

1 **STATE OF NEW HAMPSHIRE**
2 **PUBLIC UTILITIES COMMISSION**

3 **October 13, 2022 - 9:32 a.m.**
4 21 South Fruit Street
5 Suite 10
6 Concord, NH

7 *[Hearing also conducted via Webex]*

8 **RE: IR 22-048**
9 **ELECTRIC, GAS, AND WATER UTILITIES:**
10 Investigation of Step Adjustment
 Methodology and Process.
 (Prehearing conference)

11 **PRESENT:** Chairman Daniel C. Goldner, Presiding
12 Commissioner Pradip K. Chattopadhyay

13 Alexander F. Speidel, Esq.
 (PUC Legal Advisor)

14 Tracey Russo, Clerk
15 Doreen Borden, PUC Hybrid Hearing Host

16 **APPEARANCES:** **Reptg. Public Service Company of New**
17 **Hampshire d/b/a Eversource Energy and**
 Aquarion Water Company of New Hampshire:
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18 **Reptg. Liberty Utilities (Granite State**
19 **Electric) and Liberty Utilities**
20 **(EnergyNorth Natural Gas) d/b/a**
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 Michael J. Sheehan, Esq.

21 **Reptg. Unitil Energy Systems, Inc., and**
22 **Northern Utilities, Inc.:**
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23 Court Reporter: Steven E. Patnaude, LCR No. 52
24

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P R O C E E D I N G

CHAIRMAN GOLDNER: Okay. Good morning.

This is the opening conference for IR 22-048, the Investigation regarding Step Adjustment Methodology and Process held pursuant to the Order of Notice issued by the Commission on August 26, 2022. We are engaging in this investigation through our statutory authority under RSA 374:4 and allied statutes as indicated by the Order of Notice.

The Commission is turning its attention to the issue of step increases in the context of a changing regulatory environment, in which we are now seeing what could be termed "mini rate cases" for what appear to be normal operational costs, such as vegetation management, storm reserve funds, reliability enhancement plans, and infrastructure improvements. Full distribution rate increases tend to be filed more frequently for our gas and electric utilities than in years past, especially compared to the 2000s and early 2010s.

Methodologies for calculating the step increases vary across utilities. We are looking

1 to explore ways in which the Commission can
2 accommodate reasonable returns for the utilities,
3 while maximizing the wise use of its regulatory
4 resources, and keeping in mind the impact on
5 customers, as part of its mission to ensure just
6 and reasonable rates.

7 As with other recent investigation
8 opening conferences, we would like to state that
9 the Commission is not making binding
10 determinations as part of its investigations
11 here. We're developing data and information that
12 would be helpful in guiding future
13 decision-making in separate adjudicative dockets.
14 Here you will have the opportunity to highlight
15 your priorities and concerns in an
16 information-gathering forum, where it will be
17 objectively viewed and readily available to the
18 members of the public, the legislature, and
19 fellow stakeholders in this docket. It is also
20 an opportunity to educate the Commission on
21 issues important to you.

22 As a guideline for what the Commission
23 intends for the flow of this investigation, we
24 expect a series of data requests will be asked by

1 the Commission through procedural orders to the
2 utilities that are part of this investigation.
3 These data request responses will be shared with
4 the collective participant group, and could lead
5 the Commission to schedule one or more
6 Commission-attended technical sessions to better
7 inform our collective understanding of the
8 issues, as well as the production of a report at
9 the conclusion of the proceeding.

10 That is a general overview. We would,
11 however, like to share our thinking regarding
12 these matters today, in terms of some questions
13 that have come to our minds so far. We have not
14 made any definitive prejudgments regarding these
15 matters; we are exploring the issues. The
16 utilities and other participants can tee up their
17 opening statements in relation to these concepts,
18 or others, if they so choose. We have also read
19 the comments of the participants filed so far and
20 appreciate their insights.

21 For the better part of a century,
22 utility revenue requirements were determined in a
23 rate case. Step increases for gas and electric
24 utilities in New Hampshire are a relatively

1 change. So, some questions that are on our mind,
2 for example, are "What were the historical
3 contexts and justifications for the introduction
4 of this step methodology?" "Can step increases
5 be eliminated, while ensuring that the company
6 receive a reasonable revenue requirement and rate
7 of return?" "If step increases are needed, how
8 could they be determined in the rate case without
9 subsequent reviews?" "Is there a way to
10 simultaneously decrease the filings" -- "for the
11 frequency, rather, of rate filings?" "If step
12 increases continue, what is the proper
13 relationship between a step increase program and
14 a company's LCIRP planning process?" "Why is
15 there not a single approach to calculating a
16 step, the "list approach" versus the "net
17 approach", for example?" "How are steps
18 calculated in other jurisdictions and why?" "How
19 can a step increase be simple, understandable,
20 and conceptually sound?"

21 These are some -- these are some
22 examples that we wanted to share this morning.

23 I would like -- I would now like to
24 invite Commissioner Chattopadhyay to make any

1 initial remarks.

2 CMSR. CHATTOPADHYAY: Thank you,
3 Chairman.

4 For me, I view this as an attempt to
5 figure out how to improve the process. And, you
6 know, given that I can speak for the Commission
7 itself, that, you know, with the new structure,
8 with the rate cases and all the step increases
9 coming from different utilities, it becomes sort
10 of a burden when our analysts are all looking at
11 it.

12 So, what I'm hoping with this process
13 is, are there other ways to do it in a way that
14 it makes it easier for not only the Commission,
15 but also the parties, so that we have an easier
16 time in the future? So, that's -- that's the
17 overarching concept that I had in mind.

18 Having said that, with the opening
19 remarks from the Chairman, I think I'm just kind
20 of curious that, when you have step increases, I
21 would expect the rate cases -- the number of rate
22 cases to actually go down, or the frequency to
23 fall. But it appears that that hasn't happened.
24 So, I'm very curious why?

1 So, when you are addressing us in your
2 opening statements, please, it would great if you
3 could respond to that question that I have.

4 Thank you.

5 CHAIRMAN GOLDNER: Thank you,
6 Commissioner.

7 At this time, I would like to
8 acknowledge the participants that have filed
9 letters of participation in this investigation in
10 alphabetical order. When I read off the list of
11 participants, if each participant here could say
12 "present", that would be helpful.

13 And we'll begin, again alphabetically,
14 with Aquarion Water Company and Eversource?

15 MS. CHIAVARA: Present.

16 CHAIRMAN GOLDNER: The Hampstead Area
17 Water Company?

18 MR. AUGERI: Present.

19 CHAIRMAN GOLDNER: Lakes Region Water
20 Company?

21 MR. RICHARDSON: Good morning,
22 Commissioners. Present.

23 CHAIRMAN GOLDNER: Thank you. Liberty
24 Utilities, which is both Granite State Electric

1 and EnergyNorth?

2 MR. SHEEHAN: Present.

3 CHAIRMAN GOLDNER: Thank you. You
4 changed seats.

5 MR. SHEEHAN: I'm mixing it up.

6 CHAIRMAN GOLDNER: It's confusing me.
7 The New Hampshire Department of Energy?

8 MR. DEXTER: Present.

9 CHAIRMAN GOLDNER: The Office of
10 Consumer Advocate?

11 MR. KREIS: Present.

12 CHAIRMAN GOLDNER: Pennichuck Water
13 Company?

14 MR. GOODHUE: Present.

15 CHAIRMAN GOLDNER: And affiliates.
16 Thank you.

17 And Unitil, which is Unitil Energy
18 Systems and Northern gas?

19 MR. TAYLOR: Present.

20 CHAIRMAN GOLDNER: Thank you. Am I
21 missing anyone?

22 *[No indication given.]*

23 CHAIRMAN GOLDNER: Okay. Seeing none.

24 At this time, I would like to invite

1 participants who would like to do so to make
2 opening remarks on the record today, up to ten
3 minutes each, in the same alphabetical order.
4 Please introduce yourself and state your name and
5 title for the record, if you do provide an
6 opening statement.

7 And, again, we'll start with Aquarion
8 Water Company and Eversource.

9 MS. CHIAVARA: Good morning,
10 Commission. Jessica Chiavara, here on behalf of
11 Aquarion Water Company of New Hampshire and
12 Public Service Company of New Hampshire, doing
13 business as Eversource Energy.

14 I don't have a lot to say this morning.
15 Generally, Eversource and Aquarion refer to the
16 comments filed on October 4th, to the extent that
17 those comments detailed both Companies' initial
18 position on the issues listed in the Order of
19 Notice for this docket. And we don't feel the
20 need to reiterate those at this time. However,
21 we are open to further discussion of those
22 positions.

23 As a general statement, pertaining to
24 the scope of this docket, and the questions just

1 posed by the Commission, Eversource believes
2 that -- Eversource and Aquarion believe that
3 there is an opportunity for productive dialogue
4 surrounding continued use of step adjustments,
5 which we believe is warranted and useful, the
6 continuation of steps, as a ratemaking mechanism
7 in New Hampshire. And how steps should be
8 designed, reviewed, and applied moving forward,
9 to best balance the interests of the utilities
10 and ratepayers, and provide the greatest
11 efficiency, administrative efficiency. And we
12 look forward to participating in that
13 conversation.

14 As to Commissioner Chattopadhyay's
15 question as to why steps may not have decreased
16 the frequency of rate cases, I don't have
17 comprehensive data that -- I don't -- I'm not
18 aware of the total frequency of rate cases coming
19 into the Commission. I can say that that is the
20 intention of step adjustments, is to delay full
21 rate cases from coming in. So, I would say that
22 that's a worthy subject for examination, is how
23 to best design those so that they do function in
24 that capacity.

1 And, for the questions from the Chair
2 that I was able to write down, I think those are
3 all good questions for the scope of this docket.
4 I would say I would not recommend the elimination
5 of step adjustments generally. We can certainly
6 provide historical context for steps. And,
7 certainly, some jurisdictions, neighboring
8 jurisdictions, don't use steps. But the
9 conditions there are also different for coming in
10 for rate cases, and the frequency with which you
11 come in for rate cases. So, I think a comparison
12 could be useful and informative.

