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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

August 30, 2023 - 9:03 a.m.
21 South Fruit Street
Suite 10
Concord, NH

[Hearing also conducted via Webex]

RE: DG 22-045

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP. d/b/a LIBERTY UTILITIES:

Winter 2022-2023 and Summer Cost of Gas.
(Hearing on the issues of Environmental Surcharge related to Gasholder Costs and the Revenue Decoupling Adjustment Factor)

PRESENT:

Chairman Daniel C. Goldner, *Presiding*
Commissioner Pradip K. Chattopadhyay
Commissioner Carleton B. Simpson

Eric Wind, Esq./*PUC Legal Advisor*

Tracey Russo, Clerk and
PUC Hybrid Hearing Host

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

Reptg. Residential Ratepayers:

Donald M. Kreis, Esq., *Consumer Adv.*
Marc H. Vatter, *Dir./Economics & Finance*
Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:

Mary E. Schwarzer, Esq.
Paul B. Dexter, Esq.
(Regulatory Support Division)

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

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29	Excerpt from DG 23-076 Liberty Winter 2023-2024 and Summer 2024 Cost of Gas and LDAC Filing	<i>premarked</i>

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P R O C E E D I N G

CHAIRMAN GOLDNER: Okay. Good morning, everyone. I'm Chairman Goldner. I'm joined today by Commissioner Simpson and Commissioner Chattopadhyay.

We're here this morning in Docket 22-045, Liberty's Annual Cost of Gas and Local Distribution Adjustment Charge adjustment docket filed in 2022. This is a hearing on two adjustments to the LDAC that were severed from the core proceeding, pursuant to Order Number 26,692, dated August 29th, 2022, due to the complexity of the issues presented. These issues are a proposed Revenue Decoupling Adjustment Factor refund and proposed Environmental Surcharge amounts associated with the Concord gasholder.

Let's take appearances, beginning with Liberty.

MR. SHEEHAN: Good morning, Commissioners. Mike Sheehan, for Liberty Utilities (EnergyNorth Natural Gas) Corp.

CHAIRMAN GOLDNER: Thank you. The New Hampshire Department of Energy?

1 MS. SCHWARZER: Good morning, Mr.
2 Chairman. Mary Schwarzer and Paul Dexter, for
3 the Department of Energy.

4 CHAIRMAN GOLDNER: All right. And the
5 Office of the Consumer Advocate?

6 MR. KREIS: Good morning, Mr. Chairman.
7 I'm Donald Kreis, the Consumer Advocate. As you
8 know, our job is to represent the interests of
9 the residential customers of this and every other
10 utility.

11 The gentleman sitting to my left is
12 Marc Vatter. He is our new Director of Economics
13 and Finance, and we are very pleased to have him.
14 The curious can check out his bio on our website,
15 or await the filing of his first written
16 testimony with the Commission.

17 CMSR. SIMPSON: Welcome.

18 CHAIRMAN GOLDNER: Thank you very much.
19 Yes, welcome.

20 Okay. So, let's begin. First, I'd
21 like to better understand the issues today and
22 what the parties' positions are on the issues, if
23 separated out into Topic 1 and Topic 2, let's
24 call RDAF "Topic 1" and the gasholder "Topic 2".

1 On Topic 1, Attorney Sheehan, can
2 Liberty explain at a high level what its RDAF
3 rate request is at this point, and when it
4 requests to implement the rate change, and over
5 what recovery period?

6 MR. SHEEHAN: So, the number could be
7 found in Exhibit 19, which was Mr. Holden's
8 technical statement filed, I believe, in
9 December. Yes, December 8th. That filing, the
10 purpose of it was, we've now finished the
11 underlying cost of gas proceeding, having carved
12 out these two issues. The dust has settled, give
13 us the numbers that are at issue now? And, so,
14 that's the document that we will point to for the
15 number.

16 And, if you look at the second page of
17 that, there is a -- what is this, there's several
18 boxes. If you go to Table 1b, "current
19 decoupling year", and the \$2.7 million is the
20 decoupling adjustment, the shortage, if you will,
21 for that decoupling year. So, that is -- I call
22 it "Year 4 Decoupling". Mind you, though, Years
23 1 and 2 are the ones that are at issue in the
24 other docket, Year 3 hasn't been litigated

1 further, and this is Year 4, and last week we
2 filed Year 5. So, for the Year 4 period, it's
3 that 2.7 million.

4 The request also includes some
5 beginning balance from the prior years, which is
6 Table 1c, or it's included in Table 1c. That's
7 up above, the "prior year estimated carryover" is
8 Table 1a; the "current decoupling year" is 1b;
9 and the total request is Table 1c.

10 It's probably not -- there's a --
11 probably not appropriate to calculate a rate
12 today, because our thought was to get a number
13 approved today, hopefully, the number we propose,
14 and fold it into the cost of gas LDAC that was
15 just filed. In fact, the filing made last week
16 does fold this number into it. So, ideally, we
17 get the number settled today, that doesn't have
18 to be litigated further in the new cost of gas,
19 it's just a component of everything else. And,
20 as you know, we've changed the effective date, so
21 it will all go into effect February 1.

22 So, that's our high-level proposal for
23 the RDAF.

24 CHAIRMAN GOLDNER: Okay. So, let me

1 just verify the number. So, if Liberty walked
2 out of here today with X millions of dollars,
3 what is that number you're seeking recovery of
4 today? Where can I find that? Which table?

5 MR. SHEEHAN: It's Table 1c on Exhibit
6 19, "3,511,438".

7 CHAIRMAN GOLDNER: Okay. Thank you.
8 And then, you would seek recovery of that amount
9 over what time period?

10 MR. SHEEHAN: Yes. The rates for these
11 reconciliations are intended to recover over one
12 year.

13 CHAIRMAN GOLDNER: One year.

14 MR. SHEEHAN: And it would be one year
15 beginning February 1.

16 CHAIRMAN GOLDNER: Okay. Do the other
17 parties wish to comment on what we're discussing
18 today? Does everyone agree we're talking about
19 3.511 million, with recovery beginning
20 February 1st of 2024?

21 MS. SCHWARZER: Mr. Chairman, I would
22 like to speak to some of the details about that.
23 Thank you very much.

24 CHAIRMAN GOLDNER: Attorney Schwarzer,

1 if you could, is that -- do you agree with the
2 number or you don't agree with the number?

3 MS. SCHWARZER: I have a concern about
4 the Decoupling Year 3 not being a final number,
5 which I would like to speak to.

6 But, with regard to the approximately
7 2.7 million for Decoupling Year 4, and
8 approximately 800,000 for Decoupling Year 3, we
9 agree with the calculation.

10 CHAIRMAN GOLDNER: Okay. Very good.
11 Please proceed.

12 MS. SCHWARZER: Thank you. In the
13 Department's opinion, Decoupling Year 3, which
14 covers the RDAF recovery from August -- from
15 September 1st, 2020, through August 31st, 2021.
16 It's the prior year that Attorney Sheehan was
17 referring to, the \$800,000. That has never been
18 a final approved figure. The order that the
19 Commission issued, Order Number 26,541, on
20 October 29th, 2021, made that recovery
21 provisional and interim, because of the
22 underlying confusion with the tariffs and the
23 RDAF issues in general.

24 I do believe that at that time there

1 was no new RDAF docket. This docket had not been
2 carved out. And, so, Decoupling Year 3 was
3 referred to as something that would be
4 adjudicated with what became 22-041. However,
5 the tariff, Tariff Number 11, recovers the bulk
6 of Decoupling Year 3. And we have been
7 considering it as more similar and akin to the
8 issue before us here, with Decoupling Year 4. It
9 was not addressed in 22-041, to the best of my
10 knowledge. And we can certainly brief this
11 later. I don't want to make a complex hearing
12 more complicated.

13 But, to the extent Liberty asserts it's
14 "final and approved", that is not the
15 Department's opinion. And it has not been
16 addressed, all of that.

17 CHAIRMAN GOLDNER: Attorney Schwarzer,
18 would the Department have a number that it would
19 put forward today as the number that it
20 recommends the Commission approve?

21 MS. SCHWARZER: I will have -- I do
22 have testimony for Decoupling Year 4. Although,
23 our analysts were not able to gain full
24 confidence in the entire figure. They are

1 confident in the number that would be appropriate
2 for recovery were the true-up process discounted,
3 which would be 991,000, a figure that is found in
4 Dr. Arif and Mr. Thompson's testimony,
5 Exhibit 26, Attachment 10.

6 CHAIRMAN GOLDNER: And that compares to
7 the Liberty number of?

8 MS. SCHWARZER: \$2.7 million.

9 CHAIRMAN GOLDNER: Okay. So, you're
10 roughly -- you're roughly 700K off -- different?

11 MS. SCHWARZER: Well, 1.7.

12 CHAIRMAN GOLDNER: Well, it's --

13 MS. SCHWARZER: It's roughly 62
14 percent, as represented by the true-up.

15 CHAIRMAN GOLDNER: That's a good point.
16 It's early in the morning, isn't it? 1.7, yes.
17 1.7.

18 So, just roughly speaking, let's see if
19 my math gets better as I go, instead of 3.5
20 million today, the Department would say the
21 number is closer to 1.8?

22 MS. SCHWARZER: We have not applied --
23 the complexity here was significant, and we
24 focused on Decoupling Year 4. To the extent we

1 have concerns with Year 4, and a proposal for
2 gaining more certainty, but don't have that now,
3 we are not able to opine on the percentage of the
4 request in Decoupling Year 3 that the true-up
5 process represents. So, we would not fully
6 endorse the \$800,000 ask for Decoupling Year 3.
7 And I think the most we can say today,
8 specifically, is that, of the request for
9 Decoupling Year 4, the Department has full
10 confidence in the \$991,000, prior to the true-up
11 application.

12 CHAIRMAN GOLDNER: Sadly, I'm not
13 following. Let's try again.

14 So, I guess, if you'd like to go
15 through it year by year, that would maybe be
16 helpful?

17 MS. SCHWARZER: Sure.

18 CHAIRMAN GOLDNER: And then, maybe we
19 can just -- what I'm trying to do is line up the
20 numbers that the Department already agrees with
21 Liberty on, and the numbers where you don't, --

22 MS. SCHWARZER: Sure.

23 CHAIRMAN GOLDNER: -- year by year.
24 So, maybe if we could just go through that, that

1 would be helpful.

2 MS. SCHWARZER: I'd be happy to do
3 that. And please don't hesitate to interrupt me,
4 if it's not tracking.

5 The Department understands Decoupling
6 Year 1 and Decoupling Year 2 to be addressed in
7 Docket Number 22-041. So, we are not here today
8 to discuss those numbers.

9 CHAIRMAN GOLDNER: Perfect.

10 MS. SCHWARZER: Decoupling Year 3,
11 which covers the RDAF period of September 1,
12 2020, through August 31st, 2021, but would have
13 been the subject of the LDAC in Docket 21-130.
14 That number, as we understand it from Liberty, is
15 the \$800,000 that they refer to as the "prior
16 year carryover". That was the prior year last
17 year. So, now, it's two years -- two periods
18 ago. This 22-045, when it was filed, was the
19 current RDAF recovery, and that is 2.7 million.

20 So, of the 3.5 million total for
21 Decoupling Year 3 and Decoupling Year 4, the
22 Department is only able at this time to express
23 confidence in \$991,000 in Decoupling Year 4,
24 because we have removed the true-up process.

1 CHAIRMAN GOLDNER: Okay. I see.

2 MS. SCHWARZER: And there is a -- there
3 may be -- that is not to say the entire RDAF
4 calculation makes full sense, but that's where we
5 are.

6 CHAIRMAN GOLDNER: Okay. And does the
7 Department have line-of-site today on resolving
8 its questions on Year 3?

9 MS. SCHWARZER: Mr. Chairman, in
10 Year 3, no. But, for Year 4, you will hear
11 testimony from our analysts about the efforts
12 we've gone to to investigate de-aggregating the
13 annual revenue figures and the path forward.

14 CHAIRMAN GOLDNER: Okay. And I'd like
15 to hear from the OCA here in just a moment. But
16 one -- well, let me hear from the OCA first.
17 Does the OCA have a thought on -- let me first
18 check to see if the OCA agrees that Years 1 and 2
19 are in the other docket, and that what we're
20 talking about here today is 3, 4, and
21 potentially 5?

22 MR. KREIS: Yes. The OCA agrees with
23 that proposition.

24 CHAIRMAN GOLDNER: Okay. Does the OCA

1 agree with the Company's requested approval of
2 3.511 million?

3 MR. KREIS: It does not.

4 CHAIRMAN GOLDNER: It does not. Does
5 the OCA -- can the OCA opine on where it
6 disagrees with the Company's position?

7 MR. KREIS: It can. I can. And I am
8 mindful of my obligation to be completely candid
9 with the tribunal. And, so, I will be as candid
10 as I can be. We are, as we have been in certain
11 other dockets along the way, we're in somewhat
12 the same position that you are sitting up on the
13 Bench, in that, but for the advent of Mr. Vatter,
14 who I previously introduced earlier this week,
15 we've been without any analytical support for
16 quite some time. And, so, we have not done the
17 excellent analysis that the Department of Energy
18 has done. So, I -- the OCA is quite dependent on
19 the excellent work that they have done. And I
20 interpret their work as essentially suggesting to
21 you that this utility has not met its burden of
22 demonstrating its entitlement to most of the
23 recovery that it seeks for Decoupling Year 4.

24 And Ms. Schwarzer just gave you a

1 number of \$991,000 that the Department of Energy
2 is confident in suggesting is recoverable. What
3 I don't know off the top of my head is the
4 percentage of that or the amount of that that is
5 attributable to residential ratepayers. Because,
6 as you know, I care only about the residential
7 class.

8 I have taken note of the fact that,
9 over all, of the Company's \$2.7 million request
10 arising out of Decoupling Year 4, fully 2.5
11 million of that is from the residential class.
12 So, that suggests to me that there is a real
13 problem here, because you have a company that is
14 seeking to recover a whopping big amount of money
15 arising out of its decoupling mechanism from
16 residential customers. And I just have to
17 confess, as a lawyer, and not a financial
18 analyst, that something about this seems wrong, I
19 guess is the best word I can use.

20 I hope that's helpful.

21 CHAIRMAN GOLDNER: It is. It is. And,
22 really, so, my question, before we embark on what
23 could be a very long day is, would it make sense
24 to the parties to reconvene? The OCA now has an

1 analyst. I know Mr. Arif has done a lot of work
2 on this, and was unable to reach a conclusion, in
3 terms of an overall recommendation.

4 And my concept is, you know, does it
5 make sense to have a procedural schedule, and
6 revisit this topic in more detail? Or, do the
7 parties think that we can have clear positions
8 today for the Commission to consider? That the
9 Company has made a clear position, 3.5, 3.5
10 million. The other parties, the DOE and the OCA,
11 for reasons just discussed, don't have a number
12 in mind. And, so, the Commission is wondering
13 how best to get to conclusion here?

14 MR. SHEEHAN: I'm happy to address
15 that, if you'd like?

16 CHAIRMAN GOLDNER: Yes, please.

17 MR. SHEEHAN: I have no problem -- we
18 have no problem continuing to look at all these
19 numbers. As we have said in other contexts,
20 these are all reconciling numbers. If we find a
21 mistake one way or the other that's one, two,
22 three, four years old, we fix it. And there's
23 case law or orders out there where we corrected
24 ten year-old numbers that went millions of

1 dollars both ways. So, we don't have a problem
2 with continuing to work with the parties to get
3 their comfort with our numbers. And, again, if
4 we find mistakes, fix them.

5 The fear I have is that these numbers
6 are beginning to pancake. There's \$4 million
7 outstanding in one docket; there's \$4 million
8 here, or three and a half, whatever the number
9 is; there's a new one that was filed. And, if we
10 keep putting these off, and assume they are
11 largely correct, there's going to be a rate case
12 size adjustment solely to bring us back to where
13 we should have been on day one.

14 So, my proposal will be, as you did
15 with Year 3, put it into rates, Year 3 is in
16 rates, we are collecting the full amount we
17 requested, and put this number in rates. And,
18 again, through the process, if there's
19 adjustments to be made, we can make them. And,
20 presumably, they will be smaller than the total
21 amount, and it will even out the customer impact.

22 We are about to dive into a new cost of
23 gas, and do we have time to -- I mean, there's a
24 lot of overlap in the questions that the DOE has.

1 It's how things work and where the information
2 comes from. But it just makes sense to at least
3 put this one to rest for now.

4 CHAIRMAN GOLDNER: Would the parties be
5 amenable to the Company's proposal?

6 MS. SCHWARZER: Mr. Chairman, I would
7 point out that, when RDAF was carved out of this
8 docket, we had asked that it not be included in
9 rates. Certainly, if the -- I believe, if the
10 Company wants to include the \$991,000 in rates,
11 subject to a brief recess so I can confer with my
12 other team members, that does not seem
13 unreasonable to me.

14 However, we have some outstanding
15 discovery issues and requests. And it might be
16 useful to ascertain that those would go forward
17 in some way, or to, if the Commission is
18 interested in some initial information about
19 RDAF, to do some presentation or some partial
20 presentation. But, if that's not useful, we can
21 certainly take a recess and discuss a
22 continuance.

23 CHAIRMAN GOLDNER: I take the Company's
24 proposal, and I would like to hear from the OCA,

1 of course, I take the Company's proposal to be
2 almost a temporary rate proposal, where we move
3 forward with the number, in this case, 3.5,
4 subject to reconciliation, which does kick the
5 can down the road somewhat. But, at least, if
6 the number is close to the appropriate amount of
7 recovery, at least makes the Company whole, as
8 appropriate, subject to reconciliation.

9 Attorney Kreis, what are your thoughts?

10 MR. KREIS: Thank you, Mr. Chairman.
11 I -- the OCA would like to do what works, for
12 sure. But I do have a concern that I'd like to
13 lay out, and hear what you folks up on the Bench
14 think and what the other parties think.

15 I'm concerned about building up a
16 large, even theoretical, I guess, arrearage via
17 the decoupling mechanism, because the Company
18 earns carrying charges on those kinds of balances
19 at the prime rate. And the Company's cost of
20 debt is certainly less than the prime rate.

21 And, so, I'm worried about a situation,
22 and I'm willing to be convinced that this is not
23 a valid concern, where, basically, the Company
24 has no incentive to clear this up, because it's

1 basically getting a big loan from ratepayers, at
2 a rate that it charges that's very profitable for
3 the Company.

4 CHAIRMAN GOLDNER: Would the Company be
5 willing to forgo the prime rate on any carrying
6 charges? That could simply things.

7 MR. SHEEHAN: I don't have authority to
8 do that. And, again, it's money that the
9 Commission approved these rates, it approved
10 these numbers, and we can't keep putting them
11 off. So, I don't have authority to waive the
12 interest, the carrying charge.

13 We had proposed to put this number, the
14 3.5, in rates February 1, simply as a mechanical
15 ease. If the alternative is "can we put it into
16 effect October 1?", to stop that issue that the
17 OCA raised, I'm sure we could, subject to the
18 poor Rates people that have to do it, I'm sure we
19 could do that, in effect, as temporary rates, on
20 this RDAF. We have every incentive to resolve
21 these issues, because we don't want to do this
22 every year.

23 We're aware that the DOE is new to
24 this. Mr. Arif has spent a huge amount of time

1 learning this. And he's a smart guy, he's going
2 to figure it all out. And we're comfortable that
3 the day will come when he can say with certainty
4 that "we agree" or "we don't agree". So, that
5 would be wonderful for us, too, and so we can
6 come in with a decoupling that works. So, we
7 have every incentive to work through this and
8 resolve it.

9 CHAIRMAN GOLDNER: Okay.

10 MS. SCHWARZER: Excuse me.

11 CHAIRMAN GOLDNER: Attorney Schwarzer.

12 MS. SCHWARZER: If I just might speak
13 to, certainly, Dr. Arif is experienced and has
14 put in extensive work, we also have consultants
15 with a long experience dealing with decoupling in
16 many other different venues. And, so, I don't
17 think this is an instance where the issue is the
18 result of Department personnel being -- of Dr.
19 Arif being new to RDAF. That is not the topic.

20 CHAIRMAN GOLDNER: Commissioner
21 Simpson.

22 CMSR. SIMPSON: Has the Department
23 leveraged those consulting resources in this
24 case?

1 MS. SCHWARZER: We have extensively,
2 Commissioner.

3 CMSR. SIMPSON: Okay. And those
4 consultants have an expertise in decoupling
5 generally?

6 MS. SCHWARZER: They do. Mr. Thompson
7 would testify here today that --

8 CMSR. SIMPSON: Yes.

9 MS. SCHWARZER: -- he has done at least
10 five RDAF projects for different states, gas and
11 electric, and is currently, in addition to these
12 two, 22-041 and 22-045, working on two other RDAF
13 matters for other entities.

14 CMSR. SIMPSON: Okay. Thank you for
15 the clarification.

16 MR. KREIS: So, accessing my inner
17 Commissioner Simpson here, and remembering some
18 of the things that he said from the Bench in the
19 22-041 hearing, from the perspective of
20 ratepayers, and, again, you know, being
21 completely candid with the Commission, nobody is
22 more responsible in this room for urging
23 decoupling on New Hampshire utilities than I am.
24 But I'm mindful of what Commissioner Simpson said

1 at that last hearing. He asked, very
2 forthrightly, "Is this just too hard for
3 everybody to process?" And I'm not willing to
4 concede that, but it is not working at this
5 utility.

6 And, you know, the Commission and the
7 ratepayers need an answer here. And, so, I'm
8 very tempted to fall back on a position that says
9 "this company simply has not demonstrated on the
10 record that it's prepared to adduce today that it
11 is entitled to recover the amount of money that
12 it seeks to recover." And it comes before you
13 with the burden of proof, and it's not sustaining
14 that burden of proof. And there is an argument
15 to be made, and I am very tempted to make it,
16 that says "We shouldn't have any more
17 negotiations or discussions. We shouldn't kick
18 this can down the road any further. We should
19 clear up the past decoupling years, and then take
20 a look in the pending rate class about what we're
21 going to do about this question of decoupling in
22 the future."

23 CHAIRMAN GOLDNER: Yes, Commissioner
24 Chattopadhyay.

1 CMSR. CHATTOPADHYAY: And this is just
2 out of curiosity.

3 All of what we're discussing here, does
4 it have any bearing on the -- there is a rate
5 case, right? So, can you -- can someone throw
6 some light on whether this issue can be taken
7 care of by the time the rate case is over?

8 MR. SHEEHAN: I can.

9 CMSR. CHATTOPADHYAY: Or in the rate
10 case?

11 MR. SHEEHAN: My suggestion is, first,
12 Mr. Kreis has no basis to say we haven't met our
13 burden. He has no analyst, he has no expertise
14 to say the numbers we presented to you and all
15 the backup are wrong, and we stand behind them
16 fully. We have people behind me who are willing
17 to answer all the questions. They are correct.
18 The numbers we are requesting are the result of a
19 smoothly operating RDAF. Period.

20 New paragraph. In a rate case is a
21 perfect time to look at the mechanism, and indeed
22 most of, if not all of, DOE's testimony is how to
23 tweak the mechanism. Which is fine, we'll have
24 that conversation. It's not going to clear up

1 this number, because this number is based on this
2 filing, on the tariff we have in front of us
3 today.

4 They acknowledge that we did the
5 calculations correctly. They acknowledge the
6 numbers are right. They did a lot of
7 deep-diving. And today is the first time I've
8 heard any concern with the numbers that they
9 didn't look at, with this true-up thing, that I
10 just literally heard for the first time five
11 minutes ago. So, we'll walk through that. Mr.
12 Bonner will explain why they're wrong, and you
13 have a perfectly sound number to approve.

14 The mechanism is working as intended.
15 People are just balking at the fact that we've
16 had a couple of years where we came up short and
17 are asking for recovery. Recall, Year 1, we gave
18 back \$7 million to customers, two of it is what
19 we're fighting in the other docket. Year 2, we
20 gave back \$5 million to customers, two of it is
21 in that other docket. Now, it's swung the other
22 way. The witnesses will say that's the result of
23 COVID, that's the result of really high gas
24 prices, as people use less, *et cetera, et cetera.*

1 There's nothing -- there's nothing to
2 see here, is kind of what I'm saying.

3 CHAIRMAN GOLDNER: The place where I'm
4 puzzled is that, it seems like this should all
5 fit on a single piece of paper. We have, in the
6 decoupling concept, we have allowed revenue, we
7 have actual revenue, billing determinants, the
8 number of customers, the therms, and the rate.
9 And it seems like it should all fit on a single
10 piece of paper.

11 And if, in the Company's testimony,
12 assuming we decide to move forward on this topic
13 today, I would like to be pointed to a single
14 piece of paper that just shows me how simple this
15 should be for each year. It should just be those
16 factors, it should be that simple. And I don't
17 understand why it's more complicated than that,
18 or why really smart people in this room,
19 including the DOE analysts, can't track the
20 \$3.5 million number?

21 MR. SHEEHAN: Again, they do. They are
22 okay with the calculations as presented. Their
23 concern is "How did you get to your number of
24 customers?" That is the "equivalent bill"

1 concept. That's nothing to do with decoupling.
2 "Equivalent bills" is a concept we've had before
3 decoupling for years. They could try and go down
4 that rabbit hole to try to figure it out, it's
5 not real simple, but they haven't got there yet;
6 fine. But that is one topic, a non-decoupling
7 topic that they have.

8 The "True-Up" is another non-decoupling
9 concept that we've had for years. It doesn't --
10 it's another number, it has to do with -- it's
11 related to the equivalent bills, it's a
12 component. But, again, it's nothing new. We've
13 been doing it for years. They drilled down into
14 that one and didn't quite get satisfied.

15 So, it does -- I don't know if we
16 actually have one page that it fits on, but it's
17 exactly what you said: What's the allowed
18 revenue; it's revenue per customer, what you
19 approved; times number of customers, which is
20 equivalent bills; it's actual revenue, which is
21 what the true-up has to do with; you compare the
22 two, out comes the number. And that's what we've
23 done. And they agree with that calculation,
24 again, they're just not comfortable with some of

1 the underlying numbers here.

2 CHAIRMAN GOLDNER: Yes. It just seems
3 like counting customers would be straightforward.
4 So, it seems like there seems to be a dispute
5 that I don't understand.

6 MS. SCHWARZER: But Mr. Chairman?

7 CHAIRMAN GOLDNER: Yes.

8 MR. SHEEHAN: The answer for that is,
9 you can't count heads. Because if you leave
10 today -- an apartment today, and I move in three
11 weeks later, how many customers in there? So,
12 what it is, it's a fairly sophisticated measure
13 of ins and outs, of -- it picks up all of those
14 kinds of things that Mr. Bonner does, and can
15 explain it in more detail, but it's a
16 sophisticated way of making sure we get the
17 number right, rather than just counting heads at
18 a particular point in time.

19 CHAIRMAN GOLDNER: Attorney Schwarzer.

20 MS. SCHWARZER: Mr. Chairman, the
21 Department intends to speak, if we go forward
22 today, to the very question that you have posed,
23 which is why, with a fairly simple overall
24 formula, allowed revenue, minus actual revenue,

1 equals the decoupling adjustment. Why it is much
2 more complex, and why we have some significant
3 concerns about misalignment when it comes to the
4 true-up process.

5 So, I would respectfully reject
6 Attorney Sheehan's statement that he had no
7 notice that true-up was of concern to the
8 Department. If you look at the Department's
9 testimony, marked as "Exhibit 26", very early on,
10 at Page 7, our analysts say that "it is
11 imperative that there be parity in treating
12 actual and trued-up EB", that's "Equivalent
13 Bill", "counts both for allowed and actual
14 decoupling revenues."

15 And we have pushed and pushed to try to
16 ascertain parity, to try to deaggregate the
17 annual -- excuse me -- the actual revenue in the
18 same manner that the allowed revenue is
19 deaggregated. And it turns out that there's sort
20 of a 62 percent of the ultimate revenue is
21 through the true-up process. And, if you look at
22 a given month, there can be increases in customer
23 count in the thousands. That seems somewhat
24 high. It seems somewhat high that a revenue

1 decoupling adjustment factor would be 22 percent
2 of the monthly revenue. That seems high. And we
3 have analysts that will testify that that is
4 high.

5 CHAIRMAN GOLDNER: And I think, and one
6 interpretation of the settlement could be that
7 counting the number of customers is not
8 particularly specific. And, so, thus, we're
9 sitting here, many years later, discussing how to
10 count customers, which might seem ironic or
11 humorous to people that don't do this for a
12 living that we can't count customers.

13 And I guess my question is, would it
14 make sense for the parties to get together and
15 align on how to count customers? Is there a
16 simpler way? Should you just take the customers
17 that the Company reports as of the first of the
18 month or as of the end of the billing cycle, or
19 choose a metric? But just simplify it, so that
20 we can move along in sort of a more
21 straightforward way.

22 And let me pause there. And I haven't
23 given Attorney Kreis a chance to comment yet.
24 So, on any of the topics previously discussed,

1 Attorney Kreis, would you care to weigh in?

2 MR. KREIS: With respect to the
3 suggestion that you just made, thinking off the
4 top of my head, as we said in 22-041, retroactive
5 ratemaking is a no-no. And, so, if we want to
6 fix the decoupling mechanism or approve it or
7 make it work better, or more transparently so
8 that everybody can understand it, I think, to
9 Commissioner Chattopadhyay's point, that's a rate
10 case issue, and we should and can address that
11 there. That's an imperative over in that docket.

12 Here, we're looking at Decoupling
13 Years 3 and 4, particularly 4, that's history.
14 And, you know, all we can do is apply the
15 existing decoupling mechanism that's currently in
16 the Company's tariff that applied to that
17 decoupling year.

18 And my point -- now, Mr. Sheehan
19 correctly observed that I am not an analyst. I
20 don't pretend to be an expert on financial
21 analysis at all. But I am a lawyer, and I do
22 know a little bit about burdens of proof and
23 persuasion. All I'm doing is relying on the
24 opinion of their expert witness, the Department's

1 expert witness, which you are also entitled to
2 rely on, that the Company hasn't demonstrated
3 it's entitlement to recover the sum that it asks
4 you to recover of \$2.7 million from Decoupling
5 Year 4.

6 And, essentially, it looks to me like
7 the Company is basically saying, on this
8 "customer count" question, "Well, it's a black
9 box, and the Department couldn't crack it; too
10 bad for them." Well, it's not "too bad for
11 them", because their expert witness is telling
12 you the Company hasn't made its case.

13 CHAIRMAN GOLDNER: And it's clear to me
14 the Company understands how to count customers
15 via the settlement, because they just described
16 that. Does the DOE or the OCA have any concerns
17 with the way that the Company is counting
18 customers?

19 MS. SCHWARZER: Mr. Chairman, if I
20 might speak to that. The Department does have
21 significant concerns about the opportunity for
22 misalignment in a aggregated annual revenue
23 calculation, which is only adjusted once at the
24 end of the initial month. So, for example, if

1 the month we're looking at were February 2022,
2 there would be an annual revenue calculation and
3 an adjustment for a range of reasons at the end
4 of February. And then, the allowed revenue
5 customer count would be both actual and
6 estimated, and that estimated count would
7 continue to be updated and updated and updated
8 and updated for four additional months. And
9 there would be a change in the number of
10 customers between the end of February period and
11 the end of June period.

12 What we have sought to do and tried to
13 do is to create or understand whether there can
14 be seen a parity between the adjustments that are
15 made, and we have been unable to gain certainty
16 with regard to that inquiry. And, so, that's
17 significant, because we have -- we have also
18 asked, for example, "Why are these adjustments
19 made?" I believe this is the first time I've
20 heard "COVID". There are extensive discovery
21 requests. We can go through many of them.

22 However, given that the RDAF adjustment
23 is already weather-adjusted, this is an
24 extraordinary adjustment when weather is no

1 longer an issue. There is no weather adjustment
2 here in the 22 percent, for example, increase --
3 or, excuse me, in the 22 percent that the RDAF
4 adjustment might represent in a particular month.
5 It's 22 percent without weather.

6 CHAIRMAN GOLDNER: I'm just not sure,
7 as I sit here today, how the Commission is going
8 to resolve this dispute. The Company is saying
9 one thing, the Department is saying another
10 thing, the OCA may be saying a third thing. I
11 don't know how to resolve the dispute. So, I'm
12 looking for your input, in terms of how we're
13 supposed to count customers, as a Commission, and
14 get alignment? Because we depend, in the case,
15 on the DOE's experts, given that the OCA just has
16 their expert onboard. So, I'm baffled, in terms
17 of how to proceed.

18 MS. SCHWARZER: Mr. Chairman, if I
19 could speak?

20 CHAIRMAN GOLDNER: Yes, please.

21 MS. SCHWARZER: Certainly, the true-up
22 process is not mentioned in the settlement
23 agreement.

24 CHAIRMAN GOLDNER: Right.

1 MS. SCHWARZER: It's not in the tariff
2 language.

3 CHAIRMAN GOLDNER: Right.

4 MS. SCHWARZER: It is not there. So, I
5 think it's appropriate for the Department to
6 investigate whether there's an opportunity for
7 significant misalignment, given the process that
8 Liberty has inherited, chosen to keep, and
9 continues to use.

10 And, at this point in time, we have a
11 proposal for how we might gain certainty. You
12 can look at -- excuse me, the Commission might
13 respectfully look at Exhibit 31 and 32, which
14 included a discovery, new information from us
15 that there was source data available for
16 equivalent bill calculations that was brought to
17 our attention by our own Audit Division. We felt
18 we asked for it, but, understandably, perhaps
19 Liberty -- Liberty's responses didn't necessarily
20 point to source data. But Exhibit 32 shows a
21 request for discovery made in August that has yet
22 to be responded to, asking for information that
23 we would believe might give us certainty with
24 regard to parity for aggregated and disaggregated

1 information for actual and allowed revenue.
2 That's not a guarantee. We would have to see
3 what the results said, before we could conclude
4 if that led us to some greater certainty, or to
5 lesser certainty, if you will.

6 But we have certainly continued to
7 address this important topic, and wish to
8 continue to do so.

9 CHAIRMAN GOLDNER: Oh, it's not a
10 criticism. It's just, I'm explaining that the
11 Commission typically has two or three
12 strongly-held views on what the number is, and we
13 try to determine the correct answer. In this
14 case, we have one strongly-held view, and then we
15 have questions from the other parties. So,
16 that's the conundrum today.

17 Yes. Commissioner Chattopadhyay.

18 CMSR. CHATTOPADHYAY: Some of you know
19 that usually I don't hesitate to get into
20 technical details, but I'm going to keep this
21 pretty high level. I'm trying to understand all
22 of the discussion that's taking place right now.

23 Is the issue really, having heard about
24 the number of customers, the number of customers

1 that is being assumed, when you are calculating
2 the actual revenue that you've got, different
3 from the number of customers that is being used
4 when you're trying to calculate the allowed
5 revenue? And I'm just trying -- I'll frame it,
6 you know, at a high level, is that the issue?

7 *[Attorney Schwarzer conferring with*
8 *Dir. Arif.]*

9 MS. SCHWARZER: Mr. Chairman, would it
10 be acceptable if I asked Dr. Arif to address
11 your -- excuse me, Commissioner Chattopadhyay,
12 could I ask Dr. Arif to address your question?

13 CMSR. CHATTOPADHYAY: Absolutely.

14 MS. SCHWARZER: Thank you. Do you want
15 to swear him in or are we fine with -- okay.

16 DIR. ARIF: Good morning,
17 Commissioners. Thank you for your question.

18 The short answer, well, my
19 understanding, would be that there could be a
20 potential of that happening, which is, in our
21 investigation, we have found could potentially be
22 a certainty to the true-up process. The whole
23 testimony, and I'm happy to say so under oath as
24 well, when time comes, it is about true-up

1 process. And it's where all we have tried is to
2 asserting whether the numbers that are put
3 forward by the Company is just, reasonable, and
4 fair, and in the public interest.

