issue, because it's a
14 lot of money, and because it is still, even
15 though we seem to have had decoupling in place
16 for four years, we believe this is still the
17 first case where -- I mean, we're still talking
18 about the first monies passed back under the
19 decoupling mechanism. So, it is important that
20 we all understand it.

21 And then, secondly, it's going into new
22 areas. As I said, revenue accounting is not
23 something that has been a focus before this
24 Commission, as I understand it.

1 And, thirdly, we believe it's
2 complicated enough that we would like to retain
3 some outside help.

4 So, I'll close by saying, those are the
5 issues. And, at some point, hopefully, we'll
6 present you this schedule in an agreed-to
7 fashion. But, if not, we will make the proposal
8 the way I've got it laid out here.

9 Thank you.

10 CHAIRMAN GOLDNER: Thank you, Attorney
11 Dexter. We'll move to Attorney Sheehan, and then
12 I think the Commissioners have a few questions.

13 MR. SHEEHAN: Thank you.

14 I had a more generic statement prepared
15 that I'll have to give a bit more detail to
16 respond to some of Mr. Dexter's comments.

17 At a high level, obviously, we have no
18 issue with them diving into whatever issues they
19 think are appropriate. And I agree, there's a
20 lot of tentacles to decoupling, and they have
21 every right to examine, and we will certainly
22 cooperate with that process.

23 However, I think the old decoupling
24 tariff issue is fairly simple. It took us a long

1 time to find it and to unwind it. I say that
2 with the caveat that the testimony in that very
3 first cost of gas nailed the issue, from the
4 beginning, on how it should be done -- or, how we
5 think it should be done. The Commission and
6 Staff went in a different direction. But we've
7 been kicking this around now for several years.

8 And the simple issue is, it's not
9 retroactive ratemaking. We're not changing the
10 rates from the old tariff. We're changing how
11 you calculate the amount of the decoupling
12 adjustment. So, as counsel said, it's a
13 revenue-per-customer model. We're allowed to
14 keep X dollars per customer per year. And, in
15 order to determine the adjustment factor is we
16 look back and say "Did we recover more or less
17 than what we were allowed to recover?"

18 And the customer class at issue are the
19 low-income customers. And, on one side of the
20 equation, you have the approved target revenue.
21 And, if you're looking at the low-income -- so,
22 the low-income customers are exactly the same as
23 residential customers, except for the 30 percent
24 discount, whatever it is. And, so, when you look

1 at the approved target revenue, and you look at
2 the low-income customers, do you look at the
3 discounted 70 percent revenue or the full? You
4 have to decide that. And then, when you look at
5 the actuals, you have to make sure you're looking
6 at that number on the same basis.

7 For example, if you look at target
8 revenues undiscounted for R-4, meaning 100
9 percent, but then you look at their actual
10 revenues at the discount, of course, you're going
11 to have a big delta. And that's what we think
12 happened. It's just that kind of mismatch of the
13 target versus the actuals. And, so, when we did
14 the math, it showed we collected way too much,
15 because we were comparing 100 percent to
16 70 percent, and we gave it back.

17 And the problem arises out of some
18 language in the original tariff that can be read
19 in two ways. And we read it one way saying "we
20 shouldn't have to give the money back", Staff and
21 the Commission read it a different way, says "you
22 need to give it back."

23 And, so, that's the -- that is not
24 retroactive ratemaking. That is trying to

1 implement the rates that were approved back then
2 properly. So, that's our basic argument on that
3 old tariff and the disconnect.

4 Counsel is right, there were other
5 issues that drove even larger refunds, 2 million
6 per year was only a part of what we gave back.
7 He's correct that that customer reclassification
8 played a role in that. We're not seeking any of
9 that; that's on us. And those were millions of
10 dollars as well. I don't have the exact numbers.

11 And those are the issues that that
12 Concentric report identified. It could be this,
13 it could be the reclassification, *et cetera*.
14 It's only this. And, again, what was happening
15 internally is that reclassification was happening
16 independently of the decoupling. And it was sort
17 of after-the-fact that we went back to digest and
18 investigate, and discovered "oh, this is what
19 happened". And, of course, we learned from that
20 as well.

21 But it's this low-income actual versus
22 target that drove the \$4 million at issue here.
23 And it is a discrete, now that we can see it in
24 hindsight, relatively simple issue that arose out

1 of some ambiguities in the initial tariff.

2 Stop. New paragraph. The current
3 decoupling, the new decoupling request in the
4 most recent cost of gas is according to the new
5 tariff. And, again, we think we applied the
6 tariff language correctly. We think that's the
7 right result. You know, of course, DOE has every
8 right to poke around and make sure, and we will
9 cooperate in that process.

10 As far as for dockets, our preference,
11 frankly, is to keep the new tariff issue in a
12 separate docket from the old tariff. Although,
13 we could join them, procedurally, on the same
14 schedule and the same timeline. It might avoid
15 confusion if we have this one doing the old
16 tariff, and maybe even keep it in the existing
17 cost of gas docket. That's where it was raised.
18 The order actually says it will be put "on a
19 different schedule", not "a different docket".
20 So, you could just keep it in 22-045, to resolve
21 that and the Gas Holder, which is a very small
22 dollar issue, although an important issue, that
23 could be taken care of in that one.

24 That's all I have. We recognize the

1 complexity of this. We're going to do our best
2 to keep it moving and keep it as simple as
3 possible.

4 We did review DOE's proposed schedule.
5 We are generally "okay" with the timeframe, with
6 the caveat that Liberty is going to be filing
7 rate cases next year. And there are times in
8 this discovery schedule when we may not be able
9 to respond to discovery because other things will
10 be happening. For example, January is a year-end
11 close for our Accounting and Finance folks. And
12 they will be, obviously, very involved in
13 responding. So, if we approve this schedule as
14 Staff has circulated, please understand we may be
15 seeking an extension here and there to
16 accommodate those steps, those other obligations
17 of the employees.

18 Thank you.

19 CHAIRMAN GOLDNER: Thank you. So, I
20 think the Commissioners have a few questions.
21 So, we'll begin with Commissioner Simpson.

22 CMSR. SIMPSON: Thank you, Chairman
23 Goldner.

24 So, it seems like this is a very

1 complicated math problem, with several different
2 equations, and a changing point where the model
3 changes. So, it appears that there's a rate
4 design from DG 17-048 that fed into the
5 decoupling factor starting in 2018. And then,
6 there was a change in rate design in your
7 subsequent rate case, in 20-105, and the
8 subsequent change.

9 So, given all the issues that we've
10 heard today, I'm thoughtful about whether we
11 should work to resolve all issues related to
12 decoupling in this proceeding. So, I'll say that
13 initially.

14 Dan -- excuse me, Chairman Goldner and
15 I are both engineers. So, hopefully, we can wade
16 through some of the math with all of you to the
17 best of our ability.

18 I think it's important, as a general
19 matter, for us to understand how rates are
20 calculated. And we understand there's a lot of
21 variables, a lot of data that goes into
22 calculation of rates. And the ability for us to
23 determine a final bill can be elusive. And this
24 seems like a great opportunity for us to have a

1 better understanding of how bills are calculated,
2 and all of the components, the variables, the
3 inputs, and the equations, that result in final
4 bills.