13 I think that how steps could be
14 included in rate cases, without having separate
15 proceedings on those step adjustments, is
16 certainly an opportunity for greater
17 administrative efficiency, which is worth having
18 a conversation about.

19 And I would say, as far as the
20 methodology, like, sorry, standardizing the
21 methodology for calculating steps is certainly
22 worthy of consideration as well, as that could
23 facilitate settlement agreements, if all parties
24 know in advance what the parameters are for

1 inclusion in a step.

2 I believe that's all I have at this
3 time. But I'm sure that Eversource and Aquarion
4 will have more to add.

5 CHAIRMAN GOLDNER: Thank you.
6 Hampstead Water Company?

7 MR. AUGERI: Good morning. Tony
8 Augeri, General Counsel.

9 Given that we're kind of at the
10 preliminary stages, I'll keep my remarks and
11 opening remarks short.

12 The Hampstead Area Water Company, or
13 "HAWC" for short, certainly strongly advises in
14 the continuation of the step paradigm. I guess I
15 can jump right to the question about the
16 "frequency of rate cases". And I can speak with
17 the direct example of the Company's last rate
18 case. That had steps incorporated. And those
19 were done with a settlement agreement, in which
20 the Company agreed not to come in on a rate case
21 for many years down the road. In fact, I believe
22 the earliest would be in 2025, using a 2024 test
23 year. So, HAWC certainly doesn't have any
24 history of frequency of rate cases.

1 You know, that certainly the
2 discussion, I would echo the comments just made
3 by Aquarion and Eversource, is a good one to
4 have, because we're struggling with many issues
5 with that reality. You know, you don't need to
6 look far into the news to see, you know, labor
7 costs going up, labor shortages, finding workers.
8 You know, so, the pressure, I guess one of the
9 issues that was mentioned is to discuss,
10 eliminating steps seems to be 180 degrees
11 opposite of trying to address rate case
12 frequency, right? Because then, your only
13 alternative to address those issues for companies
14 is to file a formal rate case.

15 The Companies believe that allowing for
16 step adjustment actually adds to the efficiency
17 of the process. And also would, you know,
18 whether it's, you know, again, the questions of
19 addressing streamlined calculations and
20 methodologies is a good one to have. But,
21 overall, without it, the alternative is filing a
22 rate case, and that adds to costs, that adds --
23 that ultimately is faced by the ratepayers, and
24 is difficult to be efficient.

1 So, all of those things, and more
2 specifically with some of the issues that were
3 raised in the notice, you know, the calculation
4 and methodologies used, the Company would
5 strongly advice on continuing the calculation
6 methodologies used to develop those step
7 adjustments. You know, additions to plant,
8 accumulated depreciation, depreciation expense,
9 property tax expense, you know, and others. We
10 further encourage, and we understand other
11 companies have consideration of other expenses,
12 such as wages, payroll, taxes, and benefits. So,
13 from that standpoint, we look forward to
14 continuing in this process.

15 I guess I would just add and kind of
16 close the remarks by saying that HAWC is kind of
17 in a unique position. We just heard that
18 Aquarion is now Eversource. HAWC is, yes, a
19 Class A utility, but on the very smaller end of
20 it. We're closer to Lakes Region than we are to
21 our fellow public utilities. So, the challenges
22 can be, you know, more burdensome to a company in
23 that position.

24 However, we look forward to

1 participation in this docket. And thank you very
2 much.

3 CHAIRMAN GOLDNER: Thank you. We'll
4 move to the Lakes Region Water Company?

5 MR. RICHARDSON: Thank you. Good
6 morning, Mr. Chairman, Commissioner
7 Chattopadhyay.

8 I want to turn, I mean, we provided
9 written comments, and I think those were
10 valuable. And I'm glad to hear the Commission,
11 you know, recognized that you've reviewed those.
12 So, I won't go through chapter and verse of what
13 we've already submitted.

14 But I want to step back, and the
15 question that was asked about, you know, "why are
16 we seeing" -- or, "not seeing a change in the
17 frequency of rate cases with the advent of step
18 increases?"

19 And I think, in my view, all of this
20 stems from the issues that are in the NARUC
21 resolutions that we included, and the nature of
22 public utilities and how rates are regulated.
23 The principles of ratemaking were developed even
24 before this Commission was established in 1911.

1 They continued to be refined when the Commission
2 was reestablished in 1951, in the post-World
3 War II era. And what was significant about the
4 business of being a public utility and serving
5 the public was that that was an era of
6 exceptional growth.

7 You know, I remember growing up in a
8 subdivision that, you know, was built out in the
9 late '60s. I remember visiting my grandparents'
10 house, you know, the one that was, you know,
11 built in the 1940s. And what utilities did
12 during that era is is they made capital
13 investments, and those capital investments
14 produced new customers, which led to new revenue
15 growth. And that was a very important
16 circumstance that produced a lot more stability
17 than what we see in the present era.

18 And I can't really speak for the gas or
19 electric utilities, but, in reading their
20 comments that were filed here, I was struck by
21 the similarity of what their business and
22 economic challenges were to Lakes Region's.
23 Where we don't get to, I mean, new subdivisions
24 have not appeared in Lakes Region's service

1 territories in recent years. We don't get to
2 just lay main and add new customers. What we're
3 investing in is replacing aging pipe systems that
4 have deteriorated beyond their effective life;
5 adding new treatment facilities.

6 These are all major capital investments
7 that, in the absence of a rate adjustment, are
8 not reflected in any new -- in any new revenue.
9 And that's something that's going to continue,
10 and that's really what the NARUC resolutions are
11 speaking to, as to what -- why alternatives to
12 the traditional ratemaking principles are needed.

13 In some of Lakes Region's most recent
14 rate cases, sometimes we look and we want to say,
15 "Okay, let's take some known and measurable
16 changes subsequent to the test year and bring
17 those in." But the problem is is that we're
18 limited to a twelve-month period. And I think
19 the regulators, both this Commission, and now the
20 Department of Energy in recent cases, they, I
21 think correctly, focus on the test year, and say
22 "No, we want to look at the test year, because,
23 once we start bringing things in from the future,
24 you know, it's almost like we have to then have a

1 multiyear test year and look at all the factors,
2 and it makes ratemaking much more difficult."

3 And I think the solution to that is to
4 continue to use mechanisms like step increases,
5 which will reduce the frequency of needing to
6 come back.

7 There's some discussion of this. We
8 didn't cite this in our written materials, in the
9 *New England Telephone & Telegraph* case, versus
10 *State*, which is at 113 NH 92 (1973). Also,
11 *Chickapee Manufacturing Company* case, which at
12 98 NH 5. I didn't review these coming into this
13 hearing, but that's where the Supreme Court is
14 interpreting the role of revenue growth and using
15 the test year average versus year-end rate base.
16 Which is really what step adjustments get at, is
17 what happens when there are changes to the
18 utility's business that occur subsequent to the
19 test year, which need to be accounted for. And
20 that's -- and that's really how step adjustments
21 have come into existence, due to the need to find
22 a way to address non-revenue investments.

23 With all that said, and those are kind
24 of big concepts, Lakes Region looks forward to

1 working with all the parties, you know, in
2 whatever form this proceeding takes. We think
3 this is an opportunity to find ways to do things
4 better for everyone concerned.

5 Thank you.

6 CHAIRMAN GOLDNER: Thank you. We'll
7 move to Liberty Utilities?

8 MR. SHEEHAN: Good morning. Mike
9 Sheehan, for the Liberty gas and electric
10 utilities.

11 Similarly, I won't repeat what we put
12 in our written filing, but I had a few
13 off-the-cuff responses to some of your questions.

14 For reasons I'm not entirely sure,
15 Liberty is now getting steps under what you call
16 the "list approach", rather than the "net plant
17 approach". And why that came about, I'm not
18 sure. I do know, in one of the more recent rate
19 cases, we proposed a net plant approach, and, for
20 whatever reason, it didn't end up in the
21 settlement agreement that was approved.

22 We have no problem with a different
23 approach. There's always more than one way to
24 accomplish a goal. And we, from our perspective,

1 a important goal of this docket is to find a
2 method that works for us, that the Commission is
3 happy with, and maybe that is more uniform, and
4 we'd be happy to employ it in future proceedings.

5 Second, you know, why the Commission's
6 asking, you know, and I think Mr. Richardson just
7 answered some of it, "why are we having all these
8 capital investments?" And the gas industry, much
9 like what you just heard, we're still replacing
10 pipes that were put in in the 1910s and late
11 1800s.

12 And, if you've been in Concord at all
13 in the last year, we've got the core of downtown
14 more recently, and that's -- we're not picking up
15 new customers with that work. Most of those
16 intercity neighborhoods are 95-98 percent gas
17 customers already. So, we pick up ones and twos,
18 but, for practical purposes, we don't get any new
19 revenue from that work.

20 And I pulled up on my screen the IRP we
21 just filed, which has a table in it of List --
22 titled "Liberty's List of Known Capital
23 Projects". And a third of that, more than a
24 third of that, is still replacing cast iron.

1 That does have an end date within the next four
2 or five years, so that will drop up. But, of
3 course, then the next thing is, we'll be
4 replacing the early plastic pipes from the '60s
5 and '70s that's now failing. So, that's always
6 going to be a part of our business.

7 And, frankly, there were a number of
8 years where that was not addressed, during the
9 '70s and '80s and '90s. So, we fell behind.
10 And, so, if you look at the cast iron docket
11 that we -- we had the annual adjustments, you can
12 see that the numbers rose dramatically. And
13 there was a strong push from the Commission and
14 from the Safety Division to take care of that old
15 pipe. So, that is a 10- or 15-year hump in our
16 capital spending to address that problem.

17 Another significant component of those
18 projects on that same page, and it's Page 50 of
19 the Plan, is the work we need to do to get gas to
20 our customers. Because of the way our system is
21 built, and has grown over the years, we had some
22 significant growth over the last 15 years, there
23 are portions of our system that aren't getting
24 gas. We have pressure issues out at the end.