5 To the extent that we could say what we
6 are happy to endorse, we have. But the amount
7 that you were asking about, Chairman Goldner,
8 that we could not opine on, is not in lack of
9 doing analysis. This is with analysis, we
10 concluded to that number. And the premise under
11 which we got to that level was not to -- it's
12 actually in the other testimony that I've written
13 for gasholder, but that applies here, that we
14 always try to try and strike a balance between
15 the interest of all parties involved, that
16 includes the ratepayers, the Company. And, in
17 our analysis, and based on those facts that we
18 have observed thus far, we could not opine on
19 anything beyond that \$991,000.

20 CHAIRMAN GOLDNER: And that,
21 Commissioner Chattopadhyay, just real quick, I
22 want to make it clear that there's no question
23 that the DOE did a lot of work in this docket.
24 So, that's not the -- the point isn't the amount

1 of work that's done, the question is really what
2 the Commission is trying to determine today. So,
3 Dr. Arif, the analysis from the DOE was extensive
4 and appreciated.

5 Commissioner Chattopadhyay.

6 CMSR. CHATTOPADHYAY: Yes. I think I
7 heard, you said "potentially they" -- to my
8 question, that "they may be different". But
9 you're not -- you still cannot say for sure that
10 that is the reason? Is that how I should
11 interpret it?

12 DIR. ARIF: If you -- if you could
13 repeat the question, then I would --

14 CMSR. CHATTOPADHYAY: So, high level,
15 ultimately, it's about number of customers, as I
16 was listening to the discussion. When you are
17 comparing the actual revenue with the allowed
18 revenue, in calculating the actual revenue, my
19 question was "did you use, for whatever reason, a
20 number of customers that is different from the
21 number of customers that is being used to
22 calculate the allowed revenue?" That was my
23 question. And I heard you say that it's --
24 "potentially that may be happening." So, you're

1 not -- I'm just trying to confirm, you're still
2 not 100 percent sure that is definitely happening
3 or not happening?

4 DIR. ARIF: That is correct.

5 CMSR. CHATTOPADHYAY: Thank you.

6 CHAIRMAN GOLDNER: And let me ask a
7 question on the Company, one more question, and
8 then we can hopefully move to gasholder in our
9 preliminary portion of today's hearing.

10 And this is -- maybe I'm
11 misunderstanding, Commissioner Chattopadhyay's
12 point. But is the number of allowed customers
13 and the number of actual customers in any
14 particular time period different?

15 MR. SHEEHAN: No.

16 MS. SCHWARZER: Well, we would say
17 "yes." But, excuse me. I'm sorry.

18 MR. SHEEHAN: The answer is "no." And
19 Mr. Bonner, when he gets on the stand, can
20 explain why.

21 CHAIRMAN GOLDNER: This will be a key
22 part of today's proceeding, because I believe the
23 DOE disagrees, right?

24 MR. SHEEHAN: I think what I heard from

1 the DOE is they're "not sure", not "no" or "yes".
2 And Mr. Bonner is clear.

3 MS. SCHWARZER: I believe the issue
4 that we are interested in ascertaining that the
5 number of customers that are trued up as
6 different from the number of customers used in
7 the initial period corresponds to the same
8 percentage of revenue in both calculations. So
9 that, for the allowed revenue portion, the trued
10 up number of customers represent, and there's an
11 increase in allowed revenue based upon the
12 increase in the number of customers, that that
13 percentage, percentage of income that the newly
14 trued-up customers represent, corresponds to a
15 very similar percentage or similar percentage of
16 annual revenue as calculated, of actual revenue,
17 as calculated.

18 So, we can't see a parity between, say,
19 an increase in 2,000 customers for the final
20 allowed revenue calculation that represents
21 \$280,000, for example, those customers existed
22 when the actual revenue was tallied at the end of
23 February, even if they weren't counted and known
24 until June. And, since they existed, and since

1 they must account for a similar percentage, but
2 we can't ascertain that.

3 And I would -- before I -- Dr. Arif,
4 would you agree with that statement, or would you
5 refine it? Certainly.

6 CHAIRMAN GOLDNER: If we could, I
7 think, because we'll hear from Dr. Arif later --

8 MS. SCHWARZER: Okay.

9 CHAIRMAN GOLDNER: -- in more detail.
10 And I'm looking forward to that.

11 And I would like to hear from the
12 architect of decoupling here in a moment, that
13 would be the Office of the Consumer Advocate,
14 because there is probable some history here that
15 I'm not fulling appreciating.

16 But I think it should be simple.
17 There's the number of customers, and we have some
18 gymnastics that we need to do to determine the
19 number of customers. But the number of
20 customers, and the allowed revenue and the actual
21 revenue -- or, the allowed, I should say, and
22 actual should be the same in every time period.
23 So, after we're done with our gymnastics, I
24 believe those should be the same.

1 Then, we have the revenue per customer,
2 as agreed to in the rate case, adjusted with
3 steps and all of the other adjustments that
4 are -- that the Commission approves, versus the
5 actual revenue per customer. And it really
6 should fit on a single sheet of paper, in my
7 mind, and it really should be that simple.

8 So, I hope that the proceeding today,
9 as we move forward, can get to this place, where
10 we're just talking about the simplicity of how
11 this calculation should be, at least in my mind.

12 Attorney Kreis, would you care to weigh
13 in?

14 MR. KREIS: I want to disclaim the
15 title of "architect of decoupling". I would
16 compare my role to that of Moses. I have
17 received the Tablets, I turned them over to the
18 experts, and let them decide what those
19 hieroglyphics on the Tablets actually mean.

20 Beyond that, I'm not sure what you want
21 me to talk about.

22 CHAIRMAN GOLDNER: Is decoupling that
23 simple? Is it really you're comparing the -- you
24 have a number of customers, that are the same

1 allowed and actual, so, the number of customers
2 should be the same. And then you have revenue
3 per customer, as agreed to in the rate case, and
4 your revenue per customer actual, that the
5 Company actually receives revenue on, so that's
6 easy to count.

7 Shouldn't it be that simple? Or, I
8 don't understand why we're already 50 minutes
9 into a discussion that should be, in my mind, a
10 lot simpler.

11 MR. KREIS: I agree with what you just
12 said. I share your consternation.

13 And, as I said earlier, the Company
14 is -- or, the Department is as concerned about
15 this as we are. But, again, I'm concerned about
16 what happens when there's this discrepancy, and,
17 therefore, the Company is saying "Well, we have
18 to true this up", because we are essentially
19 borrowing money from the Company at the prime
20 rate. And the Company's cost of that money is
21 not the prime rate. So, the Company has this
22 arbitrage opportunity. And I'm worried that it
23 is either intentionally or inadvertently
24 exploiting that. And I think that's another

1 issue to consider here.

2 CHAIRMAN GOLDNER: For sure, we need to
3 get the number right, and soon. So, agreement on
4 that.

5 I think we are, at long last, ready to
6 move to Topic 2. And I'll just ask, again, the
7 same format as last time, for Liberty to
8 summarize its ask with respect to the gasholder,
9 and then I'll ask the other parties to weigh in
10 on the Company's ask.

11 MR. SHEEHAN: So, first, you didn't ask
12 this question, but, when we proceed, I request we
13 address gasholder first. Most of the people
14 behind me are related to that. I think you will
15 find it's a much less complicated issue. And
16 maybe we can resolve it and have those folks not
17 have to endure any more RDAF conversation.

18 Our ask is also in Mr. Holden's tech
19 statement, Exhibit 19, at Page 2. It calculates
20 a rate of 0.0004 per therm, I think I have enough
21 zeros, which would recover the \$486,000 that we
22 spent in 2022 related to the gasholder. So,
23 that's the one-line request: Please approve a
24 rate increase of that amount. Again, to be

1 effective -- to be folded in, it has been folded
2 in to the new filing to be approved as of
3 February 1.

4 Of course, the reason it was carved out
5 is because this way of spending money for
6 remediation is different, and the parties wanted
7 to look at it, and they did, and you've seen
8 filed lots of documents.

9 And the bottom line is that it is a
10 alternate way to comply with DES's requirements
11 to clean the site. We could have spent two and a
12 half million dollars to tear the facility down in
13 2022. Instead, we propose to spend up to two and
14 a half million dollars to keep the building up,
15 serving the same function as a cap over that
16 portion of the land.

17 CHAIRMAN GOLDNER: So, just to make
18 sure I understand the ask. So, I see in that
19 exhibit, Exhibit 19, an ask for "\$486,596".
20 That's what the Company is seeking recovery of
21 today?

22 MR. SHEEHAN: Correct.

23 CHAIRMAN GOLDNER: And can you just
24 quickly summarize what that covers and does not

1 cover, with respect to the gasholder?

2 MR. SHEEHAN: It recovers the work that
3 was performed in the Summer of '22. As we have a
4 couple engineers here who will explain, the
5 building was at the point of we had to fix it or
6 tear it down. It was what they would call the
7 "stabilization work". It is a spider web of
8 steel constructed inside the gasholder that has
9 taken all the weight of the roof off of the
10 walls, and they've done some other repairs in
11 firming up. That fix itself will last many
12 years. The next step would be to repair all the
13 walls, so that the steel is not necessary.

14 But that's what was done. It was a
15 really complicated erector set inside of the
16 gasholder.

17 CHAIRMAN GOLDNER: And the Company
18 today has nothing to add with respect to what it
19 sees the future costs of remediation, and all the
20 other costs associated with the site. You're
21 here only to discuss recovery of the money
22 already spent?

23 MR. SHEEHAN: Right. All the other
24 remediation costs were in the filing last fall

1 had been approved and are in rates. It's just
2 this one slice of it.

3 CHAIRMAN GOLDNER: Okay. And I think
4 the Department is suggesting a -- has a different
5 approach to resolve the gasholder issue. Would
6 you like to quickly summarize the Department's
7 position, Attorney Schwarzer?

8 MS. SCHWARZER: I would be happy to.
9 Thank you, Mr. Chairman.

10 And this statement, our position is
11 reflected in Dr. Arif's testimony, Exhibit 25.
12 The Department recommends that the Commission
13 approve Liberty to recover, over a period of
14 seven years, the costs the Company incurred as of
15 August 2nd, 2022, which is \$486,596, which is --
16 I think it's 69,514 per year, pursuant to the
17 provisions in Tariff 11, Clause 19, Section E,
18 Subsection 7.

19 And we also recommend, subject to the
20 caveats in the testimony, including maintenance,
21 including other issues, that the Commission
22 approve Liberty's request for authority to
23 recover up to \$2,379,492 in expenses related to
24 the environmental remediation efforts at the

1 Concord site to cover costs incurred for Phase I
2 and Phase II stabilization of the gasholder
3 building, in accordance with the Stabilization
4 Plan, as presented Liberty, and accepted by
5 NHDES, to include I think it's 778 cubic feet of
6 soil.

7 We would note that the \$2 million
8 figure just quoted is inclusive of the \$486,000
9 figure mentioned previously. And that, just to
10 be clear, it is the Department's opinion that the
11 New Hampshire Preservation Alliance contract with
12 Liberty, that is substantively of interest here,
13 is not being presented for Commission approval or
14 review or prudence, and that there's no statutory
15 authority really for that to be the case.

16 CHAIRMAN GOLDNER: Thank you. And, by
17 any chance, would the Company be willing to
18 accept the DOE's proposal and shorten the day?

19 MR. SHEEHAN: Yes.

20 CHAIRMAN GOLDNER: You would be willing
21 to accept the Company's -- the DOE's proposal?
22 Or, I'm sorry. I'm sorry, the DOE's proposal?
23 Sorry.

24 MR. SHEEHAN: My understanding is that

1 it is our proposal, it is to recover that amount
2 of money over that many years, which is the
3 standard for remediation costs. And that we be
4 allowed to recover up to that 2 million figure
5 for the work.

6 CHAIRMAN GOLDNER: Okay. So, just to
7 be clear. So, in your filing, you were asking
8 for recovery of 486K. The DOE's filing suggests
9 not only a looking-backward feature, but a
10 looking-forward feature, to recover the remainder
11 of the remediation, to a total of 2.5 million
12 recovered over seven years. And the Company is
13 supportive of that proposal?

14 MR. SHEEHAN: Yes. To the extent I
15 limited it to the 480, it's because that's what
16 goes in rates now. I certainly intended to ask
17 the Commission to give us the nod that, going
18 forward, we could continue down that road. And
19 the DOE has made it more of an express statement,
20 and we're happy to accept that.

21 CHAIRMAN GOLDNER: Okay. Does the
22 Consumer Advocate have any comments on the topic?

23 MR. KREIS: Well, in this instance, I
24 would like to take on the title of "architect",

1 because I think the Gasholder Project is an
2 interesting one. And I do live here in Concord.
3 And it's kind of a cool building. And I have all
4 kinds of ideas for what should happen or what
5 might happen to it.

6 So, I notice that, Mr. Chairman, as you
7 just noted, that, first of all, those
8 architectural considerations or aesthetic
9 considerations are not properly before the PUC.
10 And I agree with the Department that neither is
11 the contract that Ms. Schwarzer just alluded to.
12 I also note that there's a lot of agreement here
13 around recovery of the \$486,000.

14 If the Commission is going to make a
15 forward-looking determination, I think the key
16 principle, from our standpoint, and I don't think
17 there's a lot of argument here, is that the
18 ratepayers should be held harmless. In other
19 words, this particular remediation project has
20 pursued -- has proceeded along a somewhat
21 unconventional course, because of the historic
22 preservation issues. And the imperative, from a
23 ratepayer perspective, is that ratepayers not
24 incur any costs that they wouldn't otherwise

1 incur because of this distinctive strategy for
2 dealing with this particular remediation.

3 So, I'd like to see language like that
4 in any order from the Commission.

5 MS. SCHWARZER: Mr. Chairman, if I
6 might?

7 My statement was meant as a very
8 high-level summary. If you look at Dr. Arif's
9 testimony, there are other caveats, including
10 that the 2 million figure I mentioned serve as a
11 financial cap for the site, that review be on an
12 as-incurred basis. Obviously, any request would
13 have to reasonable and subject to normal review.

14 So, I hope that my statement here, and
15 Liberty's acceptance of it, is understood as
16 consistent with Dr. Arif's testimony.

17 MR. SHEEHAN: Before being official
18 with my comment, I would like to read Dr. Arif's
19 testimony one more time. But my general
20 recollection is we're fine with it, with one
21 small caveat. It's not even -- it's an
22 explanation. Assume that we spend the full 2.4
23 million over the next however many years, two,
24 three, four, five years it takes to do all the

1 work, what we have bought is a long-term cap over
2 that footprint. If we took the building down,
3 we'd have a long-term cap over the footprint in
4 fabric. The caveat is, 50 years from now, it
5 will be a different world. The GZA folks will
6 eventually have the entire site capped with
7 fabric. At some point, that cap may fail. And,
8 so, at some point the cap under the gasholder
9 could have failed.

10 So, my question is -- my point is, is
11 there should be some flexibility that 50 years
12 from now, now the gasholder does need to come
13 down. But the whole site needs to be recapped.
14 So, there's some combination that the customers
15 would have paid for the new cap over the 88 feet.
16 There's some costs that could, you know, reduce
17 Liberty's impact on the gasholder.

18 Now, I always joke that none of us will
19 be here for that day, so we don't worry about it
20 too much. But -- and I always also joke that
21 Chairman Honigberg always had the statement "All
22 orders are final until changed." So, a future
23 Commission will be looking at this, and will look
24 at the new facts and make a decision.

1 But that was the only concern I had
2 was, is to allow for there may be new information
3 and conditions in decades that will impact
4 whether we recover any more than the 2.4 million.

5 CHAIRMAN GOLDNER: Would the DOE and
6 OCA care to comment?

7 MS. SCHWARZER: Yes. Thank you, Mr.
8 Chairman.

9 It's the Department's position that a
10 financial cap is a financial cap. That there's a
11 certain risk in choosing to use the gasholder as
12 a cap, and to stabilize it for that purpose,
13 notwithstanding that that's consistent with what
14 the Department of Environmental Resources [sic]
15 has approved.

16 In the opinion of the Department, as a
17 financial matter, the cap is a cap, a financial
18 cap.

19 CHAIRMAN GOLDNER: I understand. OCA?

20 MR. KREIS: Well, I suppose it's
21 possible that an asteroid could hit that site or
22 some savvy archeologist could determine that King
23 Richard, the Third, is actually buried under the
24 gasholder. I mean, any number of things could

1 happen.

2 I think all these perspectives are
3 probably reconcilable in a well-written
4 Commission order. In that, as Chairman Honigberg
5 correctly observed during his tenure, there is a
6 statute that gives the Commission the right to
7 modify prior orders. There's a standard for
8 doing that, and that does apply to any orders
9 that today's Commission might enter. If certain
10 circumstances and due process is brought to bear
11 on the situation, then the Commission 50 years
12 from now could make a different determination,
13 based on developments that none of us can foresee
14 now. That's implicit in every Commission order.

15 So, given that backdrop against which
16 the Commission gets to rule now, I think the
17 Department's position is a reasonable one. That
18 that 2.2 million, I think it is, be the cap that
19 is the outer limit of what the Company can
20 recover, given the project, the remediation
21 project that it has teed up.

22 CHAIRMAN GOLDNER: So, given that
23 refined understanding, what would Liberty's
24 position be?

1 MR. SHEEHAN: I guess we could rely on
2 that statute that Mr. Kreis referred to, and it
3 does just that. It allows a future Commission to
4 review an old order based on changed
5 circumstances. And I guess that's what I was
6 saying. Thank you.

7 CHAIRMAN GOLDNER: Okay. Thank you.

8 Let's do this. That was an
9 extensive -- were extensive preliminaries today,
10 and appreciated. Let's take a quick stenographer
11 break, come back at 10:15, and we'll pick up with
12 the proceeding.

13 And I think, Attorney Sheehan, you
14 asked for the gasholder to go first. Are the
15 other parties amenable to that order today?

16 MS. SCHWARZER: Mr. Chairman, we hope
17 that it wouldn't be too long, because we think
18 RDAF might take quite some time. And I confess,
19 in light of the exchange, I'm not quite sure what
20 we're going to focus upon. But, of course.

21 CHAIRMAN GOLDNER: Admittedly, there
22 were two reasons for the break. Not just the
23 stenographer, if the parties wish to confer,
24 confer amongst themselves, that would, of course,

1 be great.

2 Attorney Kreis, any thoughts on the
3 order?

4 MR. KREIS: The order is fine, because
5 there are people in the room who are part of the
6 historic -- or, the Gasholder Project, who really
7 ought to be able to go about their business
8 without having to listen to more learned
9 discussion about RDAF.

10 I almost think the hearing on the
11 gasholder phase of the whole thing is only
12 necessary to the extent the three of you have
13 questions. Because it sounds like, essentially,
14 there's a stipulation, or there's no -- there are
15 no facts in dispute as to the gasholder, and how
16 it ought to be resolved as a regulatory matter.

17 CHAIRMAN GOLDNER: Thank you. Agree
18 with that. And the gasholder piece might be
19 brief.

20 Just a moment please.

21 *[Chairman, Commissioners, and Atty.*
22 *Wind conferring.]*

23 CHAIRMAN GOLDNER: Okay. We'll do
24 that. Let's come back at 10:15. And we'll begin

1 with the gasholder. And we don't anticipate it
2 to take a lot of time. Thank you.

3 *(Recess taken at 10:05 a.m., and the*
4 *hearing resumed at 10:27 a.m.)*

5 CHAIRMAN GOLDNER: And I'll just, as we
6 get things started, Attorney Sheehan, I'll just
7 say that, from the Commission's perspective, the
8 witnesses need only adopt their testimony, if the
9 parties are in agreement with the proposal.

10 MR. SHEEHAN: Okay. Thank you.

11 CHAIRMAN GOLDNER: Yes. Please swear
12 in all five witnesses for the Company.

13 *(Whereupon **TYLER CULBERTSON,***
14 ***JOHN MURPHY, JAMES WIECK,***
15 ***JENNIFER GOODMAN, and WILLIAM HASWELL***
16 *were duly sworn by the Court Reporter.)*

17 MS. SCHWARZER: Excuse me, Mr.
18 Chairman. I'm not sure who the other two are?

19 MR. SHEEHAN: I'm sorry. They're
20 sitting right here.

21 MS. SCHWARZER: Oh. Thank you very
22 much.

23 CHAIRMAN GOLDNER: They raised their
24 hands, but obviously not high enough.

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 MR. SHEEHAN: Yes.

2 CHAIRMAN GOLDNER: Attorney Sheehan.

3 MR. SHEEHAN: Thank you.

4 Let's start with Mr. Culbertson,
5 because he's done this once or twice before.

6 **TYLER CULBERTSON, SWORN**

7 **JOHN MURPHY, SWORN**

8 **JAMES WIECK, SWORN**

9 **JENNIFER GOODMAN, SWORN**

10 **WILLIAM HASWELL, SWORN**

11 **DIRECT EXAMINATION**

12 BY MR. SHEEHAN:

13 Q Please introduce yourself, and describe your
14 position with Liberty?

15 A (Culbertson) My name is Tyler Culbertson. I'm
16 the Director of Rates and Regulatory Affairs for
17 Liberty.

18 Q And, Mr. Culbertson, you were not with the
19 Company when this case was filed, I believe the
20 LDAC case was filed last fall. And the
21 testimonies last fall are in evidence. You were
22 new with the Company when Mr. Holden filed his
23 technical statement in December, is that correct?

24 A (Culbertson) That's correct.

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 Q But today you're here to adopt Mr. Holden's
2 testimony in order to get the stuff we referred
3 to this morning into evidence, is that correct?

4 A (Culbertson) Yes.

5 Q Have you reviewed Mr. Holden's technical
6 statement, which has been marked as "Exhibit 19"?

7 A (Culbertson) I have.

8 Q And are you comfortable with the contents of that
9 technical statement?

10 A (Culbertson) Yes.

11 Q And do you adopt it as your testimony here this
12 morning?

13 A (Culbertson) I do.

14 Q And, as to the gasholder, just confirm that what
15 Mr. Holden's technical statement says is that the
16 \$486,000 spent on the gasholder in '22, which
17 results in that rate of 0.0004, is accurate?

18 A (Culbertson) That is correct.

19 Q Thank you. Mr. Murphy, please introduce
20 yourself?

21 A (Murphy) My name is John Murphy. I'm a --

22 Q Get the mike close.

23 A (Murphy) My name is John Murphy. I'm a Senior
24 Principal at GZA GeoEnvironmental, in Bedford,

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 New Hampshire.

2 Q And, Mr. Murphy, you have been working on behalf
3 of Liberty, and prior on behalf of National Grid,
4 with the Concord site for all those years, is
5 that correct?

6 A (Murphy) Correct. I've been working on the site
7 since 2008.

8 Q And, along with your colleague, Mr. Wieck, you
9 have been involved in all of the work related
10 specifically to the gasholder and the issues that
11 have been presented to the Commission here today,
12 is that correct?

13 A (Murphy) I have.

14 Q And, in support of that, you filed testimony,
15 along with Mr. Wieck, which has been marked as
16 "Exhibit 20", is that correct?

17 A (Murphy) Correct.

18 Q And, as to the portions of the testimony you were
19 responsible for, are there any corrections or
20 changes you'd like to point out to the
21 Commission?

22 A (Murphy) There are not.

23 Q And, if I were to ask you the questions in your
24 testimony today, would your answers be the same?

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 A (Murphy) They would.

2 Q Thank you. Mr. Wieck, same questions. Please
3 introduce yourself?

4 A (Wieck) I'm James Wieck. I'm a Hydrogeologist, a
5 Professional Geologist, and also an Associate
6 Principal with GZA GeoEnvironmental, in Bedford.

7 Q And you, too, have been working with the Company
8 on the Concord site generally, and on the
9 gasholder in particular as well, is that correct?

10 A (Wieck) That is correct.

11 Q And how long have you been involved with the
12 Concord site?

13 A (Wieck) Since 2008.

14 Q You also offered the testimony that's been marked
15 as "Exhibit 20". Do you have any changes to the
16 portions for which you were responsible?

17 A (Wieck) No, I do not.

18 Q And do you adopt your testimony here today as
19 your sworn testimony?

20 A (Wieck) Yes, I do.

21 Q During the break, you both raised one point
22 flowing out of our conversation this morning that
23 should be clarified. And that was a description
24 of the portion of the Concord site that we're

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 talking about. Sometimes we use the term "site",
2 sometimes we use the term "footprint". As to the
3 \$400,000 at issue today, and the \$2.4 million
4 cap, what exactly are we talking about, just so
5 that there's no doubt?

6 A (Wieck) So, we are currently talking about the
7 footprint of the holder, and not the "site", as
8 in its entirety.

9 Q So, the limits that the parties have agreed to,
10 and the Commission may approve is, does not apply
11 to anything outside of that 88-foot diameter
12 circle that is the gasholder?

13 A (Wieck) That is correct, and our understanding.

14 MR. SHEEHAN: Okay. Thank you. To my
15 right are two folks who did not offer testimony,
16 but filed documents and participated in discovery
17 responses, which are part of the record. So,
18 we'd just introduce them and make them available.

19 BY MR. SHEEHAN:

20 Q Ms. Goodman, please introduce yourself?

21 A (Goodman) I'm Jennifer Goodman. I'm the
22 Executive Director of the New Hampshire
23 Preservation Alliance.

24 Q And, Ms. Goodman, you've been sort of the point

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 person for the Preservation Alliance, and all the
2 conversations and work that resulted in this
3 arrangement that we have in front of the
4 Commission today?

5 A (Goodman) Yes. Yes, I have.

6 Q And Mr. --

7 A (Goodman) Haswell.

8 Q -- Haswell, please introduce yourself?

9 A (Haswell) Sure. My name is Bill Haswell. I'm a
10 Principal Consultant with Haley & Aldrich, in
11 Bedford, New Hampshire. I'm a Professional
12 Engineer in the State of New Hampshire.

13 Q And, Mr. Haswell, you were hired by the
14 Preservation Alliance to basically look over the
15 GZA folks' shoulders as they prepared the work
16 that's been presented to the Commission, is that
17 correct?

18 A (Haswell) Correct.

19 Q And you are in support of the general concept
20 that we have been talking about this morning?

21 A (Haswell) Correct.

22 MR. SHEEHAN: There. Oh, I'm sorry, we
23 had marked some exhibits.

24 MS. SCHWARZER: Mr. Chairman, if I just

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 might? I did not see Mr. Wieck or Mr. Haswell on
2 the original witness list. I'm not sure if
3 they're added. I just want some clarification,
4 that's all.

5 MR. SHEEHAN: Sure. Mr. Wieck was
6 initially not available today, when we filed the
7 list. He did offer the testimony, and he was
8 available. So, I apologize for not flying that
9 by you first. And Mr. Haswell's report was filed
10 as an "Exhibit 23". And our purpose was simply
11 to make him available for questioning, not to
12 offer additional testimony, if you will.

13 MS. SCHWARZER: Thank you.

14 BY MR. SHEEHAN:

15 Q And, Mr. Haswell, you authored a document called
16 "Client Memorandum", which has been marked as
17 "Exhibit 23", is that correct?

18 A (Haswell) Correct.

19 Q And, Ms. Goodman, you offered a document, simply
20 a letter to the Commissioner *[sic]*, supporting
21 the proposal, which has been marked as "Exhibit
22 24", is that correct?

23 A (Goodman) Yes.

24 MR. SHEEHAN: And, as I referenced, all

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 of you gentlemen and Ms. Goodman have been on
2 various data responses that are part of the
3 record as well. So, with that, they're available
4 for questioning.

5 CHAIRMAN GOLDNER: Thank you, Attorney
6 Sheehan.

7 Let's move to the New Hampshire
8 Department of Energy for any cross?

9 MS. SCHWARZER: If I could have just a
10 moment.

11 CHAIRMAN GOLDNER: Certainly.

12 [*Atty. Schwarzer and Atty. Dexter*
13 *conferring.*]

14 **CROSS-EXAMINATION**

15 BY MS. SCHWARZER:

16 Q I don't remember who responded to the definition
17 of "footprint", who was talking about what was
18 meant. And I can't see your --

19 A (Wieck) James Wieck.

20 Q James Wieck. Mr. Wieck, thank you very much.
21 Mr. Wieck, could you please clarify what would be
22 the case if sludge under the footprint seeped out
23 into the rest of the property?

24 A (Wieck) I think that would be covered by the

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 existing Remedial Action Plan. So, it would be
2 addressed in accordance with that. And, so, you
3 know, there are remedies that are included in the
4 Remedial Action Plan. If it were mobile, it
5 potentially -- it could be recovered, it would
6 depend on the specifics, the depth, the
7 methodology that would be used. But it could be
8 recovered as part of the ongoing remediation of
9 the site outside of the footprint of the holder.

10 Q But that would be subject to the cap, the
11 financial cap?

12 A (Wieck) I would think that it would -- based on
13 my understanding only, it would not be subject to
14 the cap.

15 Q Well, could you clarify for me what Liberty is
16 proposing is that, in lieu of digging up all the
17 soil underneath the gasholder, and either
18 cleaning it, returning it, or replacing it, that
19 that soil be allowed to stay in place, and that
20 the building act as a cap for that limited
21 88-foot diameter, is that correct?

22 A (Wieck) That's correct.

23 Q Okay. And, then, if the soil remains there, and
24 it seeps out, and needs additional remediation,

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 why would that not be subject to a cap, to the
2 financial cap?

3 A (Wieck) There is -- let's see, if there was
4 contamination that was present -- we anticipate
5 that there would be contamination beneath the
6 holder, as we've discussed, just through the
7 natural ongoing processes there of groundwater
8 flow, there is contamination, you know, dissolved
9 phase contamination that is migrating from
10 beneath, you know, would be conceptually
11 migrating from beneath the holder, and that's
12 being managed in accordance with the Groundwater
13 Management Permit issued by the New Hampshire
14 Department of Environmental Services, which is a
15 component of the RAP.

16 In general, at this point in time, you
17 know, we would not expect contamination that
18 would be beneath the holder to be very mobile, it
19 largely would be in place.

20 Q And that's probably good news.

21 A (Wieck) Yes.

22 Q But, in the event that it did seep out, why would
23 it not be subject to the cap?

24 A (Wieck) And I don't think we would know, you

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 know, the amount of movement that occurred.

2 Obviously, it would be, you know, it would under

3 the existing -- it would be covered under the

4 existing Remedial Action Plan, you know, in which

5 there is currently ongoing recovery of, very

6 minimal amounts, but of product.

7 Q I'm sorry, minimal amounts of what?

8 A (Wieck) Of the tars, the byproducts of the gas

9 manufacturing process. Those are still being

10 recovered at this time. So, there's ongoing

11 remediation of the remainder of the site outside

12 of the footprint.

13 Q And, in terms of the ongoing remediation, some of

14 those projects, there are projects already

15 underway?

16 A (Wieck) Exactly.

17 Q But I'm asking about what happens if soil under

18 the footprint seeps out?

19 A (Wieck) The soil --

20 Q The tars underneath?

21 A (Wieck) Yes. I mean, the soil itself would not

22 be active, that would not be moving. Again, my

23 understanding is, that if there were tar that

24 were outside of the footprint, it would be

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 covered under the remainder of the project, you
2 know, that is outside of the amount we're talking
3 about for the footprint of the holder.

4 Q And that's your position, even if the tar, as you
5 describe it, outside of the footprint, is known
6 to have come from within the footprint?

7 WITNESS WIECK: Could we pause to
8 discuss that?

9 CHAIRMAN GOLDNER: Yes. You may take a
10 moment.

11 WITNESS WIECK: Thank you.

12 *[Witness Wieck and Witness Murphy*
13 *conferring.]*

14 WITNESS WIECK: Thank you for that
15 moment.

16 CHAIRMAN GOLDNER: Just a moment. Just
17 a moment.

18 Okay. Please proceed.

19 **BY THE WITNESS:**

20 A (Wieck) So, the -- it wouldn't change the
21 estimate for the -- from what was being asked
22 for, because that's based on the removal of the
23 soil, and any tar that would be with it beneath
24 the holder.

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 BY MS. SCHWARZER:

2 Q And I understand it wouldn't change the estimate,
3 and the focus of my question was more that,
4 because the soil is not being removed, it may
5 allow contaminants to seep out from underneath
6 the gasholder. And, in the event that occurred,
7 wouldn't that be subject to the cap, the
8 financial cap?

9 A (Wieck) Again, and my understanding is that it
10 would not be subject to the cap, because it would
11 be outside of the holder, and be remediated in
12 accordance with the remainder of the ongoing
13 work.

14 Q To what extent do you think contamination could
15 seep out from under the gasholder to further
16 contaminate the site?

17 A (Wieck) I think the potential for the separate
18 product, the tars and those things, to move from
19 beneath the holder is pretty limited. And, in
20 fact, we don't know if any is present in there
21 right now. The estimates that we have were --
22 again, we consider them conservative, because we
23 don't, you know, we don't know how much there
24 could be now. But we don't expect it to, you

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 know, we wouldn't expect it to move at this
2 point. A lot of -- in my experience, these
3 sites, there's a lot of mobility early on, when
4 there's a large amount of tar present. But,
5 after a period of time, that moves and becomes
6 relatively immobile. That would certainly be our
7 expectation for the holder, you know, if there
8 was contamination beneath it.

9 MS. SCHWARZER: Thank you for
10 clarifying your position.

11 I have no further questions. Thank
12 you.

13 CHAIRMAN GOLDNER: All right. Attorney
14 Kreis, anything for cross?

15 MR. KREIS: Maybe just briefly.

16 BY MR. KREIS:

17 Q Ms. Schwarzer zeroed right in on the aspect of
18 the direct testimony that struck me. This idea
19 that what we're talking about here today is
20 limited to the 88-foot diameter of that round
21 gasholder building that we're all talking about.
22 And, so, that was immediately my question, "Well,
23 what about things outside of the 88-foot
24 perimeter, do they come under that \$2.2 million

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 cap?"

2 And the testimony from the expert on
3 remediation was, as I understood it, that it's
4 very unlikely for any contaminants to migrate out
5 from under the gasholder building, just given the
6 current state of that site, and the length of
7 time that the contaminants have been present.

8 That's a fair summary of what we just
9 heard, yes?

10 A (Wieck) Well, for what we would call "product" or
11 "tars", yes, I think that's a fair summary.
12 There could be dissolved --

13 *[Court reporter interruption.]*

14 A (Wieck) There could be contamination, which is
15 dissolved in groundwater, that is flowing beneath
16 the site. That contamination has already been
17 managed under a Groundwater Management Permit. It
18 would not change anything in that process, it's
19 an ongoing process now. So, it really -- I'm
20 just clarifying that, when you use the word
21 "contamination", yes, there are contaminants that
22 could move from beneath it, and they are, but
23 relative to a source material. So, you know, a
24 separate non-groundwater phase, that material we

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 would expect it to stay where it is.

2 Q Okay. So, therefore, I would like to know, and
3 I'm not sure if it's a question for Mr.
4 Culbertson to answer, or whether it's something
5 for Mr. Sheehan to address, I'd like to know what
6 the Company's understanding is about what would
7 or would not fall under that \$2.2 million cap,
8 with respect to anything outside that 88-foot
9 perimeter?

10 Are you the right person to ask that
11 question to, Mr. Culbertson, or is that one for
12 your lawyer?

13 MR. SHEEHAN: I'm happy to take it. I
14 think we're very clear that, and the witnesses
15 are clear, that there are monitoring wells and
16 recovery wells in place today all over that site.
17 And should something come from the gasholder
18 site, (a) we don't know it came from the
19 gasholder site; (b) it's being treated already at
20 no extra cost, because it's already been done.
21 And, again, the purpose of keeping the gasholder
22 up is to prevent that.

23 So, there is no scenario in which
24 keeping the gasholder up will cause extra costs

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 outside the gasholder, which I think is kind of
2 where these questions are headed.

3 What the \$2.4 million is is the
4 demolition of the gasholder, and then the cost to
5 poke around in the dirt to see if there's
6 anything there. And an estimate of what that
7 would cost to remove the dirt, because once you
8 expose it, you have to remove it. If you leave
9 it covered and capped, you can leave in place,
10 because it's sealed.