5 So, my first question for everybody in
6 the room would be, does anybody object to taking
7 a very formulaic approach to this? Have the
8 equation, if you will, from the rate design in
9 17-048, and the calculation for revenue
10 decoupling laid out, and then the formula for the
11 rate design in 20-105, and the revenue decoupling
12 calculation subsequently?

13 MR. SHEEHAN: I don't have an objection
14 to that. And, in fact, the formulas are in the
15 tariff. Of course, but the complexity and issues
16 come from the words around the tariff. And, in
17 the case of the old tariff, we say the words
18 don't match the tariff perfectly in a way that is
19 subject to interpretation, period.

20 CMSR. SIMPSON: Uh-huh.

21 MR. SHEEHAN: And the inputs, of
22 course, there's a lot of work behind each input.
23 And I suspect that's what DOE was talking about,
24 making sure that the numbers going into it are

1 the right numbers.

2 But I appreciate two things on your
3 part: You want to know the details, and I
4 suspect you're capable of understanding them when
5 we give them to you.

6 CMSR. SIMPSON: We'll try.

7 MR. SHEEHAN: And I can tell you, we've
8 had, not only a year ago, but in the most recent
9 cost of gas, DOE started diving in, and we've had
10 I'd say at least 10 or 15 hours of conversations
11 with them, educating them to try to understand
12 it. And from the smart people on our side to the
13 smart people on their side. So, I suspect what
14 you're saying is you'd like to be in on that
15 conversation, too, for all the obvious reasons.

16 I'm not quite sure how to do that best.
17 We've had our Commission-led tech sessions in
18 other dockets. Maybe we get to a point where we
19 bring the smart people in and have that kind of
20 conversation. You know, it's --

21 CMSR. SIMPSON: I'd just say, I don't
22 feel that we need to be in on those conversations
23 in your tech sessions. But, as an initial
24 starting point, if we could have the formula from

1 the rate design in 17-048, and the formula for
2 the Revenue Decoupling Factor from '18 to 2020,
3 that both -- if all parties can agree that these
4 are the equations, and the variables that lead to
5 the inputs, and then, subsequently, from 2020,
6 those two problems that need to be solved, if the
7 parties could agree to those, great.

8 If we can't, because of the language in
9 the tariff, let's resolve that, so that we can
10 get to the correct formulas that everybody can
11 agree to, or that we can move forward with. And
12 then, a model, in Excel format, that we could
13 have, to understand how the calculations are
14 being performed.

15 That, to me, seems like a prudent
16 starting point.

17 MR. SHEEHAN: And the bottom line is,
18 yes, of course, we can do that. And we will
19 endeavor to do that.

20 MR. DEXTER: I don't think we can do
21 that.

22 CMSR. SIMPSON: Okay.

23 MR. DEXTER: I think the Company can do
24 it. But I think that's the purpose of the

1 investigation.

2 CMSR. SIMPSON: Uh-huh.

3 MR. DEXTER: We need to do exactly what
4 you just laid out. We can't come in here with
5 that as a starting point. We just don't, we're
6 just not at that point with the information, if I
7 understand what you're asking.

8 I agree that the formula is laid out in
9 the tariffs, and that we're going to have to go
10 back and make sure we're all looking at the right
11 tariff. And, you know, I think it's Tariff
12 Number 10, according to Ms. Menard's testimony
13 that was in effect for those two years, we'll all
14 go back and look at Tariff Number 10, and we can
15 read the calculation.

16 But, as I said earlier, the real
17 question is we need to be able to understand and
18 verify the validity of the inputs. And, as I
19 said, there's two -- there's essentially, really,
20 only a couple of pieces of data. There's target
21 revenues, and we're going to try to make sure
22 that the target revenues tie back to the rate
23 case revenue requirement, because we believe
24 that's what they have to tie to.

1 Then, we have to go to -- I'm starting
2 to call it the "mashed potato math" of
3 decoupling, to get from the total revenue target,
4 which is set in a rate case, I think, you know, I
5 think, in this case, it's around \$90 million, if
6 I'm not mistaken, was Liberty's revenue
7 requirement.

8 We put that through the food processer
9 and come up with the per-customer.

10 CMSR. SIMPSON: Uh-huh.

11 MR. DEXTER: So, when you do that,
12 you've got to make sure you've got the right
13 number of customers. Then, you've got this
14 "equivalent bill" calculation, which Liberty has
15 told us is necessary to get the right number of
16 customers. And I'm not saying that --

17 [*Court reporter interruption.*]

18 MR. DEXTER: -- disparagingly, it's
19 just a concept that we're not all that familiar
20 with, and we need to hear about that.

21 Then, you work backwards -- you work
22 forward beyond that to get you back up to a full
23 revenue number. So, you go back through the food
24 processor, from a per-customer basis to a total

1 basis, --

2 CMSR. SIMPSON: Uh-huh.

3 MR. DEXTER: -- and then you compare
4 the difference. And then, you spread that over
5 the classes again.

6 So, there is a lot of math. I don't
7 think I can sit here and say that we're going to
8 be able to present you, the Commissioners, at the
9 outset, an agreed-upon rubric of formulas and
10 results. I think, at the end of the case,
11 hopefully, we'll be able to do that.

12 And I think, you know, what you're
13 asking for from the Company is probably in the
14 2,400 pages that they submitted on July 7th, and
15 it's probably fairly prominent within those 2,400
16 pages. I think that was their whole objective
17 was to lay all that out.

18 So, I'm not being very helpful, I know.
19 I just don't think that we can sit here at the
20 outset and say that we're going to be able to
21 present you that on an agreed-to basis.

22 CMSR. SIMPSON: So, that's confusing to
23 me.

24 MR. DEXTER: Okay.

1 CMSR. SIMPSON: Because my
2 understanding is that the methodology,
3 calculation, formula, whatever you want to call
4 it, for rate design and for the decoupling
5 mechanism, would have been set by order.

6 MR. DEXTER: I would agree with that.

7 CMSR. SIMPSON: It would have been set
8 by order in their rate case, and, subsequently,
9 when the Revenue Decoupling Factor was approved.

10 So, if we just start with those, what
11 can't we determine?

12 MR. DEXTER: Well, those are the
13 tariffs, --

14 CMSR. SIMPSON: Uh-huh.

15 MR. DEXTER: -- is what you're saying.
16 Yes, I think we can start with the tariffs. I
17 think it's Tariff Number 10.

18 CMSR. SIMPSON: And that -- and we're
19 talking about a calculation, it's a formula in a
20 mathematical calculation, that you extract from
21 the tariff, right?

22 MR. DEXTER: Well, there's the formula,
23 and then there's the calculation. I don't think
24 we have any problem with locating the formula.

1 CMSR. SIMPSON: Okay.

2 MR. DEXTER: That's in the tariff.

3 It's the calculation that I think is at issue in
4 this case.

5 CMSR. SIMPSON: Right. But I'm saying,
6 if we start with the formula, that's probably a
7 good starting point.

8 MR. DEXTER: I agree with that.

9 CMSR. SIMPSON: And, if we can all
10 agree on what those formulas are, if we lay those
11 out simply, that would seem like a good starting
12 point from my perspective.