1 Our core system is at 60 pounds. And there are
2 parts of our system in the winter get into the
3 single digits, which, obviously, is a risk of not
4 being able to serve them. And, so, we have to do
5 improvements to be able to make sure we can serve
6 those customers. And those are, again, sort of
7 systemic upgrades that need to be done.

8 And again, here on this list, that's
9 another -- between those types of projects and
10 the cast iron is half of our budget. So, those
11 are the costs that don't add new customers. That
12 we are having an increased amount of spending in
13 those.

14 And, again, I can't say that's going to
15 go away, because then the next generation of
16 replacement needs to happen. Maybe it will
17 lessen some. And, again, in this table, which is
18 five years, the total spend does drop by about
19 20 percent from beginning to end. So, there is
20 some. And most of that is the -- running through
21 a couple of the large upgrade projects, and
22 starting the ramp-down of the cast iron.

23 So, that's more of a way of an
24 explanation of that. How that feeds into steps

1 is we used to have an annual cast iron rate
2 adjustment, solely for those expenses. That
3 doesn't exist anymore. So, that was an important
4 docket that helped take pressure off the need for
5 steps, and that's a big driver.

6 And there are related ones. There's
7 old meters that need to be replaced. There's a
8 particular valve cluster that used to be
9 installed in the '70s that leaks terribly now,
10 and those are expensive to replace, and the like.

11 Going to Commissioner Chattopadhyay's
12 question of "how can we make this easier, simpler
13 for everybody?" A "net plant approach", at some
14 level, would be easier to look at and approve in
15 the rate case. You know, you have a rate case
16 that says "In the steps, we will, you know,
17 approve step increases of 90 percent of net
18 plant", whatever formula it comes up with.

19 But it does involve a balancing on your
20 part, because that net plant change is comprised
21 of 72 projects. And how much -- do you want to
22 look at all 72 projects to make sure they were
23 appropriately chosen and appropriately executed?
24 And the more detail you and the other

1 participants go into, that will complicate those
2 things. And, so, there's always that balance of
3 "How far down those rabbit holes everybody wants
4 to go?" And it's an appropriate examination, but
5 it is time-consuming.

6 So, those were my off-the-cuff
7 responses to some of your questions. And I'm
8 sure we'll have the opportunity to do more.

9 Thank you.

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

12 MR. DEXTER: Thank you, Mr. Chairman,
13 Commissioner. I'm Paul Dexter, appearing on
14 behalf of the Department of Energy. I'm joined
15 today by Chris Tuomala, co-counsel. I will make
16 some opening comments, which will pertain to the
17 gas and electric utilities, and Attorney Tuomala
18 will direct comments towards the water utilities.

19 I want to say from the outset that, on
20 the gas and electric side, we are currently
21 involved in two pending step adjustment cases
22 before the Commission. So, our comments today
23 are general in nature, and not intended to have
24 any impact on those two pending step adjustments.

1 The Department did not file written
2 comments in this docket. So, we do want to take
3 the opportunity today to provide some insight or
4 comments on the issues that were raised in the
5 Order of Notice.

6 The first issue dealt with the
7 advisability of using step adjustments in
8 general. The Department shares the concern of
9 the Commission that there -- that there have been
10 numerous step adjustments going on in recent
11 years, and many rate cases. So, in a sense,
12 we're actually doing both; lots of rate cases and
13 lots of step adjustments.

14 The step adjustments that have been
15 approved, through settlement, for the most part,
16 have not had -- they have had the effect of
17 postponing rate cases, in the sense that they're
18 always coupled with a stay-out provision, but
19 they have not had the effect of postponing or
20 deferring rate cases beyond the end of the
21 stay-out provision.

22 In other words, once the stay-out
23 provision is over, and the length of that
24 stay-out provision is directly tied to the number

1 of steps allowed, then the rate case comes in.
2 And the fact that there may have been three or --
3 you know, two or three or four consecutive years
4 of increases, has not had the effect of deferring
5 the ultimate rate case.

6 So, at this preliminary stage, and
7 reflective of where the Department has moved
8 recently in settlements, the Department supports
9 one step adjustment following rate cases, as a
10 general matter, you know, with potentially
11 exceptions. But, generally speaking, that one
12 step adjustment would allow a company to present
13 capital investments that occurred in the year
14 after the test year was completed. The
15 investments must actually be in service, and they
16 need to be nonrevenue-producing, which I think
17 everyone agrees with, but sometimes that's
18 difficult to define.

19 The reason its important is that step
20 adjustments represent a, you know, maybe
21 "special" is not the right word, but it's a
22 special ratemaking mechanism, that allows
23 companies to raise rates, without a complete look
24 at their underlying cost of service and revenue

1 requirement. And what's looked at in a step
2 adjustment are capital investments. But what's
3 not looked at in the step adjustment are any
4 changes in the Company's revenue. And, so,
5 therefore, at least at the outset, the goal is to
6 tailor the investments that are included in a
7 step adjustment to those which do not produce
8 incremental REF.

9 If multiple step adjustments are
10 approved, it's the Department's belief that they
11 should be structured such that a step adjustment
12 increase year should not be a test year. In
13 other words, if the company receives an increase
14 in any given year, that increase should at least
15 be allowed to be played out before that becomes a
16 test year in the next rate case.

17 And RSA 378:7 provides some protection
18 along those lines against consecutive rate cases.
19 And that's the statute that says that the
20 Commission doesn't have to investigate a rate
21 that it's investigated in the last two years.

22 Although not mentioned in the Order of
23 Notice, performance-based rates could be explored
24 at the same time as step adjustments in this

1 docket, potentially where, as a substitution for
2 step adjustments, and in a performance-based rate
3 situation, performance metrics would have to be
4 met before recovery occurred. Whereas, in the
5 current step adjustment mechanism, recovery is
6 provided for prudent spending, but it's focused
7 only on the prudence of that spending.

8 Performance-based rates could be explored here,
9 or in another -- in another context. But they
10 are sort of a subset of step adjustments, or
11 could be a subset of step adjustments.

12 Concerning Issue Number 2, the method
13 of step adjustments, the Department's primary
14 concern, and it's probably been obvious to all
15 who have participated in step adjustments on the
16 gas and electric side over the last couple of
17 years, is that the docket has to provide an
18 adequate opportunity for review.

19 And along those lines, the Department's
20 preference or preliminary position at this point
21 is what's been deemed as a "list approach". And
22 a "list approach" is where the company, in the
23 course of a rate case, identifies a list of
24 projects that are discrete, that are geared

1 towards system reliability or safety, and they're
2 significant enough that allowing them in a step
3 adjustment will provide the Company meaningful
4 revenue relief for these adjustments.

5 But we want to caution that there's
6 also a limit to what can be looked at in a step
7 adjustment. So, if it's a major, major
8 investment that a gas or electric company has to
9 make, it's probably better to review that in a
10 rate case, rather than a step adjustment.

11 The Department has had a difficult time
12 in recent cases reviewing blanket -- what some
13 companies call "blanket projects", I think other
14 companies call them "annual projects". And these
15 appear to be sort of ongoing, more routine
16 investments that utilities make every year, which
17 are small and recurring individually, but can
18 total up to significant dollars. And, because
19 they can include, you know, dozens or hundreds of
20 underlying projects, it's the Department's view
21 that blanket or reliability projects like that
22 should just be excluded from a step adjustment,
23 because there's just no opportunity to get behind
24 the blanket and review the individual projects.

1 We've talked about growth, and the need
2 to not allow for revenue-producing or
3 growth-related projects in a step adjustment,
4 because of the one-sided nature of a step
5 adjustment. But it's the Department's view that
6 many projects could serve two purposes. And it
7 might be advisable that, if the step adjustment
8 is set up in the rate case, and the parameters
9 are set up in the underlying rate case, that
10 there be some sort of pre agreed-to reduction of
11 a project to reflect a sharing of growth and
12 non-growth elements. Because, while it is true
13 that utilities are not growing like they did in
14 the '50s, and breaking into new areas, it is also
15 true that existing areas get redeveloped, and
16 small buildings can become large buildings. And
17 there can be growth from existing service
18 territories.

19 The Department has been involved in a
20 number of rate cases recently that have been
21 presented, appropriately so, through settlement,
22 in most cases, under a "change in net plant
23 approach". We have, at the Department, found
24 those very difficult to review, because,

1 essentially, we're asked, in a very abbreviated
2 time period, to review an entire year of capital
3 spending. The rate base element of the rate
4 case, of the underlying rate case, is reviewed
5 over a twelve-month period. Step adjustments
6 have been proposed to be reviewed in as few as 35
7 or 45 days, and sometimes longer than that, up to
8 two or three months, but, in any event, it's an
9 abbreviated process. And it seems that starting
10 out down the road from the outset of trying to
11 evaluate the entire change in net plant for a
12 company is -- it's just not -- it's just not
13 feasible in the abbreviated timeframe.

14 Now, we recognize that, with the
15 examination that's taken place in recent rate
16 cases, that the "change in net plant approach"
17 captures something that the "list approach"
18 doesn't, and that's the phenomena of increasing
19 accumulated depreciation. And we recognize that
20 that could be an important element to review.
21 But we would recommend, again, at this stage of a
22 proceeding, that the companies provide a change
23 in net plant approach -- a change in net plant
24 calculation. And that's -- and that that

1 calculation, rather than serve as the foundation
2 for recovery, serve more as a cap or a guideline
3 or a parameter as to where the step adjustment
4 could go.

5 In other words, if we have a list, and
6 it turns out the listen is going to provide
7 recovery for more than a utility's entire change
8 in net plant, then that's probably not a good
9 idea. Because, again, step adjustments are --
10 they're designed to be limited reviews. So, you
11 have to be careful what it is that gets approved
12 in a step adjustment.