11 So, a short way of saying the risk of
12 gasholder contaminants causing extra costs
13 outside the gasholder footprint are minimal, if
14 at all. And I'm seeing a nod from the witnesses
15 that that is --

16 MR. KREIS: Yes, it might be helpful if
17 the witnesses actually adopted some of that, --

18 MR. SHEEHAN: Testimony.

19 MR. KREIS: -- because there was a lot
20 of testimony there.

21 **BY THE WITNESS:**

22 A (Murphy) If I may? You're absolutely right,
23 Mr. Sheehan. The intent of the gasholder is to
24 act as a cap on the site, to minimize

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 infiltration into the foundation, and therefore
2 the migration of contamination underneath the
3 footprint of the holder. So, the fact that the
4 gasholder is remaining intact and serving as that
5 cap, it will help minimize any migration of a
6 contamination beneath the footprint of that
7 holder. That's the intent of the cap model and
8 the cap approach that DES has requested, and we
9 have adopted in our cost estimates and our
10 models.

11 It's important to remind -- it is
12 important to recall that this site has a very
13 long history. There is contamination across the
14 site. There were other gasholders at this site
15 that were demolished in the past.

16 So, again, as Mr. Sheehan pointed out,
17 any contamination that maybe exist beneath that
18 gasholder, and, again, we don't know, we've made
19 some speculation as to volumes, the likelihood of
20 that migrating and altering any other approaches
21 on that site, that's currently being managed with
22 the DES under the approved Remedial Action Plan,
23 is very unlikely.

24 So, the reality is is that, you know,

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 the estimate and the approach was really to
2 handle the area of the site that previously had
3 data gaps, because we didn't have the ability to
4 capture the data underneath that and preserve the
5 cap, which is required by DES.

6 A (Wieck) If I could add, too, I think it would be
7 helpful for everyone to understand, you know, the
8 nature of the contamination that's there. And
9 the holder of the gas, what we refer to, is
10 basically a tank. It was used to store gas from
11 the gasification of coal. And there were tars,
12 oils that were in that gas, and they slowly came
13 out over time, they accumulated in the bottom of
14 the holder. Back in the '90s, that material that
15 was in there was removed. So, if there were
16 materials that had seeped down beneath, through
17 cracks or some penetration in the holder floor
18 into the soil, that process has long since ended.
19 And, so that any movement of that material, you
20 know, we would expect to have ended a long time
21 ago.

22 So, just, hopefully, you know, just to
23 understand that there's no real driving force.
24 It's not like there would be a catastrophic

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 release of contamination from beneath the holder.
2 It would be like we see today, you know, into the
3 future.

4 MS. SCHWARZER: Might I ask just a
5 follow-up question about groundwater
6 contamination, because I didn't understand the
7 breadth of it?

8 CHAIRMAN GOLDNER: Yes.

9 MS. SCHWARZER: Thank you very much,
10 Mr. Chairman.

11 BY MS. SCHWARZER:

12 Q Could you clarify whether, in your opinion, if
13 the soil were removed, if that would reduce
14 groundwater contamination?

15 A (Wieck) It would, certainly, if there were
16 contamination there, and it were removed, it
17 would reduce, you know, the amount of
18 contamination in groundwater. However, based on
19 our understanding of the distribution of
20 contaminants within the subsurface at the
21 remainder of the site, that would probably be a
22 *de minimus* reduction that we wouldn't even -- we
23 would not notice that in our monitoring.

24 Q So, notwithstanding that the estimate includes

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 approximately 778 cubic feet of contaminated
2 soil, in your opinion, removing it would be --
3 would have a *de minimis* impact on limiting
4 contamination in groundwater?

5 A (Wieck) I mean, relative to the contamination
6 that we see right now. And it's important in the
7 long term, in terms of the remediation of the
8 site. But, in the shorter term, you know, it's a
9 very small percentage or would be a very small
10 percentage of the potential contamination that we
11 already know about from drilling outside of the
12 holder.

13 Q And can you put a number on that percentage, or
14 no?

15 A (Wieck) I can't.

16 MS. SCHWARZER: Okay. Thank you very
17 much. No further questions.

18 MR. KREIS: Thanks to Ms. Schwarzer for
19 helping me get through the rest of my
20 cross-examination. I, too, have no further
21 questions.

22 CHAIRMAN GOLDNER: All right. Very
23 good. Let's move to Commissioner questions, and
24 beginning with Commissioner Simpson.

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 CMSR. SIMPSON: Thank you. Just a few.

2 BY CMSR. SIMPSON:

3 Q So, first off, can you clarify what has been
4 removed from inside the perimeter of the holder?

5 A (Wieck) So, within the -- inside of the holder
6 house, there has been 700,000 gallons of water,
7 you know, which had entrained within it oils and
8 tars. That was done in the 1990s.

9 Q And was new earth inserted or what was done, once
10 the material was removed?

11 A (Wieck) So, this was a below-grade, you know,
12 basement sort of structure.

13 Q Uh-huh.

14 A (Wieck) And it was -- the material was just
15 removed from it. So, it was not refilled with
16 anything else.

17 Q And was a membrane or anything inserted inside?

18 A (Wieck) No.

19 Q And can you explain why?

20 A (Wieck) The holder, the building, the holder
21 building, it provides a means of preventing
22 contact with contaminants, and also keeping water
23 from going into that foundation and causing
24 migration of contamination. So, there really

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 wasn't a need to.

2 Q Okay. And then, you testified that there are
3 monitoring wells on the site?

4 A (Wieck) That's correct.

5 Q And are those monitoring wells located outside of
6 the perimeter of the gasholder?

7 A (Wieck) Yes, exclusively outside.

8 Q And there are -- are there any monitoring
9 capabilities on the inside of the gasholder?

10 A (Wieck) No.

11 Q So, how would you determine whether contamination
12 arose from within the perimeter of the structure
13 or from outside of the perimeter of the
14 structure?

15 A (Wieck) Right now, we don't know if there is
16 contamination that originates from beneath the
17 structure, where groundwater is passing through
18 it. But we do know, from the distribution and
19 monitoring wells that we have, and our
20 understanding of the presence of contamination of
21 source material within the subsurface, that it's
22 consistent with that. That we don't have a
23 situation where we have a large concentration in
24 groundwater that's not explainable, based on our

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 understanding of the distribution of the
2 contamination in soil outside of the footprint.

3 I don't know if that answers your
4 question.

5 Q How would you determine whether future
6 contamination costs would be subject to the cap
7 or outside of the cap, if there are no monitoring
8 capabilities from inside the perimeter of the
9 holder?

10 A (Wieck) So, if the -- I mean, if the holder or
11 the building remains in place, there would be no
12 additional remediation in that footprint.

13 Maybe I don't understand your question.

14 Q There seems to be a distinction between "site"
15 and "perimeter", am I understanding that
16 correctly?

17 A (Wieck) That is correct. Yes.

18 Q So, if there is no monitoring capability from
19 within the perimeter, how can you, with
20 certainty, determine whether contamination that
21 you identify through your monitoring wells
22 outside of the perimeter arose from within the
23 perimeter of the structure and would subsequently
24 be not within the cap that we're considering here

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 today, or whether that contamination arose from
2 outside of the perimeter of the structure?

3 A (Wieck) Right. We can't determine what
4 percentage, if any, of the contamination that we
5 detect in the monitoring well network outside of
6 the holder comes from beneath the holder. But,
7 as I said, the amount that we see in the wells
8 outside is explainable, based on our
9 understanding of the distribution. It doesn't
10 require a source in -- beneath the holder, but
11 there could be.

12 Q So, then, what's the purpose of the cap and the
13 distinction between "site" and "perimeter"?

14 A (Wieck) The purpose of the cap is, you know, to
15 address what contamination could be there. If
16 the -- and, actually, part of the remedy for the
17 site is a sitewide cap, engineered cap purpose,
18 which is --

19 Q I'm referencing the "financial cap", not a
20 membrane cap.

21 A (Wieck) Oh. I apologize. Could you restate the
22 question?

23 Q If there's no monitoring capability from within
24 the perimeter of the structure, and your only

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 monitoring capability exists from the outside,
2 how are you able to determine future
3 contamination, the source of that future
4 contamination, whether it arose from within the
5 perimeter of the structure or outside?

6 A (Wieck) I see. We could not.

7 Q So, then, my question is, what's the purpose of
8 distinguishing between "site" and "perimeter"?

9 A (Wieck) The purpose of distinguishing between the
10 holder of the footprint -- holder of the -- the
11 footprint of the holder house and the remainder
12 of the site, is that the amount that's being
13 asked for, the cap, the financial one, is
14 referring -- is only related to that 88-foot
15 diameter of the holder house, and not the areas
16 around, which the remediation is ongoing, and
17 will continue to be ongoing for many years.

18 Q But my understanding from your previous statement
19 was that you're not able to determine the
20 origination of future contamination, whether it
21 originated from within the perimeter of the
22 structure or outside?

23 A (Wieck) That, yes. I'm not understanding the
24 connection that you're making.

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 Q That there's been a clear distinguishing
2 definition of "contamination" that arises in the
3 future from within the perimeter of the
4 structure, that would be subject to the cap of
5 \$2.4 million?

6 A (Wieck) Yes. Oh, you're saying "if arising
7 from", if it had a leak.

8 Q Conversely, what the Company I believe is
9 advocating for that, if contamination on the site
10 at large arises from outside of the boundaries of
11 the perimeter of the gasholder, that
12 contamination and subsequent remediation efforts
13 would not be -- would not fall within the \$2.4
14 million cap?

15 A (Wieck) Yes. That's correct.

16 Q So, what I'm trying to determine is, if there's
17 only monitoring from outside of the structure,
18 versus inside of the structure, how can you
19 determine where future remediation -- future
20 contamination originated from?

21 A (Wieck) Thank you for going through that. I
22 think I understand now. No, you would not be
23 able to. So, it really wouldn't -- there
24 wouldn't be a condition that we would see that

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 would likely trigger additional remediation
2 related to the migration of contamination from
3 beneath the footprint of the holder house.

4 Q So, then, would the Company be amenable to the
5 cap applying to the entire site, as opposed to
6 just the perimeter of the gasholder?

7 A (Wieck) No. There is, again, extensive
8 contamination on the site.

9 Q Right.

10 A (Wieck) So, which does require remediation.

11 A (Murphy) If I may add? So, the footprint of the
12 gasholder is a 6,000 square foot -- a 6,000
13 square foot area. The area of the entire site is
14 2.4 acres.

15 Q Okay.

16 A (Murphy) It's a very, very small portion of a
17 much broader site.

18 Q Uh-huh.

19 A (Murphy) There is contaminant distribution across
20 the entire site. It's from historic operations
21 over the entire site. The 6,000 square foot
22 footprint, and the requirement to cap it, is part
23 of the broader strategy -- or keep the gasholder
24 in place, is part of the broader capping strategy

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 approved by New Hampshire DES.

2 Q Okay.

3 A (Murphy) So, the issue, as the discussion
4 evolved, is really around "is there a source
5 under the gasholder footprint" --

6 Q Yes.

7 A (Murphy) -- "that would contribute to a more
8 significant cost outside how the rest -- the
9 remainder of the site is being handled?"

10 Based on what we know, based on
11 contaminant distribution across the site, we
12 don't believe that's the case. We believe that
13 anything under that building would be very
14 limited in nature. The development of the cost
15 estimate and the financial cap is really around
16 "what would happen if the gasholder came down?"
17 It doesn't change the long-term remedy for the
18 site, which is to cap the site, in accordance
19 with DES requirements. And that broader capping
20 really consists of putting a --

21 *[Court reporter interruption.]*

22 **BY THE WITNESS:**

23 A (Murphy) The broader infiltration cap, yes. So
24 that that ultimately would be part of the longer

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 term remedial strategy to the site, if the holder
2 house came down.

3 So, the reality is is that we don't
4 believe there's a source under that building
5 which would contribute to increasing the broader
6 costs across that site, remedial costs across the
7 site in accordance with the RAP, because the
8 remedy doesn't change as a capping strategy.

9 BY CMSR. SIMPSON:

10 Q If you have no monitoring capability from within
11 the perimeter of the site, can you explain how
12 you have confidence in that perspective?

13 A (Murphy) We have monitoring capabilities around
14 the gasholder structure itself. So, you know, we
15 continually monitor kind of the contaminant
16 distribution across that site. It's a very
17 stable site. There hasn't been a lot of
18 variation. There's actually been a decrease in
19 contaminant levels across the site, as was part
20 of, I believe, in Exhibit 21. So, those trends
21 are all positive. So, ultimately, if there was a
22 source under the footprint of the building, that
23 would already be contributing to those decreasing
24 trends, but the reality is we don't believe that,

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 based on the history of the site and our
2 understanding of contaminant distribution across
3 the site.

4 Q And there are other areas outside the perimeter
5 of the site that have contamination?

6 A (Murphy) Correct.

7 Q And how would you handle a situation where
8 contamination that originates from outside the
9 perimeter of the site migrates to within the
10 perimeter of the site?

11 A (Murphy) That's part of the ongoing long-term
12 monitoring that occurs at the site under New
13 Hampshire DES guidance. We're always looking at,
14 on an annual basis, looking at contaminant
15 distribution across the site and modeling that,
16 and we're looking for those increases. So, if
17 there was a significant increase in contaminants
18 across the site, or there was some change in what
19 we've seen since 2008, you know, ultimately, that
20 would be a discussion with DES and the Company on
21 how to address those situations.

22 Q And, under that circumstance, remediation efforts
23 would be subject to the 2 to \$2.4 million cap?

24 A (Murphy) Any issue within the footprint of the

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 holder, correct.

2 Q Okay.

3 A (Murphy) The broader site would be handled in
4 accordance with the recommendations of DES, if
5 there was a change, or they would be managed in
6 accordance with the approved Remedial Action
7 Plan, which is to cap the site.

8 A (Wieck) And just to be clear, we're talking about
9 contamination originating off-site, coming onto
10 the site, and the site is the 2.4 acre larger
11 site, then there would be another responsible
12 party.

13 Q I was referring to contamination that arises from
14 within the site, but migrates from outside the
15 perimeter of the gasholder to within the
16 perimeter of the gasholder?

17 A (Wieck) And, given the specifics of the site,
18 that -- the gasholder is located on what we would
19 call the "up gradient" or the upgraded side of
20 the site where groundwater originates. And, so,
21 it would be very unlikely for impacts to occur
22 beneath the footprint of the holder from the
23 other portions of the site, because of the
24 direction of the groundwater flow.

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 The gasholder is located right along
2 South Main Street, and the flow would be from
3 South Main Street, down toward the Merrimack
4 River.

5 Q Okay. And perhaps Ms. Goodman or others might
6 enlighten us as to the general motivation to
7 retain the structure?

8 A (Goodman) Sure. Thank you for that question.
9 The New Hampshire Preservation Alliance got
10 involved because we heard of the proposed
11 demolition to this building. And it's on the
12 National Register of Historic Places, and
13 considered one of the last of its kind in the
14 country. So, a very rare resource. And we also
15 made it a priority because of the potential to
16 have, this project that we're speaking of, just
17 be a catalyst for positive community development
18 in the whole corridor, that whole former
19 industrial corridor of Concord, a real gateway
20 corridor.

21 Q And maybe you might elaborate on that more, given
22 the nature of this sight, the historical use, the
23 environmental liability associated with it, how
24 do you balance that against the preservation

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 value?

2 A (Goodman) Yes. I don't think it's balanced
3 against. I think we're very used to being
4 multi-disciplinary in our approach in trying to
5 find capable situations. So, we, obviously, are
6 an historic preservation organization, but we are
7 certainly approaching this as a way where we're
8 meeting the environmental remediation needs,
9 we're meeting the Department of Environmental
10 Services' Remedial Action Plan. And we're coming
11 up with a very reasonable approach that's good
12 for ratepayers and good for customers.

13 Q Okay. Thank you. And I'll just ask to confirm
14 from the Company's witnesses that, has the
15 Department of Environmental Services endorsed
16 this approach of retaining the structure through
17 the agreement that has been brought before us
18 today?

19 A (Murphy) Yes. It's been reviewed with New
20 Hampshire DES, and they agreed with maintaining
21 the structure as a cap was a viable option,
22 subject to that agreement.

23 Q And was that a preferred option for the
24 Department of Environmental Services?

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 A (Murphy) They didn't have a preference. They
2 wouldn't state a preference. Obviously, their
3 requirement is to maintain a cap over that
4 88-foot diameter piece of the property. So,
5 whether it's the gasholder, which the requirement
6 was that it has to remain intact and have a tight
7 roof, versus capping with a low permeable soil
8 cap, either one of those options they were
9 amenable to. They did note the historic
10 significance of the building as well.

11 CMSR. SIMPSON: Okay. Thank you, all.
12 I don't have any further questions.

13 CHAIRMAN GOLDNER: Commissioner
14 Chattopadhyay.

15 BY CMSR. CHATTOPADHYAY:

16 Q How much do the monitoring wells cost? You know,
17 when you're talking about "monitoring wells", can
18 you give me a sense of what they are?

19 A (Wieck) For the construction of the monitoring
20 well?

21 Q You know, yes, but I'm basically trying to get a
22 sense of what you truly mean by "monitoring
23 well"? So, with Commissioner Simpson's
24 questions, there are -- I understand there are

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 monitoring wells outside the perimeter.

2 A [Witness Wieck indicating in the affirmative].

3 Q How many wells are we talking about, and how much
4 do they cost, again, going back?

5 A (Wieck) I think, in total, there are 37
6 monitoring wells that are monitored in accordance
7 with a permit through DES. And, if you're
8 talking about analytical cost versus --

9 Q No, building it? Construction?

10 A (Wieck) For the construction?

11 Q Yes.

12 A (Wieck) It very much depends on the specifics. A
13 monitoring well there could, you know, easily
14 cost seven to ten thousand dollars, depending on
15 the location, if you were to be right outside of
16 the footprint of the holder.

17 Q So, there is -- are you monitoring anything that
18 is inside the perimeter?

19 A (Murphy) No.

20 A (Wieck) And, physically, there's no way to get
21 access to the interior, because there is, within
22 the building itself, I believe the foundation
23 goes down about 25 feet, and then there is a tank
24 that sits in that, which is the actual holder for

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 the gas, much like a cup that has been inverted,
2 there was a water seal in it when it was actually
3 functioning. That is still present there, and
4 there's no floor that's there. So, it's not
5 stable enough to go out on top of to do what
6 would be needed to construct a monitoring well.

7 Q So, there is no way for you to know if anything
8 seeped outside, out of the perimeter into the
9 site?

10 A (Wieck) Well, we have the perimeter monitoring
11 wells, you know, out -- they're outside of the
12 holder, I wouldn't necessarily characterize it as
13 the "perimeter". I don't want to imply that
14 they're too close to it. But they are down
15 gradient in a location that was suitable for
16 construction of a well. So, we do monitor those.

17 Q And when you see a change in the number there, is
18 it reasonable to assume it's coming from inside?

19 A (Wieck) We haven't seen any changes in the
20 concentrations. I mean, we monitor --

21 Q If you did?

22 A (Wieck) If we saw a significant increase in
23 concentration, we would want to look up gradient
24 of that location for a source. Right now, given

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 the locations of the monitoring wells, we
2 wouldn't be able to tell if it was from the
3 holder itself or somewhere around the perimeter.

4 Again, given the nature of the site,
5 where it was in operation for 100 years, but that
6 ceased in the 1950s, and the nature of the
7 contaminants, we really wouldn't expect there to
8 be a mechanism, you know, that would cause it to
9 have kind of a new release.

10 CMSR. CHATTOPADHYAY: Okay. Thank you.

11 CHAIRMAN GOLDNER: And just a couple of
12 follow-up questions.

13 BY CHAIRMAN GOLDNER:

14 Q So, you have these 37 wells spread around the
15 site, and not under the gasholder. So, they're
16 spread out in a way that DES has approved, so
17 that you can monitor any contaminants that flow
18 into that area. Is that what's happening?

19 A (Wieck) That's correct. And those wells, some of
20 them are located beyond the boundaries of the
21 2.4 acre site, at locations which are down
22 gradient to the monitored concentrations at those
23 locations.

24 Q Okay. And, really, you know, from a Commission

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 perspective, you know, we're talking here about a
2 \$2.4 million financial cap. And, so, all the
3 questions you're getting are related to, you
4 know, "under what circumstances would you
5 anticipate or would the Company anticipate coming
6 back for more money?" That's really the spirit
7 of I think all the questions you've heard so far.

8 So, what you've said is, "Hey, when we
9 looked at the contaminants, there need to be 37
10 wells. We actually see a lowering of
11 contaminants over time, because this thing ceased
12 operation in the '50s. We haven't seen an
13 increase. So, we don't anticipate needing any
14 more money than the 2.4 million."

15 And the question I think that people
16 are trying to ask, and maybe I'll just try it in
17 a different way is, under what circumstances
18 would you seek additional monies for the 2.4
19 million? If you saw a reversal in one of the
20 wells, and it went the other direction, how far
21 would it have to go before you sought additional
22 remediation costs?

23 That's what I think people are
24 grappling with is, under the circumstance, would

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 you come back and seek additional money beyond
2 the 2.4 million?

3 A (Murphy) Yes. As it relates to the footprint of
4 the gasholder, we don't really see that request,
5 to come back for additional money to deal with
6 the footprint of the holder itself. If there was
7 another -- if there was an increase in
8 contamination or another source identified on the
9 site that previously wasn't known, obviously,
10 that would get managed through discussions with
11 DES, and likely through looking for additional
12 funding to deal with that under the broader site
13 program.

14 But, again, we don't, based on our
15 current understanding of contaminant distribution
16 and where we are at the site, we don't see any
17 potential increase in costs dealing with the
18 footprint of the holder itself, other than what
19 was included in the estimate provided.

20 Q So, if we, today, have a fertile imagination, and
21 we think about different circumstances that could
22 happen. There was an asteroid earlier. So, I
23 think I understand that one pretty well.

24 What about a fire? Or, what we're

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 trying to understand is, under what circumstances
2 would you be back here seeking additional monies?
3 We're just trying to sort that out. So, what
4 kind of circumstances -- how could, you know,
5 where would we -- when would we expect to see you
6 again, and under what circumstances?

7 A (Murphy) Sure. I mean, you know, anything could
8 happen. But the reality is is that, I think, if
9 there was a change in site conditions or a change
10 in approach, obviously, we would go to the
11 discussion that was had earlier about coming back
12 to the Commission, because things have changed.

13 But, based on what we currently know,
14 and the plan put forth by the Preservation
15 Alliance to stabilize -- they have already done
16 to stabilize that building, and the plan to
17 renovate it going forward and stabilize it
18 further, and preserve it, their plan is pretty
19 robust. So, the structure itself will be fully
20 intact.

21 Now, if an asteroid hits it, and it
22 disappears, ultimately, the plan would be to cap
23 the site. So, whether the structure is there or
24 not, we would deal with putting that -- putting

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 that cap over that site.

2 If it was -- obviously, as a result of
3 that, if the \$2.4 million evaporates, because an
4 asteroid hits the building, and the
5 Preservation -- the work of the Preservation
6 Alliance goes away, there would be a need to cap
7 that site. Which, again, is in alignment with
8 the broader site issue. So, it's similar to, if
9 something else occurred at the site, and there
10 was a change in site conditions, that would get
11 dealt with through discussions with New Hampshire
12 DES and the Company on how to address that.

13 Q So, what would happen if you saw -- you said
14 you've seen declining contaminant levels. If you
15 started seeing increasing contaminant levels, for
16 whatever reason, would you be back here at the
17 Commission to seek more money or would that be
18 handled elsewhere? How would that be handled?

19 A (Murphy) It's difficult to say, because,
20 ultimately, it's sort of an unforeseen issue,
21 it's speculative. That, based on what we've seen
22 to date, we've seen declining trends. The site
23 has a long history. Ultimately, if we saw an
24 increase in certain monitoring wells across the

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 site, we would discuss that with New Hampshire
2 DES and come up with a strategy to investigate
3 that further under the broader site program. And
4 that's typical across sites that we deal with.
5 You know, there is always a change or some
6 unforeseen issue that comes up, and you have to
7 pursue it.

8 Ultimately, it's hard to speculate as
9 to where, you know, where that additional
10 contamination would have come from. It could
11 have come from off-site. It could have come from
12 another source that's unknown on-site. This site
13 again has a long history.

14 And part of the approach that was
15 approved by New Hampshire DES was to deal with
16 other buried structures on the site. So, there
17 was another very large gasholder on that site,
18 you know, proximate to the current gasholder.
19 There were a number of buried structures on that
20 site, which contained gas and sludge that have
21 been excavated, remediated. We believe, based
22 on, again, our understanding of the site, that
23 those have all been addressed and are being
24 addressed through the New Hampshire DES.

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[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 Could there be another structure on
2 site that's a source? Certainly. And,
3 ultimately, if we saw an increase in contaminants
4 in the wells, we would go through a process of
5 trying to investigate and identify that source of
6 that contamination.

7 But, based on what we currently know,
8 we don't believe that the gasholder footprint
9 itself would be a significant source, given the
10 length of time it's been there, the kind of
11 contaminant distribution, and the declining
12 trends that we're seeing.

13 A (Wieck) And the RAP provides for, you know, an
14 option to deal with any contamination that's
15 there, on the dissolved phase contamination, and,
16 you know, that process is through the monitoring
17 of the concentrations and their attenuation.

18 If there were, you know, product that
19 became evident that it was in a new location, you
20 know, the process currently is to recover that by
21 putting in wells and removing, and that's ongoing
22 on the site and at off-site locations currently.
23 So, if there was something that was identified,
24 that would be the likely solution, would be that

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 there would be some additional wells that would
2 be put in to recover the material.

3 Q And I think, if I can summarize this way, I
4 think, you know, down the road, at some point,
5 the building sadly will end up going away, for
6 whatever reason, whether it's 50 years from now
7 or 200 years from now. And, so, there will be
8 additional costs down the road in some form.

9 So, what Seabrook did in this
10 circumstance is, I think NextEra --

11 *[Court reporter interruption.]*

12 BY CHAIRMAN GOLDNER:

13 Q Seabrook, the nuclear plant. So, Seabrook keeps,
14 you know, literally, a billion, I think,
15 available for the remediation of that plant. Has
16 anything like that been considered by the parties
17 here? Because it sounds like, eventually, money
18 has to be spent to, let's say, fully remediate
19 the site.

20 A (Murphy) Well, ultimately, I think, if there
21 was -- if the building did go away at some point
22 in the future, and, again, based on the plans
23 that have been put forward and the approach to
24 stabilization, which is very significant, the

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 likelihood of that building coming down or, you
2 know, or being diminished at some point in the
3 next decades is very unlikely.

4 I will say that, had a cap been
5 installed across the site, if the building was
6 demolished and a cap was installed across that
7 site, at some point in the future, not just the
8 footprint of the building, but across the broader
9 site, as that capping occurs, and it dovetails
10 into future development of the site, so, if a
11 developer came along, worked with the
12 Preservation Alliance and the Company to develop
13 that site, the entire sitewide cap would be
14 incorporated into that site design. If 50 years
15 from now that developer goes away, another
16 developer comes in, and they want to change the
17 contour or the structure of the site, then that
18 entire cap structure would have to be relooked at
19 as part of that.

20 And the footprint of the gasholder is
21 no different than the rest of the site. Which
22 would, if a future developer came along at some
23 point in the future, let's say, for discussion,
24 50 years from now, and they want to take the

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 gasholder down, at that point you have to have a
2 discussion about how to handle the capping
3 component of it.

4 But, right now, that's a bit
5 speculative, with regard to how we, you know, how
6 we predict what may happen in the future, 25, 50
7 years from now. So, that, ultimately, would be
8 similar to the rest of the site, which is, if the
9 entire sitewide cap has to change at some point,
10 ultimately, that would get addressed at that
11 point in time.

12 I hope that helps.

13 CHAIRMAN GOLDNER: Thank you. It
14 does.

15 Commissioner Simpson, do you have any
16 additional questions? Commissioner
17 Chattopadhyay?

18 *[Cmsr. Simpson and Cmsr. Chattopadhyay*
19 *indicating in the negative.]*

20 CHAIRMAN GOLDNER: Okay. We can move
21 to redirect.

22 MR. SHEEHAN: Just a couple points of
23 emphasis.

24 **REDIRECT EXAMINATION**

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 BY MR. SHEEHAN:

2 Q As I understand the testimony, gentlemen, that,
3 to the extent any contamination under the
4 gasholder were to migrate, and you could even say
5 that, and I understand you probably can't, is it
6 your testimony that the existing monitoring and
7 recovery wells would likely take care of that?

8 A (Murphy) Yes.

9 Q And, so, that situation would likely, and, again,
10 we're all speculating, not require the Company to
11 put in ten more wells at a cost of whatever
12 dollars?

13 A (Murphy) Not based on our current understanding
14 of contaminant distribution.

15 Q And, even if you did, we're talking \$10,000 each,
16 and then we decide, as a company, whether we're
17 going to have a fight over a new well that may or
18 may not have been caused by the footprint area?

19 A (Murphy) Correct. And that work would be done in
20 conjunction with consultation with DES.

21 Q There's one exchange, and I can't remember who it
22 was with, that compared the 2.4 million including
23 the cost to remove soil, whereas the plan is not
24 to. And, as I understand it, the reason you

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 don't have to remove the soil now is because it's
2 contained, and the obligation to remove the soil
3 rises when you take the gasholder down and you
4 find it?

5 A (Murphy) Correct. And, ultimately, when you look
6 at the estimate that was provided to develop the
7 \$2.4 million number, it assumes some limited
8 excavation of soil from beneath that holder.
9 And, again, we don't know if there would be a
10 requirement for any excavation, or it could be
11 significant.

12 And, really, when you look at the
13 process that we've gone through over the last
14 several years, working with Preservation Alliance
15 and the Company, as well as their consultant,
16 Haley & Aldrich, we've all come to the conclusion
17 that a reasonable estimate for the work that
18 needs to occur, or the cost of demolition,
19 investigation, remediation, and capping is the
20 \$2.4 million number.

21 Based on our experience, and the input
22 and experience of Haley & Aldrich, which, again,
23 is included in Exhibit 23, I believe, you know,
24 the costs associated with remediation is kind of

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 an unknown area, it could be pretty wide. Our,
2 you know, our approach to this, we relied heavily
3 on the existing site contaminant distribution and
4 our history of the site, H&A brought experience
5 of other sites they have worked with, and we came
6 to a settlement on \$2.4 million number, which,
7 again, both parties felt was reasonable, based on
8 the speculative nature of guessing what might be
9 under that, under that structure.

10 The above -- the parts of the \$2.4
11 million that are aboveground, the demolition, the
12 hazardous material removal, you know, and some of
13 the limited site work that occurs, those are all
14 known costs, based on contractor bids and
15 estimates and contingencies. Where the
16 speculative nature of the 2.4 million comes into
17 play is whether or not there is any contamination
18 under that structure, or not, and whether there
19 is some, or there may be more, and what is the
20 volume and value of that remedial effort? We
21 don't know that currently.

22 Based on the history of the site, what
23 we know is we expect there's some contamination.
24 But, again, this building was built 143 years

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 ago. It's very robust. It held 700,000 gallons
2 of water up until the early 1990s. And, so, the
3 likelihood of a significant source under the
4 building, based on what we currently understand,
5 is very limited.

6 Q And is part of that working with Mr. Haswell on
7 the possible outcomes, \$2.4 million could have
8 been a deal, if you had found a lot of soil that
9 needed to be removed, it could easily be adding
10 millions to the number, is that correct?

11 A (Murphy) Correct. And that is included in
12 Mr. Haswell's Exhibit 23, which includes
13 estimates of up to 4 to \$6 million, I believe.

14 Q And, by taking the steps we have -- well, if we
15 hadn't taken the steps we had with the
16 Preservation Alliance and this arrangement, the
17 Company was about to take the building down and
18 incur all those costs?

19 A (Murphy) Correct. In 2020, the building --
20 obviously, some repairs happened in 2013-14.
21 And, in 2020, there was a partial collapse of one
22 of the vestibules of the building, which
23 identified continued structural deterioration.
24 And, at that point, the Company was looking at

[WITNESSES: Culbertson|Murphy|Wieck|Goodman|Haswell]

1 safety and risk concerns, and started to make an
2 effort towards demolition. And that is when New
3 Hampshire Preservation Alliance stepped in with
4 the cost sharing and approach that developed
5 through the Emergency Stabilization Agreement.

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

8 CHAIRMAN GOLDNER: Okay. Thank you.
9 The witnesses are released.

10 And we'll have Dr. Arif take the stand
11 next, I think.

12 *(Whereupon **FAISAL DEEN ARIF** was duly*
13 *sworn by the Court Reporter.)*

14 CHAIRMAN GOLDNER: Attorney Schwarzer.

15 MS. SCHWARZER: Thank you, Mr.

16 Chairman.

17 **FAISAL DEEN ARIF, SWORN**

18 **DIRECT EXAMINATION**

19 BY MS. SCHWARZER:

20 Q Could you please state your name for the record?

21 A My name is Faisal Deen Arif.

22 Q And what position do you hold?

23 A I am the Director for the Gas Division in the New
24 Hampshire Department of Energy.

[WITNESS: Arif]

1 Q And have you testified before the Commission
2 before?

3 A I have.

4 Q With regard to the gasholder, what is your role
5 here today?

6 A I have written prefiled testimony. And my role
7 is to respond to the questions that all parties
8 may have.

9 Q And was that testimony marked as "Exhibit 25"?

10 A Yes.

11 Q And, if you were to testify here today, would you
12 give the same testimony?

13 A I would.

14 Q Do you have -- and, so, no changes?

15 A No changes.

16 Q So, let me ask you, you listened to the testimony
17 that Liberty gave. There was a discussion about
18 "37 wells" and "ongoing projects that are already
19 part of the LDAC Environmental Surcharge
20 component". Do you remember that?

21 A I do.

22 Q Is the Department opposed in any way to ongoing
23 payment for those existing projects?

24 A No.

[WITNESS: Arif]

1 Q Is it fair to say that the Department is
2 concerned about customers paying twice to
3 remediate the -- for the environmental
4 remediation issue?

5 A If I may elaborate on that question?

6 Q Yes.

7 A Because I think the short answer is "yes", and
8 "absolutely yes", with the emphasis on the part
9 "absolutely".

10 I would like to refer to the testimony
11 that I put in. And it is on Bates Page 011,
12 where, on Line 15 through 20, where I have
13 written that it is -- that the whole genesis of
14 this testimony is to "Balance regulatory
15 objectives as they relate to the realization of a
16 competitive outcome vis-a-vis the interests of
17 different parties including that of the
18 ratepayers and the utilities."

19 And, two lines down, on Line 19, I've
20 written we "strive to attain the environmental
21 remediation as required by environmental agencies
22 (primarily New Hampshire Department of
23 Environmental Services)."

24 The reason of putting this is to

[WITNESS: Arif]

1 differentiate between "what if" and "what is".
2 What we are dealing with is what is a \$2.4
3 million clear ask, unequivocal. What is is what
4 the tariff in this case allows the Company to do,
5 which is for remediation. The citation that we
6 have made in our prefiled testimony is about
7 remediation, and remediation only.

8 The Department does not take any
9 position in terms of the -- in terms of the
10 agreement with New Hampshire Preservation
11 Alliance. Having said so, it was our opinion
12 that that was a Company decision. And, now, what
13 we're faced with is a stabilization plan, as
14 opposed to environmental remediation. I
15 emphasize again that the tariff talks about
16 "remediation" and not "stabilization". And, yet,
17 what we are faced with is a clear \$2.4 million
18 ask. It's not -- it's an authority on "as
19 incurred" basis. However, that is a clear ask.
20 That is, there are a lot of possibilities that
21 can happen. I loved that asteroid example. But,
22 I think, in my mind, a more reasonable one is a
23 flood. It is -- it sits beside -- right beside
24 the river, and flooding. And we -- I'm not an

[WITNESS: Arif]

1 engineer, and I will not try to opine on the
2 engineering aspects. But, if I may surmise what
3 I've heard, Mr. Wieck saying that "we don't know
4 what we don't know"; that is precisely our
5 position, too. And I think Mr. Murphy also said
6 that "there could be an excavation of significant
7 amount, or maybe not."