13 MR. DEXTER: On my outline of issues,
14 that's the very first item I have.

15 CMSR. SIMPSON: Excellent.

16 MR. DEXTER: Is that we need to review
17 what tariff was actually approved in 17-048. I
18 believe it's Tariff Number 10.

19 CMSR. SIMPSON: Okay.

20 MR. DEXTER: I don't think that issue
21 is in dispute. It's something that we can talk
22 about. But the formula -- it's not really the
23 formula -- identifying the formula I don't think
24 is going to be the difficult part. I think it's

1 understanding the application of the calculations
2 that are laid out in the tariff.

3 CMSR. SIMPSON: And, so, I think, from
4 our perspective, if the parties could present to
5 us those agreed-to formulae, that would be an
6 excellent starting point. So, then, when you say
7 "the difficulty is the application", can you
8 elaborate on that please?

9 MR. DEXTER: Well, yes. Again, in
10 concept, it's fairly simple, because you have a
11 target revenue and you have an actual revenue,
12 and the Company collects the difference. The
13 target revenues are established -- I believe they
14 were not established in 17-048, because, when
15 that case ended, there was a six-month period to
16 develop the tariff and the targets. So, I
17 believe the targets were presented in a
18 subsequent LDAC case around the end of 2018, for
19 application starting November of 2018 and then
20 into 2019.

21 So, we'll need to go back and look at
22 those targets, and make sure that they were
23 traceable back to the revenue requirement that
24 was established in 17-048. I don't think that's

1 going to be a problem.

2 CMSR. SIMPSON: Okay.

3 MR. DEXTER: I hope, I don't think it
4 will be. I don't think I was involved in that
5 2018 case, I honestly don't remember. But
6 setting the targets I think is the easier part of
7 the formula -- the easier part of the puzzle.

8 CMSR. SIMPSON: Uh-huh.

9 MR. DEXTER: Where I think it gets more
10 complicated is in analyzing the actual revenues
11 that come in. Because, from what we've learned
12 in the tech sessions, it's not as simple as going
13 to the Company's books and finding a number
14 that's about \$90 million, and then -- and then
15 that's it. Because we understand that there is
16 an equivalent bill calculation, and that revenue
17 accounting is fairly complicated. And it seems
18 that there are two major complications that we've
19 been hearing about. One is the notion that we
20 all understand, that the Company doesn't read
21 everyone's meter on day one, and that there's
22 this notion of "unbilled revenues". So, at the
23 end of every month, you have revenues that's
24 been -- you have sales that have been made, but

1 haven't been billed yet. And there is an
2 accounting process that handles unbilled
3 revenues, and we're going to go through that, and
4 we understand that.

5 But we also have learned that it takes
6 four months for actual revenues, for decoupling
7 purposes, to be finalized, because there's a
8 tracing of adjustments that goes on, "true-ups" I
9 think is what the Company calls them, over a
10 four-month period. So that a person's
11 consumption in January might not actually be
12 fully understood until April or May, okay?

13 And, again, our delving into this as
14 best we could, I think I'm actually remembering
15 new RDAF tech sessions at this point, but those
16 adjustments are substantial. They're not a
17 dollar here or a dollar there. There are
18 substantial true-up adjustments that are made
19 over this four-month period. And that may be
20 fine, you know, it may be that they're perfectly
21 understandable.

22 But I think our primary objective is,
23 we need to be able to ultimately, before we go
24 from total revenues to revenue per customer, we

1 have to be able to tie that total revenue figure
2 back to the Company's books and the reports that
3 are on file with the Commission. To me, that is
4 going to be a significant inquiry. Because then,
5 if we know that we're dealing with verified or
6 verifiable revenue numbers, we move to the
7 per-customer calculation. We have to understand
8 the number of customers that are being used, and
9 what those are tied to, and does that match the
10 tariff, because that, I believe, is spelled out
11 in the tariff what customers you use. And then,
12 it is a lot of math, and we're not worried that
13 the arithmetic's wrong, *per se*.

14 But, if we don't have those verifiable
15 revenues, and we don't know exactly what number
16 of customers we're dividing by, we have questions
17 about whether or not we can rely on the results.
18 So, again, I'm rambling a bit. But this is
19 what -- this is what we want to look at during
20 the course of this case.

21 CMSR. SIMPSON: Thank you for that. I
22 agree, and I appreciate that clarification. I
23 think, if we can have an initial starting point
24 with the equations, so that everybody knows what

1 they are, and understand them clearly, in a
2 mathematical expression form, then it's clearly
3 that the data is the complicated element of the
4 calculation, and there's reconciliations that
5 happen.

6 I would ask, we're looking back, so, my
7 expectation would be that the Company should
8 have, at this time, final numbers for everything
9 that is at issue in this case. Would you agree?

10 MR. DEXTER: I would expect that, yes.

11 CMSR. SIMPSON: Okay. So, it sounds
12 like the Department generally has a strong
13 understanding for the process that you believe is
14 appropriate to review and determine whether the
15 data that has been utilized by the Company is
16 appropriate or not, and then we can, at the end,
17 run the numbers, if you will, and see what the
18 final outputs are?

19 MR. DEXTER: Well, we're doing our
20 best.

21 CMSR. SIMPSON: Uh-huh.

22 MR. DEXTER: We do want to retain the
23 expert for help.

24 CMSR. SIMPSON: Understood.

1 MR. DEXTER: But we think we have a
2 fairly good understanding of the mechanism, you
3 know, having had a few tech sessions.

4 CMSR. SIMPSON: Based on -- and you'll
5 look at the rate design and the mechanism, and
6 how those interplay?

7 MR. DEXTER: Well, it's interesting --
8 it's interesting you mentioned the "rate design"
9 a few times, because, again, the Company's
10 \$4 million case focuses on the low-income
11 discount.

12 CMSR. SIMPSON: Uh-huh.

13 MR. DEXTER: And the low-income
14 discount is an important element in the rate
15 design.

16 CMSR. SIMPSON: Right.

17 MR. DEXTER: And, so, when you go
18 through a rate case and you get to the sheet
19 where they design the rates, the low-income
20 discount has to be handled appropriately,
21 otherwise your rates aren't right.

22 My understanding was that the actual
23 handling of the low-income discount, in the rate
24 design worksheet, was an issue that came up in

1 20-105, that needed to be corrected in the
2 Company's initial filing in 20-105. And I
3 believe that that was taken care of. I don't
4 think there's any dispute that the rate design in
5 20-105, or 24-048, needs to be looked at again --
6 I'm sorry, 17-048. 17-048, we had six months of
7 rehearing on rate design issues. Because there
8 was a substantial -- and this is another
9 potentially complicating factor, okay? When the
10 decoupling proposal was approved -- let me go
11 back a little bit.