13 So, again, I think the net -- I think
14 change in net plant is a fairly easy calculation
15 to be made. I think the change in net plant can
16 be done from FERC Form 1s, or monthly Return on
17 Rate Base Reports. I don't think it's a
18 complicated calculation, and can be used as a
19 parameter or a cap, but it's an extremely
20 burdensome and complicated undertaking to
21 evaluate all the change in net plant for prudence
22 and everything else in a step adjustment
23 proceeding.

24 The third issue that the Department --

1 I'm sorry -- that the Commission raised in the
2 Order of Notice was the role of the Audit
3 Department. The Department supports the
4 traditional role played by the Audit Department.
5 And by that, I mean the Audit Department has
6 reviewed step requests as part of their ordinary
7 course. It's one of the things that Audit --
8 that the Audit Department historically has
9 reviewed. But they have done so largely
10 independent of the ongoing docket.

11 And the way the audit process has
12 worked, and I think everyone would say
13 "successfully" for many years, is that the
14 auditors do their review outside of the litigated
15 proceeding. The companies have made access --
16 have given the auditors access to personnel, and
17 to information on a free-flowing basis, that is
18 far more efficient than the way we trade
19 information in litigated dockets, through data
20 requests, and potentially objections and motions
21 and everything else.

22 That process has worked well for years.
23 And the Audit Division, the auditors produce a
24 report that is provided to the utility first, for

1 review, you know, just so that there aren't some
2 major misunderstandings that can be worked out
3 ahead of time. And then, the audit report is
4 submitted to now the Department of Energy, in the
5 old days to Staff, and to the Consumer Advocate.
6 And many times, if there are adjustments that are
7 recommended, that the utility agrees to, those
8 are incorporated into the ultimate step
9 adjustment that gets presented or approved.

10 And, if there are areas of
11 disagreement, you know, that I think is where the
12 Audit should step back, the auditors should step
13 back. And, if there's an issue in the audit
14 report that one party wants to bring before the
15 Commission, then I think that party, including
16 the Department of Energy, would make a
17 recommendation, having reviewed and agreed with
18 the auditor. And then, it would become the
19 obligation of the Department, or the party that
20 wanted to raise that issue, to present that to
21 the Commission for review.

22 That, historically, has been the
23 exception, rather than the rule. We could, I
24 believe, in any case, necessary, you know,

1 provide procedural avenues for that elevating of
2 an audit issue to take place.

3 But we don't think that the procedural
4 schedule in a case should be structured around
5 the audit schedule. We think it should be the
6 other way around. In other words, the Commission
7 and the parties should set a procedural schedule
8 and stick to it. It has been the precedent, when
9 necessary, that a step adjustment be approved
10 with language in the order "subject to audit".
11 And, you know, and that's worked out over the
12 years. I don't think it's been a major problem
13 that anyone has felt that, you know, audit issues
14 haven't been thoroughly examined.

15 But structuring the procedural schedule
16 around the availability of the audit report, I
17 think puts pressure on the schedule, and puts
18 pressure on the Audit Department, who
19 investigate -- who review, I'm sorry, not
20 "investigate", who review things other than,
21 obviously, step adjustments. There's a long list
22 of issues that the Audit Department historically
23 has looked at. And then, you know, external
24 forces on the Audit Department can throw a

1 schedule way off, you know. And a good example
2 of that is the recent legislation regarding the
3 Burgess power plant, BioPower Plant, and the
4 requirement that the Department of Energy do an
5 audit.

6 So, there are forces that dictate the
7 audit schedule that make it advisable not to
8 structure the step adjustment procedural schedule
9 around the audit.

10 CHAIRMAN GOLDNER: Mr. Dexter, I'm
11 sorry to butt in. Because we were trying to keep
12 it to about ten minutes, and that this is
13 extremely helpful. But I wanted to --
14 Mr. Tuomala is at minus five minutes at the
15 moment. So, I wanted to leave --

16 MR. DEXTER: Have I been talking for
17 fifteen minutes?

18 CHAIRMAN GOLDNER: Yes. Sixteen,
19 actually.

20 MR. DEXTER: Oh, my goodness.

21 CHAIRMAN GOLDNER: The stenographer
22 appreciates the pace. But is there -- do you
23 have a couple more things, and we can wrap up?

24 MR. DEXTER: Well, let's see. I do,

1 and I'll be quicker.

2 CHAIRMAN GOLDNER: Thank you.

3 MR. DEXTER: Issue Number 5 was the
4 role of settlements. The Department fully
5 supports the role of settlements, because they
6 reduce regulatory costs. And they also allow for
7 some of these issues that I've raised to be
8 specified, so that they're brought to the
9 Commission ahead of time, such as which projects
10 might end up on a list, and how do you handle,
11 you know, a project that's part growth/part
12 non-growth.

13 Issue Number 7 is important. It's a
14 reconciling question about how reconciliation
15 fits into step increases. The Department's
16 understanding of step increases is that they're
17 base rate increases. And, frankly, that they're
18 not -- shouldn't be subject to reconciliation.
19 You know, I'll just leave it at that. Unlike
20 other clauses, which are designed to be fully
21 reconciling.

22 With that, I will turn it over to
23 Attorney Tuomala, to make any comments on the
24 water company. And I guess we'll leave the

1 Commissioner's questions today to another time.

2 CHAIRMAN GOLDNER: Thank you, Mr.
3 Dexter. And, Mr. Tuomala, please take ten
4 minutes. I was only joking.

5 MR. TUOMALA: Thank you, Commissioners.
6 I will try to be as brief as possible, to make up
7 that time deficit.

8 And, as a preliminary comment I share
9 with Attorney Dexter, that our comments are not
10 reflective of what we have is four pending step
11 increases, based on the settlement agreements
12 that were approved by the Commission in the Lakes
13 Region rate case, the HAWC rate case, and the
14 Aquarion rate case. These are just meant to be
15 general comments about step adjustments in
16 general.

17 And I am Christopher Tuomala. I'm here
18 on behalf of DOE's Water Department. And we do
19 share in many of the comments that Attorney
20 Dexter had made. I just want to add a few others
21 that are nuanced, apply to the Water Department
22 in itself, typically the smaller utilities,
23 compared to gas and electric.

24 The step adjustment has traditionally

1 been limited to one step increase, which reflects
2 non-revenue plant additions, placed into service,
3 used and useful, up to twelve months after the
4 test year. By removing these plant additions
5 from the utility's permanent rate request, it
6 reduces the possible impact of higher temporary
7 to permanent rate recoupment, saving ratepayers
8 that money.

9 The step adjustment reduces also the
10 impact of regulatory lag upon these water
11 utilities, as it would set a revenue requirement
12 reflective of its financial status up to one year
13 after the test year, which arguably these water
14 utilities are less equipped to handle such
15 regulatory lag, given their size, in comparison
16 to the gas and electric utilities.

17 The step adjustment, lastly, has been
18 integral in the settlement process, which, when
19 achieved, a settlement typically reduces the rate
20 case expenses and costs borne by ratepayers.

21 Thank you.

22 CHAIRMAN GOLDNER: Thank you,
23 Mr. Tuomala. Mr. Dexter, would there be anything
24 that you would like to add, given that

1 Mr. Tuomala gave you seven minutes back there,
2 so --

3 *[Laughter.]*

4 MR. DEXTER: Well, I will say that one
5 of the questions that was raised by the
6 Commissioners this morning was "simplicity" and
7 "understandably". And I just want to stress
8 again that a list, with an identified set of
9 important, but not overwhelming, projects is far
10 simpler and far easier to understand than a "net
11 plant approach", which includes the entire
12 capital budget.

13 And other than that, I'll close.

14 CHAIRMAN GOLDNER: Okay. Thank you.

15 Okay. Let's move on to the Office of
16 Consumer Advocate.

17 MR. KREIS: Thank you, Mr. Chairman.
18 And, as they used to say on Rocky and Bullwinkle,
19 "And now for something I hope you'll really
20 like!"

21 I'd like to begin, I think, by
22 apologizing to the Commission for not filing
23 written comments. You know, we're, at the Office
24 of the Consumer Advocate, we're coping, as

1 everybody else is, with the barrage of dockets
2 that the Commission has opened recently,
3 particularly the investigative ones.

4 My phone has been ringing off the hook,
5 in light of the explosion in electric and, to
6 some degree, natural gas rates, with outraged
7 politicians, concerned journalists, from inside
8 and outside of New Hampshire, even outraged
9 ratepayers, who somehow think that it's all my
10 fault, and that I should be effectively standing
11 at the seashore commanding the tide to stop
12 coming in.

13 And, as you two gentlemen on the Bench
14 know very well, the Commission has seen fit to
15 lure away the entirety of my administrative
16 staff, which means that most of my workday is
17 taken up these days just keeping up with the
18 incoming emails to my Office. So, I just don't
19 have time to keep up with all of this stuff, and
20 I apologize for that.

21 I heard the Chairman, in his opening
22 remarks, yet again reject the concerns that my
23 Office has been repeatedly raising about
24 proceedings such as this. I have not changed my

1 mind about the concerns I've raised about whether
2 all of this is consistent with the Administrative
3 Procedure Act. I continue to worry that the
4 Commission is insisting on inventing a strawberry
5 flavor that is not authorized under a statute
6 that only permits vanilla and chocolate flavored
7 proceedings. I admit that the case law in New
8 Hampshire, unlike its federal counterpart case
9 law, is relatively undeveloped.

10 I further concede that there is some
11 universe of minor things that administrative
12 agencies, like the PUC, can do that don't require
13 the formality of either adjudication or a rate
14 case. But I'm absolutely convinced that
15 something like this does rise to the level of
16 formality and significance that requires some of
17 the "due process" formalities that are laid out
18 in the Administrative Procedure Act.

19 Subject to all of those concerns, I
20 have to say that I am actually pleased that the
21 Commission is concerned about step adjustments.
22 Over the decades, the Commission has allowed the
23 utilities under its supervision to, and this is
24 despite what you've already heard, the Commission

1 has allowed the utilities under its jurisdiction
2 to grow far too accustomed to step adjustments as
3 a means of allowing them to avoid the management
4 disciplining effect of regulatory lag, while also
5 avoiding the exacting and plenary scrutiny
6 inherent in a full rate case.