8 So, we -- when we wrote our testimony,
9 we wrote our testimony considering all the
10 factors, and looking into the interests of all
11 parties, including the ratepayers. What we have
12 noticed is that there is an estimation of 788
13 cubic yard of potential contaminated soil
14 underneath the gasholder footprint, that can go
15 as high as 1,232 cubic yard of soil. There are
16 different estimates by two different engineering
17 firms that have been sort of provided, and they
18 seemed reasonable.

19 What does not seem reasonable, from a
20 ratepayer's perspective, is to ask the ratepayer
21 to pay with a substantial potential for the same
22 work twice. And you would find in my testimony
23 that we have written that what we are facing here
24 is a potential possibility, which will transpire,

[WITNESS: Arif]

1 maybe after 50 or 60 years, there are maintenance
2 costs that need to be looked into. There are
3 costs that is coming down the road. And there is
4 a clear ask of 2.4 million, and we wanted it to
5 be a financial cap. That's where the financial
6 cap is asking for.

7 It is important to note, and you will
8 find that in the attachments, in specifically
9 Attachment 1 and Attachment 8 in the direct
10 testimony, where it -- Attachment 8 provides
11 the -- based on the information provided by the
12 Company, what is -- what could potentially be a
13 maintenance cost going into 50 or 60 years, that
14 is the expected life of the stabilization to hold
15 up. Attachment 1 talks -- reproduces the GZA and
16 the Aldrich & Haley [sic] estimate. And, in that
17 estimate, you will see that, if we are looking
18 only about the remediation, that's about roughly
19 \$1.2 million, and the rest is 1.16 million. So,
20 roughly, a distinction of 52 percent to 48
21 percent, respectively. What we are talking about
22 here are two factors, 48 percent, you have to do
23 it again, and, potentially, the ratepayers are on
24 the hook. And the 52 percent is an "if", and a

[WITNESS: Arif]

1 reasonable estimate is 788 cubic yard of
2 contaminated soil.

3 So, when we looked through all of the
4 ask, and accepted the reality, it appeared to us
5 that it is only reasonable from the perspective
6 of all ratepayers to pay it only once, and not
7 twice. The fact remains that there is, as you
8 have heard, an engineering -- you can observe
9 engineering studies, and what you have heard from
10 Mr. Wieck and Mr. Murphy, that there is no
11 monitoring within the perimeter, as Commissioner
12 Simpson had put it. I'm using the same
13 reference. But there are 37 wells. And I have
14 already said that no issues with the wells. The
15 issue for the Department is not to pay twice.
16 The issue is to keep it as 2.4 million that's
17 been asked on an "as incurred" basis. The issue
18 is to -- a solution, a potential solution could
19 be that the tariff allows to pay for removal and
20 remediation of the contaminated soil. What is
21 being asked is 788 cubic yard of anticipated --
22 an estimated amount of contaminated soil.
23 Whether it's removed from underneath the
24 footprint or the perimeter, or anywhere else, it

[WITNESS: Arif]

1 should be treated, there is a purpose for that
2 fund, and it should be used for that purpose
3 only.

4 And that is the proposal that we have
5 put in.

6 MS. SCHWARZER: Thank you, Dr. Arif. I
7 don't have any further questions.

8 WITNESS ARIF: Thank you.

9 CHAIRMAN GOLDNER: Okay. We'll move to
10 the Office of Consumer Advocate for any cross?

11 MR. KREIS: Thank you. Just very
12 briefly, Mr. Chairman.

13 **CROSS-EXAMINATION**

14 BY MR. KREIS:

15 Q Mr. Arif, I just want to make sure that I have
16 successfully understood your "don't make
17 ratepayers pay twice" argument, because I think
18 it's important. And, so, I'm just going to ask
19 you an elaborate question by way of kind of
20 reading back what I think that argument is really
21 saying, and then you can tell me if I've got it
22 right.

23 As I understand it, your concern about
24 "ratepayers paying twice" has to do with the fact

[WITNESS: Arif]

1 that, in your opinion, the Company is proposing
2 to take money that would ordinarily be used for
3 site remediation, and is instead diverting that
4 money to site stabilization and historic
5 rehabilitation. And your worry is that, if the
6 Commission does that, then there could be future
7 remediation costs that we have already kind of
8 spent on stabilization.

9 Is that a fair statement or is that a
10 fair read-back of your concern about "not paying
11 twice"?

12 A I think, if I may elaborate?

13 Q Please.

14 A I will give the short answer. The short answer
15 is "yes."

16 And, if I may elaborate a little bit
17 more is that, that what we are probably observing
18 here, I stand to be corrected, is an
19 establishment of different pockets of funds. One
20 pocket is for this perimeter, and anything beyond
21 is another pocket. And, if we keep on piling
22 pocket after pocket, every, as you say, I have
23 heard you, Attorney Kreis before, there is only
24 one pocket here, and that's the ratepayer.

[WITNESS: Arif]

1 So, the question is about being fair,
2 reasonable, just, and in the public interest.
3 And, if we looked into all of those criteria
4 together, I think what we have proposed in our
5 testimony is a fair, just, and reasonable, and in
6 public interest proposal. That it should --
7 there should not be -- there should be only one
8 pocket for one purpose, which is the remediation.

9 If the parties decide otherwise on
10 their own accord, then it should be -- that the
11 liability of that should rest with the parties
12 who have taken the decision, not the ratepayers.

13 Q Thank you. That's very helpful. One last
14 question. Would it surprise you to know that we
15 ratepayers actually don't let our cash just slosh
16 around in our pockets, but we actually keep our
17 cash in our wallets?

18 Hence, the aphorism "There's only one
19 wallet in the room today."

20 A I agree. I apologize. That was a "wallet",
21 that's true.

22 MR. KREIS: Thank you. I have no other
23 questions for this witness.

24 CHAIRMAN GOLDNER: Okay. Let's move to

[WITNESS: Arif]

1 Liberty cross?

2 MR. SHEEHAN: The Commission has
3 already asked questions? Yes.

4 CHAIRMAN GOLDNER: Umm, we --

5 MR. SHEEHAN: I'm sorry, I'm mixed up.
6 I was thinking "redirect", and it's not my
7 witness.

8 CHAIRMAN GOLDNER: Whew. Boy, I
9 didn't -- I had bad math this morning, and then I
10 had the wrong order, I was having a bad day.
11 Thank you. That's close.

12 MR. SHEEHAN: That is on me.

13 I'd be loath to push back against a
14 witness who's supporting our request.

15 BY MR. SHEEHAN:

16 Q I just want to clarify one concept you stated
17 that seems not quite right. And that is, there's
18 some disconnect between "stabilization" and
19 "remediation".

20 You heard the -- did you hear the
21 witnesses testify, and in the written testimony,
22 that this "keeping the gasholder up" complies
23 with the remediation requirements of DES?

24 A I heard two things. One is, you're correct, your

[WITNESS: Arif]

1 statement. And the other one is that the
2 contaminated soil, whatever quantity there may
3 be, remains there.

4 Q Right.

5 A With the potential of contamination farther.

6 Q And, in this case, it is the -- the only reason
7 the Company can ask for stabilization funds, of
8 course, in lieu of demo and that remediation, is
9 because the stabilization completely serves the
10 function of remedial goals?

11 A I wouldn't characterize it that way.

12 Q So that --

13 A The reason being that I, and put it in my
14 testimony, that there was no long-term
15 cost/benefit analysis of this approach was
16 presented. And that long term is inherent in
17 this proposal, which is 60 to -- 40 to 60 years
18 that's been set.

19 Q But the long term, the cost/benefit is solved by
20 the financial cap, correct? Customers will not
21 pay more than they otherwise would have incurred,
22 with all the discussion of what comprised that
23 \$2.4 million number?

24 A So long that it's used for remediation of 788

[WITNESS: Arif]

1 cubic yard of contaminated soil from anywhere in
2 that site.

3 Q That's a curve ball, Mr. Arif. So, if we remove
4 780 cubic feet at the opposite end of the site,
5 you claim that's within the \$2.4 million cap?

6 A If it can be determined, and I believe that
7 Commissioner Simpson asked a lot of questions
8 about to identify the source of the potential
9 contamination, and that is an important element.
10 And, if your question is hinting towards that, I
11 do agree that that's an important element. But,
12 in the absence of that, and in the absence of
13 really keeping 2.4 million all for stabilization,
14 and I want to emphasize on that word, not the
15 remediation, that is a bit of a problem.

16 Q Okay. I should have left -- not gone down that
17 road with a non-environmental engineer.

18 But one thing you can say for sure,
19 that we have already saved customers money by not
20 spending the 2.4 million last year?

21 A I don't think that would be a fair statement,
22 because I have not seen a long-term cost/benefit
23 analysis. On the surface, it appears to be that
24 way. But it may not, in the end, that way -- be

[WITNESS: Arif]

1 that way.

2 Q So, we would have put into rates one-seventh of
3 \$2.4 million a year ago, if we had demolished the
4 building?

5 A Yes.

6 Q Okay. And that's \$350,000 a year, 2.4 million
7 divided by 7?

8 A Attorney Sheehan, very respectfully, I think your
9 analysis is only focusing on last year. And what
10 I'm trying to allude to is the entire 40 to 60
11 years of the proposed lifespan of this project.

12 Q I know, but --

13 MR. SHEEHAN: Never mind. I have no
14 further questions.

15 CHAIRMAN GOLDNER: All right. We'll
16 begin Commissioner questions with Commissioner
17 Simpson?

18 CMSR. SIMPSON: I don't think I have
19 any questions for this witness. Thank you for
20 your testimony.

21 CHAIRMAN GOLDNER: Commissioner
22 Chattopadhyay?

23 CMSR. CHATTOPADHYAY: I don't have any
24 questions either. Thank you.

[WITNESS: Arif]

1 BY CHAIRMAN GOLDNER:

2 Q I'm still a little puzzled, Dr. Arif. So, I do
3 have -- I do want to understand your
4 understanding.

5 So, we're here today to talk largely
6 about the 2.4 million, and where it applies and
7 where it doesn't apply. And I'm still puzzled.
8 So, I'm hoping you can maybe elaborate a little
9 bit about where you think the 2.4 cap, financial
10 cap, applies and where it doesn't apply. Can you
11 opine on that?

12 A I will try my best. So, I think we are dealing
13 with two separate issues. One is what has
14 already been incurred, the 476,000 [486,000?],
15 and the Department is unequivocally saying that
16 that should be allowed. So, that's one part.
17 And that should be allowed, following the tariff,
18 at one-seventh in each year and whatnot.

19 I think that another issue that arose
20 about the 37 wells that Attorney Schwarzer asked
21 me about, and Department is unequivocal that
22 those are already in place, those are fine.
23 That's not a part of this ask or this case here.

24 I think the bigger issue is the third

[WITNESS: Arif]

1 one, the approval sought for 2.4 million to
2 stabilize the gasholder building in lieu of
3 remediation. And what I am saying is that the
4 tariff allows for only remediation. So long as
5 we are, and we have accepted 788 cubic yard of
6 potentially contaminated soil underneath that
7 gasholder building, and we are saying that it was
8 not our decision, it was not the decision like,
9 you know, sought, it was taken on by the Company
10 and New Hampshire Preservation Alliance, and any
11 future, like, you know, party, who could be
12 potentially a party, recognizing that reality,
13 and accepting that reality, not opining on that,
14 we're saying that "Okay, 788 cubic yard is a
15 reasonable estimate." And we have -- so long as
16 we apply the 2.4 million, we have *de facto* paid
17 for removal of that contaminated soil.
18 Therefore, it would be unreasonable and unjust
19 and not in the public interest to ask for removal
20 of 788 cubic yard of contaminated soil again, no
21 matter when that happens. Because we had the
22 opportunity to clean it up now and call it a day,
23 we chose not to, and now, therefore, it should
24 not -- should not be on the ratepayers. They

[WITNESS: Arif]

1 have already paid, so long as we accept this
2 proposal, they have already paid for it.

3 Now, the question arises that, what
4 happens, like, with the different scenarios? And
5 accepting those scenarios as well, it surmises to
6 say that there is only one potential, that this
7 will have to be borne again. So, the question is
8 that "who bears it?" That is the real question
9 here.

10 And I think that the ratepayers, so
11 long as we all accept that 2.4 million, they have
12 already paid for 788 cubic yard of contaminated
13 soil removal. Doesn't matter whether it is
14 underneath the gasholder, perimeter, or anywhere
15 on that site.

16 Q Let me see now if I can repeat that back. So,
17 thank you for the explanation. So, whether it's
18 next year, in 50 years, a thousand years, when
19 the gasholder, the building, the structure is
20 removed, the Company is required to remediate 788
21 square feet, right? And that's it. So,
22 whether -- so, that's the Company's
23 responsibility, because they had the opportunity
24 to do that in prior years, they chose not to.

[WITNESS: Arif]

1 So, the Department's position is that, whenever
2 the building comes up, 788 feet is the liability.

3 So, if they have to remediate 900
4 square feet, well, then, the Company's back here,
5 we're all much older, and we have the opportunity
6 to talk about the delta. But they won't approach
7 us on 788 square feet. Is that right?

8 A That is correct.

9 CHAIRMAN GOLDNER: Okay. Thank you.
10 Okay. Dr. Arif, that is very helpful. Thank you
11 for that explanation.

12 Let's -- any other questions from the
13 Commissioners?

14 CMSR. SIMPSON: No.

15 *[Cmsr. Chattopadhyay indicating in the*
16 *negative.]*

17 CHAIRMAN GOLDNER: Okay. Let's move to
18 the DOE redirect.

19 MS. SCHWARZER: Thank you, Mr.
20 Chairman. The Department has no redirect.

21 CHAIRMAN GOLDNER: All right. Thank
22 you very much. The witness is released. Thank
23 you very much.

24 WITNESS ARIF: Thank you.

1 CHAIRMAN GOLDNER: All right. So, we
2 can take a break now for lunch, and then return
3 on the decoupling question. Or, we can start
4 with the decoupling question. Do the parties
5 have a preference?

6 MR. SHEEHAN: During the break, the
7 parties had a conversation of how to dive into
8 decoupling. And we didn't quite crystalize it
9 all. But I think I can lay it out, and DOE and
10 OCA can modify, as necessary.

11 Taking the Chair's cue, it's clear that
12 you're worried about having to decide a case that
13 relies on complicated stuff that is not
14 entirely -- you all set?

15 CMSR. SIMPSON: I just want to ask our
16 attorney a question.

17 MR. SHEEHAN: Oh, I'm sorry.

18 CMSR. SIMPSON: Please proceed.

19 MR. SHEEHAN: That the Commission is
20 worried about having to resolve what is somewhat
21 of a dispute here over, you know, it's a dispute
22 to the extent that DOE is not comfortable
23 agreeing to our numbers or has a clear basis to
24 contradict the numbers. So, there's -- and the

1 Commission is saying "Well, how are we supposed
2 to do that?" And that's completely fair.

3 The proposal is to figure out the best
4 way to educate the Commission, and to close the
5 education loop on DOE's part. I think they're
6 most of the way there. And how do we get them to
7 the finish line, and how do we bring you folks
8 along?

9 So, there's a few ways to do that. One
10 is, Mr. Bonner is a professor in this area. He
11 has described this in several contexts, to
12 internal folks, to the Audit Division, to others.
13 He's offered to do a tutorial for the Commission.
14 How we do that mechanically is a question. We'll
15 get to that in a minute.

16 And another is to allow the data
17 exchange between the Company and the DOE to
18 finish. A brief explanation of what happened is,
19 the source data for all of this is enormous. Mr.
20 Bonner spent a few hours with Audit this spring
21 explaining it all. And DOE here learned of that
22 later, and said "Wait a minute, we weren't aware
23 that information was available. Can we see it?"
24 In fairness, the Audit presentation was electric,

1 this is gas, although the information is the
2 same. And that's the request we got a few weeks
3 ago. And DOE asked a few questions, "can we have
4 it?", and "can you do this and this with the
5 information?"

6 We didn't get to them, partly in the
7 rush of time. "Can we manipulate the data?" It
8 would have taken a long time. It's not something
9 we could have completed anyway.

10 So, it's in our interest to complete
11 that process, with our hope of bringing them
12 onboard, but, if nothing else, crystalizing their
13 points of disagreement. So, we can do that.

14 But we are here. Is there some benefit
15 to going through something of a
16 question-and-answer with the various witnesses,
17 short of a full presentation? Mr. Bonner says,
18 it's really important for me to be able to walk
19 someone through an Excel file on the screen to
20 make it my "A" presentation, which we can do,
21 because we have witnesses.

22 So, that's what we were kicking around.
23 So, to make it concrete for the parties to
24 respond to, we're proposing essentially a

1 continuation of this hearing, the final matter,
2 pending us closing the loop with DOE on the
3 information, and possibly pending something of a
4 presentation to you folks, either today or at a
5 future date, in the form of what you've done in
6 these Commission-attended tech sessions.

7 CHAIRMAN GOLDNER: DOE?

8 MS. SCHWARZER: Thank you, Mr.
9 Chairman.

10 Certainly, Liberty has described its
11 proposal. And we were speaking about that
12 together. I think we have a bit of a different
13 perspective. We certainly, I think, started the
14 initial inquiry with an understanding that the
15 RDAF matter was complex. But, like you, sir, we
16 expected a simple formula, to perhaps be more
17 easily reduced to a page, than has proved to be
18 the case.

19 So, in terms of education, I think it's
20 perhaps a better framework to say that we all
21 need to -- the parties would ideally reach
22 agreement about the reasonableness of Liberty's
23 request in this docket, I think we're very
24 interested in at least producing some initial

1 testimony here today, from -- both from the
2 Company, as to how it understands the process
3 that it goes through, and from our own witnesses
4 to point out where the complexity lies.

5 I think that would better serve all of
6 us, to give you a framework to walk away from
7 this hearing with an understanding of some of the
8 complexities. And we are hopeful that, if the
9 Department -- excuse me -- if Liberty is willing
10 to engage with us in analyzing the information
11 that is of interest to us, and able to run some
12 of the analyses and provide us with the results,
13 that we may be able to move this further along.

14 And if I could just have a moment?

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

17 MS. SCHWARZER: We certainly think that
18 a future Commission-attended technical session
19 would be helpful, maybe preliminarily to a Day 2
20 of the hearing. We would probably like to see
21 what Mr. Bonner is going to provide in advance,
22 but we're interested in that proposal.

23 CHAIRMAN GOLDNER: Thank you. The
24 Consumer Advocate?

1 MR. KREIS: The Consumer Advocate's
2 feeling a bit exasperated by all of this. And,
3 therefore, I guess my ultimate position is, I
4 would like to do whatever the three of you would
5 find most helpful.

6 We have been going around and around
7 about Year 4, Decoupling Year 4, for quite a long
8 time. One thing that's different in Year 4 is I
9 know have Mr. Vatter sitting next to me, which
10 gives me a little bit of analytical firepower
11 going into any discussion or hearing.

12 I want to be as cooperative as I can in
13 resolving this case. But I'd like to do that as
14 expeditiously as I can. I don't like unnecessary
15 or superfluous hearings. My only concern with
16 Commission-attended tech sessions is that they're
17 not under oath. But I think it's possible to
18 just sort of think of them as offers of proof,
19 that could then, as necessary, be concretized via
20 sworn testimony, as necessary.

21 And, so, I'm ready to do whatever --
22 whatever works best, from the Commission's
23 perspective.

24 CHAIRMAN GOLDNER: I guess my initial

1 reaction would be that it would be constructive,
2 I think, for the parties to get together one more
3 time and try to sort it out. At the same time,
4 if today's hearing can be helpful in providing
5 direction, in my mind, it's a simple question.
6 I'm probably not grasping some level of depth
7 that is there that I'm not fully appreciating.
8 But I just don't understand why we can't count
9 customers, and why we can't get to a revenue per
10 customer number that's both actual and straight
11 from the rate case. If today's hearing can be
12 constructive in breaking down why that's a
13 problem, then maybe it's worth some time today.

14 And I think, from a Commission
15 perspective, what we're trying to do is just help
16 facilitate the process. I think the parties have
17 a lot of smart people, a lot of resources. And
18 it seems like -- it seems like we just need to
19 align on the assumptions. And, once the
20 assumptions are aligned, then the parties can
21 sort it out.

22 So, if I'm -- I'm looking at Attorney
23 Sheehan, but, if the Commission is helpful today
24 getting towards that solution, then we're happy

1 to spend the time.

2 MR. SHEEHAN: Putting Mr. Bonner and
3 Mr. Therrien on the spot, I think this afternoon
4 I could have them first articulate the one page
5 you talk about, and then that's comprised of four
6 or five elements, and then have them at least
7 start explaining "how do we count customers".
8 And you can hear Mr. Bonner how we count
9 customers. And, again, it makes sense, but it's
10 complicated, because there's 100,000 customers,
11 and varying pieces to it. So, as always, in the
12 utility world, the top layer is easy, and then
13 it's got 27 layers beneath.

14 But, anyway, I think we can sketch out
15 an outline during lunch, and at least start
16 describing what we do. With less of a focus on
17 this particular case, although it could certainly
18 be used as an example as we go through it. And
19 that would be for the customer counts and for all
20 the other phrases you've been hearing today.

21 CHAIRMAN GOLDNER: Would a tech session
22 be more constructive? We're going to be here
23 this afternoon anyway. Would it be more
24 constructive for the parties to spend time

1 together without the Commission? Would it be
2 constructive to have our technical folks
3 physically here?

4 I'm just trying to figure out what the
5 most efficient way is.

6 MR. SHEEHAN: Well, I think, you know,
7 we've spent dozens of hours with DOE getting them
8 as far along as they have. And the last piece I
9 don't think is, and I'll stand corrected, is
10 particularly conducive to discussion, because we
11 need to get them information and we need to do
12 some analysis on it, and we don't have that.

13 So, there may be conversations on
14 making sure we understand what it is they're
15 looking for, but I don't -- and, otherwise, we'll
16 end up going tit-for-tat over what our respective
17 testimonies say.

18 So, making this afternoon a "tech
19 session", rather than a hearing, would be fine.
20 And having your technical folks out here, I know
21 at least one of them was involved in a lot of
22 this, and probably would be very interested to
23 hear, and perhaps have some questions. I'm not
24 sure how they would come out through that person,

1 persons, or through you folks.

2 I also think it would be helpful for
3 you folks to hear it. You know, ultimately,
4 we're going to have a hearing on this. In a
5 perfect world, it's by agreement, but you're
6 still going to ask the question about "How did
7 you count the customers?" And to hear, whether
8 it's through an offer of proof that Mr. Bonner
9 puts up in a tech session format, I think it
10 would be helpful. Since, again, it's on the
11 calendar, and maybe that obviates the need for
12 what I proposed earlier.

13 CHAIRMAN GOLDNER: Any other comments
14 from the parties?

15 MS. SCHWARZER: Thank you, Mr.
16 Chairman.

17 I do want to push back a little bit, in
18 terms of Liberty's wish to educate us.
19 Certainly, we may reach agreement ultimately.
20 But we think we have important insights and some
21 analysis to share as well.

22 There are additional issues, not just
23 counting customers. But, as reflected in the
24 testimony, we have concerns about

1 reclassification that occurs after the rate case,
2 and its impact on revenue. And there are
3 questions that we'd like to point out about the
4 Department's audit that was completed in December
5 on the LDAC reconciliation.

6 We are certainly interested in having a
7 tech session later. But we have not prepared
8 with the Company, we don't know what they're
9 going to present, and we haven't -- we haven't
10 prepared to do a tech session today.

11 We are very interested in sharing with
12 the Commission why, after extensive analysis,
13 there are significant questions about
14 misalignment, and why we have those questions.
15 And we would hope to have the opportunity to
16 present them, even in a preliminary matter,
17 sometime this afternoon. But, of course, subject
18 to your decision.

19 CHAIRMAN GOLDNER: So, Attorney Kreis,
20 it looks like two of the parties are interested
21 in putting folks on the stand this afternoon.
22 Are you -- do you have any comments with respect
23 to that?

24 MR. KREIS: I do. I'm putting on my

1 "Mr. Process" hat. I gather that I have a
2 reputation for being a slavish adherent to or
3 somebody who constantly invokes the need to
4 adhere to process. So, and before I say that,
5 let me just say, I'm ready to do whatever the
6 Commission thinks is best. Because, again, you
7 folks are the deciders, and I want to help you
8 make as good a decision as you can.

9 Here's how the process is supposed to
10 work, and it kind of grows out of the adage that,
11 if you're a lawyer like me, appearing as a party
12 in a room like this, you're never really supposed
13 to ask a question of anybody that you don't
14 already know the answer to.

15 So, I get queazy, as a frequent party
16 here, when we conduct evidentiary hearings
17 without really knowing kind of -- without the
18 parties really knowing in advance what is going
19 to be adduced on the record.

20 And, so, it's odd, I think, that the
21 Department is sitting here saying "Well, we're
22 not prepared to have an informal tech session
23 with this company. But we are prepared to put
24 everybody up on the stand and have them give

1 sworn testimony." And I don't think that's how
2 this is supposed to work.

3 And, so, I guess I'm skeptical about --
4 or, I cast my vote, one vote among the three
5 parties, in favor of seeing whether an informal
6 tech session gets us to a place where maybe
7 everybody could come back and say "All right,
8 we've sorted this whole thing out. Here are the
9 facts that we lay before you three Commissioners.
10 You learned folks up on the Bench can ask your
11 questions, and then the answer will become
12 obvious." And you'll write an order saying that.

13 MS. SCHWARZER: Mr. Chairman, if I
14 might speak?

15 CHAIRMAN GOLDNER: Attorney Schwarzer.

16 MS. SCHWARZER: Thank you. With due
17 respect to the Office of the Consumer Advocate's
18 position, that Liberty and the Department have
19 had any number of tech sessions and exchanges of
20 data requests, which the Consumer Advocate has
21 not always been able to participate in. But we
22 did come here for a hearing, and are prepared to
23 offer testimony, consistent with testimony
24 submitted and prefiled, about the important

1 issue, why there are significant concerns about
2 the Company's request for decoupling in
3 Decoupling Year 4.

4 MR. SHEEHAN: I'd say I can probably
5 answer Mr. Kreis's concern. We can approach this
6 afternoon as the hearing. I'll put Mr. Bonner on
7 to testify in support of our claim. And, in that
8 process, he knows there's a question about
9 equivalent bills, I'll have him explain it. And
10 that's totally consistent with the hearing as
11 scheduled, and will get us maybe a few steps down
12 the road.

13 CMSR. SIMPSON: Just a question for the
14 Department.

15 My confusion has to do with the
16 Department's position that you're taking no
17 position with respect to a significant portion of
18 the Company's request. So, if you've spent a lot
19 of time, and I don't doubt that, and I appreciate
20 Mr. Arif's testimony, and you're not comfortable
21 with what the Company has requested here, why is
22 your position "no position", as opposed to
23 opposing the Company's request?

24 MS. SCHWARZER: Commissioner Simpson, I

1 believe that the testimony that Dr. Arif
2 submitted is addressed to substantive issues.
3 So, he is looking, in terms of not taking a
4 position, he is not able to verify the full
5 amount. And, so, I suppose, if asked today about
6 whether the Department could represent -- could
7 support the entire recovery, as a legal matter,
8 we would not be able to say "yes."

9 However, the focus of the testimony was
10 to talk about the substantive concerns and the
11 analysis supporting a partial recovery, but an
12 inability to say that there was a specific error
13 or problem that was known to us, because, despite
14 attempting to -- well, despite working very hard
15 to deaggregate the annual revenue piece, to
16 disaggregate it, we were not able to do it.

17 And, so, I hope that's an answer. That
18 the testimony taking "no position" is a
19 substantive "no position" on full recovery.
20 Can't say there's an error, can't say "yes."

21 Legally, if you were to ask us today, I
22 believe we would have to say "We cannot support
23 full recovery today."

24 CMSR. SIMPSON: And you would be

1 opposed to the Company's full request?

2 MS. SCHWARZER: We would be.

3 CMSR. SIMPSON: Okay.

4 MR. KREIS: I would just like to thank
5 Commissioner Simpson for having teased that
6 position out of the Department. Because the
7 question that you just asked, Commissioner
8 Simpson, is the one that I've been trying to ask
9 in the run-up to this hearing.

10 It seems to me that there's a
11 distinction between what an expert witness, like
12 Mr. Arif, is willing to say under oath, and I can
13 appreciate an expert witness saying "I can't, in
14 my expert opinion, give you an answer that I'm
15 comfortable with." That's fine from a witness.
16 But, from a party, having been notified that
17 there's a hearing today, I mean, we're stuck with
18 either taking a position that really answers a
19 "yes" or "no" question.

20 And my position, based on my
21 understanding, is similar to what I think I just
22 heard Ms. Schwarzer say, which is, "Look, the
23 Company hasn't made its case for recovery. And,
24 so, therefore, the answer should be "no"."

1 That's where I started out today, if
2 you recall. And I'm certainly willing to stick
3 with that, if that is what would be helpful.

4 CMSR. CHATTOPADHYAY: There were some
5 mention of "source data". And, as I understood
6 it, that has not been analyzed or looked at
7 sufficiently. That's my understanding, based on
8 what, Attorney Sheehan, you mentioned. And it's
9 about, when you say that, you're essentially --
10 are you talking about the DOE not having enough
11 time to do that? And, if that's the case, then
12 there is still something out there that needs to
13 be understood. And that might help the DOE to
14 come to a position. Just having something in
15 front of us as "we can't take a position, because
16 it's not clear", makes it harder for the
17 Commissioners.

18 And, so, what I'm hoping, can you throw
19 a little bit of light on whether that "source
20 data" discussion that's -- apparently, it's
21 already under play, and, if I remember, you said
22 it's been like two weeks, okay. Where is that?
23 And, if people think that that's going to be
24 where much of the information would be gleaned,

1 to the point where we'll have some positions,
2 that will be very helpful to me.

3 MR. SHEEHAN: I hope so. The DOE's
4 approach, and it's entirely logical, is to start
5 with our top numbers, the one-pager, if you will,
6 and they said, in discovery, we did it right. If
7 you take this number, this number, this number,
8 that's the result.

9 But they take every number and they say
10 "where does that come from?" And we keep going
11 down to the next level. Again, entirely
12 appropriate. And we went down several levels.

13 There was one more step to take that we
14 didn't acknowledge they had asked for. DOE
15 litigators found out that we gave all that
16 information, or a sample of that information to
17 Audit, and they rightfully said "we want to see
18 it, too." And, so, that's the conversation that
19 just started.

20 I certainly hope that they will get
21 there and say "Okay, now I see where they
22 started, and the end point." And they say "it
23 sounds good." And they may not, of course, who
24 knows. But we're entirely willing and will

1 provide it to them.

2 CMSR. SIMPSON: Was the Company's
3 understanding that the Audit Division understood
4 and agreed with the Company's position?

5 MR. SHEEHAN: "I don't know", of
6 course, is the accurate answer.

7 My understanding is, and Mr. Bonner can
8 describe this, is the meeting ended with nods,
9 and "okay, thank you".

10 The audit report filed, the one I read
11 was in December, which was before that meeting,
12 didn't take issue with these things we're talking
13 about today. And, interestingly, the source data
14 has been provided to DOE in a different context
15 that wasn't entirely visible. It was buried in
16 an Excel sheet that was apparently hard to find.
17 But, anyway.

18 CMSR. SIMPSON: Uh-huh.

19 MR. SHEEHAN: So, I think -- let me
20 back up. Audit, interestingly, in the December
21 report, did not come to a conclusion. "We looked
22 at this. We verified this. We verified this.
23 But we can't tell you that the ultimate number is
24 right." Which we found curious.

1 I don't know, frankly, if there's been
2 an audit report since then. Maybe it's gas --
3 electric I'm thinking about, I'm not sure. But,
4 because that meeting happened in the spring, and
5 the audit in this case was in December. So, --

6 CMSR. CHATTOPADHYAY: Does the --

7 MS. SCHWARZER: Mr. Chairman, could I
8 speak to that?

9 CMSR. CHATTOPADHYAY: Can I -- does the
10 DOE have any response to the question that I was
11 asking, about, you know, the source data, and
12 whether that might be where you probably can
13 benefit from spending more time on?

14 MS. SCHWARZER: Well, I do have an
15 answer. But, with your permission, I'd like to
16 clarify the position that the Audit took in the
17 December 8th audit. Because their Audit Issue 3
18 said that "Audit was unable to reconcile the RDAF
19 filing to the general ledger", and that was based
20 upon the September [December?] 8th filing within
21 this docket, which Liberty subsequently carved
22 out the issues before us now. But Audit's
23 statement was that it was "unable to reconcile
24 the RDAF filing to the general ledger."

1 There are two other statements in the
2 audit where Audit explicitly says "We understand"
3 -- let me quote it. They're talking about
4 equivalent bill calculations and true-ups. And
5 they say "The accuracy of the filing and use of
6 the calculations described above cannot be
7 verified by Audit. It is understood" -- it goes
8 on to say "It's understood that the decoupling
9 calculation is being reviewed in DG 22-041 and DG
10 22-045." And that is repeated again on Page 18
11 in slightly different language, where there Audit
12 said "It's not expressing an opinion on the
13 accuracy of the activity or balances."

14 So, we'd be happy to provide this. But
15 I think it's fair to say Audit, to distinguish --
16 I do not see Liberty's statement that "Audit is
17 okay with what they're doing" as accurate.

18 And, with regard to the source data,
19 were we to proceed with the hearing today, you
20 would hear that the Department has asked multiple
21 data requests asking for disaggregation of the
22 allowed -- excuse me -- of the actual revenue.
23 That we did eventually come to find that there
24 was specific equivalent bill source data related

1 to gas that had been provided in an electric
2 review for some reason, and Audit made it
3 available to us. You can see Exhibit 31, where
4 our attorney, Paul Dexter, reached out to Liberty
5 and said "Hey, we've discovered this source data,
6 and we're interested in talking about this with
7 you further. We have some questions." And,
8 then, Exhibit 32 are specific questions from Dr.
9 Arif to Jim Bonner with regard to the source
10 data.

11 Certainly, that source data would be
12 the analysis that we hope Liberty will do. We,
13 at one point, thought that we had the capacity to
14 do it, but we don't, in terms of computer
15 programming.

16 We are interested in seeing the
17 analysis, we are interested in seeing the data.
18 But there are other concerns as well with
19 reclassification, which we can certainly speak to
20 today.

21 CMSR. CHATTOPADHYAY: Thank you.

22 CHAIRMAN GOLDNER: The --

23 MS. SCHWARZER: Oh, I'm sorry. We did
24 have one tech session in between Exhibit 31 and

1 Exhibit 32, but we just didn't --

2 CHAIRMAN GOLDNER: I don't, and correct
3 me if I'm wrong, Attorney Schwarzer, but I don't
4 think that that audit is in this, filed in this
5 docket, is that correct?

6 MS. SCHWARZER: Mr. Chairman, you're
7 correct.

8 CHAIRMAN GOLDNER: Okay. Can you --
9 can the Department file that audit in this
10 docket?

11 MS. SCHWARZER: The Department would be
12 happy to do that. Should we reserve "Exhibit
13 Number 34"?

14 CHAIRMAN GOLDNER: Thank you.

15 (*Exhibit 34 reserved.*)

16 CHAIRMAN GOLDNER: Okay. I think what
17 would be best at this point is if the Commission
18 took a break and consulted on the matter. It
19 seems complex, in terms of how we proceed or if
20 we proceed this afternoon. And, in the spirit of
21 that, and not wasting anyone's time, I'd like to
22 return at 12:45 with a decision on how to proceed
23 this afternoon, if that's -- if everyone is okay
24 with that?

1 *[Multiple indications in the*
2 *affirmative.]*

3 CHAIRMAN GOLDNER: So, let's do that.
4 Let's take a break here, return at 12:45. And
5 off the record.

6 *(Lunch recess taken at 12:14 p.m., and*
7 *the hearing resumed at 12:50 p.m.)*

8 CHAIRMAN GOLDNER: Okay. So, the
9 process today will be we'll hear from the Company
10 first. The Company came prepared today to seek
11 the 3.5 million, and we'll hear the party's case
12 there. And, then, we'll give the DOE the
13 opportunity to put forward their witness, and
14 proceed sort of as originally scheduled this
15 afternoon.