12 One of the main elements that PUC
13 Staff, at the time, raised, as to why decoupling
14 should not be approved in this case, was the
15 notion that, in New Hampshire, customer charges
16 were typically higher than they had been in other
17 states, and that was done on the basis of moving
18 towards the rate design suggested by the
19 underlying embedded and marginal cost studies.
20 And I think Liberty's customer charge at the time
21 was around \$20 for a residential customer, it
22 might have been even higher. At the same time
23 that decoupling was approved in 17-048, as part
24 of the Settlement that Staff did not sign onto,

1 but Liberty and the OCA agreed to, was decoupling
2 would come in, but the customer charge was cut
3 substantially, I think below \$10, maybe I'm wrong
4 about that, but it was a substantial shift from
5 fixed customer charge recovery pre-17-048, to
6 less customer charge recovery as a result of
7 17-048.

8 So, you know, I don't think that's an
9 issue here. I think that's just an historical
10 fact. But, you know, there's no question that it
11 led -- that it left much more of the Company's
12 revenue requirement subject to volumetric
13 changes, which is, in a sense, sort of the same
14 issue in decoupling, we're trying to make up for
15 changes in sales.

16 So, I just he throw that out there, as
17 I said, as an historical context. I don't think
18 there's anyone interested in delving into the
19 rate design from 17-048 and 20-105.

20 CMSR. SIMPSON: Would those, in your
21 view, not have an impact on the ultimate
22 calculation for revenue deficiency?

23 MR. DEXTER: Well, they would. But I
24 don't think we're going back into the revenue

1 deficiencies that were established in those cases
2 either. I think what we're going back to is,
3 we've got an established revenue deficiency, that
4 I think is an agreed-upon starting point. I
5 don't believe there's anyone in the room that
6 suggests that we go back in and look at those two
7 revenue deficiencies.

8 But, given those revenue deficiencies,
9 were they appropriately applied to the decoupling
10 calculations that were done? And I believe that
11 they tie into the question of revenue targets and
12 revenue targets per customer.

13 If I could just confer for a second
14 please?

15 CMSR. SIMPSON: Sure.

16 *[Atty. Dexter and Atty. Schwarzer*
17 *conferring.]*

18 MR. DEXTER: There's -- oh, I'm sorry.
19 Are we back on the record? There's one other --
20 there's one other complicating issue, and, again,
21 we're going back in history a little bit. So, I
22 was there in 17-048. My understanding was that
23 the reason we went to a revenue per-customer
24 calculation, as opposed to a revenue by class

1 calculation that the Company proposed, was the
2 notion that cost-effective growth for a gas
3 utility is a good thing, because it allows the
4 Company to spread fixed costs over a greater
5 customer base. And that there were opportunities
6 for growth in Liberty's service territory. They
7 have their MEP rates, which I believe stands for
8 "Managed Expansion" rates, designed specifically
9 for growth. There's always the opportunity to
10 convert customers from oil to natural gas. And,
11 because there are protections in the tariff, in
12 terms of customer -- you know, the CIACs, I
13 forget what it stands for, but -- "contributions
14 in aid of construction", it's generally accepted
15 that growth benefits everyone.

16 So, we designed the tariff, the
17 decoupling tariff, to not have the Company
18 experience growth, and then pass that growth all
19 back through the decoupling provision. And that
20 was my understanding from 17-048. That's why we
21 did it on a revenue per-customer basis.

22 That seems to have changed in 20-105.
23 I have to go back and review that. I'm not
24 prepared to do that today, because I'm focusing

1 on the old tariff today. But I believe that's
2 another complicating issue that we need to look
3 at. How is growth handled under the tariff
4 change that took place in 20-105? Because I
5 understand the new tariff is tied to actual
6 revenues per books, which is a great thing,
7 because it's easy to verify. But, I believe, if
8 you go to actual revenues per books, not per
9 customer, then that growth is going to get passed
10 back through the clause. But, again, I just
11 wanted to highlight one other issue.

12 So, you know, just to reiterate what I
13 said, I believe we could -- I believe the Company
14 could, and we would agree, on the tariffs that
15 need to be reviewed. But, beyond that, it's just
16 hard for us to agree that we could present you an
17 agreed-to set of calculations, without having
18 done the investigation that we plan to do in this
19 case.

20 CMSR. SIMPSON: Okay. It seems like a
21 good starting point to get all of the formulae
22 out in front, that hopefully everybody can agree
23 to, and date certain when those formulae changed
24 based on subsequent orders.

1 You did say one thing I wanted to ask
2 you about prior to going off the record for a
3 moment. And you said that "in 20-105, the rate
4 design was corrected." Can you elaborate on that
5 for me?

6 MR. DEXTER: My recollection was that
7 the Company came in for a \$13 million rate
8 increase, and something like a \$7 million
9 temporary rate increase. And, when the case
10 ended, the temporary rates were set at zero, and
11 the ultimate revenue deficiency was somewhere in
12 the \$7 million range. That case was settled at
13 around \$7 million. The reason the temporary
14 rates were able to be set at zero was because we
15 all agreed to adjust the revenue per-customer
16 targets at the temporary rate stage, rather than
17 at the end of the case, which I think is what was
18 probably intended, but I don't remember the
19 details. But there was an agreement to adjust
20 the revenue per target calculations at the time
21 of the temporary rates. And, so, that's why the
22 Company was agreeable to setting temporary rates
23 at no increase.

24 In the course of the case, going from

1 the original 13 million to the ultimately settled
2 7.5 million, and I don't believe I'm revealing
3 any settlement discussions here, and counsel
4 could correct me if I'm wrong, but I believe
5 there was an update of their schedule, which is
6 always called "Rates-5", it's numbered according
7 to the PUC rules, where the low-income
8 discount -- the handling of the low-income
9 discount in the calculation of the rate design
10 had to be adjusted, because it was not being --
11 it wasn't being collected correctly. And that
12 resulted in -- that was one of the elements that
13 resulted in the lower revenue requirement. And,
14 as I said, I don't think it was a settled item.
15 I believe it came -- I believe it's incorporated
16 into a Company update that would have gone in,
17 you know, three-quarters of the way through the
18 case.

19 CMSR. SIMPSON: And when do you believe
20 that was?

21 MR. DEXTER: So, the case would have
22 been filed in the April timeframe, probably.

23 MR. SHEEHAN: It's actually the summer
24 of that year.

1 MR. DEXTER: Oh, it was the summer?
2 So, probably February.

3 CMSR. SIMPSON: So, Attorney Sheehan,
4 in your Petition for this proceeding, did you
5 look back and work to rectify any issue, from a
6 corrected low-income adjustment, when you
7 calculated the RDAF balance?

8 MR. SHEEHAN: So, I recall about the
9 same level Mr. Dexter does. There was a change
10 or fix to the low-income discount, but it had
11 nothing to do with the RDAF issue in front of you
12 today. It was a different -- and, unfortunately,
13 the amount that we have to collect to reimburse
14 ourselves for the low-income discount, that 70
15 percent to 100 percent, --

16 CMSR. SIMPSON: Yes.

17 MR. SHEEHAN: -- happens to be
18 \$2 million, roughly, which is, just
19 coincidentally, the 2 million -- the same as the
20 2 million that we think we improperly gave back,
21 but they're not the same number.

22 CMSR. SIMPSON: Okay.

23 MR. SHEEHAN: So, it was that other
24 \$2 million, the amount we collect through the

1 LDAC of 2 million that I don't think was
2 reflected correctly in the rate case, that we did
3 adjust, and it did have the roughly \$2 million
4 impact on our ask. But I don't think -- that was
5 corrected, again, well before the resolution of
6 the rate case, and it does not affect any of the
7 issues here today, other than let's go back and
8 make sure that the i's are dotted and the t's are
9 crossed.