7 In, essentially, every electric or gas
8 rate case where we filed testimony over the last
9 five years, we have been urging rejection of the
10 inevitable bid for step adjustments in favor of a
11 new and better model. The most recent example is
12 the testimony we filed in the Unitil electric
13 rate case, DE 21-030, in which our witnesses,
14 Ms. Whited and Mr. Havumaki, of Synapse Energy
15 Economics, recommended the utility submit a
16 comprehensive performance-based regulation
17 proposal, consisting of a multiyear rate plan,
18 with a meaningful cap on annual revenue
19 adjustments, ideally set based on an external
20 index, as opposed to the utility's internal and
21 self-serving cost forecasts, an earning-sharing
22 mechanism, a stay-out period, and performance
23 incentive mechanisms.

24 "What performance incentive

1 mechanisms?" you might ask. As our witnesses
2 explained, the traditional ones, like SAIDI,
3 SAIFI, and CAIDI, have focused on reliability,
4 which is important for sure, and also on customer
5 service, generally by measuring call center
6 responsive.

7 More recently, performance incentive
8 mechanisms have popped up in other jurisdictions,
9 to do a better job of aligning utility incentives
10 with state energy policy goals. Things like
11 customer empowerment, accommodation of
12 distributed energy resources, and dare I say
13 other imperatives outlined in RSA 378:37, the
14 state energy policy.

15 Unless we move in that direction,
16 ratepayers are better served by simply requiring
17 the utilities to file full rate cases when they
18 conclude they are no longer able to earn a
19 reasonable return on shareholder investment.

20 That's basically our response to the
21 first of the Commission's questions, which
22 renders most of the remaining ones moot, from our
23 standpoint.

24 I do want to comment briefly on the

1 fifth question, however, which asks about the
2 role of rate case settlement agreements in
3 guiding subsequent step adjustment filings and
4 approval criteria. Although there is case law to
5 support the notion that, in a civil context, a
6 settlement agreement among or between parties is
7 in the order of a contractual obligation, that is
8 not true in the context of settlement agreements
9 filed with the Commission. And the reason is
10 obvious.

11 In superior court, the judge will say
12 to the parties, "If you're happy, I'm happy.
13 Case dismissed, with prejudice." Here, at the
14 Commission, as it should, the Commission reserves
15 the right to scrutinize settlement terms, and
16 approve only those that comport with the
17 Commission's determination of what the public
18 interest requires. Therefore, even when the
19 Commission approves a settlement agreement in its
20 entirety, the terms of that agreement do not
21 operate as a binding contract among the parties,
22 but rather are merged into the Commission's
23 order. And it is the terms of that order, rather
24 than the terms of the settlement, that have

1 future significance. RSA 365:28 gives the
2 Commission explicit authority to alter, amend,
3 suspend, annul, set aside, or otherwise modify
4 any order made by it, after notice and hearing.

5 So, when the Commission conducts a
6 hearing on a step adjustment, there's your notice
7 and hearing, it is completely free to vary its
8 determinations from whatever the parties
9 previously agreed to in a rate case settlement.
10 It's that simple.

11 Finally, as to the subject -- or, a
12 subject the Chairman raised, the relationship of
13 step increases to the least cost integrated
14 resource planning process. The best thing I can
15 do is to explain the paradigm as I understand it.
16 That paradigm, the basic paradigm for utility
17 regulation, as set up by the General Court, is
18 this: Via their least cost plans, the utilities
19 tell the PUC what they are going to do, and they
20 obtain the regulator's blessing. And then, via
21 rate cases, the utilities prove after-the-fact
22 that what they actually did was prudent, resulted
23 in assets that are used and useful, and that
24 receiving both a return on those assets and a

1 return of those assets is in the public interest.

2 Until recently, the PUC was defeating
3 that paradigm by simply ignoring its obligations
4 under the LCIRP statute. It was treating the
5 statute merely as an opportunity to bless the
6 planning processes employed by the utilities, not
7 the substantive choices that arise out of those
8 processes.

9 The Commission appears to have woken up
10 to the significance of the LCIRP process to its
11 great credit. If step increases remain a "thing"
12 in New Hampshire, and we earnestly hope they do
13 not, there should be no step increase that cannot
14 be clearly traced to and matched with provisions
15 of an approved Least Cost Integrated Resource
16 Plan.

17 In conclusion, step increase is a
18 symptom of regulatory capture. Their demise
19 would be a good thing for New Hampshire's
20 residential utility customers, particularly as
21 they struggle under the burden of skyrocketing
22 rates.

23 Thank you.

24 CHAIRMAN GOLDNER: Thank you. We'll

1 move to the Pennichuck Water Company and
2 affiliates.

3 MR. GOODHUE: Thank you very much,
4 Commissioner. My name is Larry Goodhue. I'm
5 both the CEO and CFO of the group of Pennichuck
6 companies, inclusive of the three regulated
7 utilities that come before this Commission:
8 Pennichuck Water Works, Incorporated, Pennichuck
9 East Utility, Incorporated, and Pittsfield
10 Aqueduct Company. I serve those roles for all
11 those companies, as well as the parent company
12 and the other sister subsidiaries that are
13 nonregulated.

14 We did not file any written
15 documentation to this docket prior to this
16 hearing, wanting to be present here today and
17 understand the course for which this is taking.
18 And we'll be providing something written into the
19 docket subsequent to this.

20 What is most important for us, in this
21 consideration, is how a "step adjustment" is
22 defined. As the Commission is well aware, we
23 have a unique ownership structure and a unique
24 rate structure for the past ten years. And we've

1 got certain elements within our approved rate
2 structures for our two largest utilities, and to
3 a lesser degree to the third largest of the
4 utilities, that is very specific and tied to cash
5 flow considerations for full coverage of debt
6 obligations as a debt-only funded organization.
7 The concepts of "return on rate base" and "return
8 on investment" no longer are germane to our
9 organization as we are currently structured.

10 We do have an annual process that we
11 pursue relative to our rate structures, which is
12 a surcharge between permanent rate cases. We
13 want to make sure that that mechanism is fully
14 upheld within this consideration, in that that is
15 very specific and very important to the lenders
16 who lend to the Corporation for capital
17 improvements.

18 Like some of the other utilities have
19 spoken here this morning, our investments are not
20 towards the acquisition of new customers, but
21 more specifically towards the replacement of
22 aging infrastructure on an ongoing basis as a
23 water facility. And, as such, when we issue
24 debt, we do go through a process each year, a

1 multistage process each year, relative to the
2 capital investments we plan to make and that we
3 do make, and from which debt is actually issued
4 to pay for those capital expenditures, based on a
5 used and useful life within a calendar year, and
6 a prudency examination by the auditors, as well
7 as brought before this Commission.

8 So, those are the items that we really
9 wanted to specifically state into the record at
10 this time.

11 Specifically speaking to Commissioner
12 Chattopadhyay's question about step increases and
13 the frequency of rate cases, our two largest
14 utilities actually have a fixed modality for
15 which rate cases are to be filed. Settlement out
16 of the most recent rate case dockets for those
17 companies, we do file a rate case every three
18 years, regardless of, you know, other
19 circumstances. And, with the resetting of rates
20 in those rate cases, the annual surcharge is
21 embedded in those rate increases, brought back to
22 zero, and is inclusive of the new rates that are
23 then approved in that subsequent rate case.

24 So, again, we did not file anything

1 ahead of time in writing. We will file a formal
2 written statement into this docket. But those
3 are the points I wanted to bring to bear at this
4 point in time.

5 Thank you.

6 CHAIRMAN GOLDNER: Thank you. Okay.
7 And, finally, Unitil.

8 MR. TAYLOR: Good morning,
9 Commissioners. The downsides of going last is,
10 when you prepare comments in advance, a lot of
11 them get covered before you get your turn.

12 So, Unitil, you know, submitted written
13 comments in this case on behalf of both of its
14 companies, Unitil Energy Systems and Northern
15 Utilities. And, as the Commission is well aware,
16 both of those companies recently had step
17 adjustment proceedings before this Commission in
18 which a number of the issues that were raised in
19 the Commission's Order of Notice were addressed,
20 were discussed among the parties at length in
21 hearing and testimony and record requests. And,
22 so, the Commission, you know, is well aware of
23 the Companies' position on a number of these
24 things. And we appreciate the continued

1 opportunity to discuss those with the Commission.

2 So, I'm not going to go through all my
3 comments today, because you have those in
4 writing. So, I'll refrain from summarizing them.

5 You know, I think, with respect to this
6 investigation itself, to the extent the
7 investigation can provide clarity to the
8 Commission and the parties on certain aspects of
9 the step adjustment process, I think it's going
10 to be a very useful and beneficial process. It
11 may also be the case that enhancements or
12 improvements to the established method or methods
13 of proposing and reviewing step adjustments merit
14 evaluation and adoption by the parties.

15 But, you know, I will offer, just at
16 the outset, the observation that step adjustments
17 have for well over a decade been utilized in New
18 Hampshire as a reasonable method to allow for the
19 timely recovery of assets and service, without
20 resorting to a full rate case proceeding. And
21 that's the Commission's own words.

22 They are customarily negotiated and
23 included as a component of comprehensive
24 settlement agreements in rate cases, meaning that

1 the parties participating in those settlements,
2 many, if not all of which, are in the room today,
3 do see some value in those adjustments within the
4 context of those cases. Which is to say that the
5 "step adjustment ratemaking paradigm", to use a
6 term from the Commission's Order of Notice, is
7 not broken. It has been, and remains, an
8 effective and essential way to defer the need for
9 rate cases, which, and, you know, I respect what
10 the Consumer Advocate said, but frequent rate
11 cases produce a significant burden, in terms of
12 costs, expenditure of resources, and that's not
13 just for the utilities. That's for the
14 Commission, that's for interested parties. And,
15 ultimately, those costs, as I think
16 Mr. Richardson pointed out, or somebody pointed
17 out already, those are costs that ultimately flow
18 through to ratepayers.