16 So, Mr. Sheehan, if you'd like to put
17 your witnesses forward.

18 MR. SHEEHAN: Sure.

19 MS. SCHWARZER: Mr. Chairman, if I
20 might?

21 CHAIRMAN GOLDNER: Yes.

22 MS. SCHWARZER: Dr. Arif is having a
23 problem with his computer. And, so, he intends
24 to be here, but he's having trouble logging in.

1 CHAIRMAN GOLDNER: Okay. Thank you.

2 MS. SCHWARZER: Mr. Chairman, just a
3 final issue, and I apologize. But our
4 consultant, Mark Thompson, was having trouble
5 hearing the testimony. He's remote, but, for
6 reason, he just had a very hard time hearing.
7 So, I've asked him to speak up, because that has
8 to do -- this testimony, obviously, has to do
9 with his area of expertise.

10 CHAIRMAN GOLDNER: Okay.

11 MS. SCHWARZER: And I would just
12 encourage him, if he's listening -- Mark, are you
13 on?

14 MR. THOMPSON: I am. Hi. Hi, this is
15 Mark Thompson. I'm particularly having trouble
16 hearing the witnesses on the stand. And I'm
17 wondering if the mike just needs to be spoken
18 into more directly in their case.

19 CHAIRMAN GOLDNER: Yes. Please swear
20 in the witnesses.

21 *(Whereupon **JAMES BONNER** and*
22 ***GREGG THERRIEN** were duly sworn by the*
23 *Court Reporter, presented as witnesses*
24 *along with **TYLER CULBERTSON**, who was*

[WITNESSES: Culbertson|Bonner|Therrien]

1 *previously sworn in.)*

2 CHAIRMAN GOLDNER: Please proceed.

3 MR. SHEEHAN: I'll start with the
4 formalities.

5 **TYLER CULBERTSON, PREVIOUSLY SWORN**

6 **JAMES BONNER, SWORN**

7 **GREGG THERRIEN, SWORN**

8 **DIRECT EXAMINATION**

9 BY MR. SHEEHAN:

10 Q Mr. Culbertson, you introduced yourself this
11 morning. And I believe we had you adopt
12 Exhibit 19, which is Mr. Holden's technical
13 statement. And this morning you pointed to the
14 number we were requesting with regard to the
15 gasholder. Can you point us to the numbers we're
16 requesting with regard to the Revenue Decoupling
17 Adjustment Factor, or RDAF?

18 A (Culbertson) Yes. In Exhibit 19, Table 1c, the
19 3.5 million, under "October 7th, 2022".

20 Q And is it correct, as I think I said as counsel,
21 that that number is a component of the LDAC
22 filing the Company made last week?

23 A (Culbertson) That is the number that we intended
24 to file.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q Okay.

2 A (Culbertson) We had filed the 2.7, up above in
3 Table 1b.

4 Q Okay. But, as a conceptual matter, the Company's
5 request for Year 4 adjustment is included in the
6 current LDAC filing?

7 A (Culbertson) That is correct.

8 Q Although, this is last year's LDAC docket we're
9 in, the Company acknowledges that most of the
10 rates went into effect last November, and these
11 two issues were left for this process. And the
12 Company's proposal is to begin recovering that
13 number you just mentioned beginning February 1,
14 as the schedule has now been changed?

15 A (Culbertson) Yes.

16 Q Okay. And the \$2 million figure is the actual
17 delta from that Year 4 Decoupling Year?

18 A (Culbertson) Yes.

19 Q Okay. Thank you. Mr. Bonner, please introduce
20 yourself, your name, your title, with Liberty?

21 A (Bonner) Sure. My name is James J. Bonner, Jr.
22 And -- sorry. And I'm the Senior Financial
23 Regulatory Analyst for Liberty Utilities.

24 Q Mr. Bonner, how long have you been with Liberty?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) Since 2013, first as a contractor, and
2 later as an employee since 2015.

3 Q And 2013 was shortly after Liberty was acquired
4 from National Grid?

5 A (Bonner) Yes. I came in in January 2013.

6 Q Prior to Liberty, you did work for National Grid,
7 is that correct?

8 A (Bonner) Yes, I did. I retired from National
9 Grid in 2010. My last job was Director of Rates
10 and Regulation for Upstate and Downstate New
11 York, the former Niagara Mohawk and the old LILCO
12 -- for LIPA, the old LILCO electric system down
13 on Long Island.

14 Q And how long were you with National Grid?

15 A (Bonner) I was at National Grid since 1983, but I
16 go back even longer. I was a student engineer
17 there from '72 to '76, with a break in service.
18 So, I've been associated with the electric
19 utility business for over 50 years now.

20 Q Congratulations.

21 A (Bonner) Thank you. Or, "condolences".

22 Q Relative to this docket, which is EnergyNorth's
23 Decoupling Mechanism and the yearly adjustment,
24 when did you first become involved with what is

[WITNESSES: Culbertson|Bonner|Therrien]

1 now EnergyNorth -- Liberty-EnergyNorth's
2 Decoupling Mechanism?

3 A (Bonner) Right from the beginning, in Docket
4 17-048.

5 Q Okay. And what capacity were you -- what
6 capacity did you play in the development of it or
7 the implementation of it, or both?

8 A (Bonner) Yes. So, and I still had the same title
9 as I have today, and I actually worked for the
10 Financial Department. But I was asked to assist
11 in the development of the decoupling proposals,
12 along with Mr. Therrien. And, so, I had a great
13 deal to do, once the design of the proposal
14 departed from Mr. Therrien's original design.

15 Q And the Commissioners heard, a week or two ago,
16 testimony in the Year 1 and 2 docket, 22-041, the
17 sequence that we made a decoupling proposal, it
18 changed during the course of '17, was approved,
19 and then it changed again in the course of the
20 20-105 case, correct?

21 A (Bonner) That is correct.

22 Q Did you play a role in the 20-105 case with
23 regard to decoupling?

24 A (Bonner) I did.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q Similar role?

2 A (Bonner) A similar role.

3 Q Other than the development of the mechanism, what
4 role do you play in the implementation of
5 decoupling and/or its annual reconciliation?

6 A (Bonner) Sure. Originally, for the original
7 design, I actually did the annual decoupling,
8 allowed versus actual revenue reconciliation.
9 And, on a monthly basis, I help with the original
10 design for the Accounting Department of how they
11 record on the books the monthly Revenue
12 Decoupling Adjustment, which is now the basis of
13 the current method, since that was adopted in the
14 Settlement in Docket 20-105.

15 Q And, today, under the revised decoupling tariff
16 that was approved in 20-105, what role do you
17 play in the implementation of decoupling, if any?

18 A (Bonner) No. On a day-to-day basis, I don't
19 anymore. That's currently handled by the
20 Accounting Department or Regulatory.

21 Q Okay. We'll get back to it in a minute. But
22 you've heard, during the course of today and in
23 the filings, that there are some questions about
24 a few concepts involved with decoupling, the

[WITNESSES: Culbertson|Bonner|Therrien]

1 equivalent bills, the true-ups, and the rate
2 reclassifications in particular. Do you recall
3 that?

4 A (Bonner) I do.

5 Q Okay. And you're familiar with those concepts?

6 A (Bonner) I am, very much so.

7 Q Thank you. Mr. Therrien, please introduce
8 yourself?

9 A (Therrien) Good afternoon, and good afternoon,
10 Commissioners. My name is Gregg Therrien. I'm
11 with Concentric Energy Advisors. And I've
12 assisted the Company with their decoupling
13 proposal and tariff over the years.

14 Q And, as Mr. Bonner just said, you were the
15 drafter of the first proposed decoupling in the
16 2017 case, correct?

17 A (Therrien) That is correct.

18 Q And, as you've said, you've been involved since,
19 on an "as needed" basis, as the years have gone
20 since then?

21 A (Therrien) On an "as needed" basis, that's
22 correct.

23 Q So, could you sort of distinguish the role you
24 played in the decoupling versus Mr. Bonner? My

[WITNESSES: Culbertson|Bonner|Therrien]

1 understanding is you're more of the tariff guy,
2 and how it works, and Mr. Bonner is more of
3 actually implementing it, or at least has that
4 base knowledge, is that fair?

5 A (Therrien) I think that's fair. So, as an energy
6 consultant, it's my job to introduce concepts to
7 an individual utility that may be beneficial in
8 that jurisdiction. And, in the period in which
9 New Hampshire adopted decoupling, it was an
10 active period for decoupling arguably. A lot of
11 other utilities, gas utilities and electric
12 utilities, had adopted decoupling.

13 So, I brought that experience and
14 history of other jurisdictions to bear here.
15 That proposal was adopted in that proceeding.
16 And I helped draft the initial tariff. I drafted
17 expert testimony in support of decoupling. And I
18 explained and supported that proposal throughout
19 that proceeding.

20 So, my role is one more of conceptual
21 in nature. And I would say that, once that
22 tariff was approved, it becomes an artifact that
23 the Company then uses, and the Commission then
24 uses, and other parties use, in order to

[WITNESSES: Culbertson|Bonner|Therrien]

1 administer that tariff over the years. That
2 is -- like, that is essentially outside of my
3 responsibility here.

4 Q Okay. You heard the Chairman ask a couple times
5 this morning of "Where's the one-pager that would
6 allow me to follow the Company's decoupling?"
7 Can you give him an oral one-pager?

8 A (Therrien) I certainly can. And I would also
9 refer the Commission to the Company's tariff. It
10 looks like it is Page 36. It's NHPUC Number 10 -
11 Gas, Liberty Utilities tariff, Page 36.

12 MS. SCHWARZER: Objection. I believe
13 Tariff Number 11 is the tariff that applies to
14 the Decoupling Year 3 and 4 at issue here.

15 CHAIRMAN GOLDNER: Is that in a filing
16 or is that outside the filing?

17 MS. SCHWARZER: We had filed Exhibit
18 Number 28, which shows the Settlement terms in
19 20-105, as well as attached tariff pages that are
20 relevant with regard to decoupling.

21 And Mr. Therrien may have misspoken,
22 but I heard him identify "Tariff 10", which is
23 applicable to Decoupling Year 1 and 2 in Docket
24 Number 21-042 [22-041?], but not applicable here.

[WITNESSES: Culbertson|Bonner|Therrien]

1 MR. SHEEHAN: So, what was the exhibit
2 number that --

3 CHAIRMAN GOLDNER: Twenty-eight.

4 MR. SHEEHAN: Twenty-eight.

5 CHAIRMAN GOLDNER: Twenty-eight.

6 BY MR. SHEEHAN:

7 Q Do you have that available, Mr. Therrien?

8 A (Therrien) I do not. I pulled the tariff from
9 the Commission website. So, I don't have it
10 here. Perhaps there is some update there.

11 But, really, I can explain it. The
12 one-pager is pretty simple. And it's called
13 "Revenue Decoupling on a Use Per Customer or
14 Revenue Per Customer Basis."

15 So, for EnergyNorth, the way that the
16 calculation works at a high level is that you
17 take your revenue per customer target, okay,
18 that's what was allowed in the rate case, and you
19 compare your actual revenue per customer, and
20 then that delta is multiplied times your actual
21 number of customers. And that's your adjustment.

22 Mathematically, you can calculate that
23 a couple different ways, but it gets to the same
24 answer. It essentially relies on the target, an

[WITNESSES: Culbertson|Bonner|Therrien]

1 actual, and then the actual number of customers.

2 Q So, let's dissect that a bit. How do we create
3 the target? Where are the pockets of numbers
4 that say the target revenue for residential
5 customers is \$114 in a given year?

6 A (Therrien) The way that that is calculated is
7 from the rate case, from the allowed distribution
8 revenue requirement. And that is for a specific
9 set of revenues. So, maybe put differently, some
10 other revenues are excluded from the calculation.
11 And that's not uncommon. Every jurisdiction has
12 some other revenues that are not included in this
13 calculation.

14 So, what I'll call "base revenues" is
15 established in a distribution rate case. That
16 allowed base revenue is then divided by the
17 allowed or agreed upon or approved number of
18 customers.

19 Q So, the base revenue, would that be what we often
20 refer to as the "revenue requirement" that the
21 Commission approves in a rate case?

22 "EnergyNorth, you're authorized to collect \$93.4
23 million per year", whatever the number is?

24 A (Therrien) It is, but it's the portion of that 90

[WITNESSES: Culbertson|Bonner|Therrien]

1 some odd million that is directly attributable to
2 rate revenue.

3 Q Okay. And I'm making numbers up as I go, so
4 don't --

5 A (Therrien) Okay.

6 Q -- put any weight on these. So, you start with
7 the Commission's approved base revenue, and then
8 you say you divide it by the number of customers?

9 A (Therrien) Correct.

10 Q And this is done by class. So, you're going to
11 have -- and how does that happen? That different
12 rate classes have different RPCs?

13 A (Therrien) In this particular case, there is --
14 we just use the rate -- my understanding is that
15 we use -- that EnergyNorth uses the rate class.

16 Q I mean, how -- so, you have the \$92 million, and
17 you need to recover that from various kinds of
18 customers. They don't all have the same revenue
19 per customer, right?

20 A (Therrien) I missed the last part of your
21 question, sorry.

22 Q They don't all have the same RPC target?

23 A (Therrien) That's correct. The targets are
24 established based on the rate class level.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q So, if --

2 A (Therrien) So, the Residential Heating class, or
3 the R-3 class, would have its own target.

4 CMSR. SIMPSON: Excuse me. It would be
5 really helpful if we used actuals for this case,
6 and could point to exhibits, because I'm having
7 somewhat of a hard time following.

8 MR. SHEEHAN: Okay.

9 CMSR. SIMPSON: If you're trying to
10 level-set initially, that's fine. But I think,
11 at least for me, I am going to want to walk
12 through the actual figures based on the exhibits
13 in the record.

14 MR. SHEEHAN: Okay. To be clear, based
15 on this morning's discussion, we decided, with
16 your encouragement, to present our case, but
17 perhaps in a more tutorial way. And, so, I'll
18 ask the witness, but I'm not sure we've got all
19 of these numbers here. Because, in the rate
20 calculation, there's less to it. You know, a lot
21 of these numbers are behind the scenes.

22 CMSR. SIMPSON: Uh-huh.

23 MR. SHEEHAN: But I will certainly ask
24 the witnesses, to the extent we can.

[WITNESSES: Culbertson|Bonner|Therrien]

1 CMSR. SIMPSON: Okay.

2 MR. SHEEHAN: It's a fair question.

3 And, okay.

4 CMSR. SIMPSON: Thank you.

5 BY MR. SHEEHAN:

6 Q So, I'll stop using made-up numbers, because that
7 might confuse things. So, the Company allocates
8 the revenue requirement, the base revenue, to
9 these various classes, with the goal being what?
10 Why do different classes get a different revenue
11 per customer?

12 A (Therrien) It's a function of the rate design.
13 It's a function of the rates, in which the
14 Commission approves.

15 Q Okay. And, so, that revenue per customer is a
16 number, correct? It's "X" dollars per year?

17 A *[Witness Bonner indicating in the negative].*

18 Q No? What is it?

19 A (Bonner) No. It's just one more additional
20 distinction. In the case of EnergyNorth, we set
21 revenue per customer charges by calendar month.

22 *[Court reporter interruption.]*

23 **CONTINUED BY THE WITNESS:**

24 A (Bonner) So, every rate class has twelve.

[WITNESSES: Culbertson|Bonner|Therrien]

1 BY MR. SHEEHAN:

2 Q Okay.

3 A (Bonner) So, for every rate class, there are
4 twelve individual RPCs. So, there's an RPC for
5 January, an RPC for February, *et cetera*.

6 Q And why is that?

7 A (Bonner) It was part of the original design.
8 Originally, because of the incorporation of
9 real-time weather-normalization was the reason
10 that it was believed that we should do this with
11 twelve individual factors. And it was settled
12 upon at that point.

13 Q And, so, for a single rate class, say,
14 Residential, there will be a different RPC for
15 each month. What's the logic? Why are you
16 varying that? Is it -- what are you trying to
17 align?

18 A (Bonner) Certainly. Gas usage is highly
19 seasonal. So, the amount -- what an RPC
20 calculation is at its bottom level is a rate
21 redesign, just would follow the conventional way
22 you would normally do this for a gas company for
23 their base rates. You would have their customer
24 charges; you would have their volumetric charges,

[WITNESSES: Culbertson|Bonner|Therrien]

1 if there were blocks, you have the first block
2 and the second block, *et cetera*, by month; you
3 would multiply by the number of billing units for
4 the customer charge, the number of billing units
5 for the volumetric charges. You would come out
6 to a distribution revenue that Mr. Therrien was
7 describing. And you will have a different
8 distribution revenue for each rate class for each
9 month, that will sum to what you were talking
10 about, with some exclusions, the target revenue
11 requirement.

12 When you do the RPC, you take those
13 numbers that you did from the price-out of the
14 individual rate classes, but then go back and
15 divide it by the same number of billing units
16 that you used for the customer charge. In both
17 cases, this is the equivalent bills. And, so,
18 you're transforming it, what was originally a
19 multipart rate that consists of customer charge,
20 plus volumetric charges, into a series of twelve
21 individual customer charges, one for each month,
22 that replaces them.

23 In the context of the test year, the
24 numbers match exactly. But that's the last time

[WITNESSES: Culbertson|Bonner|Therrien]

1 they will. Because, on a month-by-month basis,
2 in the future, customers, you won't have the same
3 number of them, and they won't necessarily use
4 the therms in exactly the same pattern.

5 Q So, Mr. Bonner, first, by "billing units", is
6 that another word for a "customer count"?

7 A (Bonner) It is, but it's a bit more refined. So,
8 a "customer count" we tend to think of as a
9 demographic object. I'm a customer, I pay a bill
10 at my home. Now, how many bills I pay a year?
11 You'd say "Normally, twelve." Doesn't have to be
12 twelve, in every month, sometimes I may have
13 eleven in a year, sometimes I might have
14 thirteen; it depends on the meter readings.

15 Or, say I'm in another location, and
16 it's an apartment building, who gets changes of
17 tenancy, you know, every so often. So, I have a
18 customer that's in for three months, you have a
19 gap for a couple of month period. You will get a
20 customer in again, gap again for a couple of
21 month period. So, you may get less than twelve
22 bills. So, the actual unit that's used to figure
23 out rates is the number of customer charges that
24 you assess.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Now, in the case of EnergyNorth,
2 there's also one more confusing figure. In most
3 utilities, customer charges are assessed as so
4 many dollars a month, say, \$10, provided the bill
5 fits within a certain billing duration, typically
6 something like 27 to 34 days. If it's longer or
7 shorter than that, for most utilities, you then
8 prorate it, you'll get a fractional charge. It
9 will either be more than one, the multiplier, or
10 it will be less, in order to compensate for the
11 unusual bill duration.

12 In the case of EnergyNorth, almost
13 every bill is prorated, because they were set on
14 what is called a "30-day basis". So, unless the
15 bill duration is exactly 30 days, the bill count,
16 or the number of customer charges, is something
17 other than one. And that's the definition of the
18 "equivalent bill".

19 Q And the purpose of that, as I understand it, is
20 to give you a more accurate count of customers
21 for the purposes of decoupling and other rate
22 reconciliations?

23 A (Bonner) In this case, it's simply a matching.

24 Q How so?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) So, if, for example, in the -- we will
2 take Granite State, which uses the bandwidth that
3 I was just talking about, they also use an
4 equivalent bill calculation, but it's much closer
5 to the customer count, because of that window.
6 In fact, most customers are, in most cases,
7 billed within those 27 to 34 days. So, most
8 customers are assessed, if it was \$10, was
9 exactly \$10. In the case of EnergyNorth, that's
10 not true.

11 This is a matter of making sure that
12 you match up both sides of the calculation. So,
13 if you're using one set of determinants for one
14 value, when you go to use it for a different
15 purpose, you should try to hold that constant,
16 all things being equal, otherwise you're going to
17 introduce another factor or variance. And, so,
18 that's the reason why you make them consistent,
19 so you don't send over customer counts that won't
20 align. The actuals and the -- most of the times,
21 by the RPC and the actual customers and their
22 customer charges in the actual revenues are the
23 same number.

24 Q Going back to the different RPCs by month, is it

[WITNESSES: Culbertson|Bonner|Therrien]

1 fair to say you have to vary the amount of
2 revenue you want from each month, because of the
3 usage variations in the winter, you can't expect
4 to get the same revenue in a summer month that
5 you would in a winter month?

6 A (Bonner) Yes. And sometimes they vary by five,
7 six, seven, eight to one, in terms of the overall
8 price.

9 Q And, so, the variation in RPCs is tied to
10 whatever mechanisms the Company uses to normalize
11 or to look at weather variations in its billing?

12 A (Bonner) Yes. But weather variations is to
13 calibrate that sensitivity to a specific time
14 period. The weather variation is there whether
15 you use normal weather or you use actual weather.
16 It's just the degree that varies.

17 Q So, this all started with Mr. Therrien saying
18 "You start with a target revenue, which is
19 revenue per customer, times the number of
20 customers." Where do we find the actual RPCs
21 that we are using in a particular year?

22 A (Bonner) The raw sources, the Company's raw
23 billing data.

24 Q But somewhere there's a number that you pull from

[WITNESSES: Culbertson|Bonner|Therrien]

1 to do the RDAF calculation of RPCs?

2 A (Bonner) It comes from the standard Company
3 revenue reports, and then it's adjusted for
4 things that aren't being covered by the RPCs,
5 such as the MEP premium, and also to adjust the
6 numbers for the Low-Income Discount.

7 Q And do the Commission -- Tyler, you want to say
8 something?

9 A (Culbertson) Yes. So, whenever we have a step
10 adjustment, the revenue requirement is going to
11 change. And, as such, we will file the revenue
12 per customer reports. And those have the
13 adjusted revenue by class, as well as the revised
14 revenue per customer.

15 Q And those are part of compliance filings that
16 follow a Commission approval of something like a
17 step adjustment?

18 A (Culbertson) Yes.

19 A (Bonner) Any base rate change.

20 Q So, we talked about the calculation of the RPC
21 and where we can find them. Are the RPCs for
22 Year 4 in this filing? And it may be in the
23 original filing we made last fall. Is that where
24 it would be?

[WITNESSES: Culbertson|Bonner|Therrien]

1 Or is that not something that we
2 included in the filing itself? Going back to
3 Commissioner Simpson's question.

4 A (Culbertson) I don't believe these are included
5 with the RDAF filing.

6 Q They are on file, if you will, as you mentioned
7 in a different context?

8 A (Culbertson) Yes.

9 Q But the Company would draw from the same data,
10 they would be using the RPCs that were approved
11 as part of the most recent base rate change?

12 A (Culbertson) Yes.

13 Q So, back to you, Mr. Therrien. So, we have -- an
14 RPC has been developed. We have a number of
15 customers that have been counted. Is that how we
16 get to the allowed revenue for purposes of your
17 oral one-pager? Multiply RPC times number of
18 customers?

19 A (Therrien) Allowed RPC, times the allowed number
20 of customers from the rate case, yes.

21 Q Okay.

22 A (Therrien) That multiplication gives you the
23 target revenue for that month for that class.

24 Q And here is a point of distinction between the

[WITNESSES: Culbertson|Bonner|Therrien]

1 decoupling mechanism we have and a decoupling
2 mechanism hinted at in or referenced in DOE's
3 testimony, a total company mechanism. Can you
4 explain the difference?

5 A (Therrien) Certainly. A total company decoupling
6 mechanism is a very simple mechanism. It says
7 "This is your annual revenue requirement." And,
8 then, whatever your actual revenues are, the
9 difference between the two is your decoupling
10 adjustment.

11 A revenue per customer decoupling
12 construct is typically in place for gas
13 companies. And they do that because of growth or
14 expected customer growth. An electric system a
15 lot of times is not growing very much, and the
16 revenues are fairly stable in a service territory
17 year over year. That's not the case with gas
18 companies. So, there is a valid reason to change
19 the construct of decoupling to a revenue per
20 customer construct, so that, when you add new
21 customers, the Company retains revenues from
22 those new customers, which is needed to cover the
23 investment that they made to connect those new
24 customers to the system.

[WITNESSES: Culbertson|Bonner|Therrien]

1 So, that's why you have, in the
2 industry, essentially two different types of
3 decoupling mechanisms; one being "total company"
4 and one being "revenue per customer".

5 Q And a very simple example, if we had ten
6 customers, whose RPC was \$10 dollars each, we
7 would -- our target revenue would be \$100. But,
8 under an RPC, if we add the eleventh customer,
9 whose RPC is \$10, our allowed revenue would be
10 \$110?

11 A (Therrien) That is correct.

12 Q Obviously, it's way more complicated than that,
13 but that's the concept of allowing the growth to
14 be reflected in revenues?

15 A (Therrien) That is right.

16 Q Okay. So, to Mr. Bonner and Mr. Culbertson, we
17 have, in this case, a calculation of our target
18 revenue for purposes of Year 4. Is there any
19 concern of the Company's of the validity of those
20 numbers, that we have the correct total RPCs and
21 all its components presented in this case?

22 A (Bonner) No.

23 Q And where would we find it in the filing? Again,
24 Tyler -- Mr. Culbertson, I'm trying not to put

[WITNESSES: Culbertson|Bonner|Therrien]

1 you on the spot too much, but is there a place in
2 the filing where we take the RPCs, and multiply
3 the customer count, and come up with that total
4 number in some fashion?

5 And why don't I, if you don't have it
6 right away, I can go to other questions, if you
7 want to look?

8 A (Culbertson) Yes.

9 Q Sure.

10 A (Culbertson) Let's go to the next question.

11 Q So, back to you, Mr. Therrien. So, we have the
12 allowed revenue by customer, and we add it all
13 up, that's the total dollars that the Company is
14 trying to collect over the year -- or, is
15 authorized to collect over the year. What do we
16 do with actuals? We have to compare it to actual
17 revenues. Do you have any description of that?
18 Or, maybe that's Mr. Bonner, is how we find what
19 the actual revenue is for a decoupling year? I'm
20 not sure which of the two --

21 A (Therrien) Well, I'll defer to Mr. Bonner,
22 because, again, that comes from the Company's
23 records, the billing systems.

24 Q So, from your level, Mr. Therrien, conceptually,

[WITNESSES: Culbertson|Bonner|Therrien]

1 you just have to calculate the actual revenue,
2 and then you turn it over to the Company to
3 figure out the best way to do that?

4 A (Therrien) Well, you have to calculate -- that's
5 essentially correct, yes.

6 Q So, Mr. Bonner, how do we calculate actual
7 revenue? First question is, do we use a
8 calculation of actual revenue in more than one
9 context within the Company? Or is this a
10 decoupling-specific exercise that you're about to
11 describe?

12 A (Bonner) The definition of "actual revenues", at
13 least as that term is used, is the same, but it
14 has to be adjusted to make it fit the decoupling
15 adjustment.

16 Q And, putting that adjustment aside, what other
17 uses would the Company make of its calculation of
18 actual revenue?

19 A (Bonner) Well, that becomes the -- it's reported
20 from the billing system. And, then, it's used
21 for things like unbilled revenue calculations,
22 it's for booking the actual revenues in the month
23 in the accounting fashion, which is different
24 from the way they are recorded in the billing

[WITNESSES: Culbertson|Bonner|Therrien]

1 system.

2 Q So, we have a process for calculating the actual
3 revenue. Again, I think I --

4 A (Bonner) "Measuring actual revenue" would be a
5 better point.

6 Q Okay.

7 A (Bonner) You're basically adding up the bills
8 that were rendered and posted in a given month,
9 calendar month.

10 Q So, we'll get there in a second. This morning, I
11 think I mentioned a couple times that part of
12 today's case over the RDAF is
13 decoupling-specific, that it relies on some
14 functions the Company carries out that are used
15 for other purposes, and this is one of them?

16 A (Bonner) Yes.

17 Q And, going back to the customer count process, do
18 we use that process for other purposes than
19 decoupling?

20 A (Bonner) Yes.

21 Q And what other purposes do we use that process of
22 customer count?

23 A (Bonner) Well, other than just pure statistics,
24 the equivalent bills are also used in the

[WITNESSES: Culbertson|Bonner|Therrien]

1 calculation of various other types of accounting
2 entries. The biggest one would be the unbilled
3 revenue calculation.

4 Q And this equivalent bills process, which is a
5 customer count process, has that been around with
6 Liberty for awhile?

7 A (Bonner) Yes. Since 2002.

8 Q Okay. And, so, I was going to have you explain
9 how we calculate actual revenues. The process
10 you're about to explain, how long has that been
11 around with the Company?

12 A (Bonner) Well, the basic process has been around
13 probably for well before I even got into the
14 business.

15 Q Okay.

16 A (Bonner) So, the basic mechanics of billing
17 utility customers from meter readings, under a
18 tariff schedule, with customer or minimum charges
19 and volumetric charges, has been a tradition
20 since probably around the turn of the Twentieth
21 Century.

22 Q So, we're in the process of calculating our RDAF
23 for Year 4, and somebody says "we need to know
24 what the actual revenue was for Year 4 to plug

[WITNESSES: Culbertson|Bonner|Therrien]

1 into the one-page formula." How do we do that?

2 A (Bonner) Okay. So, let me just step back a
3 little bit, just so we are on the right
4 timeframe.

5 One of the things that changed between
6 the original calculation for the reconciliation,
7 the one we're doing now, and I'm going to just
8 use kind of a broad term, is the first one was a
9 ratemaking calculation, which is sort of along
10 the lines that you're describing to me. So, I'm
11 going to go through that first, and then I'm
12 going to tell you what we're doing today, because
13 this is where I think most of the source of the
14 concern is, because it's harder to see things.

15 In a ratemaking calculation, we just
16 talked about how we developed the RPCs
17 originally. What we did in the first
18 reconciliations, because the numbers that come in
19 from the billing system are not -- are a mixture
20 of many different time periods, you now need to
21 recast them in two forms, in order to get them to
22 match up with how the RPCs were originally set.

23 The RPCs were originally set on what
24 they're referred to as "weather-normalized

[WITNESSES: Culbertson|Bonner|Therrien]

1 calendar month billing units", and there's two
2 parts of that. The first part of it is, and the
3 reason you have to calendarize is really to do
4 the second part, the weather-normalization, which
5 depends on temperatures measured over a given
6 fixed period of time.

7 So, the first part is, we now have to
8 calendarize the -- basically, the information
9 coming into the system, the number of bills, and
10 especially with the volumetric things, that's
11 where the weather-normalization takes place, the
12 consumption values. And, for that, you have to
13 understand how the bills work.

14 Now, under normal billing
15 circumstances, a utility has 20 to 21 what they
16 call "refer billing cycles". So, they spread out
17 the meter readings over the 20 to 21 working days
18 of a month, and do that every month. And you
19 will find that either you're read toward the
20 beginning, the middle, or end of the month.

21 So, when we talk about somebody in the
22 ordinary sense, somebody is going to call up
23 complaining about their bill, for example, it was
24 high in January. The January bill they received

[WITNESSES: Culbertson|Bonner|Therrien]

1 is actually a blend of events that took place in
2 December and January. We'll make this, the
3 illustration, simple, say, the last meter reading
4 was on December 15th, and we got a new meter
5 reading on January 15th. That would be a billing
6 period of 31 days. So, you would have 31 divided
7 by 30, equivalent bills, but only 15 of those
8 days belong to January. So, you would have to
9 drop off the December fraction, you would have to
10 retain the January fraction. You don't know
11 about the remaining portion of the January
12 fraction until you actually do February, in which
13 case you will get most of the February numbers,
14 and you'll be able to pull in the piece of the
15 February bill that relates to January. And you
16 have to do this really by, essentially, each
17 different set of time periods at a minimum that's
18 in the data.

19 And I mentioned there's only 20 or 21
20 major ones. Due to all kinds of other practical
21 issues with billing systems, such as
22 cancel/rebills, write-offs, and the like, we
23 actually have, on average, about 1,200 different
24 time periods that are actually in the data. So,

[WITNESSES: Culbertson|Bonner|Therrien]

1 the calculations become more involved, but the
2 concept is pretty much the same. So, you don't
3 really know, in order to use calendar month
4 information in any given time period, until the
5 end of the time period you're looking for has
6 elapsed, and then for some periods thereafter.
7 Usually, a minimum of one to two months, but
8 better to throw in just a couple of extras just
9 for safe keeping. This is what leads eventually
10 to the true-up process we're going to be talking
11 about later.

12 So, the first part is to get everything
13 time-aligned, so that way we've got -- basically,
14 we're measuring January revenues against January
15 revenues. Before decoupling existed, the
16 accounting process kind of did this
17 automatically. In accounting, you take your
18 actual revenue numbers, and you make a big
19 adjustment with what they call "unbilled
20 revenue", which now, basically, time-aligns the
21 accounting numbers, the raw billing numbers, so
22 that they now match the right time period. And
23 you drop off --

24 Q Excuse me, let me just stop you there, just to be

[WITNESSES: Culbertson|Bonner|Therrien]

1 clear. So, the unbilled number is an estimate by
2 the Company to fill out a 30-day period?

3 A (Bonner) Right. In an accounting process, you
4 have to make the decision at the turn of the
5 month, you can't wait to close the books by two,
6 three, or four months. So, you have to -- and
7 that's why we get into all the estimates and all
8 this calculation. The estimates arrive from the
9 fact that we have a business purpose that we have
10 to close the books on a month-by-month basis, and
11 we have to do financial reporting on a quarterly
12 and annual basis. So, everything has to be done.

13 This is the big key. Once you get into
14 using the accounting method as the way to
15 reconcile RDAF, you start getting into a lot more
16 details that wouldn't be present in a ratemaking
17 method. And that gives rise to a lot of the
18 concerns, and justly so. I do understand the
19 point of view of Mr. Deen *[sic]*.

20 So, we have the estimates. And, so, we
21 come up with an original projection for a given
22 period of time, and we say "That's the January
23 numbers." And we'll come up with an adjusted
24 number, and that takes out the MEP premium, adds

[WITNESSES: Culbertson|Bonner|Therrien]

1 back the Low-Income adjustment, put -- factors in
2 the unbilled revenue computations, and we will
3 call that the "actual revenue", because that's
4 actually what the Company posts on its books as a
5 revenue.

6 Q And, again, not to sound too simple, but so I
7 understand, is you're now at the end of January?

8 A (Bonner) Uh-huh.

9 Q You've only billed 15 days on this hypothetical
10 bill?

11 A (Bonner) Uh-huh.

12 Q You need to bill -- you need to figure in the
13 next 15 days, and that's the estimate?

14 A (Bonner) That's the estimate. And you have to
15 estimate on both sides. You have to estimate on
16 the actual side, and you also have to do the same
17 estimate on the equivalent bill side. Remember,
18 we've now dropped off that bill that had 31 days,
19 16/30ths of it, and said "that's gone." But that
20 customer is still there, I need to add in now the
21 remaining days, which, in this particular case,
22 turns out to be exactly the same thing, the
23 remaining 16 days in the month of January. But
24 it isn't always the same. Things like February,

[WITNESSES: Culbertson|Bonner|Therrien]

1 of course, you end up with short days, and you'll
2 see it in the equivalent bill data.

3 The volatility you see in the customer
4 counts is caused, in part, by the fact you have
5 31 days, 30 days, 28 days. And you will see, in
6 every year, there's a little note that, almost
7 like a heart beat, every February you see
8 equivalent bill goes down, because it's now
9 aligned, on a calendar month basis, for only 28
10 days.

11 Q So, I interrupted you on the -- we were talking
12 about the actual revenues, and you get to the
13 month-end, you only have -- you only billed for
14 sure half of the month, and you've got to
15 estimate --

16 A (Bonner) Less than half of the month.

17 Q -- you have to estimate the rest. How does the
18 process go from there?

19 A (Bonner) Okay. So, you do the same thing on the
20 allowed. So, you have to -- so, we get
21 everything on. So, we have to estimate the
22 remaining equivalent bills for the allowed. That
23 will -- multiplied times the RPCs will give you
24 now the allowed revenue. Subtract it from the

[WITNESSES: Culbertson|Bonner|Therrien]

1 actual revenue, as adjusted by the unbilled
2 adjustments and the exclusions, and you will now
3 have the monthly decoupling revenue adjustment
4 that gets posted for that month.