10 CMSR. SIMPSON: Okay. So, do you
11 have -- or, does the Company have any objection
12 to proceeding with getting all the formulae out
13 on the table?

14 MR. SHEEHAN: No. We've been
15 whispering, and we're happy to make a
16 supplemental filing, if you will. We think we
17 know what you're looking for. And we can put
18 that kind of document together, a spreadsheet,
19 with some words around it. We can run it by DOE,
20 and not expecting them to agree, but maybe we can
21 then flag, or DOE can flag "the numbers we really
22 want to dive into are these sixteen numbers", by
23 reference to the spreadsheet, or something like
24 that. So, we're happy to work on something like

1 that.

2 CMSR. SIMPSON: It would be great to
3 have a Word document with the formula written
4 out, describing each of the components, and any
5 light narrative that you think is relevant, have
6 that in chronological order as those formulae
7 changed, with a little bit of context for why
8 they changed, and then to have a working Excel
9 model, with those formulae integrated in.

10 So that, when we get to the point where
11 we have inputs from a data standpoint,
12 recognizing there's a lot of work that will go
13 into that effort, we have a model that we can
14 utilize.

15 MR. SHEEHAN: That's doable. I do
16 believe there are only two formulas, the old
17 tariff and the new tariff. But we'll confirm
18 that. You know, there was some tweaks to it in
19 the new case. It didn't substantively change the
20 concept of decoupling. It basically avoided the
21 errors that -- or, the confusion that gave rise
22 to this case.

23 CMSR. SIMPSON: And, when I say
24 "formulas", the two big things that come to mind

1 are the rate design, and then the calculation for
2 how you get to your decoupling.

3 MR. SHEEHAN: Okay. I mean, Mr. Dexter
4 is correct. At the very beginning is a revenue
5 requirement that we have to divide into various
6 revenue per customer amounts.

7 CMSR. SIMPSON: Yes.

8 MR. SHEEHAN: So, \$100 per customer,
9 residential, and \$500 for commercial.

10 But, anyway, we have smart people
11 behind me who are writing notes, and we'll put
12 together what we think will help you folks best.
13 Again, we'll run it by DOE, if nothing else, so
14 they can say "we've seen it." And, if they can
15 chime in, great. If not, we'll just make it a
16 supplemental filing that will hopefully give you
17 sort of a foundation to look at the rest of the
18 case.

19 CMSR. SIMPSON: Okay. Thank you. Mr.
20 Chairman, I don't have any further questions at
21 this time.

22 CHAIRMAN GOLDNER: Okay. I just have a
23 few.

24 So, Attorney Dexter, what I understood

1 you to say was that the formulae and so forth,
2 you know, you don't have much, if any, concern
3 there. The issue is really fact-based, is what I
4 thought I heard you say. Which is, you know, how
5 many customers were there? And we have a lot of
6 calculations that we need to make to determine
7 the number of customers. But, in the end, that's
8 a fact, the number of customers is a fact.

9 And my question for you is, and in
10 terms of a consultant versus like an audit, help
11 me with your logic of -- it seems like that would
12 be a good place for sort of Audit to go in and
13 figure out what's going on, as opposed to a
14 consultant?

15 MR. DEXTER: We were hoping to find a
16 consultant that's done this in other states many
17 times.

18 CHAIRMAN GOLDNER: I see. So, it
19 sounds like --

20 MR. DEXTER: So, and our -- when you
21 say "Audit", if you're meaning "DOE's internal
22 Audit", they have not been through this before.

23 CHAIRMAN GOLDNER: I see. So, it's not
24 that it's not sort of an audit function, it's

1 that your -- the Audit team here is not familiar
2 with this set of data?

3 MR. DEXTER: Well, they certainly do
4 the verification of test year revenues that I
5 mentioned in a rate case. But they have not been
6 involved -- this, again, is the first decoupling
7 problem that, you know, so, no.

8 What we believe we need is someone who
9 has been through this many, many times, and can
10 pinpoint to potential pitfalls in the calculation
11 of actual customers and actual revenues, or can
12 say "No. We looked at what the Company did, and
13 that's verifiable, and it's typical to what we've
14 seen." And, you know, and come to a conclusion
15 that what Liberty has presented is, in fact, you
16 know, the state of affairs.

17 I just, you know, we wouldn't be
18 looking outside, if it was something that we
19 thought we could do internally. Of course, we
20 know we have to go through the process and
21 justify that to those who make these decisions.
22 But that's our thinking right now.

23 CHAIRMAN GOLDNER: You know, I'll ask
24 this next question just from somebody who's

1 trying to understand the history. I imagine that
2 there were proponents for decoupling back in 2017
3 and prior, and that this was, you know, a process
4 that was well thought out of and put in place.

5 I mean, I can only imagine that the
6 proponents didn't assume it was going to be this
7 complicated. I mean, I'm surprised that we have
8 a process that we're five years in and, as you
9 said, Mr. Dexter, this is kind of the first round
10 of verification, we're going outside to find
11 somebody, because we don't even have the
12 resources internal to the state to handle it.

13 I just wonder if you can add some color
14 to that, because I'm, I think, confused as to why
15 we're in this place at the moment?

16 MR. DEXTER: Yes. First of all, the
17 concept seems simple now, but at the time -- is
18 that me?

19 CMSR. SIMPSON: It's my mike. Sorry.

20 MR. DEXTER: Oh, sure. A lot of the
21 testimony that took place in 17-048 went to the
22 benefits of decoupling. Because there is an
23 assumption underlying decoupling, or a policy
24 reason underlying decoupling, that is prevalent

1 through the testimony of Ben Johnson, the
2 Consumer Advocate's expert, and Gregg Therrien,
3 the Company's expert in 17-048, that, if there
4 was this severing of the link between earnings
5 and revenues, that companies would be free to
6 pursue conservation efforts unfettered, those in
7 *NHSaves* and those beyond *NHSaves*. And there was
8 discussion on the record about, you know, going
9 to chambers of commerce and promoting
10 conservation.

11 And the Commission actually held
12 Liberty to a reporting standard of efforts that
13 they had done in approving the decoupling, to,
14 you know, to indicate that this really was taking
15 place.

16 Well, that all, you know, in
17 retrospect, it all seems very simple, but that
18 was not a given, I think, in 17-048. As I said,
19 the Staff's position at the time was that, with
20 proper rate design, the Company was fairly
21 insulated from swings in reduced revenues. And
22 they had an LBR charge at the time that seemed to
23 be working. And, you know, Staff's position at
24 the time was, if we could just focus in on energy

1 efficiency, you know, then maybe that would be a
2 decoupling clause that might be appropriate. But
3 this is -- this is going to capture everything.

4 CHAIRMAN GOLDNER: Sorry, Mr. Dexter,
5 just for my understanding. In the Department's
6 opinion, is it working? And it seems like there
7 were these ideas in 2017, and "unfettered", and
8 so forth. Does the Department have an opinion on
9 how it's working?