19 And, so, I think that there is, in
20 terms of efficiency, there's a significant
21 benefit, not just to the parties, but also to
22 ratepayers, through step adjustments, if they're
23 well designed and incorporated into a settlement,
24 or possibly litigated before the Commission,

1 although I'm not aware that that's been done very
2 recently.

3 I think step adjustments also, and this
4 is reflected in my comments, so, I guess I am
5 going to repeat them a little bit, you know,
6 there is an aspect of gradualism, and mitigating
7 rate shock in rate cases that I think is
8 accomplished through step adjustments. And that
9 is, again, something that I think the Commission
10 has recognized as a benefit.

11 So, I think the question that really
12 should drive the investigation is not whether the
13 use of step adjustments or the continued use of
14 step adjustments is appropriate, but, and I think
15 Commissioner Chattopadhyay already maybe landed
16 on this, but "how the company or how the parties
17 can continue to use them in an effective and
18 beneficial manner?"

19 Just with respect to some of the
20 questions that Commissioner Chattopadhyay put
21 forward, and Commissioner Goldner as well, I
22 think a number of parties have addressed those.
23 I think the historical context for step
24 adjustments has been -- has been covered by some

1 of the other companies, and I agree with that.
2 When you look at sort of historical periods of
3 growth versus the period that we're in now, which
4 is really maintaining a high quality of service,
5 safe and reliable service to our customers.

6 With respect to the frequency of cases,
7 again, other folks have touched on this, step
8 adjustments are typically accompanied by stay-out
9 provisions. And those stay-out provisions are
10 usually depend on the number of steps that are
11 included. And, so, just to give you some
12 context for the Unitil Companies, Unitil Energy
13 Services' [sic] last rate case, before its most
14 recent case, was 2016. And the Commission
15 approved three step adjustments, including one
16 post test year adjustment in that case. And that
17 resulted in a five-year span between rate cases.
18 Northern's last rate case, before its most recent
19 case, was 2017. That had two steps -- or,
20 rather, one step, with the option for a second
21 step. And that resulted in a four-year span
22 between rate cases.

23 And, so, as the Department noted, the
24 Department of Energy is recommending fewer steps.

1 So, naturally, you're going to see shorter
2 stay-outs, and possibly more frequent rate cases.
3 And, so, the number of steps does expand the time
4 between rate cases. And, so, I think that that's
5 something that the Commission should consider in
6 the context of this case. I think they do delay
7 the period between rate cases, if properly used.

8 So, with that, I don't have additional
9 comments on-the-fly. And I think a lot of good
10 comments have been made today. And we look
11 forward to further discussion with the
12 Commission.

13 CHAIRMAN GOLDNER: Thank you. Yes,
14 maybe a couple of follow-ups, maybe I'll start,
15 and then I'll turn it over to Commissioner
16 Chattopadhyay.

17 It seems like there's good alignment in
18 the room, at least in terms of what I captured in
19 my notes, that, if there are to be step
20 adjustments, a uniform method would be welcome.
21 Would anyone disagree with that? If there was a
22 uniform method used across utilities in New
23 Hampshire for the step calculation? Are there
24 any concerns with that?

1 MS. BROWN: Chairman Goldner, if I
2 could state, and my name is Marcia Brown, law
3 firm of NH Brown Law, and I had offered a public
4 comment, because I noticed that the non-Class A
5 water utilities were not included in this, and
6 the subject was "whether to continue with step
7 adjustments".

8 And, from my experience, the small
9 water utilities, especially, well, they have been
10 acquired mostly, but there's still Forest Edge,
11 West Swanzey, Bedford Waste, and, in my
12 experience, the step adjustments tied to a rate
13 case review that are for nonrevenue-producing
14 assets, within the twelve months post test year,
15 have worked well for stay-outs.

16 So, I just wanted to offer that, if you
17 are devising a uniform step adjustment process,
18 that it may need to be a unique process for the
19 nonutilities that are here.

20 So, I just wanting to make that
21 comment.

22 CHAIRMAN GOLDNER: Thank you.

23 MS. BROWN: That it's been useful, and
24 please don't forget the small water utilities.

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

3 Any other comments on this concept of a
4 uniform method, whatever form that takes?

5 *[No verbal response.]*

6 CHAIRMAN GOLDNER: Looks like there's
7 sort of uniform alignment on that.

8 I wanted to go back to a word that was
9 used earlier by the Pennichuck companies, the
10 "fixed modality". And maybe I'll address my
11 question to the Department of Energy.

12 Is there, in your mind, an ideal fixed
13 modality, in terms of rate cases? Would you have
14 an ideal number for water -- or, a different
15 number for water, electric, gas? And, in either
16 case, is there sort of an ideal modality, in
17 terms of what you looked at in cost and benefit
18 of, you know, the modality of those rate cases?

19 In other words, would you -- is it
20 ideal to have a rate case every three years, four
21 years, five years, ten years? What would be
22 ideal, from a Department of Energy perspective?

23 MR. DEXTER: It would be ideal to defer
24 them as long as possible. The benefit of, and I

1 think the Consumer Advocate said this quite well,
2 is that the rate cases without step adjustments
3 have an inherent I think he used the term
4 "disciplinary effect" on cost containment. And,
5 historically, I understand that's what happened.
6 In other words, companies were, without step
7 adjustments, have a greater incentive to contain
8 costs, and, to the extent possible, increase
9 revenues, and only file rate cases when
10 absolutely necessary to maintain earnings and
11 avoid confiscation.

12 I don't think that can be reduced to a
13 formula. And I think each utility has to
14 evaluate their position on an ongoing basis, as
15 I'm sure they do.

16 So, no, I don't think the Department
17 would be in favor of any sort of fixed interval.
18 Although, I did point out RSA 378:7
19 intentionally, because that does -- at least
20 gives the Department [sic] the discretion to
21 reject a rate case, if it's a matter they have
22 investigated within the last two years. So,
23 that's a matter of statute. And, so, we support
24 that.

1 Attorney Tuomala?

2 MR. TUOMALA: Thank you, Commissioners.

3 Excuse me. As PWW noted, their modality is,
4 they're such a unique structure, given they're
5 all debt, and it's borne out of the settlement
6 agreements from PEU and PWW. That would be the
7 only circumstance where the Water Department
8 would support some type of rate case cycle.

9 With all the other water utilities that
10 we regulate, it's really a case-by-case basis.
11 Obviously, we share the same comments as Attorney
12 Dexter, that it's so unique. We prefer them to
13 be out as long as possible. And, hopefully, we
14 set rates at the end of the rate case, with that
15 one step adjustment, that it keeps them out for
16 as long as possible.

17 But, to structure it for any other
18 utility, we haven't discussed that, and I don't
19 think we would advise that.

20 CHAIRMAN GOLDNER: Do you have any
21 thoughts on, you know, if a company comes back,
22 if the stay-out period is, say, three years, then
23 it's perhaps illogical to have a step? But, if
24 it's four years, there would be one step? Five

1 years, two steps? Have you thought about any
2 sort of arrangement like that?

3 MR. TUOMALA: Again, I think it's a
4 case-by-case basis. Previously, we've
5 anticipated a stay-out provision in terms of a
6 step increase -- in conjunction with a step
7 increase, due to customer impact. And we look
8 at, "All right, how many years are customers
9 going to be faced with increases year after
10 year?" And try to buffer that, so it's not one
11 after another. For the water utilities
12 specifically, I'm stating, because the water
13 utilities don't -- many of them don't have these
14 year-after-year ratemaking mechanisms to support
15 plant growth. So, the only analysis that we
16 undertake is to see, "All right, is there some
17 relief that the ratepayers can enjoy before the
18 next full rate case comes in?"

19 And sharing in what Attorney Dexter
20 previously spoke about, we also do not want a
21 rate increase or a step increase as the same year
22 as a test year. We want a clean test year off of
23 the rates that were approved, so that we have a
24 better visual of the Company's financial position

1 at that time.

2 CHAIRMAN GOLDNER: Anything you'd like
3 to add, Mr. Dexter?

4 MR. DEXTER: Well, I just want to point
5 out, without going into specifics, is that
6 particular item, the number of steps and the
7 length of stay-out provision, is subject to
8 significant discussion and negotiation in any of
9 the settlements that I've been involved in that
10 resulted in agreed-to step adjustments and
11 stay-out provisions.

12 So, it is a matter of negotiation. So,
13 I don't think I could sit here today and say
14 which of those formulas that you threw out, you
15 know, is the best.

16 One thing I meant to mention earlier,
17 and this may have the effect of reducing the need
18 for step adjustments, is the new statute on
19 property tax mechanisms. Although property taxes
20 have not -- property taxes on investments have
21 been included in step adjustments, but the new
22 legislation on property taxes allows the
23 utilities to recover changes in property tax
24 mechanisms. It's a new reconciling mechanism

1 that's significant. The dollars that have been
2 flowing through the PTAMs are significant.

3 So, it's the hope at the Department of
4 Energy that the existence of the PTAMs will have
5 an impact on either fewer steps or fewer rate
6 cases.

7 CHAIRMAN GOLDNER: Thank you, Mr.
8 Dexter.

9 Would anyone else like to comment on
10 this topic? Mr. Kreis.

11 MR. KREIS: Thank you, Mr. Chairman.
12 My perspective is slightly different than the one
13 you just heard from the Department of Energy.
14 And, so, I'll offer it up for what it's worth.

15 First of all, with respect to the
16 Pennichuck Corporation and its subsidiaries, I
17 guess, as Mr. Tuomala mentioned, they are such a
18 unique phenomenon, that, really, continuing to
19 regulate them the same way we regulate
20 investor-owned utilities, because Pennichuck
21 Corporation is nominally an investor-owned
22 utility, is I guess I would describe it as
23 "irrational". It's basically like taking a --
24 not a square peg and trying to squeeze it through

1 a round hole, it's like trying to take a
2 chicken-shaped peg and squeeze it through a round
3 hole.