5 Q And those numbers are in the filing we have?

6 A (Bonner) They're in the work papers of the
7 filing, I think. And the filing contains less
8 information, because of the transformation of the
9 method from what was the original ratemaking
10 method to an accounting method. It was
11 contemplated, at the end of Docket 20-105, that
12 the decoupling adjustment filing would be nothing
13 more than an audit task. Can you match up the
14 numbers, from the Commission's point of view,
15 against the numbers that are on the Company's
16 books, and did we do the mathematics correctly,
17 or, somewhere in the long chain of accounting
18 transaction, did we make a mistake?

19 Q So, finish -- finish the thought on how we
20 calculate the actual revenues? You talked about
21 the actuals and the estimate. Does that process
22 continue after that first process?

23 A (Bonner) Yes.

24 Q And how does that happen?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) Okay. So, we only have a part of the
2 month, in fact, we only have a small fraction of
3 it. Typically, much less than half in any month
4 is -- actually shows up in the current month, and
5 that has to do with the way the meter reading
6 cycles are set. So, it's more like two-thirds
7 are hanging out, and one-third is what we know
8 about.

9 In the following month, we're going to
10 get remaining information. This is what starts
11 the true-up process. So, most of that remaining
12 two-thirds is going to show up in the following
13 month, the month of the February, in this
14 instance. So, we make an adjustment on the
15 allowed side. That's the first true-up.

16 Q So, again, I'm sorry, but to slow this down.

17 A (Bonner) Yes.

18 Q So, you're now at the end of February. You look
19 back --

20 A (Bonner) And I'm looking back to January now.

21 Q So, you're looking back. You had the actuals for
22 the first -- for the end of January, --

23 A (Bonner) Uh-huh.

24 Q -- and now you've got a lot more information on

[WITNESSES: Culbertson|Bonner|Therrien]

1 the first fifteen days of February, because it's
2 now two weeks in the past?

3 A (Bonner) That's correct.

4 Q And, so, now you can refine what was -- what were
5 those estimates?

6 A (Bonner) Right. And that's the next part.
7 There's two parts to the true-up. One of which
8 has to be done externally, and that's the part
9 that's done with the allowed revenues. The
10 true-up that takes place in the actuals happens
11 automatically, because remember what we were just
12 talking about before. We get into the month of
13 February, the fifteen days that was hanging out
14 in January was actually billed in February, and
15 that whole value comes in in the numbers. And,
16 so, it picks up and corrects for the unbilled
17 revenue estimate that was originally applied in
18 the month of January.

19 Q So, in the lingo we use here at the Commission,
20 you now have "actuals" for the whole time?

21 A (Bonner) I have most of them.

22 Q Okay.

23 A (Bonner) I have about 98 percent, on average. I
24 still have about another 2 percent hanging out

[WITNESSES: Culbertson|Bonner|Therrien]

1 that, for whatever reason, are delayed. Usually,
2 due to some sort of meter reading error or
3 something that didn't look right. So, they've
4 held the bill for awhile pending manual
5 resolution, and it sometimes takes more than a
6 month to just resolve things. But the pattern is
7 kind of consistent.

8 Q And, so, this monthly look-back, as you say, the
9 first time, it -- well, the first time you make
10 the estimate, and the second time you've picked
11 up 98 percent of the actual billed revenue.

12 A (Bonner) Uh-huh.

13 Q And how do you pick up that last 2 percent?

14 A (Bonner) That shows up in the following month,
15 and in the following month after that. It's the
16 reason why they carried out the true-up process
17 through four.

18 In the case of the actuals, there is no
19 limit. It goes on forever. From an
20 administrative point of view, the Accounting
21 Department wanted to cut it off after four
22 months, because you have to go back, the
23 accountant had to go back, and go "Okay, well,
24 now I got to do the current month, and I got to

[WITNESSES: Culbertson|Bonner|Therrien]

1 do the month before that, and I got to true up
2 the month before that, and I got to true up the
3 month before that", and you get the idea. The
4 amount of effort for the dollars was just simply
5 not worth it.

6 Q So, to recap that. Even though we stop after
7 four months, there always may be that one or two
8 bills out there that take eight months to
9 resolve?

10 A (Bonner) Certainly. In the case of, say,
11 January '92 -- sorry, 2000, I'm in the wrong --
12 wrong century there. For 2022, the oldest bill
13 goes all the way back to October 2019. And I
14 looked, because that's -- that one I found was a
15 little strange, and I went and I found out why.
16 It turns out, this was a customer whom they had
17 to write off more than an entire year's worth of
18 consumption. So, they had to go back and correct
19 everything in the records to take that out of the
20 revenues.

21 Q So, when there's a reference to the "true-up
22 process", it is that four-month process that the
23 Company keeps looking back to get as good a
24 numbers as it can for the actual revenues?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) Right. The true-up process is not a
2 separate process. It is part of the main
3 process, because you only have imperfect
4 information in the month you do the accounting
5 entry. If we, again, did this on a ratemaking
6 basis, say, months after the month is closed, you
7 would actually have better numbers, and that's
8 how we did it on a ratemaking basis. I didn't
9 have to do all of this, because I could get the
10 calendar values, because I had all -- it's sort
11 of like running an election, all the returns are
12 in. Once you have all of the votes, you can then
13 do a proper count.

14 Q I had a question that just went out.

15 So, how does this true-up process play
16 back into the decoupling calculation? So, we
17 talked first about "targets", and now we're
18 talking about "actuals".

19 A (Bonner) Right. So, the actuals come in as they
20 come in, and they're automatically recorded in
21 the accounting entries. The "allowed" piece is
22 not automatically recorded in the entries, so you
23 have to manually add it.

24 So, we now know that we got those

[WITNESSES: Culbertson|Bonner|Therrien]

1 two-thirds of the bills for January. Those are
2 now multiplied by the January RPCs, to come up
3 with the adjustment now for January. And
4 compared that against the original estimate, and
5 it's the delta that shows up as the entry. And,
6 then, we do the same thing in the month of
7 February. We take the January numbers -- I'm
8 sorry, the month of March, we take the January
9 numbers that came in during the billing month of
10 March, apply those against the January RPCs,
11 compare that, we add it to the previous
12 adjustment that we did for the true-up, which was
13 the major piece, compared that against the
14 original estimate, and then post the difference.

15 Q So, it's a process of slowly refining the actuals
16 to what is a really good actual number over those
17 four months?

18 A (Bonner) Yes.

19 Q And, so, that's why, when we have these filings
20 in the fall, now the new schedule will help, is
21 the decoupling calculations had a bunch of
22 estimates, because that process hadn't played out
23 all the way to the end of the decoupling year by
24 the time we're at hearing?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) Yes, I believe so.

2 Q Okay. The question I forgot about is, is there a
3 bias built into the estimating process the
4 Company uses at the end of the month to calculate
5 what the unbilled revenues are?

6 A (Bonner) Not "unbilled revenues", the unbilled
7 estimated number of equivalent bills is actually
8 biased low.

9 Q So, we're back to customer count, equivalent
10 bills?

11 A (Bonner) Customer count.

12 Q So, this process you go to with the count -- with
13 the 30 days that you described, we intentionally
14 estimate low, is that what you say?

15 A (Bonner) We did. Because, first of all, when we
16 were experimenting with the process, it was the
17 beginning, so, let's only count customers whose
18 bills were actually issued. There can be
19 customers who never received a bill in a month,
20 for whatever reason, they skipped the entire
21 month, and were read the following month on a
22 two-month basis. If that's the case, then they
23 weren't counted in the estimate.

24 If a customer finals in the month, then

[WITNESSES: Culbertson|Bonner|Therrien]

1 there aren't going to be -- there's not going to
2 be a remaining fraction, going back to our
3 illustration. Had the customer terminated
4 service on the 15th of January, well, there can't
5 be any bill for that customer, or any equivalent
6 bills attributable to that customer for the last
7 16 days of the month. So, I don't predict who's
8 going to, in a given location, replace that
9 customer. That may occur the next day, or it may
10 occur months later. So, we just simply don't.

11 So, more, the -- the estimate was
12 designed to be conservative, so that we'd be
13 adding pieces over time. Again, the
14 visualization of the process wasn't the
15 accounting numbers to be the basis of the
16 regulatory filing. The accounting process was to
17 be sure that the Company's books, in terms of
18 financial reporting to external investors, are
19 correct.

20 If you run out an entire period of
21 time, you end up in the same place. So, for
22 example, say we had decided over a period of
23 time, "Okay, our estimate is now, typically, five
24 percent low. So, he throw in another five

[WITNESSES: Culbertson|Bonner|Therrien]

1 percent on top of the numbers." That would have
2 made the first set of numbers larger for the
3 initial January estimate. But, when you got to
4 the end of the day, with all the various
5 true-ups, the same actual total will reemerge,
6 and all the difference is is how big the true-up
7 values are.

8 Q And, by estimating low initially, you avoid
9 problems -- carry that out. If the low estimate
10 turns out to be true, our allowed revenue would
11 be less?

12 A (Bonner) Yes.

13 Q And, so, we run the risk of over-recovering if
14 we --

15 A (Bonner) "Overstating" might be a better word.

16 Q Yes.

17 A (Bonner) "Over-recovery" may or may not happen,
18 depending how everything works out.

19 Q Sure. So, the under-estimating the customer
20 counts is a way to keep us on the -- on one side
21 of the calculation, and erring on the side of
22 being more conservative?

23 A (Bonner) Yes.

24 Q And, as you say, over time, you get to the same

[WITNESSES: Culbertson|Bonner|Therrien]

1 point of what the actual is, by inching up the
2 estimate as you get the actuals in?

3 A (Bonner) Correct.

4 Q As opposed to the opposite?

5 A (Bonner) As opposed to relying continually on the
6 estimate. The idea was to get to, it's an
7 overused term, "true value".

8 Q So, we've talked about "target", the "RPCs", how
9 they're done monthly, and they're added up. And,
10 now, we've talked about the "actuals", how that
11 happens over the months.

12 And, then, Mr. Therrien, is it then
13 simply a math problem? You compare the targets
14 from the actuals?

15 A (Therrien) At that point, yes.

16 Q And the delta is what's recovered from or
17 returned to customers, depending on what it is?

18 A (Therrien) Yes. And I have looked at the filing
19 that was made, and that's the monthly adjustment
20 numbers that you see every month. So, there's no
21 further level of detail, at least in my opinion,
22 necessary for a regulatory filing, because that
23 simple math is a function of a well-designed,
24 learned-out billing system, that you don't need

[WITNESSES: Culbertson|Bonner|Therrien]

1 to see all of that detail in a regulatory filing.

2 And it would be more appropriate, if
3 there was some concern about the accuracy of that
4 process, to do that in an audit.

5 Q And, as you've been following this docket, at
6 more of a distance than the rest of us, it's
7 clear that the DOE wasn't quite comfortable with
8 that well-designed process you talk about. So,
9 they're diving in and taking a look to make sure
10 it is a well-designed, well-operating process, is
11 that fair?

12 A (Therrien) That's my understanding. Correct.

13 Q Okay. Last, historically, we've now had four
14 completed RDAF years. And we just filed the
15 fifth. So, I guess we're finishing up Year 5.

16 Mr. Therrien, I think you had some of
17 the numbers, just to show how these things change
18 over the years. My recollection is, Year 1 was a
19 \$7 million return to customers, which included
20 the \$2 million that were still at issue,
21 regarding the tariff and the low-income, is that
22 correct? Or, if anyone else has that info?

23 A (Therrien) I have that. I'll just read off the
24 numbers.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Year 1 was a 7 -- and I will round it
2 for purposes of this discussion. Year 1 was a \$7
3 million return to customers; Year 2 was a \$5
4 million return to customers; Year 3 was a two and
5 a half million dollar recovery from customers;
6 Year 4, which is this docket, is \$2.8 million
7 recovery from customers; and then, what was just
8 filed, according to this document, says "\$5.4
9 million to be recovered from customers."

10 And, so, the amount of money does swing
11 year-to-year in both directions.

12 Q And I can anticipate a question from a lot of
13 people "Why?" Any thoughts on that, Mr. Bonner?
14 Why would we have, from 7 million one way, again
15 putting aside the dispute over the two, to 5
16 million -- at least a \$10 million swing in a
17 couple of years?

18 A (Bonner) I'll try it a different way. We don't
19 know the answer to that one yet.

20 But I will go back to the original
21 expectation, which is why this whole issue has
22 been more controversial than it otherwise might
23 have been had the numbers been smaller. During
24 the original proceeding, clearly, the largest

[WITNESSES: Culbertson|Bonner|Therrien]

1 single factor that affects gas company customer
2 consumption is the weather, because it's used
3 mostly for space heating purposes. Colder
4 winter, more gas usage; warmer winter, less gas
5 usage.

6 Weather-normalization, the real-time
7 weather-normalization adjustment, was expected to
8 correct for the lion share of the decoupling
9 revenue, and also to prevent, because this was
10 the novel feature, the real-time
11 weather-normalization that was instituted, to
12 prevent the following situation from occurring:
13 That you would have a cold year -- sorry, a warm
14 year, followed by a cold year, resulting that a
15 recovery by the Company of revenues it should
16 have received in the warm year, followed by
17 increased revenues that naturally occur from the
18 cold winter. It's sort of like a double-whammy
19 effect, for lack of a better term. The real-time
20 weather-normalization, or basically
21 contemporaneous with each bill, weather-normal --
22 weather-normalization adjustment corrects for
23 that.

24 So, the people were simply thinking the

[WITNESSES: Culbertson|Bonner|Therrien]

1 remaining external factors that aren't being
2 accounted for, like conservation and customer
3 behavioral changes, were going to be small. And
4 all the experts, myself, Mr. Therrien, the OCA's
5 expert witness, Dr. Johnson, all believed that to
6 be true. For whatever reason, it has not proven
7 to be true in a single year. Every single
8 revenue decoupling annual adjustment has been
9 large, whether it has gone very much in the favor
10 of customers, like the first two years, or, in
11 recent years, in favor of the Company. The
12 external factors clearly must be larger, in
13 magnitude and influence.

14 Now, we can, like we did the first
15 time, speculate, and it is speculation, what
16 those factors might be. But the last few years
17 have had a number of things going on with it.
18 COVID-19, its rebound effects; the sharp increase
19 in commodity prices and general inflation have
20 compounded things, and are probably contributing
21 to all of this. To exactly what degree? That
22 would be a difficult question to answer. But no
23 doubt they do contribute.

24 But the external factors, other than

[WITNESSES: Culbertson|Bonner|Therrien]

1 weather, are bigger than we thought.

2 Q So, we have these swings where we can speculate
3 as to the causes, we don't know. But does that
4 affect the application of the decoupling tariff
5 to the numbers, and what should be in the
6 reconciliation each year?

7 A (Bonner) No.

8 Q We still go through the same process of
9 determining what we are allowed to recover,
10 figuring out how much we did, and dealing with
11 the delta?

12 A (Bonner) Yes. The mechanical application of the
13 adjustment works exactly the same.

14 Q And, so, the bottom line result is the Company is
15 able to recover, and customers only pay the
16 approved amounts as calculated?

17 A (Bonner) Yes.

18 Q We don't get to keep if we collect extra, and we
19 didn't keep the \$7 million, and customers are
20 asked to pay the full amount by the costs that
21 we're addressing here?

22 A (Bonner) Yes.

23 MR. SHEEHAN: Those are all sort of the
24 high-level questions I had.

[WITNESSES: Culbertson|Bonner|Therrien]

1 BY MR. SHEEHAN:

2 Q Tyler, you think -- Mr. Culbertson, you think
3 you're able to point to a couple points in the
4 filing that -- where they can find, for example,
5 I think Mr. Therrien referenced where the monthly
6 decoupling calculations were for a particular
7 year. And, so, basically where do we get to the
8 2.7 million in this docket?

9 MS. SCHWARZER: And, if I might just
10 ask a clarification? In terms of the filing, are
11 we referring to what was marked in the original
12 cost of gas docket or in the Petition, the
13 Supplemental Petition? I'm not clear what we're
14 referring to as "the filing"?

15 MR. SHEEHAN: Fair question. I can
16 represent that the initial filing that proposed a
17 decoupling mechanism a year ago has numbers.
18 They did change during the course of that docket.
19 And the numbers we're asking for are that
20 Exhibit 19 we've pointed to a few times.

21 So, Mr. Culbertson may point to how it
22 was calculated initially in schedules that have
23 since been revised. But at least then you can
24 see, on the regulatory side, we take these

[WITNESSES: Culbertson|Bonner|Therrien]

1 numbers, add and subtract, and have an answer.

2 WITNESS CULBERTSON: Which exhibit?

3 MR. SHEEHAN: Unfortunately, I don't
4 think we marked it, which is a handicap.

5 If I could, could we take a brief
6 break, and tee up that last piece of it, because
7 I know it's of interest to the Commissioners?
8 And I'd like to do it in a more streamlined
9 manner, rather than a little bumbling.

10 CHAIRMAN GOLDNER: Sure. How long do
11 you need?

12 MR. SHEEHAN: Just five or ten minutes.

13 CHAIRMAN GOLDNER: Okay. Let's return
14 at 2:05, to be safe.

15 *[Recess taken at 1:52 p.m., and the*
16 *hearing reconvened at 2:06 p.m.]*

17 CHAIRMAN GOLDNER: All right. We'll go
18 back on the record with Mr. Sheehan.

19 MR. SHEEHAN: Thank you. What we have
20 decided to do is turn to Exhibit 19 again, and
21 have Mr. Culbertson walk through the attachments,
22 which are updated versions of the schedules that
23 support the RDAF number.

24 BY MR. SHEEHAN:

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q So, Mr. Culbertson, let me first ask you that
2 question. If we look at the attachments to
3 Exhibit 19, --

4 MR. SHEEHAN: And, for the Commission's
5 benefit, Mr. Culbertson is on the Excel version,
6 I'm on the *pdf*. So, I'll try to keep us all on
7 the same page.

8 BY MR. SHEEHAN:

9 Q Is it correct to say that these schedules,
10 relating to decoupling, are the schedules that
11 are filed, were filed last fall initially in this
12 docket, and are the usual schedules that we file
13 in support of the decoupling adjustment?

14 A (Culbertson) That is correct.

15 Q Okay. If you first start at the page titled --
16 sort of the summary page, which is Bates 006,
17 which has text on the left, a column of numbers
18 on the right, the first column being \$307,000.
19 Do you see that?

20 A (Culbertson) Yes.

21 Q What is that page?

22 A (Culbertson) So, this page is taking the
23 reconciliation, which we will review shortly,
24 plus the current decoupling year adjustment, to

[WITNESSES: Culbertson|Bonner|Therrien]

1 get a total amount, which is then divided by the
2 therms and gives you your rate.

3 Q And a reconciliation is simply the over-/under of
4 the past approved decoupling adjustments?

5 A (Culbertson) Yes. That's correct. So, the past
6 approved amounts, less the collections, and then
7 a carrying charge is applied.

8 Q And that's the exact same process followed with
9 every reconciling mechanism, is that correct?

10 A (Culbertson) Yes.

11 Q Okay. The next page, Bates Page 007, titled
12 "Reconciliation of Previous Period November
13 2021-October 2022". What's on that page?

14 A (Culbertson) This shows what we had just
15 discussed. So, the prior approved amount, the
16 collections, and the applicable carrying charge.

17 Q And Column (c), "(Over)/Under Ending Balance",
18 that just shows how, over the twelve months
19 listed, we slowly were recovering the approved
20 amount?

21 A (Culbertson) Yes.

22 Q And, at the end, we didn't quite get there. So,
23 there's an under-recovery flowing into the next
24 year?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Culbertson) Yes.

2 Q Divided residential and commercial, okay. Next
3 page, Bates Page 008, titled "Revenue Decoupling
4 Activity Factor" -- "Sector", what is this?

5 A (Culbertson) So, this summarizes what Jim had
6 just walked us through. For each month, we have
7 the monthly revenue difference, and that's shown
8 on Line 4, plus the true-up on Line 5. And,
9 then, that gets us to, with the carrying charge,
10 the ending balance, which then, once approved,
11 will flow through to the reconciliation in the
12 prior year.

13 Q And the next pages are unrelated. Yes. Okay.
14 So, can you point us to, again, the table in
15 Mr. Holden's tech statement had the final number,
16 can you point to where those numbers are here, in
17 these schedules, (a) the amounts,
18 "under-collection" for lack of a better word, of
19 the decoupling year, plus the over-/under balance
20 from the prior year equals the ask in this case?

21 A (Culbertson) Yes. The initial summary page --

22 MS. SCHWARZER: Could you tell me the
23 Bates number, because I want to make sure I'm
24 looking at the right page.

[WITNESSES: Culbertson|Bonner|Therrien]

1 WITNESS CULBERTSON: That was 6.

2 BY MR. SHEEHAN:

3 Q Let me confirm, that is, yes, 6.

4 A (Culbertson) So, on Line 3, we have the 2.8
5 million.

6 Q Which is?

7 A (Culbertson) On -- that is the "Residential
8 Revenue Decoupling Deficiency".

9 Q So, that's the Year 4 shortage for residential?

10 A (Culbertson) That includes the Year 4., plus the
11 reconciliation piece.

12 Q Okay.

13 A (Culbertson) And, then, down on Line 8, the
14 653,000 is the other piece shown on that table.

15 Q And the reconciliation -- the current year
16 reconciliation and the prior over-/under are the
17 two numbers immediately above what you just
18 pointed us to?

19 A (Culbertson) Yes.

20 Q Okay. And all the numbers we just looked at are
21 pulled from various portions of our company, if
22 you will, our systems, and is much of the
23 description -- much of the numbers that Mr.
24 Bonner was describing earlier, is that correct?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Culbertson) Yes.

2 Q Mr. Therrien, we had a short chat during the
3 break, and I think I'll take you up on your
4 offer.

5 MR. SHEEHAN: Mr. Therrien asked me
6 "Should I offer some suggestions for how we can
7 make this better?" And it's going to be more
8 work for us, but I'm happy to have him offer what
9 we may be able to do to help the Commission and
10 the DOE in future filings. So, --

11 MS. SCHWARZER: And I would object.
12 Excuse me, could I have a moment?

13 CHAIRMAN GOLDNER: Sure. Of course.
14 *[Atty. Schwarzer and Atty. Dexter*
15 *conferring.]*

16 MS. SCHWARZER: I'll withdraw the
17 objection.

18 CHAIRMAN GOLDNER: Thank you. Please
19 proceed.

20 BY MR. SHEEHAN:

21 Q Go ahead.

22 A (Therrien) Thank you. I would have some minor
23 suggestions for this filing.

24 In my view, some simple changes to

[WITNESSES: Culbertson|Bonner|Therrien]

1 Schedule 4, Page 3 of 3 and Page 2 of 3. It
2 would be helpful, I think, for the reviewer to
3 have an annual total column. I also think
4 that --

5 MS. SCHWARZER: I apologize. I'm just
6 having trouble tracking the pages. Is it Page 2
7 of -- is it Bates Page 007, Page 2 of 3?

8 MR. SHEEHAN: Seven is "2 of 3".

9 BY MR. SHEEHAN:

10 Q Is that what you're referring to, Page 2 of 3?

11 A (Therrien) Unfortunately, I'm looking at the
12 original filing, because the numbers are
13 different, but the schedules are the same.

14 Q Okay. So, Schedule 4, Page 2 of 3, is that what
15 you were referring to?

16 A (Therrien) Yes.

17 Q Okay. That's Bates Page 007.

18 A (Therrien) So, I would add a "Totals" column for
19 those values that are not balances. So, for
20 instance, that would give you a summation of the
21 monthly billing activity that we've been talking
22 about, the revenue differences. So, I think it's
23 important to see, "okay, we see monthly changes,
24 sometimes positive, sometimes negative, but

[WITNESSES: Culbertson|Bonner|Therrien]

1 what's that total for a year?"

2 I would replicate what's shown for the
3 "Residential" grid and the "Commercial &
4 Industrial" grid, I would just have a "Total"
5 grid, that way you could see that.

6 And I think, more importantly, the --
7 I'm on Page 3 of 3 of Schedule 4, in the
8 "Residential" section, Line 4, "Monthly revenue
9 difference increase/(decrease) revenue", to the
10 extent that more detail can be provided to the
11 parties to see how that number was calculated,
12 which is essentially that *A minus B* math we've
13 been talking about, that may also be instructive
14 for people.

15 Q Meaning the "monthly allowed" versus "actual"?

16 A (Therrien) Correct.

17 Q So, you would see the allowed, you would see the
18 actual, and then you would see whatever the
19 actual -- the number that's in there?

20 A (Therrien) That's correct.

21 Q Okay.

22 A (Therrien) I think that could be instructive.

23 MS. SCHWARZER: And just, so I can be
24 sure I'm following, is that more detail on

[WITNESSES: Culbertson|Bonner|Therrien]

1 Line 4?

2 WITNESS THERRIEN: It's essentially
3 more detail that would tie to Line 4.

4 MS. SCHWARZER: Okay.

5 WITNESS THERRIEN: Yes.

6 **BY THE WITNESS:**

7 A (Therrien) And, in fact, you could show the
8 amount of equivalent bills. You could show some
9 level of detail, which I would defer to the
10 Company as to what, you know, an appropriate
11 level of detail is. But, I think, as myself, as
12 a reviewer, I would probably like to see more
13 detail behind that line.

14 And, then, lastly, I don't believe that
15 more detail -- it may be impractical to provide
16 more detail for Line 5, the true-up. Based on
17 Mr. Bonner's extensive testimony, that's a lot of
18 system-generated numbers. But, if there is some
19 next-level, easy-to-understand detail that could
20 be provided, that may also be helpful.

21 BY MR. SHEEHAN:

22 Q Thank you. Those are suggestions for the file.
23 Of course, Mr. Culbertson, when we make these
24 filings, we get questions for what's beneath the

[WITNESSES: Culbertson|Bonner|Therrien]

1 numbers, and that's part of the discovery
2 process, and we're happy to provide what's
3 requested. Is that fair?

4 A (Culbertson) Yes.

5 MR. SHEEHAN: Those are all the
6 questions I have. Thank you.

7 CHAIRMAN GOLDNER: Thank you. We'll
8 move to cross, with the Department of Energy.

9 MS. SCHWARZER: Thank you.

10 I wanted to start to make sure I
11 understand the testimony as you each presented
12 it.

13 **CROSS-EXAMINATION**

14 BY MS. SCHWARZER:

15 Q So, with regard to the current exhibit that we're
16 in, Exhibit 19, and Bates Page 007 -- excuse me,
17 Bates Page 006, --

18 MR. SHEEHAN: Ms. Schwarzer, just so
19 you know, as mentioned, he's on an Excel. So,
20 I'm just going to chime in with the title, --

21 MS. SCHWARZER: Sure.

22 MR. SHEEHAN: -- so that he's on the
23 same page.

24 MS. SCHWARZER: Sure. Or, if it's

[WITNESSES: Culbertson|Bonner|Therrien]

1 helpful, I can give the title?

2 MR. SHEEHAN: That would be great.

3 BY MS. SCHWARZER:

4 Q So, Exhibit 19, Bates Page 006, the title is
5 "Revenue Decoupling Adjustment Factor", there are
6 two headings in the upper right-hand corner,
7 Schedule 4 says "RDAF-Revised 12/08/2022". So,
8 we're on that page.

9 And just Line 1 is the leftover
10 collection for Decoupling Year 3 that was not
11 collected, is that correct?

12 A (Culbertson) Yes.

13 Q And, then, right below that is the ask for
14 Decoupling Year 4 for Residential?

15 A (Culbertson) Yes.

16 Q And, then, in the "Commercial" column, Line 6, is
17 Decoupling Year 3 leftover not collected?

18 A (Culbertson) Yes.

19 Q And Line 7 is Decoupling Year 4, what you're
20 asking for for Commercial?

21 A (Culbertson) Yes.

22 Q Okay. And, if we go then to the next, Bates
23 Page 007, titled "Reconciliation of Previous
24 Period November 2021 to October 2022", are you

[WITNESSES: Culbertson|Bonner|Therrien]

1 there?

2 A *[Witness Culbertson indicating in the*
3 *affirmative].*

4 Q Okay. Great. Schedule 4, it says
5 "RDAF-Revised". We don't know the date it was
6 revised, correct?

7 A (Culbertson) Do not know the exact date. My
8 understanding is that this does include actuals.

9 Q Okay. What I wanted to clarify is that it
10 appears that, based on the table, looking at
11 Line 4, which lists 1.1 million for Residential
12 in Column (c), and Line 29, which lists \$775,000
13 in Column (c) for Commercial, that what the
14 Company was seeking to collect for Decoupling
15 Year 3 was roughly 1.9 million?

16 A (Culbertson) Could you repeat that?

17 Q Sure. I think there's been testimony here that
18 the outstanding amount for Decoupling Year 3 was
19 roughly \$800,000. But, looking at your schedule
20 here, the initial ask for Decoupling Year 3,
21 which corresponds to November 2021 -- no. So,
22 for the reconciliation of the previous period,
23 from last year's cost of gas, that would have
24 been Decoupling Year 3. And it looks as if

[WITNESSES: Culbertson|Bonner|Therrien]

1 Decoupling Year 3's ask, for the Residential
2 section, was \$1.126477 million?

3 A (Culbertson) The beginning balance in these
4 tables includes the reconciliation component from
5 the prior year, as well as what was asked for.

6 Q I understand that. And I think, because the
7 title of the table is "Reconciliation of the
8 Previous Period", which I understand to mean the
9 period prior to November 2021-October 2022, which
10 is Decoupling Year 4, that previous period would
11 have been Decoupling Year 3. Is that what I'm
12 looking at?

13 A (Culbertson) This table, on Bates Page 007 that
14 you're referring to, if you look at Line 23, the
15 "\$307,157", that, plus the approved amount for
16 the current decoupling year, which was 4 at this
17 point, that total would be the beginning balance,
18 if approved, for -- that would show up on Line 4,
19 under Column (a).

20 Q And I think you've testified to that on Page 6,
21 that the number that you're showing me, the
22 "307,157", on Bates Page 007, shows up as the
23 uncollected portion of the prior year
24 reconciliation for RDAF. Do you see that?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Culbertson) In the testimony?

2 Q No, no. On your -- on your Bates Page 006. That
3 the number for -- on Bates Page 007, Line 16,
4 "October 2022", shows that you have yet to
5 collect "\$305,681", and then you add interest to
6 that. So, you've got a number of "\$307,157" for
7 the prior period. And that shows up on Bates
8 Page 006 as Line 1, revenue from Decoupling
9 Year 3 that you still need to collect?

10 A (Culbertson) Yes.

11 Q Okay. And, so, I'm just asking, if, on Bates
12 Page 007, it looks as if the initial request for
13 Decoupling Year 3 was 1.1 million for the
14 Residential group, because you collected it
15 during what was then November 2021 to
16 October 2022, the then current cost of gas
17 period?

18 A (Culbertson) So, my apologies. Somewhere along
19 here I'm getting confused. So, the beginning
20 balance on the reconciliation, for the period
21 being reported, would include the reconciliation
22 from the prior period, as well as the decoupling
23 adjustment. So, --

24 Q I guess I'll just --

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Culbertson) So, --

2 Q I'll try one more time. But go ahead, I'm sorry.

3 A (Culbertson) For instance, on Bates Page 006,
4 Line 3, the 2.8 million, that would be the
5 beginning balance as shown in the reconciliation
6 for the following year.

7 Q For, when you say "the following year"?

8 A (Culbertson) So, the reconciliation --
9 reconciliation November 2022 to October 2023,
10 that was most recently filed.

11 Q That would be Decoupling Year 4, correct?

12 A (Culbertson) I believe so.

13 Q Okay. Now, I'm confused. The 2.5, Line 2, is
14 the Decoupling Year 4 total, okay. And this may
15 be what you rolled forward into the new filing.
16 But we're looking at documents that were filed in
17 December of 2022. And, so, they can't be related
18 -- it doesn't help to relate them to the new
19 filing. I'm not doubting that you rolled them in
20 in that manner. But, when this filed by
21 Mr. Holden in December of 2022, I believe it was
22 looking at Decoupling Year 4 and Decoupling
23 Year 3. And, so, without reference to Decoupling
24 Year 5, which is indeed in the new cost of gas.

[WITNESSES: Culbertson|Bonner|Therrien]

1 I'm trying to ask if Bates Page 007
2 shows what was the initial RDAF request, the
3 Residential request, it's titled "Revenue
4 Decoupling Reconciliation", Line 5, I think, is
5 the starting request for Residential RDAF of
6 1.1 million?

7 And I'll take an answer from other
8 panel members, if helpful. I'm not trying to --
9 I don't want to belabor this.

10 A (Culbertson) I would have to look at the prior
11 filing before this one to be able to break apart
12 what was the decoupling adjustment and what was
13 the reconciliation piece.

14 And my reference to "the current year
15 filing", I was trying to show you which
16 components, on Bates Page 006, how those two
17 combined end up rolling into the reconciliation
18 that you're referring to.

19 Q Well, okay, I believe it's reconciled every year.
20 So, I'll just move on with the question that, in
21 the current, we've marked Exhibit, I think, 29,
22 just to get a quick reference to what the ask is
23 for Liberty's current DG 23-076, the LDAC filing,
24 dated August 20th, 2023. And that seems to

[WITNESSES: Culbertson|Bonner|Therrien]

1 calculate an RDAF under-recovery of 5.4 million
2 for Decoupling Year 5. Is that correct?

3 A (Culbertson) "5.4 million"?

4 Q Yes, 5.4 million.

5 A (Culbertson) Yes. That's correct.

6 Q And does the 5.4 million ask for Decoupling Year
7 5 include the previous amounts from Year 4 --
8 Decoupling Year 4 and Decoupling Year 3, or not?

9 A (Culbertson) No, it does not.

10 Q So, if we were to add Decoupling Year 3 and 4
11 and 5, it would be, not including the portion of
12 Decoupling Year 3 that was already collected, it
13 would be 5 million, plus 3.5 million, or roughly
14 \$8.5 million?

15 A (Culbertson) Yes. And that is shown in Line 1,
16 as part of the reconciliation.

17 Q When you say "Line 1", do you mean "Line 1" in
18 the new docket?

19 Because Decoupling Year 5 does not
20 appear in Exhibit 19.

21 A (Culbertson) You're referring to "Exhibit 29"?

22 Q Yes. And are you on a page in Exhibit 29?

23 A (Culbertson) No, I am trying to pull that up. I
24 was referencing the filing.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q Well, just to clarify, Exhibit 19 was filed on
2 December 8th, 2022. And, so, it can't refer to
3 the new filing.

4 Your answer has been sufficient for me,
5 that the 5 million ask in the new docket does not
6 include the decoupling values for Year 3 and 4 at
7 issue here, correct?

8 A (Culbertson) That is correct.

9 Q Thank you. Thank you. And, in Exhibit 19, there
10 are two other pages that I don't think we've
11 talked about. I guess, Bates Page 003, that's
12 called "Factor Summary (dollars per therm)".
13 What is the source of that document?

14 A (Culbertson) This is part of the LDAC filing.
15 And it is a summary of all of the rates provided
16 within that filing.

17 Q And, so, RDAF shows up on this table as "(H)", is
18 that correct?

19 A (Culbertson) That is correct.

20 Q And were these -- to your knowledge, was this
21 information from -- was it updated by Mr. Holden
22 or was it taken from the Company's October 10th
23 updated filing?

24 A (Culbertson) It was updated.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q By Mr. Holden?

2 A (Culbertson) I'd assume so.

3 Q Okay. And, just to clear up, he's no longer with
4 Liberty, is that correct?

5 A (Culbertson) That's correct.

6 Q Okay. Thank you. Mr. Therrien, in your
7 testimony, you were talking about refining actual
8 numbers in the process -- in the true-up process?

9 A (Therrien) I don't recall testifying, excuse me,
10 I don't recall testifying to "refining actual
11 numbers". I think I was referring to providing
12 more visibility into how actual numbers are
13 calculated.

14 Q And when you were talking about those actual
15 numbers, I think I understood you to be referring
16 to the process where the initial allowed revenue
17 becomes a trued-up revenue -- trued-up allowed
18 revenue, is that correct?