10 MR. DEXTER: I don't. I don't have an
11 opinion, I can't speak for the Department on
12 that, as to whether or not revenue decoupling is
13 "working", in terms of energy conservation. I'm
14 just not in the position to comment on that.

15 CHAIRMAN GOLDNER: What would be -- I'm
16 sorry, what would be the best place to get an
17 opinion on that?

18 Because, obviously, there was
19 well-intentioned people working on this back in
20 2017; this was put in place. Five years later,
21 we have this complication that we're still trying
22 to work out. It was intended to serve a certain
23 purpose. So, how do we determine if this whole
24 effort is working?

1 MR. DEXTER: I don't have an answer.
2 Maybe the Company does, maybe. And I don't know.
3 And I don't want to give the impression that the
4 Department is not supportive of revenue
5 decoupling. We have agreed to revenue decoupling
6 clauses. After this one was settled, we didn't
7 spend a lot of time at Staff, you know,
8 questioning it. In other words, this was the --
9 this was the position that the Commission had
10 approved, and we didn't spend a lot of time in
11 subsequent dockets, we spent more time agreeing
12 to decoupling, getting rid of lost base revenues,
13 which I know the Department was supportive of.
14 And we now have decoupling charges for Granite
15 State Electric, Unitil, both gas and electric,
16 and we don't have one for Eversource.

17 And I will go back even further and
18 point out that, you know, there really wasn't a
19 lot of point in debating the merits of
20 decoupling, because it was ordered by the
21 Commission in a generic docket involving energy
22 efficiency, I believe it's 15-672, or whatever
23 the order was that set up the EERS standard back
24 in 2015. Part of that order and settlement was

1 that companies would file for decoupling clauses
2 in the next rate case following the first
3 Triennium, or something like that.

4 So, it's well established that
5 decoupling was coming. The Commission approved
6 it. And, so, now we have it in four different
7 cases. And we've been --

8 CHAIRMAN GOLDNER: I think, Mr. Dexter,
9 I'm sorry, I think the order said that they were
10 "to propose decoupling in a rate case", --

11 MR. DEXTER: Correct.

12 CHAIRMAN GOLDNER: -- as opposed to,
13 you know, "it would be approved."

14 MR. DEXTER: Oh, absolutely.
15 Absolutely. I'm sorry, I didn't mean to say it
16 that way. Absolutely. And Liberty did. And
17 this was just a gas case. We weren't -- it
18 wasn't a generic investigation. But, in the
19 facts and circumstances that we were facing in
20 the gas case, particularly with the rate design
21 that was in place for EnergyNorth at the time,
22 and the fact that we believed that this was going
23 to shift the risk of weather, which is a
24 significant factor in a gas utility, more so than

1 an electric utility, Staff didn't think it was
2 the right time or the right mechanism. That's
3 fine, you know, we're passed that.

4 I understand that, you know -- you
5 know, maybe we, from a policy level, have we
6 changed our stance on decoupling? And when I say
7 that, we've signed onto several settlements that
8 have included decoupling since then. I don't
9 think there's a change in the Department on that.

10 And I don't really know what the best
11 way for, you know, for me to get you an answer
12 on. I guess I'd have to take some time and talk
13 to people in our Policy Division.

14 CHAIRMAN GOLDNER: Okay. So, I don't
15 want to put words in your mouth, but the
16 Department supports decoupling now, and in future
17 rate cases. Though, admittedly, there's a lot of
18 work to do to sort out these, the questions that
19 face us here today, in terms of formulae, and the
20 facts, and audits and experts, and so forth, it
21 seems like there's still some work in front of
22 us.

23 MR. DEXTER: Yes, I'm not sure I could
24 say that. Because, if we're expecting an

1 Eversource rate case in the next year or two,
2 they will have a decoupling proposal, because
3 they're required to, because this will be their
4 first rate case after the first Triennium. I
5 don't want to stand here and say that we're
6 supportive of that yet, because we've learned a
7 lot in these cases that we're here now. And, you
8 know, the question is, it gets to a point "is
9 decoupling worth the effort?" You know, we have
10 to come out of these cases with some certainty
11 that we're not just passing money back and forth
12 here.

13 I honestly said -- I mean, I said this,
14 personally, and I -- you know, you can ask other
15 people, I don't think anyone expected that the
16 revenue decoupling amounts are as high as they
17 were in relation to the companies that we're
18 dealing with. We're talking about, in one case,
19 a \$7 million passback, followed by a \$5 million
20 passback, you know, for EnergyNorth, where the
21 total result of their rate case was \$7 million.
22 I just don't think that was envisioned.

23 CHAIRMAN GOLDNER: And imagine what it
24 would be, not that we're going to talk about the

1 Eversource rate case, but imagine what it would
2 be with a larger company.

3 MR. DEXTER: I mean, I don't want to
4 imagine, but we're in here next week or two weeks
5 from now on Granite State Electric, where Granite
6 State Electric is looking to recover 1.8 million,
7 and Granite State Electric has fewer than half
8 the number of customers as Liberty gas, Granite
9 State Electric is Liberty electric. So, again,
10 we're talking -- we're talking millions of
11 dollars, typical Granite State Electric revenue
12 requirements, revenue increases after a rate case
13 are in the \$4 million range. We're looking next
14 week at a 1.8 million, and that's -- or,
15 1.4 million, but that's because it's capped. But
16 it's, in reality, 1.8 million.

17 Again, I don't believe that's what was
18 envisioned. And you certainly can ask the
19 Company this, because, you know, they have the
20 data. And maybe this is what they envisioned.
21 But I don't believe it's what was envisioned on
22 the Staff side. And that doesn't make it wrong,
23 but it does lead us to want to look into it very,
24 very closely.

1 CHAIRMAN GOLDNER: Thank you. And I
2 think Mr. Sheehan would like to comment, would be
3 my guess.

4 MR. SHEEHAN: Sure. On the question
5 "does decoupling work vis-a-vis energy
6 efficiency?" We actually filed a report, I think
7 it was in the 20-105 rate case, where they had
8 analyzed the appropriate metrics, and said "yes,
9 it does." Companies who adopt energy -- who
10 adopt decoupling have better energy efficiency
11 results in general, and EnergyNorth, in
12 particular, they analyzed some numbers.

13 Second, decoupling, the goal -- another
14 goal of it is that it does even things out for
15 both the Company and the customers. If we have a
16 really cold winter, without decoupling, we make a
17 lot more money, and customers pay a lot more, and
18 vice versa, in a warm winter, we make less, and
19 customers pay less, and decoupling does, you
20 know, the theory behind decoupling is it smooths
21 that out.

22 I will acknowledge these numbers we're
23 talking about are bigger than we expected, and
24 that's part of what our analysis is going to is

1 why. We're comfortable, both in the Granite
2 State case and in the new EnergyNorth case, that
3 the numbers are correct. And it's, you know,
4 complicated by, you know, COVID, and some
5 neighborhoods building bigger houses, with using
6 more gas than we expected. There is a whole
7 bunch of factors that go into it.