4 And, really, the legislature should
5 take a look at whether some other regulatory
6 paradigm makes sense, in the context of the
7 Pennichuck Corporation. It wasn't my idea for
8 them to continue to assume, at least in some
9 respects, or legally, the contours of an
10 investor-owned utility. It is, I guess, I would
11 say "irrational", as I said before.

12 On the more general question of "what
13 the ideal modality or periodicity of rate cases
14 is?" While I appreciate the idea that, in some
15 respects, maybe even many respects, the longer a
16 company stays out, the better it is, that
17 actually is not true out to infinity. How do we
18 know that? Well, by experience. I mean, we went
19 nine years between rate cases filed by Public
20 Service Company of New Hampshire d/b/a
21 Eversource. And I think there was general
22 consensus that nine years was a wicked long time,
23 maybe not that helpful to the greater good of the
24 state.

1 And I would further think back to the
2 era of Verizon. Before they fled the
3 jurisdiction, they had gone decades between rate
4 cases, and that wasn't so hot either.

5 So, clearly, at least theoretically,
6 I'm not sure I would ever suggest that there
7 should be an ironclad, mandatory "you must come
8 in in every X number of years." But I think, and
9 maybe the Commission or some or all of us should
10 do the research, there probably is out there at
11 least a statistically valid, theoretical, ideal
12 periodicity for public utility rate cases. And I
13 think I've read somewhere or at least maybe
14 experience suggests that that's somewhere around
15 four or five years.

16 And, so, when you get to year four or
17 five, and you see "Hey, there's a utility that
18 hasn't come in for a rate case", then it's worth
19 at least some special scrutiny to determine
20 whether there should be a rate case. I would
21 remind the Commission that it always has the
22 authority to order a utility to come in for a
23 rate case, when that becomes necessary or
24 appropriate given your broad regulatory

1 authority.

2 So, you know, I'm sure NARUC has
3 thought about that. I'll wager the Edison
4 Electric Institute has thought about that. And
5 maybe it would be useful for all of us to look
6 out for what learned inquiries have already taken
7 place on that very interesting question.

8 CHAIRMAN GOLDNER: Anyone else care to
9 comment? Mr. Richardson.

10 MR. RICHARDSON: Thank you, Mr.
11 Chairman.

12 One concern that I just wanted to
13 highlight, I don't think we can resolve it here,
14 but I just wanted to make the Commission aware.
15 We're hearing discussion of, you know, a
16 "two-year kind of statutory stay-out mechanism"
17 in RSA 378:7. But that is timed based upon the
18 conclusion of a -- of a rate case, or any other
19 matter that is investigated by the Commission.

20 In some of the comments I am hearing
21 people say that step adjustments should be
22 considered or allowable for the twelve-month
23 period following a test year. But I think what
24 the practice has been, throughout the room and

1 before the Commission has been, is that typically
2 we see a test year, we see a filing, it may be
3 even towards the end of the year following the
4 test year, and then that statutory mechanism then
5 becomes, you know, after your investigation of
6 the rate case, where, when we get an order, we're
7 typically two or three years out. And I think
8 that's important to keep in mind, because there
9 is a disciplinary effect of rate cases.

10 But one of the things that we've seen
11 in the utility practice, and in the NARUC
12 resolutions is, is that, if we don't have
13 mechanisms like step adjustments, or like the
14 programs that Aquarion and Pennichuck and others
15 have is, is we see under -- the disciplinary
16 effect becomes under investment, and then we have
17 to play catch-up. We have to be replacing mains,
18 whether it's water mains or gas mains or electric
19 infrastructure. I think we should not lose
20 fact -- lose sight of the fact that these are
21 very valuable and necessary tools.

22 And what we are avoiding, and if you
23 look at the cases that I cited in my earlier
24 comments, those are cases in the high inflation

1 environment which existed in the '50s, the '60s,
2 '70s. I'm not an economist, mind you, but what I
3 see in some of those older cases, where there was
4 a higher inflationary environment, such as we may
5 be facing now, Commission orders were approving
6 allowances for attrition. So, we get a test year
7 case done, it would go to a hearing, and the
8 Commission would say "Okay, this is what your
9 historical rates were. We're going to adjust
10 them up."

11 Now, we've avoided that practice I
12 think by allowing for step adjustments and other
13 innovative mechanisms. But I would be very
14 cautious about defining step adjustments so
15 narrowly that we're suddenly forced to go back
16 and say "well, wait a minute, our test year was
17 2019 in the case that we just finished. We're
18 looking at providing service into '22 and '23.
19 So, take that test year and add 5 percent to it",
20 or something like that.

21 I mean, because that's what we're, you
22 know, the saying is is that "The path to hell is
23 paved with good intentions." And I think it's
24 possible to take some concepts, like doing very

1 frequent test years, limiting step adjustments to
2 twelve months after the test year, those are real
3 red flags for me sitting here, from a water
4 utility standpoint, and thinking about how that
5 would affect the Company, what the Company is
6 allowed to do. And then, what happens to
7 service, when we're having to curtail our
8 investments in order to stay within the narrow
9 box that's created for us.

10 Thank you.

11 CHAIRMAN GOLDNER: Very good. And I'll
12 just make one last comment, before I turn it over
13 to Commissioner Chattopadhyay.

14 But I don't want to break any glass
15 today, but I'll just kind of throw this out there
16 for consideration in terms of the IR docket.

17 You know, in our mind, in the
18 Commission's mind, there's more than one way to
19 address everyone's issue. You know, we're
20 thinking of it from an administrative burden
21 perspective. We see so many rate cases. We see,
22 as Mr. Dexter pointed out, we see so many step
23 adjustment hearings and so forth. And, so, the
24 burden seems to be ever increasing. And I know

1 the OCA and DOE are attending the vast majority
2 of those, the DOE all of them. So, it's a shared
3 burden.

4 But, you know, things like, I just, in
5 my notes, I have some things like, you know, "can
6 we make the steps reconciling?" Just look at
7 them every rate case and just, you know, have an
8 estimate, and reconcile it back. "Can we have a
9 fixed dollar amount that we agree to, that's
10 perhaps agreed to in settlements?" "Should we
11 increase the weighted average cost of capital to
12 adjust for this sort of concept of, you know, not
13 having a step?"

14 So, just some things to throw out there
15 to think about, you know, kind of from a creative
16 perspective, we'd be very interested in hearing
17 more on. I think, as Mr. Kreis pointed out,
18 there's probably some studies out there that go
19 into some of these things.

20 But, just speaking on behalf of the
21 Commission, we're open to alternatives and
22 different ideas to solve the problem in a
23 different way. So, I'll just -- I'll throw that
24 out there, if anybody cares to comment, feel

1 free.

2 And I'll turn it over to Commissioner
3 Chattopadhyay to ask if he has some additional
4 questions?

5 CMSR. CHATTOPADHYAY: I think, I was
6 taking scores of how well some of you pronounce
7 my last name.

8 CHAIRMAN GOLDNER: Did I come in first?

9 CMSR. CHATTOPADHYAY: You always do;
10 even chronologically.

11 So, I think I'm going to stress again
12 on the "creativity" point, which at the end
13 Chairman Goldner was talking about. So, if you
14 have to think outside the box, please do,
15 because, you know, it's -- I'll tell you what we
16 are facing.

17 There are step increases that those
18 dockets are no longer simple dockets. We are
19 looking at issues there. And then, you have rate
20 cases. And, given the size of the Commission, it
21 becomes cumbersome. It's, really, it's not a
22 very easy thing.

23 So, I'll put it in this way. Let's
24 say, I mean, and what I heard, if you have a step

1 increase for the year 2020, essentially what
2 you're saying is "you cannot use that same test
3 year for the rate case", that's what I heard.
4 Even that, however, is dependent on how
5 cumbersome the step increase dockets are, as well
6 as the rate cases are. So, I might even say, if
7 the -- if the step increase dockets are pretty
8 complicated, I would rather have, in my example,
9 even 2021 as not being a test year for a rate
10 case, it probably would be 2022. That
11 accommodates that kind of, you know, trade off.

12 On the other hand, if step increases
13 are more routine than what I've been seeing here,
14 I'm quite happy with not having a gap. And yet,
15 following in my example, if you have a test
16 year -- sorry, if you have a step increase for
17 2020, the last one, then the rate case will have
18 to use the rate -- the test year of 2021, okay.
19 So, that's -- there's trade off there, too.

20 So, I would request folks here, this
21 being an open conversation, to think about
22 creative ways to do that.

23 So, I have just one question, based on
24 what Liberty Utilities shared. I heard that,

1 first of all, you know, because the industry has
2 matured enough, so, there's -- you have, you
3 know, at the end you're sort of not getting too
4 many customers coming in. On the other hand, I
5 also heard that there was a 15 percent growth in
6 the number of customers, if I got you right,
7 there's more, you know, happening in Liberty
8 Utilities.

9 As far as that 15 percent situation is
10 concerned, if it's really growth-based, and if
11 you have properly calculated the revenue RPC, the
12 revenue per customer, then you should not have --
13 it should not be about step increase. And I may
14 be simplifying things. Even if you're replacing
15 old stuff or if you're accommodating better
16 pressure to accommodate more customers, in the
17 gas example, that should be part of the
18 distribution rate case process. Sort of saying
19 "Okay, you're looking at the marginal cost and
20 things like that, and coming up with a better
21 calculation of the RPC." So, therefore, you may
22 not have to deal with that problem as much as you
23 do right now.

24 So, any comments on that?

1 MR. SHEEHAN: Yes, subject to smarter
2 people later correcting me.

3 You're correct that the -- our RPC
4 decoupling mechanism should pay for the cost to
5 add new customers. That's the whole idea of it.
6 And, if all we were doing for investing was
7 adding new customers, we spent a million dollars,
8 we got enough customers to cover that million
9 dollars, we would not be back.

10 It does not include, for example, the
11 cast iron replacement. That's an easy example
12 for us, because it is such a big -- it's the
13 largest item in our yearly budget.