19 A (Therrien) That would be one of those elements,
20 yes.

21 Q Is it your testimony that actual revenue is trued
22 up in any way?

23 A (Therrien) That is not my testimony. I think
24 that's a question better answered by a company

[WITNESSES: Culbertson|Bonner|Therrien]

1 witness, because I don't know the answer, if
2 actual revenues are trued up.

3 Q So, your prior testimony was talking about the
4 process of taking allowed revenue that's
5 estimated, and becoming trued-up allowed revenue?

6 A (Therrien) I believe my testimony intended to
7 discuss the targeted revenue, and then the actual
8 revenue, and the difference between the two. Not
9 that either one of those two values would then be
10 subsequently trued up independently.

11 Q Then, let me ask Mr. Bonner. Did your prior
12 testimony describe the process of taking an
13 initial allowed revenue figure, and truing it up
14 over the process of four months?

15 A (Bonner) Yes.

16 Q And, when you talked about "actual numbers" at
17 the end of the four-month process, you were
18 referring to actual allowed revenue that had been
19 trued up, is that correct?

20 A (Bonner) Just in the context that you're
21 describing it, but also actual revenues, in the
22 sense that you're using the term, are also "trued
23 up".

24 Q Could you please explain a bit more about how you

[WITNESSES: Culbertson|Bonner|Therrien]

1 see actual revenues changing over time, from the
2 initial month to the end of the four months?

3 A (Bonner) Certainly. So, if you were to take
4 something like the example for, say,
5 January 2022, you would find recorded, I'm sorry,
6 that's February, let's go to January, if I have
7 it. Hold on one minute, get to the right number.

8 Okay. We can use February, just make
9 it easier for --

10 Q Can you just tell me where you are?

11 A (Bonner) Yes. Well, actually, what I'm going to
12 would be buried deep inside the work papers. So,
13 what I'm looking at is the decoupling entry for
14 February 2022.

15 Q Is that what the Department has filed as our
16 Exhibit 27, in an Excel spreadsheet format?

17 A (Bonner) I don't know, because I don't know
18 what's in the Exhibit List. So, you would have
19 to guide me.

20 Q Okay. Well, we did indicate we were interested
21 in asking about that earlier today. And, so, it
22 might be fortuitous, if we're all on the same
23 Excel spreadsheet page.

24 A (Bonner) Sure. That sounds good.

[WITNESSES: Culbertson|Bonner|Therrien]

1 MS. SCHWARZER: So, let me alert the
2 Commission, to make sure that we're all there.
3 That the Department filed Excel spreadsheets on
4 August 25th, that are marked to correspond to the
5 hard copy exhibit we marked as "Exhibit 27".
6 And, as it happens, February 2022 is Bates
7 Page 014. And, if the Commission is looking at
8 the Excel spreadsheets that we filed, you would
9 be looking for the Excel spreadsheet marked
10 "EX27-014", which is the live Excel spreadsheet
11 that corresponds to an Excel spreadsheet based
12 upon the Company's figures that have been further
13 enhanced by our analytical team.

14 **BY THE WITNESS:**

15 A (Bonner) Well, I certainly don't have a copy of
16 it. So, I can't --

17 BY MS. SCHWARZER:

18 Q I thought you were referring to it, I'm sorry.

19 A (Bonner) No. No, no. I was referring to
20 something that's an internal Company document
21 that was supplied, I believe, as part of a data
22 request.

23 CMSR. CHATTOPADHYAY: Can you repeat
24 the reference again?

[WITNESSES: Culbertson|Bonner|Therrien]

1 MS. SCHWARZER: Yes. Certainly. We
2 filed Excel versions of spreadsheets filed in
3 Exhibit 26 and Exhibit 27. And we refiled those
4 with the Commission on August 25th, in the
5 afternoon. Amy Waterhouse would have sent the
6 email to file the documents. And it includes
7 monthly spreadsheets, among other electronic
8 documents, that show allowed revenue and actual
9 revenue for decoupling adjustments, based upon
10 the Company's data, as provided in discovery, and
11 further enhanced by our analysts.

12 So, I would like to direct the
13 Commission to what -- the Excel spreadsheet that
14 is marked "EX27-014", which indicates that it is
15 the live Excel version of the Excel spreadsheet
16 that appears on Exhibit 27, on Bates Page 014.
17 And the tab at the bottom is "ENNE-Feb2022".

18 Turning to wanting the witness to be on
19 the same page as the rest of us, what can we do
20 to allow that to happen?

21 MR. SHEEHAN: I'm not sure Mr. Bonner
22 has that. I'm in the process of trying to get it
23 to him.

24 WITNESS CULBERTSON: We have it up.

[WITNESSES: Culbertson|Bonner|Therrien]

1 MR. SHEEHAN: You have it?

2 [Witness Culbertson indicating in the
3 positive.]

4 BY MS. SCHWARZER:

5 Q So, I do want to return -- I want to cover some
6 other issues first, these are sort of generic
7 questions. But I did want to understand, if you
8 were explaining to me -- if your prior testimony
9 meant that, in your opinion, actual revenue is
10 trued up over a four-month process?

11 A (Bonner) Not a four-month process, indefinite.

12 Q Okay. "Indefinite". Can you explain?

13 A (Bonner) Sure. That's what I did before. The
14 actual revenues, and we went through this before,
15 so, let me just give you the number and we
16 can draw the same -- by the way, it was the same
17 thing I was looking at. So, the actual revenue
18 shows up in cell, let's see here, J32, was
19 \$13,074,818 and change, correct?

20 Q As I see that, that's the initial actual revenue
21 calculation for the month itself, --

22 A (Bonner) That's correct.

23 Q -- at the end of February?

24 A (Bonner) Uh-huh.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q Yes.

2 A (Bonner) Yes. It's part of my explanation. That
3 number there is a composite of many different
4 time periods. The only number in that whole, and
5 it's an approximate number, for the month of
6 February, out of that \$13,074,818, only 3 million
7 of that belongs to February.

8 Q Well, could you please say more? Because, when I
9 look at adjusted actual revenue for February, on
10 Line 37, I see "\$10,141,708.30".

11 A (Bonner) Correct. So, what that does is, now we
12 are adjusting for the unbilled fraction. So, in
13 effect, what happens is, that \$3 million I just
14 gave you is now adjusted by the unbilled fraction
15 to bring it down -- to bring it up to the \$10
16 million. It's the anticipated revenue that's
17 actually going to show up in March, as well as
18 the exclusions there for the MEP premium, and the
19 low-income adjustment.

20 Q When is the adjusted actual revenue calculation
21 done?

22 A (Bonner) There's no separate calculation. It's
23 automatic. It's built into the top number.
24 Every time we produce an actual revenue number

[WITNESSES: Culbertson|Bonner|Therrien]

1 from the billing system, it includes everything
2 that was posted in a given accounting period,
3 regardless of what the actual bill period for the
4 bill was. It could be for the current month,
5 partly for the current month, partly it could be
6 for five months ago.

7 Q Well, I think I may be confused, because I'm
8 remembering a tech session when I believe you
9 commented that "adjusted revenue doesn't change"?

10 A (Bonner) I'm saying -- I was saying that the
11 numbers --

12 Q Excuse me, actual adjusted --

13 A (Bonner) No. What I was commenting on is the
14 number that shows up on J32 doesn't change. So,
15 you were probably talking about "adjusted
16 annual -- actual revenues". What I was talking
17 about was the number that we start from.

18 Q So, just to be clear, your past comment that
19 "actual" -- that "actual revenue never changes",
20 you did not mean "adjusted actual revenue
21 changes"?

22 A (Bonner) That's correct. What I was referring to
23 was the number is that, for the stuff that comes
24 right off the monthly reports from the billing

[WITNESSES: Culbertson|Bonner|Therrien]

1 system, those numbers are constant. They're
2 never adjusted.

3 Q Is --

4 A (Bonner) Go ahead.

5 Q Go ahead.

6 A (Bonner) No, I was finished.

7 Q Is the adjusted actual revenue the number that
8 would --

9 *[Court reporter interruption.]*

10 BY MS. SCHWARZER:

11 Q I think my question was, is it the adjusted
12 actual revenue figure that ties to the general
13 ledger?

14 A (Bonner) Yes, once you -- once you re-put back in
15 the MEP premium and the low-income discount.
16 And, in addition, the revenues for the Company
17 also include all kinds of other things that are
18 not from the sales of gas.

19 Q And isn't it correct that it's the adjusted
20 actual revenue figure that is relevant for the
21 computation of the RDAF number?

22 A (Bonner) Yes.

23 Q I do want to come back to this Excel spreadsheet,
24 but I have some more general questions that I'd

[WITNESSES: Culbertson|Bonner|Therrien]

1 like to go through first.

2 Mr. Therrien, with regard to your --
3 you have prior experience with decoupling
4 projects for other entities in other states, is
5 that correct?

6 A (Therrien) Yes, it is.

7 Q Do any of those other entities or other states
8 have a equivalent bill process? Like the one
9 here?

10 A (Therrien) Not identical to what I see in New
11 Hampshire. There are calendarization of bills,
12 that's a calculation that occurs in
13 Massachusetts, for example. But it's not as
14 complicated as the equivalent bill calculation in
15 New Hampshire.

16 And I believe the reason for that is
17 what Mr. Bonner testified to earlier today, the
18 fact that the billing is based strictly on a
19 30-day billing cycle. That results in almost
20 every single bill being prorated, which is, in my
21 experience, a little unusual.

22 Q And do any of your other decoupling projects
23 include a four-month true-up process?

24 A (Therrien) I am unaware of that. This is the

[WITNESSES: Culbertson|Bonner|Therrien]

1 first I've heard of that process.

2 Q Do any of your other decoupling projects include
3 the removal of real-time weather before the
4 decoupling adjustment is made?

5 A (Therrien) Yes.

6 Q And, in those projects, do you tend to see
7 decoupling adjustments in the range of 3 to \$5
8 million?

9 A (Therrien) It's very difficult for me to compare,
10 because the size of the utilities is drastically
11 different.

12 Q In that, and when you say "the size of the
13 utilities is drastically different", is Liberty
14 smaller or larger than?

15 A (Therrien) Liberty is smaller.

16 Q And, so, with Liberty, we're dealing with a
17 customer base of approximately 90,000?

18 A (Therrien) Subject to check, I would accept that.

19 Q And, for Decoupling Year 4, is it fair to say the
20 revenues are about 100 million, based on --

21 A (Therrien) Again, subject to check, I'll accept
22 that.

23 Q Based on your experience, assuming EnergyNorth
24 base rates are approximately 100 million

[WITNESSES: Culbertson|Bonner|Therrien]

1 annually, do you think a 3 to 5 percent RDAF
2 adjustment is unusual?

3 A (Therrien) I will confirm what Mr. Bonner said
4 earlier in his testimony, that, when we were
5 designing this decoupling mechanism, and then the
6 real-time weather adjustment component was then,
7 for lack of a better word, adopted as part of
8 that, I did expect that the remaining decoupling
9 adjustment would not be that big. Sorry, that's
10 not much of a technical term. But I did not
11 expect it to be that big.

12 Q And do you agree with Mr. Bonner that there is no
13 explanation for that at this time?

14 A (Therrien) That's fairly common, in gas, to not
15 be able to really understand the components of
16 use per customer. Once you strip out weather,
17 you're really talking about customer behavior.

18 And I did note, when I was reviewing
19 the Company's purchased gas adjustment filings,
20 that, in the middle of this decoupling year,
21 there was a significant increase in the cost of
22 gas rate. And that significant increase likely
23 triggers a consumer reaction, that "Wow, I better
24 not use much gas, because the gas rate just

[WITNESSES: Culbertson|Bonner|Therrien]

1 tripled." And that's a very common economic
2 price elasticity type of reaction.

3 And that would, in turn, result in a
4 decoupling adjustment that would, in my opinion,
5 be, you know, larger than what I would have
6 anticipated. So, it's an exogenous event, that
7 then has a result that manifests itself through
8 the decoupling adjustment.

9 Q And would we see that in therms used, if we were
10 to look?

11 A (Therrien) Yes.

12 Q So, a comparison would be possible, it would be
13 possible to determine if that was the impact?

14 A (Therrien) I think so. Again, there will be
15 other usage noise in there. You know, the
16 customer behavior is not necessarily, you know,
17 immediate, it's not universal. But I think you
18 could definitely get some observable trends in
19 customer usage that correlate with that change in
20 gas cost.

21 Q And is what you're describing the -- why, in
22 terms of the change in prices, would that explain
23 the \$5 million ask in the new cost of gas docket?

24 A (Therrien) I have not reviewed the new cost of

[WITNESSES: Culbertson|Bonner|Therrien]

1 gas docket. I can't comment.

2 Q So, it's your belief, in the middle of Decoupling
3 Year 4, which would have been 2021-2022, there
4 was a significant price increase?

5 A (Therrien) One moment please.

6 *[Short pause.]*

7 **CONTINUED BY THE WITNESS:**

8 A (Therrien) Based on the Company's filings, and
9 their Residential R-3 billing factor, in
10 November of 2021, the billing factor per therm
11 increased to \$1.13, from the previous month's
12 value of 39 cents.

13 BY MS. SCHWARZER:

14 Q That would be for the period 2021 to 2022,
15 correct?

16 A (Therrien) That would be the period from
17 November 2021 over October 2021. And, then, in
18 December of 2021, the cost of gas rate came down
19 a little bit, but it's still over a dollar, to
20 \$1.0173 per therm. Those are high values, just
21 to put this in layman's terms. Previous values
22 were in the 40-cent range, and then this jumps up
23 over a dollar. That will get a consumer's
24 attention.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q And, for Decoupling Year 3, if we assume that
2 Bates Page 007 shows roughly 1.1 million for
3 residential consumption for RDAF, would that be
4 high, do you think? Higher than expected, when
5 it was formulated?

6 A (Therrien) Could you please restate that? I
7 think you said the word "consumption", and I'm
8 not sure that that fit into the question.

9 Q Sure.

10 A (Therrien) Could you please rephrase?

11 Q Sure. Assuming that Exhibit 19, Bates Page 007,
12 shows an RDAF adjustment of 1.1 million for
13 residential consumers, --

14 A (Therrien) Meaning "an adjustment needed to be
15 collected"?

16 Q Correct.

17 A (Therrien) Yes.

18 Q Would 1.1 million seem high, in compared to what
19 was initially expected, given that weather was
20 removed?

21 A (Therrien) Again, a very nonscientific answer, I
22 would say it seems a little on the high side.
23 Not -- not extremely large. But, for a company
24 with \$100 million of distribution revenue, and

[WITNESSES: Culbertson|Bonner|Therrien]

1 taking the weather component out of that
2 variance, a million or so is not that big of a
3 consumer-driven variance, but it's material.

4 Q And, Mr. Bonner, would you agree with that?

5 A (Bonner) Actually, without getting more context,
6 I'm not sure. But I'll support Mr. Therrien on
7 that.

8 Q Okay. I'm interested, Mr. Therrien, in what you
9 think about a 22 percent RDAF adjustment, as
10 compared to a percentage of monthly revenue?
11 Does that seem high?

12 A (Therrien) Is that one RDAF month?

13 Q Yes.

14 A (Therrien) I don't believe a one-month
15 observation is necessarily a trend, or perhaps
16 even a good bellwether as to a variation. I'd
17 like to look at more of a trend than just one
18 month.

19 Q So, is your answer that you think a 2020 --
20 excuse me -- a 22 percent RDAF adjustment for one
21 month might be appropriate?

22 A (Therrien) It could be.

23 Q So, if we could return to the Excel spreadsheet
24 that we were looking at earlier, for February,

[WITNESSES: Culbertson|Bonner|Therrien]

1 and if the Commission is with us, it's "ENNE"
2 tab -- and not that you're not "with us", but I
3 just want to make sure your Excel is available to
4 you. That came out wrong, I apologize.

5 Mr. Therrien, if you would look at the
6 February Excel spreadsheet, the Revenue
7 Decoupling Adjustment, on the lower right-hand
8 corner, on Line -- Excel Line 40, is 2.25
9 million, as compared to the adjusted actual
10 revenue of 10 million.

11 A (Therrien) I'm seeing, on Line 40, Column J, a
12 Revenue Decoupling Adjustment of "1,968,833"?

13 Q No. On Column O.

14 A (Therrien) Oh, on Column O. My apologies.

15 Q That's okay. I believe that's the final request,
16 based upon the four-month true-up process. Do
17 you see it?

18 A (Bonner) I'm not so sure that's correct.

19 Q Who is that? Is that Mr. Bonner? You're not
20 sure that's correct?

21 A (Bonner) Yes. It would be -- Mr. Therrien is
22 looking at a Company internal document. Column O
23 actually just has labels, as with the reviewer,
24 making sure the calculation is right.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q Well, then, what's the adjustment for February?

2 A (Bonner) The adjustment for February, for just
3 the legacy EnergyNorth portion, was 1.968
4 million, about \$2 million, over \$10 million, it
5 will get you to about that 20 percent figure that
6 you're talking about.

7 Q I believe the spreadsheet on Line 28 shows that
8 there was, based upon the allowed revenue
9 trued-up figures, there was an increase of
10 281,000, correct? And that led to a Revenue
11 Decoupling Adjustment final figure of 2.2?

12 A (Bonner) Not on the sheet that I'm looking at.

13 Q Oh. Are we all on the same page?

14 A (Bonner) I'm not sure. So, let me do this.

15 Q Okay. Excuse me? Which tab? The tab is the
16 very first tab, "ENNE-Feb2022". And that
17 actually corresponds to Exhibit 26, Bates
18 Page 090.

19 A (Bonner) That page that you're referring to was
20 added by another analyst, and it's not part of
21 the Company's document. Therefore, I have not --
22 without prior reviewing it, I don't have any
23 comment about somebody else's work.

24 Q Okay. Does the 1.9 million identified earlier as

[WITNESSES: Culbertson|Bonner|Therrien]

1 approximately 20 percent seem reasonable?

2 A (Bonner) Yes.

3 Q Why?

4 A (Bonner) Again, the biggest jump in that
5 particular month seems to be attributable to the
6 unbilled adjustment more than anything else. It
7 would require a further investigation as to why.

8 Wintertime use at EnergyNorth is highly
9 volatile. Large swings from one month to
10 another, especially during the winter period,
11 especially in the current weather, which seems to
12 oscillate from very warm periods to very cold
13 periods, can cause all kinds of problems like
14 this.

15 Q If we went to the monthly table, which I believe
16 appears -- is that Page 90 of Exhibit 26?

17 So, if we could go to Page 90 of
18 Exhibit 26, and that is our analysts' testimony.

19 MR. SHEEHAN: Page again?

20 MS. SCHWARZER: Bates Page 090 of
21 Exhibit 26.

22 MR. SHEEHAN: Thank you.

23 BY MS. SCHWARZER:

24 Q Excuse me, excluding the "Total" column that was

[WITNESSES: Culbertson|Bonner|Therrien]

1 added by our analysts, do you recognize these
2 tables as information provided by Liberty,
3 EnergyNorth and Liberty-Keene?

4 A (Bonner) Subject to check I'll accept that. But
5 I would like to verify them.

6 Q And, if you look through the revenue adjusted --
7 Revenue Decoupling Adjustment under each,
8 February -- for example, in the bottom, it's
9 EnergyNorth, which is what we were looking at in
10 the table, you can see across the columns there's
11 an actual for September 2021, October 2021, going
12 all the way to August of 2022, and then there's
13 an actual revenue figure going across that table.

14 And I'm not in the Excel spreadsheet.
15 So, my apologies, I can't give the Excel line,
16 but there's a Revenue Decoupling Adjustment
17 number across the bottom, that ranges from, I
18 guess, a credit, through more significant
19 numbers, updated Revenue Decoupling Adjustment
20 figures.

21 A (Bonner) Are we referring to the top table?

22 Q No. The bottom table.

23 A (Bonner) The bottom table now. So, this is after
24 another comparison has been made. But the

[WITNESSES: Culbertson|Bonner|Therrien]

1 numbers that I was mentioning is the decoupling
2 adjustments in the top table, for the combined
3 EnergyNorth and Keene, seem to be approximately
4 correct.

5 Q And can you give an opinion as to the numbers for
6 EnergyNorth?

7 A (Bonner) It is EnergyNorth. EnergyNorth and
8 Keene are actually one company.

9 Q No, I do understand that. But, if you'll notice,
10 the table at the bottom is exclusive to
11 EnergyNorth, removing the Keene figures. Keene
12 appears separately again on the next page.

13 A (Bonner) All right. Yes.

14 Q So, generally, those seem correct to you?

15 A (Bonner) Right. And, in fact, just to mention
16 the volatility, you see that you had a big
17 \$1 million adjustment, compensated by a large
18 \$1 million downward adjustment, with a \$1 million
19 upward adjustment. This kind of behavior is
20 fairly typical of EnergyNorth historically.

21 Q But not what was expected when the RDAF was
22 designed, correct?

23 A (Bonner) The expectations were based on
24 professional opinion unsupported by any

[WITNESSES: Culbertson|Bonner|Therrien]

1 particular evidence.

2 Q Okay. Let's move on to discussing
3 "reclassification". Mr. Bonner, in your opinion,
4 would reclassification have an impact on allowed
5 revenue?

6 A (Bonner) Does it have any impact? The answer is
7 "Yes." Would it have a material impact? The
8 answer is "No."

9 Q And you express that opinion on a data response,
10 let me find it. It's Bates Page 042, for
11 Exhibit 26. And this was Liberty's response to
12 the Department's Technical Session Request 1-4,
13 in May of 2023. And would you -- you would agree
14 that your answer (a) and (b) can be summarized by
15 saying that, in your opinion, "migration has no
16 effect on the true-up process"? That's one, two,
17 three, four, five, six, seven, eight, nine. Nine
18 lines down in your Answer (a).

19 A (Bonner) One moment while we locate the
20 reference.

21 A (Culbertson) Exhibit 26?

22 Q Exhibit 26, yes.

23 A (Bonner) And the page number?

24 Q Bates Page 042.

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) Yes. I agree with that answer. I wrote
2 it.

3 Q Okay. And, in addition to saying that, in your
4 opinion, migration, or reclassification, those
5 are equivalent terms, correct?

6 A (Bonner) Yes. "Migration" -- or, actually, let
7 me clarify that. Customers move from one rate
8 class to another for a variety of reasons. It
9 can be either customer-initiated and they can be
10 Company-initiated. And, if they're
11 Company-initiated, they can be done as part of a
12 comprehensive program, or they can be done,
13 basically, at random, as circumstances are
14 uncovered.

15 So, a customer migration takes place
16 when a customer questions their bill, and another
17 billing representative examines it and finds that
18 perhaps the customer is, in fact, on the wrong
19 rate, and they no longer meet the qualifications
20 of Rate A, and now are eligible for Rate B, and
21 they will change them to that. So, that's a
22 customer-initiated one. Could occur also for
23 just a brand-new service, but that's not a
24 migration.

[WITNESSES: Culbertson|Bonner|Therrien]

1 A Company-initiated one would in
2 reverse, the same thing. You know, in reviewing
3 the bill complaint, they determine that the
4 customer, in fact, was billed on the wrong rate,
5 and we will change it.

6 And, then, finally, the last one, which
7 is something that was done once a year, was a
8 list of recommendations looking back over the
9 entire customer base, to find out whether
10 customers, based on their last twelve months
11 normalized data, should be on another rate. And
12 those recommendations are then forwarded to the
13 customer-facing organizations, either Marketing
14 or Customer Service, to make a decision as to
15 whether or not to move the customers. Whether
16 they actually get moved or not is an open
17 question. What the information that I had
18 supplied in the data request was my
19 recommendations, not what actually happened.

20 Q Well, we're not looking at that data request yet.

21 A (Bonner) No, we aren't.

22 Q Although, that is Attachment 3, --

23 A (Bonner) Yes.

24 Q -- to what is included in Exhibit 26, our

[WITNESSES: Culbertson|Bonner|Therrien]

1 analysts' testimony.

2 A (Bonner) But, basically, customers go both ways.
3 You will go up a class, you will go down a class.
4 So, your RPC will either rise or lower. But
5 there isn't that much movement from year to year
6 among the customer classes to produce a material
7 effect.

8 Q Well, you're saying that "migration has no effect
9 on the true-up process." And --

10 A (Bonner) Has no effect on the true-up process,
11 no.

12 Q So, I would then like to direct your attention to
13 an example on Page 17 of Exhibit 26. And I'm
14 just going to read this briefly into the record,
15 starting on Page 17, Line 5: "The Rate Review
16 Process run by Liberty for the period ending May
17 of 2021 resulted in the recommendation that 12
18 commercial customers be moved from G-42 to G-43.
19 If these 12 customers were all present in the
20 test year used for DG 20-105 as G-42 customers
21 and then moved to G-43 in a subsequent decoupling
22 year, Liberty's allowed revenue would increase by
23 \$530,000."

24 A (Bonner) As stated as a hypothetical, that's

[WITNESSES: Culbertson|Bonner|Therrien]

1 correct.

2 Q Okay.

3 A (Bonner) But that isn't what happened either.

4 Q That isn't --

5 A (Bonner) But it doesn't matter. As a
6 hypothetical, mathematically, that would be
7 correct, if that were to happen.

8 Q Well, and when you say "that didn't happen", that
9 example comes from your answer, Attachment 3, to
10 our data request about the number of
11 reclassifications that occurred during the RDAF
12 years, correct?

13 A (Bonner) No. What I answered was the number of
14 recommendations that I made to be transferred.

15 Q Well, I believe that was your answer. But I
16 believe our data request asked about "what
17 happened?" And your answer stopped at what the
18 recommendation was?

19 A (Bonner) Correct. Because that was the only
20 readily available information I had at the time.

21 Q Well, have you updated your answer?

22 A (Bonner) Yes. I did some further investigation,
23 once it became clear that Staff was interested in
24 this answer. And I found that, other than the

[WITNESSES: Culbertson|Bonner|Therrien]

1 very first rate review, very few customers were
2 actually changed.

3 Q Did you notify us that you had updated your
4 research and update the data response?

5 A (Bonner) No. I had simply -- this was -- I
6 hadn't completed it. It was just looking at the
7 numbers just to find out whether or not, in fact,
8 the issue that you identified, whether there
9 could be a material thing was going on. So, I
10 satisfied myself, "Well, since things didn't
11 happen anyway, and there is no inherent bias in
12 the Rate Review Process", which is what my
13 original recommendations showed, that I had
14 people going both directions, the fact that I
15 gain twelve G-43 customers, and lose a companion
16 of another customers, say, G-43 going to G-42,
17 which would be the opposite effect, then the net
18 revenue impact to the Company is essentially
19 nothing.

20 So, you can't take one class movement
21 out of context.

22 Q Well, I don't believe we were taking a class
23 movement out of context. We were told the
24 recommendation was to move from G-1 to G-43, --

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) Correct.

2 Q -- and that would have quite a significant
3 impact. And we never got additional information
4 from Liberty about whether or not that had
5 occurred, --

6 A (Bonner) That's correct.

7 Q -- notwithstanding that that was included in our
8 question?

9 A (Bonner) No. I provided the answer, based upon
10 the way I had phrased the answer, which was the
11 "number of recommendations".

12 Q Well, the question is "Has Liberty undertaken any
13 rate re-classifications or performed any
14 inter-class migration among customer classes
15 since the commencement of the RDAF mechanism as
16 implemented on and after November 1, 2018?"

17 A (Bonner) Right. And I responded that those were
18 the recommendations turned in to the
19 customer-facing personnel. And that's the best
20 knowledge was at the time that I answered the
21 question.

22 Q And the time --

23 A (Bonner) This was many months later that I looked
24 at it again. As it became clear, in further

[WITNESSES: Culbertson|Bonner|Therrien]

1 discussions, basically, after the last technical
2 session, that there was some concern on DOE's
3 side that this might be a material factor.

4 Q And the date of the response was March 2023?

5 A (Bonner) Uh-huh.

6 Q And the technical session was May 2023?

7 A (Bonner) Uh-huh.

8 Q Okay. Well, we would, I guess, ask for
9 additional information from you at this time
10 regarding what you researched?

11 A (Bonner) Sure.

12 Q Mr. Bonner -- or, I guess, Mr. Therrien, I do
13 have a follow-up question.

14 A (Therrien) Sure.

15 Q Concentric Energy Advisors, of which you are a
16 consultant, made a recommendation that we've
17 attached to Exhibit 26, and is quoted on Page 19,
18 "Recommendation 1:", I'm reading Lines 4 through
19 7, "Any commercial and industrial" -- or, "C&I
20 rate review must be incorporated into the
21 adjusted (rate year) equivalent bill calculation,
22 and do not perform any rate reviews between rate
23 cases." That was your recommendation, correct?

24 A (Therrien) I recall that, yes.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q And, so, if Liberty did do rate reviews and
2 adjustments between rate cases, that would have
3 been inconsistent with your recommendation?

4 A (Therrien) Inconsistent with my recommendation,
5 correct.

6 Q And a last question for Mr. Bonner, in the data
7 request response that I asked you about, you had
8 indicated that "there were no rate reviews done
9 in Decoupling Year 4"?

10 A (Bonner) That's correct.

11 Q And they were not done, because they were simply
12 overlooked during that extremely busy period?

13 A (Bonner) Right. I run the rate review upon
14 request from the Customer Service organizations.
15 They did not put in the request. We were busy
16 with other matters. When you raised the
17 question -- when you asked the question, I then
18 reviewed this, since I don't remember doing one,
19 and then I asked them "Why not?" And they simply
20 said "We were preoccupied with the conversion
21 going to the new SAP system. So, we simply did
22 not have time to address that. We decided to
23 skip that for that year."

24 Q So, it could have happened, and it could happen

[WITNESSES: Culbertson|Bonner|Therrien]

1 in Decoupling Year 5, the Company is not
2 following Mr. Therrien's recommendation?

3 A (Bonner) That's correct. Yes, to do so would
4 violate the tariff.

5 Q If we could turn to Exhibit 31 -- we'll start
6 with 31 and 32. Just generally, before we go to
7 those exhibits, is the Company able to point to
8 any evidence that there is parity between
9 aggregated annual revenue and disaggregated
10 allowed revenue?

11 A (Bonner) I don't understand the question, in
12 terms of the context of "parity"?

13 Q Is the Company able to point to any analysis that
14 would show the percentage of trued-up revenue
15 that trued-up customers, in the allowed revenue
16 side of the equation represent, as compared to
17 the number of trued-up customers, the percentage
18 of actual revenue that the trued-up number of
19 customers represent?

20 A (Bonner) No such analysis currently exists. If I
21 recall correctly, the last data request that we
22 received by email was asking for that type of
23 analysis. But there's no currently existing
24 analysis that I have that does that. I can

[WITNESSES: Culbertson|Bonner|Therrien]

1 explain why I don't believe that such an analysis
2 is necessary to confirm the fact that we are
3 reconciling on both sides. That we're not just
4 applying a true-up to the allowed process, and
5 ignoring the actual process, which is what I was
6 doing earlier, when Mr. Sheehan was examining me.

7 But there is no discrete document that
8 exists right now that would demonstrate what I
9 believe you're asking for.

10 Q Well, I'm certainly interested in hearing that
11 from you. But, before we do that, is there any
12 other check that Liberty runs to compare trued-up
13 customers -- excuse me -- trued-up equivalent
14 bills for the allowed revenue, as opposed to --
15 as compared to the trued-up equivalent bills for
16 the actual revenue?

17 A (Bonner) They're the same number. There's no
18 separate true-up. There's no difference in the
19 equivalent bills used for actual revenues and the
20 equivalent bills used for the allowed.

21 Q Well, doesn't the February spreadsheet show an
22 increased number of equivalent bills of
23 approximately 2,000?

24 A (Bonner) You're going to have to point me to

[WITNESSES: Culbertson|Bonner|Therrien]

1 something.

2 Q Okay. Exhibit 27, Spreadsheet 27-014. So,
3 there's a total customer number at Line 28 that
4 shows, in Column K, "88,327" equivalent bills, as
5 compared to "90,476" trued-up equivalent bills.

6 A (Culbertson) Which exhibit?

7 Q Exhibit 27, Bates Page 014, which is also
8 available as an Excel spreadsheet.

9 A (Bonner) Again, that's somebody else's
10 spreadsheet. Without verifying the numbers
11 first, I won't comment.

12 Q Do you agree that you -- you have testified that
13 Liberty underestimates the number of equivalent
14 bills in the initial calculation at the end of
15 each month?

16 A (Bonner) Yes.

17 Q And do you have a sense of by what portion you
18 underestimate the equivalent bills?

19 A (Bonner) Basically, about, to estimate, probably
20 5 or 6 percent overall. I've spot checked a
21 couple of months, that seems to be over the
22 entire period.

23 Q So, wouldn't that result in a change between the
24 estimated number of equivalent bills at the end

[WITNESSES: Culbertson|Bonner|Therrien]

1 of the initial month, and the trued-up number of
2 equivalent bills at the end of the month?

3 A (Bonner) The trued-up number, when you get after
4 the end of all the periods we're talking about,
5 the end of the four-month period, is the best
6 number that actually occurred back in that time
7 period. There is no additional information
8 source. All the information that's used in both
9 the allowed and in the actual come from exactly
10 the same data source, and they all tie back to
11 the actuals.

12 Q I don't disagree with you that, by the time the
13 number of customers are trued up at the end of
14 what Liberty has made a four-month period, that
15 it represents the best number you have for the
16 number of customers that were contributing
17 revenue during -- for the actual revenue figure.
18 I don't think we -- I don't think there's a
19 dispute about that.

20 A (Bonner) And it's also the same thing, it's the
21 same customers that are contributing to the
22 allowed.

23 What I'm trying to say is, the
24 equivalent bill numbers in the actual are new,

[WITNESSES: Culbertson|Bonner|Therrien]

1 and the equivalent bill numbers in the allowed
2 revenue, for the same time period, calendarized,
3 is exactly the same.

4 Q Eventually?

5 A (Bonner) Eventually.

6 Q And, so, why don't you tell me why you think --
7 let's look at Exhibit 30 briefly. I'm sorry,
8 yes, Exhibit 31 and 32. Exhibit 31 just briefly
9 represents that, in July it came to our attention
10 that there was source data for the equivalent
11 bill calculations. And we asked to speak to you
12 about it at the next technical session, --

13 A (Bonner) Yes.

14 Q -- at a future time. Yes. Okay. And can you
15 explain to me, let's talk about Exhibit 32, how
16 you understand our discovery request, or our
17 request for information on August 11th, and why
18 you don't believe it's necessary?

19 A (Bonner) I don't remember every commenting that
20 "your request on August 11th wasn't necessary."

21 Q Okay. I'm sorry. You had said that you're
22 interested in discussing why you don't believe
23 our request for -- the most recent discovery
24 request for equivalent bill information?

[WITNESSES: Culbertson|Bonner|Therrien]

1 A (Bonner) No. No, no, no. No, I'm sorry. If I
2 even remotely suggested that, that was
3 mischaracterizing. That's not what I'm saying.
4 Certainly, DOE can have whatever information they
5 want.

6 So, that request basically comes down
7 to four parts. The first two are fairly
8 straightforward. First part of it is that "what
9 is the data source that's used for all of this?"
10 The data source used for both actuals and for the
11 allowed, when you get to things like equivalent
12 bills, is exactly the same source. The source
13 data is merely a transcript from the Company's
14 billing system, that's put down in an access
15 database of almost 2 gigabytes, divided into two
16 Company parts, to separate from Keene, one for
17 legacy EnergyNorth and another one for Keene.

18 To do everything you need, for both
19 decoupling years, you would need 29 months' worth
20 of data, happy to provide it, I have it all. It
21 would be something like about 50 or so, 60
22 gigabytes worth of information. But that will
23 fit on a common USB drive. So, we can certainly
24 get it to you.

[WITNESSES: Culbertson|Bonner|Therrien]

1 The second part of the request, as I
2 recall, was asking for the source code. Because
3 this isn't done with spreadsheets, because the
4 number of records is just fair too large. In a
5 winter month, EnergyNorth create, for a single
6 month, over 4 million line item records that are
7 in that file. And it contains not only stuff
8 related to equivalent bills, but all --
9 basically, it's a breakdown of all -- each, every
10 customer's bill into all its component parts,
11 with a lot of other information as well.