8 And just one other thought of history.
9 We proposed decoupling in 17-048. The agreement
10 with OCA modified our proposal significantly, and
11 that's what was approved. And then, the tariff
12 to implement that modified decoupling is
13 tariff -- the first tariff. And, frankly, that's
14 where we think some of the hiccups came was in
15 the modification of the decoupling, from we had
16 proposed a per company, without
17 weather-normalization, what was approved was a
18 per-customer, with weather-normalization. And it
19 just added some complexity and some language
20 issues that we -- we say is what gave rise to the
21 \$4 million in the old tariff.

22 CHAIRMAN GOLDNER: Okay. Thank you.

23 CMSR. SIMPSON: My recollection as
24 well, there was some legislative activity around

1 2015 that led to discussions around decoupling.

2 I could be mistaken on that, but --

3 MR. SHEEHAN: Perhaps.

4 CMSR. SIMPSON: -- but that's my
5 recollection.

6 MR. SHEEHAN: It doesn't ring a bell
7 with me, but it could very well have been.

8 CMSR. SIMPSON: Okay.

9 MR. DEXTER: Yes, I wasn't here in
10 2015, but I haven't heard that. I haven't
11 learned that there was "legislation", either
12 requiring or implementing decoupling.

13 CHAIRMAN GOLDNER: So, I think what I'm
14 hearing, I just sometimes like to repeat back to
15 make sure I understood. But, Attorney Sheehan, I
16 think you're saying that the Company is an
17 advocate for decoupling, and supportive of it,
18 and wishes for it to continue.

19 And my only comment would be and my
20 encouragement would be to find a way, over time,
21 to make this simpler, and the corrections
22 smaller, and then I think we'll be maybe in a
23 different place.

24 MR. SHEEHAN: Yes. And I agree. And

1 the simpler part, it is simple, once everyone
2 understands what's gone into it. And that's
3 where we are now is, Mr. Dexter is right, this
4 issue arose three years ago, but it never got
5 this attention. It got pushed off several times.
6 And, so, now, we're finally diving in. Should we
7 have done it three years ago? Yes.

8 But the hope is, everyone dives in,
9 understands it, and then next year, "okay, we're
10 off by 800,000", all the numbers work, and we're
11 good. Sort of like any other reconciling
12 mechanism. This really is just another
13 reconciling mechanism, with a more complicated
14 background.

15 CHAIRMAN GOLDNER: Does this transfer,
16 you're in a unique position, representing both
17 Liberty gas and Liberty electric, is it fully
18 transferable, once the code is broken on gas,
19 then it's the same thing, more or less, for
20 electric or is it different?

21 MR. SHEEHAN: Mostly. There are
22 elements in the gas one that are not in the
23 electric. There's no weather -- the gas
24 mechanism includes a real-time

1 weather-normalization, which explaining how it
2 works is really mind-boggling, that it's making a
3 specific adjustment to your bill based on your
4 usage. That doesn't exist in the electric.
5 There may be some others.

6 But the big picture is the same, yes.

7 CHAIRMAN GOLDNER: Okay. Okay, that is
8 helpful.

9 MR. DEXTER: Commissioner, I'd like to
10 just add one thing.

11 CHAIRMAN GOLDNER: Of course.

12 MR. DEXTER: Having gone through many
13 dockets looking at lost base revenues, that is
14 not a simple concept either. So, we've replaced
15 one very complicated mechanism with, you know,
16 with another complicated mechanism. I don't
17 think there's anyone at the Department that's in
18 favor of going back to a lost base revenue model.

19 So, anyway, I'll just leave it at
20 that.

21 CHAIRMAN GOLDNER: Yes. The "least of
22 all evils" argument, I understand.

23 Let's see. Okay. So, I just have a
24 couple more questions to at least wrap up on my

1 portion.

2 I just want to clarify a comment made
3 by each of the DOE and the Company that I'm
4 confused about.

5 So, I think, Attorney Sheehan, what you
6 said was that the scope of this, this hearing, as
7 it relates to the old -- what I'll call the
8 "old", you know, formula, is that it -- "we're
9 just talking about the low-income portion.
10 That's the disputed part."

11 And I think, Attorney Dexter, at least
12 what I think I heard you say was that "it's more
13 than just the low-income part, we want to look at
14 the whole thing."

15 So, I just want to make sure I
16 understand what we're agreeing to dispute.

17 MR. SHEEHAN: You're correct. We think
18 the \$4 million giveback was due to a application
19 of decoupling to the low-income actual versus
20 target. And, if that's applied correctly, we're
21 not changing rates, we're just putting in place
22 what everyone intended to be put in place back in
23 2018.

24 CHAIRMAN GOLDNER: And, Attorney

1 Dexter, I think you're saying "Yes, let's look at
2 that, but let's also look at the other pieces as
3 well"?

4 MR. DEXTER: Well, our position is we
5 need to look at the entire calculation, one
6 element of which would be the handling of the
7 low-income discount and the setting of the
8 targets, and in the calculation of the actuals.
9 But we hope to be able to verify the underlying
10 target numbers and the underlying actual numbers,
11 not just limited to the low-income discount.

12 CHAIRMAN GOLDNER: Does the Company
13 object?

14 MR. SHEEHAN: We don't object to them
15 looking. But, if you start changing
16 retroactively target numbers, then you may be
17 getting into changing rates retroactively. And
18 I'm not saying we are, but that it gets much
19 closer to that kind of relitigating the whole
20 rate case.

21 Again, I have no problem with them
22 doing the math and diving down to the base
23 numbers. And, certainly, if we had a number
24 wrong, that changes the reconciliation, as

1 always, we make the change, and that goes both
2 ways, which is why we're here.

3 MR. DEXTER: We don't intend to look
4 behind the revenue requirement number that was
5 established in the case. I think it's -- I think
6 everyone's in agreement. I think Ms. Menard has
7 it on the first page of her schedules. And we
8 don't -- we don't intend to look behind the rate
9 design that was established in 17-048. By that,
10 I mean we're not going to look behind the
11 customer charges, the volumetric charges, we're
12 not looking behind the class allocations, or any
13 of the things that go in, you know, that are set
14 forth on the Rates-5 Schedule. We think those
15 are the starting points. We just want to be able
16 to verify the targets, we want to be able to make
17 sure that the targets that are used in the
18 calculation are traceable back to those
19 cornerstones that were set in the rate case.

20 CHAIRMAN GOLDNER: Okay. Thank you.
21 That's helpful.

22 And then, my final question, I think,
23 is for Attorney Dexter. And that is, I know
24 there's a discussion or a dispute on whether this

1 is retroactive ratemaking or not. But, in a
2 retroactive ratemaking event, how far does the
3 Commission -- or, the Department, rather, support
4 going back?

5 MR. DEXTER: You know, it depends on
6 what we're talking about. Because all of these
7 reconciling clauses start with a beginning
8 balance, and, so, in a sense, any reconciling
9 clause is based on information that is up to a
10 year old, assuming it's an annual reconciliation,
11 say, for property taxes or something.

12 I believe there's a Commission order in
13 a cost of gas about two years ago that says "it's
14 appropriate to go back one year, because you need
15 to go back one year, because you're ruling on
16 something that has a beginning balance that is
17 impacted back one year." So, I believe we're
18 supportive of that approach. That that's not
19 retroactive ratemaking, because you're dealing
20 with an opening balance.