12 So, that's manipulated using computer
13 programs written in a programming language called
14 "SAS". Mark Thompson was familiar with the
15 program, and he's done it himself. We're a
16 licensee of the SAS system. Just like you have
17 to be a licensee of a Microsoft product, but it's
18 much more expensive. It's designed for advanced
19 statistical analysis, but it has a very capable
20 data manipulation language. And I'm a certified
21 SAS programmer, among my other skills. So, I
22 built these systems, going way, way back, for a
23 variety -- actually, it was for revenue reporting
24 and revenue forecasting originally, and then

[WITNESSES: Culbertson|Bonner|Therrien]

1 adapted their use to the decoupling, because we
2 needed additional information. We had the raw
3 data, it just has to be processed and aggregated
4 in the correct form.

5 So, those two parts, now we'll have to
6 talk to Mr. Sheehan, I did deliver to the
7 Regulatory Department, has that been sent to DOE?

8 Q I think there's been, before we turn to
9 Mr. Sheehan, there's been some subsequent
10 internal conversation. We don't do not have a
11 SAS license. And, as you can see in the first
12 question, we suggest that, if data is too
13 voluminous, we'd ask that you provide data for
14 January of 2022. And, presumably, that would be
15 five months of data, because the true-up process
16 is four months long.

17 A (Bonner) Correct. And that's what -- that was
18 what I was referring to.

19 Q And we would ask Liberty to do the analysis?

20 A (Bonner) And that's fine. So, that's the second
21 part.

22 So, when we received the request, it
23 was just before I was going on vacation. I wrote
24 back to the Regulatory Department, I says "I can

[WITNESSES: Culbertson|Bonner|Therrien]

1 do this."

2 Q That's us.

3 A (Bonner) No, no.

4 Q Yes.

5 A (Bonner) No, internally. That all communications
6 between the Company and DOE take place either
7 directly from the Regulatory Department or from
8 Mr. Sheehan.

9 Q Understood. Just wanted to --

10 A (Bonner) It's Company policy, that's the way we
11 manage the relationship. So, I responded back,
12 and saying "I can do this", I says "I will need a
13 minimum of at least one week each for the later
14 -- the last two requests."

15 And I also would have to get clearance
16 from my own manager. You know, although I've
17 been in the business a very long time, on the
18 Company's hierarchy, I'm at the bottom wrung.
19 I'm an individual contributor.

20 Q I understand.

21 A (Bonner) I can't buy a pencil. So, I need to be
22 able to be authorized to say "Okay, Jim, don't
23 work on this, you're allowed to go work on that",
24 and I'm sure I would get the clearance. So, it

[WITNESSES: Culbertson|Bonner|Therrien]

1 would take two to three weeks for me to generate
2 the analysis. And most of the "generating of the
3 analysis" isn't writing the program. The real
4 trick of handling large data volumes is you can't
5 verify every number. So, you now have to do a
6 series of, basically, tests, to be sure that you
7 haven't -- that you're actually calculating
8 things right. So, it starts with a series of
9 spot checks and starts a series of what we call
10 "edge cases", things that are extreme that would
11 blow up the calculation. When you're content
12 with that, you try to cross-match it against
13 everything else. You're now able to turn in an
14 answer that you have some confidence actually is
15 correct.

16 So, you just can't add up the numbers,
17 so to speak. It takes a little bit more than
18 that.

19 Q I think "several weeks" sounds reasonable, yes.

20 What do you anticipate the analysis
21 that the Department has requested would show?

22 A (Bonner) I believe I'm going to be able to show
23 you that you have a matching, at least everything
24 lines up. But there will be a variance between

[WITNESSES: Culbertson|Bonner|Therrien]

1 the two, as expected, because that's giving rise
2 to the decoupling adjustment.

3 So, when we get everything "aligned",
4 so-called, you have your actuals, plus your
5 true-ups, you will see, when compared against the
6 allowed, plus their true-ups, you're going to
7 pretty much end up with the same answer that the
8 Company's accounting calculation provides.

9 One of the issues that's involved in
10 trying to segment a billing analysis, if you
11 don't actually have daily data, and we do not, is
12 that you have to estimate the consumption and you
13 have to estimate the revenue. The number of
14 equivalent bills is not an estimate. That's
15 actually a measurement. It's just mathematics.
16 It's the number of days in the billing period,
17 and it's easy to allocate.

18 But how much customers actually use,
19 what their actual load shape is on any given bill
20 is unknown. It's like your automobile, it's a
21 car odometer. You may say you've driven 1,200
22 miles in a month, but that doesn't necessarily
23 mean, in a 30-day month, that you drove 40 miles
24 each day. Now, on average, you did. But some

[WITNESSES: Culbertson|Bonner|Therrien]

1 days you may have driven 120 miles, other days
2 you may have driven none. So, the details
3 day-by-day are unknown. Thus, when you
4 calendarize things like consumption, or
5 calendarize revenues, which is dependent on that
6 number, there is a certain degree of error.

7 So, it's an approximate calculation,
8 but it's pretty close.

9 Q If you would turn to Bates Page 003 of
10 Exhibit 32, the Department had asked that that
11 table be completed. Had you --

12 A (Bonner) My eyesight is not what it used to be.

13 Q That's okay. Had you included that in your
14 estimate of two to three weeks?

15 A (Bonner) Can I ask just one -- okay, equivalent
16 bills.

17 I probably would require, and I don't
18 want to bog down this discussion, this is really
19 a technical question, just need some definitions
20 on a couple of line items. "Existing Equivalent
21 Bills issued that should not have been issued" is
22 an interesting phrase.

23 MR. KREIS: I guess, excuse me. But I
24 would like to bog down this discussion a little

[WITNESSES: Culbertson|Bonner|Therrien]

1 bit. In that, I'm not clear about what exactly
2 we're doing here? Is the Department conducting
3 discovery? Are we talking about "late-filed
4 exhibits"?

5 Because, if we are, I think the OCA
6 would object.

7 MS. SCHWARZER: I don't think the
8 exhibits are late-filed in any way. They were
9 filed on time in *pdf*. They weren't -- they were
10 filed later in Excel spreadsheets, but not this
11 one. This one was filed on August 23rd.

12 MR. KREIS: Right. No. But it seems
13 to me, unless I'm mistaken, the Department is
14 asking Mr. Bonner to generate some new
15 information, which he has agreed to do. And I
16 just want to know what happens to that
17 information that he is producing?

18 MS. SCHWARZER: Well, I guess --

19 CHAIRMAN GOLDNER: That's an excellent
20 question, Mr. Kreis. What I'm thinking, from the
21 Bench here, is that we're staring down the barrel
22 of a continued hearing. The Commissioners also
23 have some record requests that we would like to
24 make, based on the discussion today. Perhaps,

[WITNESSES: Culbertson|Bonner|Therrien]

1 the OCA has additional questions.

2 And, so, I would suggest that would be
3 the path forward, is to have a continued hearing,
4 so all parties will have an opportunity to
5 examine the additional evidence and weigh in.

6 Sensible?

7 *[No verbal response.]*

8 CHAIRMAN GOLDNER: Okay. Nobody is
9 shaking their head "no". So, I'll take that as
10 acceptance and quickly move along.

11 So, Attorney Schwarzer, how much more
12 time do you anticipate, just in terms of managing
13 the clock?

14 MS. SCHWARZER: Mr. Chairman, I'd be
15 happy to, in light of the proposal to continue
16 the hearing, would be happy to cede remaining
17 time to the Commission for questions and inquiry.
18 And just leave our cross-examination open.

19 CHAIRMAN GOLDNER: Okay. Does the
20 Consumer Advocate have any questions for the
21 witnesses? Or, the Consumer Advocate looks
22 puzzled. So, I'm curious if I'm asking the right
23 question?

24 MR. KREIS: No, you are asking the

[WITNESSES: Culbertson|Bonner|Therrien]

1 right question, Mr. Chairman. I'm just puzzled,
2 because Ms. Schwarzer, after having conducted
3 some of my cross-examination for me, when other
4 witnesses were on the stand, she's now waiving my
5 opportunity to have cross-examination. My
6 calculation is she's ready to have you ask my
7 questions. And I guess my answer to you is --

8 CHAIRMAN GOLDNER: I'm confident that
9 she meant to go to you next, but it's been a long
10 day.

11 MR. KREIS: Sure. I do have a few
12 questions. Happy to ask them now, happy to --

13 CHAIRMAN GOLDNER: That would be -- I
14 think it would help the Commission to hear from
15 the Consumer Advocate, in terms of the line of
16 questioning of the Company witnesses. So, please
17 proceed.

18 MS. SCHWARZER: And let me apologize
19 formally to the Office of the Consumer Advocate
20 for any inadvertent overlooking of his
21 opportunity for cross-examination, which was
22 certainly in no way my intention.

23 CHAIRMAN GOLDNER: I missed a number by
24 a million dollars earlier. So, you're doing

[WITNESSES: Culbertson|Bonner|Therrien]

1 well.

2 Please proceed.

3 MR. KREIS: So, just to be clear, the
4 Department is, at least for the present, finished
5 grilling these witnesses, and now it's my turn?

6 CHAIRMAN GOLDNER: Yes, sir.

7 MR. KREIS: Okay. Now, I don't have a
8 ton of questions. There's just a few dead horses
9 that I'd like to flog.

10 And I'd like to start with Mr.
11 Therrien.

12 BY MR. KREIS:

13 Q And this might sound slightly disrespectful, but
14 I don't really intend it that way. We've had a
15 lot of face time with you over the last year or
16 two. And we know that you are an extremely
17 credible expert witness, who has done a lot of
18 good work for this Company in particular, and we
19 appreciate that.

20 But I was taken aback by your testimony
21 a little while ago about what you -- the theory
22 that you offered about what accounts for the
23 increase in the difference between allowed
24 revenue and actual revenue that occurred in

[WITNESSES: Culbertson|Bonner|Therrien]

1 November of 2021. And your testimony, if I'm
2 remembering it correctly, was not that it was a
3 COVID-19 thing, but that it was the result of the
4 cost of gas rate having taken a dramatic leap
5 upward in November of 2021, from 39 cents the
6 previous month, to \$1.13 in November of 2021. Am
7 I remembering what you said correctly?

8 A (Therrien) I believe you paraphrased it well. I
9 don't recall discussing "COVID-19".

10 Q Right. That's true. You did not. But you
11 offered a theory about what accounted for that
12 larger than thentofore [sic] difference between
13 allowed revenue and actual revenue?

14 A (Therrien) I did. And that was in the context of
15 one possible explanation for a variance in what I
16 called "use per customer". Where I --

17 Q You --

18 A (Therrien) If I may? Where I validated that it's
19 very difficult to dissect variances in
20 weather-normalized use per customer. I may not
21 have put it that way, but I guess I'll attempt to
22 clarify it that way. One of the reasons would be
23 a price reaction.

24 Q So, your expertise has to do with the stuff like

[WITNESSES: Culbertson|Bonner|Therrien]

1 allocated cost of service, rate design, rate
2 consolidation, alternative rate plans,
3 decoupling, revenue requirements, infrastructure
4 replacement. But you're not an economist, are
5 you?

6 A (Therrien) I am not an economist, that's correct.

7 Q And, so, you aren't really qualified, are you, to
8 opine about the demand elasticity, or lack
9 thereof, when it comes to natural gas?

10 A (Therrien) I would disagree. And the reason why
11 I say that is that part of my qualifications has
12 been sales forecasting, and evaluating sales
13 forecasts. So -- and as well as --

14 *[Court reporter interruption.]*

15 **CONTINUED BY THE WITNESS:**

16 A (Therrien) -- integrated resource plans. And
17 those documents and those analyses, you come
18 across a lot of documents pertaining to price
19 elasticity. In fact, there's been some work that
20 the AGA has sponsored over the years, that is
21 industrywide knowledge, that talks to price
22 response.

23 So, I think an economic concept is
24 certainly fair game within my financial education

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1 and my experience in the industry.

2 BY MR. KREIS:

3 Q Fair enough, Mr. Therrien. And I'm not
4 suggesting that your testimony about that be
5 struck from the record. I'm just expressing a
6 certain amount of skepticism about it. Because
7 what your testimony is, and you can tell me if
8 I'm misunderstanding you, is that, as Liberty's
9 customers -- as Liberty's residential customers
10 went into November of 2021, a cold weather month,
11 that features a very important National Holiday
12 in it, at which families often gather, that your
13 testimony is that a viable theory is that
14 residential customers just decided, in response
15 to a price increase, to just kind of shiver at
16 home?

17 A (Therrien) Actually, I don't believe that's what
18 I said. And I could ask for the record to be
19 read back. So, if you allow me to just
20 paraphrase what I believe I said --

21 Q Fair enough, because I offered you a glib
22 read-back of that testimony.

23 A (Therrien) That's okay. I believe I also said
24 that there's some "lag" to that, you may recall

[WITNESSES: Culbertson|Bonner|Therrien]

1 that word "lag".

2 So, what, and I may not have expressed
3 it explicitly, but what was in my head is that
4 people get their bills, and they get a little bit
5 of a shock when they see their bills, and then
6 they react. So, there is -- tends to be a lag.
7 So, I may get my November bill with that November
8 CGA factor the day after Thanksgiving, for
9 example, and then adjust my usage. Put on a
10 sweater, and, in New Hampshire, probably fire up
11 an alternative woodstove/heating source, in order
12 to curtail my natural gas usage.

13 Q Fair enough. Okay. That's all I have for Mr.
14 Therrien. Thank you. You held up quite well, I
15 think.

16 I think, now, I want to move to Mr.
17 Bonner. And, Mr. Bonner, I'm looking at Exhibit
18 26, which is Mr. Arif's testimony. And, at
19 Page 14 of his testimony, which is Bates
20 Page 014, starting on Line 10, and going through
21 Line 13, he says: "Analysis of data provided by
22 Liberty through data requests from this current
23 docket shows that actuals exceed forecast
24 equivalent bills in 98 percent of the cases

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1 examined by DOE over a 12-calendar month period
2 September 2021 through August 2022."

3 I guess my first question is, you don't
4 disagree with that assertion from Mr. Arif, do
5 you?

6 A (Bonner) Again, somebody else's testimony. So, I
7 didn't write it, --

8 Q Fair enough.

9 A (Bonner) -- I have to make certain assumptions.
10 I'm going to conclude that the word "forecast"
11 here is referring to the original estimated
12 unbilled equivalent bills. And that the final
13 estimate, which isn't an estimate of equivalent
14 bills, but is a measurement process, shown in
15 each and every case, or in, sorry, the vast
16 majority of cases, that we add to the number.
17 That the estimate -- original estimate was low,
18 the original forecast, so to speak, and then,
19 over time, when we finally finish the four-month
20 process, the now final number, which we're
21 purporting to be the final actual measurement, is
22 larger.

23 Q Okay. Then, Mr. Arif goes on to say: "The
24 average impact from true-ups was to add 2.4

[WITNESSES: Culbertson|Bonner|Therrien]

1 percent to residential and 4.4 percent to
2 commercial original estimates of equivalent bills
3 to complete the calendar month." And I'm not
4 going to ask you whether you adopt that as your
5 opinion, but I will ask you to just accept it as
6 what Mr. Arif said --

7 A (Bonner) Subject to check, I can work with the
8 arithmetic. It had a different effect on
9 residential and commercial customers.

10 Q And then he goes -- sorry to interrupt. Then, he
11 goes on to say: "It's unclear why actual
12 equivalent bills to complete a calendar month are
13 on average 2.4 percent and 4.4 percent
14 higher...but the impact on the RDAF is clear."

15 Now, you, if I heard you correctly
16 earlier, you offered up an explanation for that.
17 And, if I understood you correctly, you
18 attributed that to the fact that there's this
19 four-month lag that you apply as you calculate
20 what the actual revenue is, and you did that, I
21 think -- or, you said you did that because you
22 were "being conservative". That is what --

23 A (Bonner) Yes. We have a bunch of different
24 things all kind of jumbled together. So, let me

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1 go back to what I was trying to say.

2 Q Okay.

3 A (Bonner) And I'm saying, the original estimate,
4 the estimating algorithm for -- now, at this
5 point, when we're doing this, we don't know
6 anything about what the true answer is yet. So,
7 you're doing this in January. I'm trying to
8 guess what was going to come in in February.
9 When I do that, I'm taking the information that I
10 know, and then extrapolating going forward.

11 So, if I send a bill to a customer, and
12 say his bill ended on the 10th of the month, and
13 the month contains 30 days, like April does, I
14 need to estimate the amount of equivalent bills
15 for that customer for the remaining 20 days,
16 which is very simple. It's 20, divided by 30, or
17 0.67. And you do that for every customer that
18 was actually rendered a bill in the current
19 month. I make some adjustments for the fact
20 that, if the customer actually received a final
21 bill, and, in our system, I can distinguish
22 between the two types, I say "No, don't apply
23 the estimate", say the customer was actually
24 finalized [sic] on the 10th now, then the

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1 additional 20 days doesn't figure into my
2 estimate.

3 The presumption, what makes it a
4 conservative estimate, is the assumption that
5 everybody who was supposed to get the bill in a
6 month actually got one, and that there was no
7 skips for whatever reason. That a customer's
8 meter reading came back, the thing was kicked
9 back, held by the customer's -- the Billing
10 Department until we get a check read, things of
11 that nature. Those never factor into the
12 calculation.

13 So, on average, I expected my number to
14 be lower than the true value. But it did not
15 concern me, in the end run, because I know I
16 would get to the final right number at the end.

17 Now, my only other consideration is, is
18 it sort of in the Company's favor or in the
19 customer's favor to do it this way? In short,
20 one doesn't want, when representing financial
21 results, to overstate the books. So, there's a
22 natural tendency to want to be conservative on
23 the side, that we'd rather say that we brought in
24 less revenue than more.

[WITNESSES: Culbertson|Bonner|Therrien]

1 And, then, the second piece is, is that
2 it's easy -- when you're adding stuff, it looks
3 better than trying to subtract from it.

4 Q So, okay. My question about that is, is all of
5 that, that conservative approach that you just
6 described, is that in the Company's tariff?

7 A (Bonner) No, this has nothing to do with it.
8 Because the calculations were developed for an
9 accounting procedure. It's not a tariffed item.

10 Q Right. So, that's a matter of judgment, your
11 judgment?

12 A (Bonner) It is.

13 Q And, if your employer didn't like that, it could
14 override that judgment, correct?

15 A (Bonner) They could.

16 Q Okay. Let me just explore maybe an alternative
17 theory for why the Company has chosen to or
18 allowed you to proceed that way.

19 When there is a revenue deficiency,
20 that is to say a difference between actual
21 revenue and allowed revenue, such that the
22 Company is under-recovered, the Company earns
23 interest on that deficiency, does it not?

24 A (Bonner) It does.

[WITNESSES: Culbertson|Bonner|Therrien]

1 Q And, if you look on Exhibit 19, and you don't
2 have to look, you can just accept, that, on Bates
3 Page 007 of Exhibit 19, Column (e) reflects the
4 interest rate that, when Liberty was owed money
5 from its customers, it charged those customers,
6 correct?

7 A (Bonner) Yes.

8 Q And the rate, which ranges from 3.25 in November
9 of 2021, going up to 5.5 percent in October of
10 2022, that's the prime rate, is it not?

11 A (Bonner) Subject to check, I believe it is.

12 Q Because that is in the tariff?

13 A (Bonner) Yes.

14 Q Okay. So, the prime rate. Do you happen to know
15 what the prime rate is today?

16 A (Bonner) No, I don't. One of my colleagues
17 might. Tyler.

18 Q Well, I can say, and I guess the Commission can
19 take administrative notice of the fact, that the
20 prime rate today is at 8.5 percent.

21 Do you know what the Company's cost of
22 debt is at present?

23 A (Bonner) Consolidated, I don't. But it would --
24 their most recent one would be in the rate case

[WITNESSES: Culbertson|Bonner|Therrien]

1 they just submitted.

2 Q Right. Okay. Do you know what it was in the
3 last rate case?

4 A (Bonner) Oh, it would be probably something on
5 the order of like 4 percent.

6 Q Exactly. I think the Commission can take
7 administrative notice of the fact that the
8 Settlement Agreement approved by the Commission,
9 in Docket 20-105, calls for a -- or, approves
10 a -- or, adopts a cost of debt of 4.42 percent.

11 So, my point here is -- well, my next
12 question is, do you know whether the Company's
13 cost of debt tends to be less than the prime
14 rate?

15 A (Bonner) I don't know. I haven't done any
16 analysis on the Company's financial. I mean, all
17 of these things have been very much in flux in
18 recent months with the rapid rise of inflation.
19 Which is another factor here, Mr. Kreis, is that,
20 you know, until the interest rates started to
21 rise in the last, I don't know, the last decade
22 or so, most of us weren't paying all that much
23 attention to interest rates. If you went to a
24 bank and tried get anything, they would tell you

[WITNESSES: Culbertson|Bonner|Therrien]

1 "oh, we'll give you a half a percent on a money
2 market, or even some short-term CDs."

3 So, granted, that what they will loan
4 money out is always higher than what they will
5 give a saver.

6 MR. KREIS: Okay. Well, I would like
7 to ask the Commission to take administrative
8 notice of the fact that the parent company of
9 Liberty Utilities enjoys a BBB bond rating, and
10 that the corporate bond rate currently, for a
11 BBB-rated company, is 6.04 percent, which is, by
12 my math, more than 200 basis points lower than
13 the prime rate.

14 BY MR. KREIS:

15 Q And I guess my question for you, Mr. Bonner, is,
16 how conservative is that really, given that it
17 basically allows the Company to make money by
18 taking money it borrows, and then, in effect,
19 lending it to customers at a 200 basis point
20 markup?

21 A (Bonner) First of all, I don't think anybody's
22 actually looked at it in that kind of context.
23 And, without binding the Company, because I can
24 not do so, if it were decided that the estimate

[WITNESSES: Culbertson|Bonner|Therrien]

1 process is unduly conservative, and that we
2 wanted to agree on some sort of an adjustment
3 factor to be applied, I don't think the Company
4 would actually object. Because, at the end of
5 the day, we're not interested in earning money as
6 an -- or, as a revenue source, earning money from
7 interest as a primary source of, you know,
8 contributing to the bottom line. We make our
9 money from, basically, making investments in
10 utility plant, and then earning it through rates.

11 MR. KREIS: Understood. And I don't
12 disagree with that.

13 And I guess I don't really have any
14 more questions for you. So, anything else I
15 might say would be argument. And I guess I'll do
16 that at some more appropriate time. So, that's
17 all I have at present.

18 CHAIRMAN GOLDNER: I think the thought
19 process at this point is to break here, and offer
20 a continued hearing where we would come back to
21 the current witnesses, and then also offer Dr.
22 Arif an opportunity to testify, but break at this
23 point.

24 Now, the Commission does have a number

1 of questions that we can put in a record request,
2 or a procedural order, embedded in a procedural
3 order, so that all the parties can see what our
4 questions are, what our concerns are, and the
5 data that we would like to see, is the sort of
6 proposal to move forward. Does anyone have any
7 concerns with that plan?

8 MR. KREIS: As long as there's a
9 subsequent opportunity to ask questions about
10 that at a hearing, and it sounds like there will
11 be, especially because you're nodding?

12 CHAIRMAN GOLDNER: Exactly. The
13 thought is, with the continued hearing, would be
14 to ask for this data. It sounds like there's
15 some additional information that DOE has asked
16 for as well. And then propose a new hearing time
17 out probably some months, because the Commission
18 is pretty booked in September and October, I
19 think November would be fine from our point of
20 view.

21 And, then, I know that the new rates
22 would start February 1st. So, it seems like that
23 all work out from a timing point of view, to give
24 everyone time to look and process the data.

1 So, --

2 MR. SHEEHAN: My only comment is, to
3 the extent you have questions now, speaking to
4 them might prompt an exchange to make sure we
5 don't have a disconnect. So, we may not. But,
6 if you ask for X, they may say "Well, give me X
7 or give me X plus."

8 CHAIRMAN GOLDNER: We can do that. We
9 need to take a quick bio break, and then come
10 back. So, maybe give us five minutes, and we can
11 come back and maybe elaborate a little bit. So,
12 let's return in five.

13 *(Recess taken at 3:48 p.m., and the*
14 *hearing resumed at 3:58 p.m.)*

15 CHAIRMAN GOLDNER: The case of the
16 missing witnesses. So, are they available? I
17 think you -- I think the suggestion was to ask
18 some questions? We don't need to, but --

19 MR. SHEEHAN: Yes. My thought was,
20 we'll hear your proposed questions, if you have
21 any.

22 CHAIRMAN GOLDNER: I see.

23 MR. SHEEHAN: And, then, we can just go
24 back and forth, --

1 CHAIRMAN GOLDNER: Okay.

2 MR. SHEEHAN: -- and they can just
3 supplement.

4 CHAIRMAN GOLDNER: Okay. There we go.
5 A little miscommunication, no problem.

6 Okay. Yes, we can do that briefly.
7 Commissioner Simpson or Chattopadhyay, would you
8 like to go first, or would you like to leave it
9 to your Chairman?

10 CMSR. SIMPSON: I'm happy to provide
11 deference.

12 CMSR. CHATTOPADHYAY: Same here, even
13 more.

14 CHAIRMAN GOLDNER: Very good. All
15 right. Well, we can roll with that.

16 So, I think, just to give you
17 headlights, and we'll put this in a PO so
18 everyone can see, but, really, we're looking for
19 what we'll call "proof". Meaning that, what we
20 would like to see is the number of customers for
21 each time period, so each month, and we're going
22 to have to go back to it looks like the test
23 year, which is 2019, if I have that right. So,
24 going all the way to 2019, by month, look at the

1 numbers of customers, both actual and allowed.
2 Now, that should be the same, in my mind, but
3 please show both.

4 We'll need to look at the RPC, both
5 allowed and actual. So, again, going -- since we
6 can go back to the test year, to baseline the
7 RPC, and then show how it changes over time.
8 That will really help the Commission understand
9 "are we following the mathematics on the spirit
10 of what the decoupling is supposed to do?"

11 So, that's kind of the spirit of the
12 request. And, then, underneath that, we'll want
13 to have an understanding of where the numbers
14 came from, obviously. And, so, that's where,
15 Mr. Sheehan, to your point, it gets a little bit
16 more complicated understandably, but that
17 high-level view is really, really helpful for us
18 to understand how this puzzle fits together.

19 Do the Commissioners have anything they
20 would like to add to the rough description?

21 CMSR. SIMPSON: Yes. I would just say,
22 we think about it as a math proof, and which I
23 hesitate to say sitting next to a PhD in
24 Economics and a professor, but a summary of the

1 ask. That the equation that we need to apply, an
2 explanation of, within that equation, all of the
3 variables. Where did they originate from? Can
4 you point us to an exhibit where the basis for
5 that variable and its application comes from?
6 And, then, whether it's a composite, or an
7 example of a monthly calculation or multiple
8 months, how you've gotten to that \$2.7 million
9 ask overall? Walk us through that, so we can
10 exactly follow the mathematics behind it.

11 CHAIRMAN GOLDNER: And I'll just jump
12 in to add, I think what you, Attorney Sheehan,
13 walked through at the beginning was very helpful,
14 and it's just applying numbers to it. Okay,
15 we -- the base revenues were this, you know, the
16 number of customers were that. We divided this
17 by that, you know, we got -- and I think -- I
18 think it's okay, I'm looking at my fellow
19 Commissioners, if the proof is just for
20 residential customers, that would, I think, make
21 at least one of the other parties happy. So, if
22 we -- if we just focus on that, if the proof
23 lines up for residential customers, I personally
24 am confident it will line up for the others.

1 So, I at least would be satisfied if
2 the proof was just residential. Just so we don't
3 get 600 pages of ancillary stuff that's not maybe
4 as important.

5 MR. KREIS: That's a fabulous idea, in
6 my humble opinion.

7 CHAIRMAN GOLDNER: Thank you. I
8 thought that might meet with rave reviews in at
9 least one quarter, or one third.

10 Anything else, Commissioners, that you
11 would like to mention?

12 Attorney Schwarzer, did you have
13 something?

14 MS. SCHWARZER: Mr. Chairman, in
15 deference to your question, if the commercial
16 piece is not included, reclassification may not
17 be illustrated.

18 CHAIRMAN GOLDNER: All right.

19 MS. SCHWARZER: So, perhaps we can --

20 CHAIRMAN GOLDNER: We'll add
21 commercial. We can add that. The Company, I'm
22 sure, can apply the same spreadsheets. It's
23 just, for me, the proof is -- it's important to
24 triangulate the numbers that we're looking at

1 here.

2 Just looking at my notes, you know,
3 just some observations I'll mention quickly, and
4 then we'll move along. I sort of -- the
5 extensive calculation on how to count the number
6 of customers was extremely helpful. So, thank
7 you for that, Mr. Bonner.

8 It is puzzling that it's not sort of
9 like levelized. You know, all you would have to
10 do is multiply your month by 30.42, or whatever
11 it is, 365 divided by 12, multiply it by the
12 number of days, to levelize the number of
13 customers.

14 I mean, there are some idiosyncrasies
15 in these calculations that I think I would ask
16 you to consider in the next rate case, to
17 simplify things a little bit. Because I think
18 you're unnecessarily complex. And I think, Mr.
19 Therrien, you mentioned that as well. I mean, I
20 think that there's room for improvement in the
21 decoupling calculations that I would encourage
22 everyone to think about next time.

23 This time, we're left with what we're
24 left with. So, we'll just have to deal with the

1 circumstances as presented.

2 I think that is all that I had for
3 comments.

4 Commissioners, anything that you would
5 like to add?

6 CMSR. SIMPSON: If there's an
7 opportunity for settlement, we always encourage
8 that. If more folks can be comfortable with
9 what's been put before us, I think, if we all
10 feel a sense of comfort, then that's a more
11 productive process.

12 And I want to note, I found the
13 questions from the Consumer Advocate very, very
14 interesting, in terms of the business decision
15 element, in terms of the methodology applied.
16 And I wonder whether that might be further
17 explored in any responses by the Company.

18 MR. SHEEHAN: Right. As Mr. Bonner
19 said, we've not thought of it that way. And it
20 is -- the beginning reason is, for financial
21 purposes, you don't want to be overstating
22 anything. And, so, it may have this impact that
23 Mr. Kreis pointed out, interesting to quantify
24 that. Is it -- but it's, obviously, a fair

1 question. And, anyway.

2 Just two points. One, the sketched out
3 schedule certainly makes a settlement better
4 chance of it. We'll be able to provide the
5 information to DOE, do the analysis, and maybe we
6 can bring them the comfort that they don't have
7 today.

8 Second, as to your request that you'll
9 put in writing, you know, sort of showing the
10 numbers and the source, as you know, some of
11 these source places are themselves black holes.
12 And, so, we may be saying "this comes from the
13 billing system." Now, if that's sufficient,
14 great. If you want to see what comes from the
15 billing system, there may be an example of that.
16 I don't know if that's -- that's my -- it's
17 always our concern here is, you know, we're
18 providing the first few layers. There's a few
19 down, do you want to see it or not, if you want
20 to see it, the filings grow by an order of
21 magnitude? And sometimes we feel like we're
22 faulted for not taking that last step, other
23 times "you gave us too much", and there's always
24 a tension there.

1 CHAIRMAN GOLDNER: It's a challenge. I
2 would just say to that, that we would depend, I
3 think, on the DOE's Audit Department to look at
4 that level of detail. We can't look at the SAS
5 database and look at four billion lines. And,
6 so, we're going to depend on the Audit Department
7 to justify some of that data.

8 MR. SHEEHAN: So, I guess the -- my
9 wrap-up is we'll do what we think makes the most
10 sense for your purposes. And, certainly, you
11 will ask follow-up, if we didn't go deep enough.

12 CHAIRMAN GOLDNER: Thank you. And I'll
13 just mention, to layer on Commissioner Simpson's
14 comment, you know, I think, in upcoming rate
15 cases, considering some of these things that are
16 untethered. If you have a prime rate and you
17 have a cost of debt, I mean, these are things in
18 a rate case it would nice to tether, so that we
19 don't have these arbitraging issues. It's an
20 opportunity for improvement, I think, as we move
21 forward. Excepting, of course, right now we have
22 a tariff and so forth, and we'll operate within
23 the rules that we currently have, from a
24 Commission standpoint. But, in the future, that

1 may be an opportunity.

2 MR. KREIS: Well, in fairness, I have
3 to say, since Commissioner Simpson was kind
4 enough to express an appreciation for us having
5 raised that issue, that, for those insights, I'm
6 grateful to my new Director of Economics and
7 Finance, Mr. Vatter.

8 CHAIRMAN GOLDNER: Very good. And we
9 are, too. And, yes, the more we can tether, the
10 better, I think.

11 CMSR. SIMPSON: As a fellow lawyer, I
12 can say it's always nice to have an economist
13 next to you.

14 MR. KREIS: Yes, indeed.

15 MS. SCHWARZER: Mr. Chairman?

16 CHAIRMAN GOLDNER: Yes.

17 MS. SCHWARZER: This is not directly
18 relevant to this docket, but it is relevant to
19 the LDAC and the future determination in
20 February. DG 23-076 included default schedules
21 that the Commission approved. And, as part of
22 that, we contemplated a status conference with
23 the Commission in November for the LDAC, the new
24 LDAC matter in 23-076.

1 It's just not clear to me if the
2 Commission has noticed that and intends to
3 schedule it, and I didn't want it to get lost.
4 So, certainly --

5 CHAIRMAN GOLDNER: Do you have the date
6 handy? Do you have the date handy?

7 MS. SCHWARZER: We had proposed "on or
8 about November 14th", but we don't know what the
9 Commission's availability is. Certainly,
10 whatever works for the Commission, you know, I'm
11 sure parties will make it work. And our hope is
12 that it will be a simple status conference with
13 nothing to carve out, and clear sailing towards
14 February.

15 But I raise that here, because I don't
16 have many opportunities to raise it.

17 CHAIRMAN GOLDNER: We may consider
18 coupling the -- we might have two separate
19 sessions. But November 8th, if folks can check
20 their calendar, works for the Commission. We
21 have some conflicts beginning the 13th of
22 November. But, if the 8th will work, we could
23 perhaps take care of both issues on the same day.
24 That's a Wednesday.

1 MR. SHEEHAN: I have two computers,
2 none are working.

3 CHAIRMAN GOLDNER: The day before is --
4 it's Election Day. So, the 7th would also work,
5 depending on people's schedules. But the 7th or
6 8th, if that will work for folks?

7 CMSR. CHATTOPADHYAY: As you check the
8 date, I just wanted to say "thank you",
9 Mr. Simpson.

10 And, so, I just want to make sure that
11 next time when we meet, I do have questions for
12 the Company's witnesses. And we just decided not
13 to go there today. So, I just wanted you to know
14 that.

15 MS. SCHWARZER: November 8th is
16 certainly workable for the Department. Thank
17 you, Mr. Chairman.

18 CHAIRMAN GOLDNER: Attorney Kreis,
19 would that work for the Consumer Advocate?

20 MR. KREIS: Yes, it would.

21 MR. SHEEHAN: Yes.

22 CHAIRMAN GOLDNER: Okay. The computer
23 is back up? Okay.

24 MR. SHEEHAN: No. I'm relying on his

1 computer.

2 CHAIRMAN GOLDNER: It wasn't under
3 oath, so I think we're okay.

4 Okay. Anything else that we need to
5 cover today?

6 *[No verbal response.]*

7 CHAIRMAN GOLDNER: Okay. So, we'll
8 continue this hearing on November 8th, and
9 perhaps pick up some of these other topics as
10 well, and the status conference, we'll sort out
11 whether that's one meeting or two. But we'll get
12 back with everyone later.

13 And we are adjourned.

14 ***(Whereupon the hearing was adjourned at***
15 ***4:09 p.m., and the hearing to continue***
16 ***on November 8, 2023, commencing at***
17 ***9:00 a.m., as indicated in a***
18 ***procedural order issued by the PUC***
19 ***dated September 1, 2023.)***

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