21 But, to go beyond that, we believe is
22 problematic. And, you know, we've read the
23 Attorney -- the Consumer Advocate's motion, and
24 we're generally supportive of it. We submitted

1 papers ourselves on that issue. But, if it's
2 something that the Commission wants to deal with
3 on a legal issue, you know, we will provide you
4 the appropriate briefs and things like that.

5 But one thing we haven't talked today
6 about is the simple equity issue of going back
7 too far, because the customer base changes all
8 the time. And the notion of "intergenerational
9 equity" is a real thing, that we support, and we
10 believe that, you know, you have to be mindful of
11 that.

12 So, even if it were legal, because of
13 what Mr. Sheehan said, you know, is it the right
14 thing to do for, you know, a person who moves
15 into Liberty's service territory in 2022, and
16 then gets, you know, that portion of the
17 \$4 million for something that happened in 2018
18 and '19, and that very person or company was not
19 there to have received the initial passback of
20 the 5 or the 7 million, whatever it was?

21 So, in other words, you've got a
22 customer getting the benefit back in 2018-2019,
23 they move away or whatever, and then you got a
24 new customer who gets hit with the recoup. We

1 find that, from a policy standpoint, to be
2 potentially troubling. And, of course, all
3 depends on the amounts and the circumstances, but
4 this is a big amount. So, it is concerning to
5 us.

6 CHAIRMAN GOLDNER: Yes. And I think,
7 you know, you were talking about "one year is
8 okay", for logical reasons. But, then, you know,
9 it's a slippery slope, right? At that point, is
10 it really a year and half? Is it two years? Is
11 it strictly limited to one? If it's limited to
12 one, then why? So, it's an interesting question.

13 I will say, in the corporate books, I
14 think Liberty would -- I assume Liberty accounts
15 for it the same way, is my experience. I mean,
16 once you close the books on the year, you never
17 go back, of course, because your shareholders and
18 everyone else have all the information that
19 they're going to get, and any corrections are
20 made in the upcoming year. So, yes, once those
21 books are closed, usually you're done. So,
22 that's what I'm familiar with.

23 MR. SHEEHAN: Could I respond to that
24 briefly?

1 CHAIRMAN GOLDNER: Yes, please.

2 MR. SHEEHAN: So, the "one year" that
3 Mr. Dexter referenced is actually "two years",
4 referenced in the Commission's order of going
5 back two years.

6 Separately, the Commission has, and I
7 know we've cited somewhere, I can find them, has
8 gone back to beginning balances for this Company
9 six, seven years, where we've returned millions
10 of dollars to customers, based -- it was going
11 back to the Grid acquisition, where we were not
12 tied to our books, we were just carrying a
13 balance. And we were seeing numbers that didn't
14 make sense. So, we worked with the Audit Staff
15 through several of the reconciling factors, one
16 of the cost of gas factors, a couple of the
17 electric factors, where we went back to ground
18 zero, and there were givebacks of 6, \$7 million.

19 So, there is a precedent for this
20 Commission getting it right when you have a
21 material number like that. And, so, here, it's
22 been several years now, (a) we flagged it early,
23 and (b) it's an important thing to get right.

24 So, we think there's certainly

1 authority for the Commission to grant the relief
2 that we've asked for here.

3 CHAIRMAN GOLDNER: Okay. Very good.
4 Yes, we might -- we'll take it back and discuss
5 some more. We'll issue a PO coming out of this
6 hearing with any information we think will be
7 helpful. But I can see where a legal brief on
8 this topic might be helpful to everyone, if
9 there's a position to go back more than a year,
10 it sounds like that might be something worth
11 providing.

12 MR. DEXTER: Yes, I think that is an
13 issue. Sorry for just speaking up.

14 But I wanted to point out, it also --
15 and Mr. Sheehan, I recall the cases that he's
16 talking about. And it's also a different
17 situation when you're passing back money to
18 customers, versus going back to take money from
19 customers. We don't believe that it's a simple
20 symmetry situation, because it's a one-sided
21 situation. In other words that, you know, that
22 these tariffs are set on the basis of information
23 that the Company proposes and controls. And it's
24 one thing to pass back money. It's an entirely

1 different thing to go back and retake money.

2 CHAIRMAN GOLDNER: It's an interesting
3 problem, Mr. Dexter, I mean, I don't want to go
4 too far in the weeds in this afternoon hearing as
5 well here.

6 But, for example, netting, if you had
7 -- you went back four years, and there was a
8 7 million out and there was a 7 million in, and
9 it netted to zero, you know, that's a -- I don't
10 know how to think about that one in the bilateral
11 tolerance zone that you've defined, or I should
12 say "unilateral" tolerance zone that you've
13 defined.

14 MR. DEXTER: Yes, it is, it is an --
15 it's a legal question. I believe there are
16 Supreme Court cases on it. As well as an
17 "equitable" question, if you are to entertain a
18 theory that says "well, we're not really changing
19 the rate, we're changing the application of a
20 rate", or something like that, then I think it
21 shifts to an "equity" issue.

22 But I'll leave it at that.

23 CHAIRMAN GOLDNER: Thank you. That's
24 helpful.

1 Okay. Let's see. So, is there any
2 else that we need to cover today or any other
3 wrap-up comments that the parties would like to
4 make?

5 MR. SHEEHAN: None from us. Thank you.

6 CHAIRMAN GOLDNER: Okay.

7 MR. DEXTER: I guess I would like to
8 leave here knowing what to do with the proposed
9 schedule. I would suggest that the three parties
10 get together, and, if we agree on it, then one of
11 us file it with you as a proposal. And that
12 probably would happen this week. Is that
13 something that would be helpful?

14 CHAIRMAN GOLDNER: Yes. Thank you.
15 That would be perfect. Yes. Yes, that would be
16 perfect, to receive an assented-to procedural
17 schedule, and I think would be the way to go.

18 And I think -- just a moment please.

19 *[Chairman Goldner and Atty. Wind*
20 *conferring.]*

21 CHAIRMAN GOLDNER: Okay. Yes, I think
22 that will be excellent, Mr. Dexter. What we'll
23 do is we won't issue a PO with a requirement to,
24 you know, file a procedural schedule. We'll just

1 assume that everybody will sort it out. And
2 we'll await that procedural schedule.

3 I don't think we have anything to issue
4 in terms of a -- from our standpoint at this
5 point, I don't think. If we go back and we think
6 maybe a brief would be helpful or something like
7 that, well, we'll come back with something in the
8 next week or three on that front.

9 CMSR. SIMPSON: I'd just say, I don't
10 think we need to make it any record request at
11 this time.

12 CHAIRMAN GOLDNER: Yes.

13 CMSR. SIMPSON: Talking about the
14 formulae that have been laid out, if the parties
15 can work towards that to get in front of us the
16 math, that would be appreciated. Thanks.

17 CHAIRMAN GOLDNER: Okay. Anything
18 else?

19 [No verbal response.]

20 CHAIRMAN GOLDNER: Okay. Very good.
21 Thank you for your time, everyone. We are
22 adjourned.

23 ***(Whereupon the prehearing conference***
24 ***was adjourned at 10:47 a.m.)***