14 But there's probably some numbers in
15 between there. Like we said, so, we have -- I'll
16 pick a town, Milford is pretty far west of
17 Nashua, it's really at the end of our system, and
18 that's where we have some pressure problems. We
19 could not put a new neighborhood at the end of
20 our line there, you know, subject to check, but
21 that's the problem it raises.

22 So, if we got a new neighborhood, the
23 usual calculation is just the 100 feet of pipe to
24 go from the end of our system to the new

1 neighborhood, and that's pretty cheap. But, in
2 reality, it's going to cost 10 million to do all
3 the upgrades to get the pressure out to there.
4 So, that's where the RPC decoupling doesn't cover
5 the new customer.

6 So, you could make the argument "we had
7 to spend the 10 million to add the new customers,
8 so, therefore, it's growth." But, in fact, you
9 know, the RPC doesn't cover that.

10 Now, could we adjust the RPC formula to
11 pick some of that up? That's a fair question.
12 On a companywide basis, can we allocate some of
13 our costs, driven by growth, that would not
14 otherwise be picked up, you know, and to soften
15 the steps? Maybe. That's one of those areas
16 that we're happy to "think outside the box", as
17 you said.

18 And, last, since you're keeping score
19 on how we pronounce your name, so, why don't you
20 remind us, so we can get it right next time.

21 CMSR. CHATTOPADHYAY: I think some of
22 you who didn't, you know, even mention my last
23 name, you did really well.

24 *[Laughter.]*

1 CMSR. CHATTOPADHYAY: But let me just
2 leave it at that.

3 MR. KREIS: Could I come in on that
4 question?

5 Something, Commissioner Chattopadhyay,
6 that you and I have in common is a commonly
7 mispronounced last name, since you raised the
8 subject. And, speaking personally, I don't
9 really care which of the two obvious
10 pronunciations of my last name people use.

11 But I have noticed over the years that
12 other people do care. They want to do me the
13 courtesy of pronouncing my last name the same way
14 that I pronounce it. And I assume that that's
15 the way people feel about PUC commissioners, even
16 more than they feel about the Consumer Advocate.

17 So, I actually would echo Mr. Sheehan's
18 suggestion, if you, if you don't want to do it
19 today, that's fine, but at some suitable
20 opportunity, you tell the world of people subject
21 to regulation by your agency how you, and your
22 family, pronounce your last name.

23 CMSR. CHATTOPADHYAY: Okay. This is an
24 IR docket. So, I'll do that.

1 *[Laughter.]*

2 CMSR. CHATTOPADHYAY: I think, first of
3 all, I should also say most of you did a
4 wonderful job. So, there's no issue.

5 The correct pronunciation, at least in
6 the region where I come from, it's
7 "Chat-toe-pah-tie". So, let me leave it at that.

8 Thank you.

9 CHAIRMAN GOLDNER: We're going to have
10 a lot of Webex requests for this. And it is "Mr.
11 Krees", isn't it?

12 MR. KREIS: Yes, it is. But people
13 often say "Krise".

14 CHAIRMAN GOLDNER: "Krise", yes.

15 MR. KREIS: And that's actually the Old
16 World version of my name. Supposedly, it was
17 changed, because it too closely resembled the
18 pronunciation of a major historical figure's
19 name, which I won't mention, because I don't want
20 to violate the First Amendment.

21 But there you are. People can
22 pronounce my name however they like. But prefer
23 you pronounce it "Krees", because that's what I
24 use for a pronunciation.

1 CHAIRMAN GOLDNER: And I notice you
2 don't roll your "r". So, it's a hard "r".

3 MR. KREIS: Yes.

4 CHAIRMAN GOLDNER: You know, "KRise",
5 "KRees". So, I think we're getting it close.
6 So, very good.

7 Commissioner, any other questions?

8 CMSR. CHATTOPADHYAY: Nope. Thank you.

9 CHAIRMAN GOLDNER: Okay. Would anyone
10 else like to follow up on anything, on anything
11 that they heard today?

12 We'll start with Mr. Kreis.

13 MR. KREIS: Well, speaking now as the
14 Captain Ahab of bloated utility ROE, I just have
15 to say for the record that the idea of
16 eliminating step adjustments by giving every
17 utility a little ROE bonus would just be
18 outrageously bad. And I say that even if you
19 could demonstrate, or one could demonstrate,
20 that, by bumping up ROE a little bit, you would
21 be creating rates that are identical to the ones
22 that you would create, or at least you would be
23 creating revenues that are identical to the ones
24 that would result from a step increase.

1 Even if you did that, for that reason,
2 you would be still eliminating an important
3 disciplining influence that the regulatory lag
4 between rate cases engenders. I mean, when
5 utilities have to live for some extended period
6 of time with a backward-looking allowed ROE, that
7 forces them to sit in their little offices and
8 figure out how to become more efficient, and they
9 do it. And it's a good thing. It's a good thing
10 for their shareholders. It's a good thing for
11 their customers.

12 CHAIRMAN GOLDNER: Yes, Mr. Goodhue.

13 MR. GOODHUE: Thank you, Commissioner.

14 One comment I guess I would like to add
15 on behalf of all the water utilities within the
16 room, and it specifically speaks to actually what
17 Mr. Kreis just said a moment ago, and this
18 gentleman over here, who's representing Lakes
19 Region, mentioned earlier.

20 Water utilities, you know, there is a
21 discipline that must be maintained to control
22 expenses between rate cases to minimize
23 regulatory lag. I can appreciate that. But
24 water utilities, and one of the things that's

1 always been a concern of mine, and needs to be
2 addressed, you know, further going forward, is
3 we're regulated by two specific agencies within
4 the state; one is the Public Utilities
5 Commission, one is the Department of
6 Environmental Services.

7 And I will tell you that the landscape
8 for which water utilities are dealing in now, and
9 going forward, is becoming more problematic. And
10 one of the things that needs to be addressed is,
11 you know, we not only have to control our
12 operating expenses and make prudent investments
13 in the infrastructure replacement, but many of
14 the investments that need to be made are being
15 made in compliancy with current MCLs and
16 requirements set by the EPA and the DES. And
17 MCLs and requirements that are ever-evolving and
18 tightening. And those investments have to be
19 made within a timely nature, in order to comply
20 with health-based standards to provide water to
21 people to live. And that is very important.

22 And, so, if a step adjustment is
23 required in order to allow for that investment on
24 a timely basis to comply with health-based

1 standards to provide water to people, I think
2 that's an important consideration that must be
3 looked at within this domain.

4 CHAIRMAN GOLDNER: Thank you. Did
5 anyone else have their hand up? Somebody?

6 Mr. Dexter.

7 MR. DEXTER: Yes. I just wanted to
8 take a moment to address, in the Department of
9 Energy's view, the best way to reduce the burden
10 of reviewing step adjustments is to move away
11 from the complete "net plant approach", and have
12 the utilities present a list that is significant
13 enough to provide meaningful revenue relief, but
14 doesn't include every single project that they
15 undertook in the test year. Because I believe we
16 and the Commission have an obligation to review
17 every project, to the extent possible, when it
18 comes in.

19 I don't like the idea of setting a
20 number and reconciling to it, because I don't
21 think that fulfills our responsibility of knowing
22 that the investments were prudent, used and
23 useful.

24 Some of the projects, and this is not a

1 criticism of the utility, but, when we use a "net
2 plant approach", we have to look at all net
3 plant. Some of those projects are very, very
4 small, and probably don't warrant specific review
5 in a step adjustment. But, by using that
6 approach, they are put into play. And I believe
7 a significant, well-tailored list could provide
8 revenue relief, and at the same time greatly
9 simplify the process.

10 And, again, I do recommend that -- we
11 recommend that the net plant calculation to be
12 used as a parameter, so that we -- so that we're
13 protected against the phenomenon of increasing
14 depreciation.

15 CHAIRMAN GOLDNER: Can I follow up with
16 just a quick question? You mentioned before that
17 you support one, the Department of Energy
18 supports a single step as a general matter. Is
19 there a minimum stay-out period associated with
20 that step, assuming you use this "list approach"
21 methodology?

22 MR. DEXTER: Well, again, we're talking
23 generalities here, because I don't want to
24 comment on specific cases.

1 But, generally speaking, it would be
2 our goal that a step adjustment occur, and that
3 that year in which the step adjustment occur not
4 be a test year. Because it would seem logical
5 that the test year be allowed to play itself out
6 with the increased rates from the step
7 adjustment, before it gets rolled into a revenue
8 requirement. So, as a general matter, that would
9 be what the Department would be advocating for,
10 you know, subject to the specifics of the case.

11 CHAIRMAN GOLDNER: So, if the test year
12 was 2020, the step would be for -- you would
13 support the "list approach" for 2021, right? And
14 then, and I apologize for putting you in a half
15 nelson on this, but would the next rate case be
16 as early as 2022? What would you --

17 MR. DEXTER: No, I don't think --
18 again, general parameter, because this an IR, and
19 we're at the prehearing.

20 CHAIRMAN GOLDNER: Right. Right.

21 MR. DEXTER: And there other people
22 that I need to speak to. But, generally
23 speaking, if a test year were 2020, that was your
24 example?

1 CHAIRMAN GOLDNER: Yes, sir.

2 MR. DEXTER: The case would come in in
3 2021.

4 CHAIRMAN GOLDNER: Yes.

5 MR. DEXTER: The rate increase would
6 come in in 2022. And the step adjustment would
7 come in in 2022. It's the Department's general
8 feeling that 2022 should not be a test year.
9 2023 would be an appropriate test year.

10 CHAIRMAN GOLDNER: For a test year.
11 Okay, thanks.

12 MR. DEXTER: And I haven't worked out
13 what that comes to in terms of the stay-out. I
14 think it also fits very nicely with the statute
15 that I referenced. I think it would result in a
16 rate case no more frequently than three years.

17 CHAIRMAN GOLDNER: Three years. Okay.
18 That's what I was checking. Thank you.

19 Any other comments on that topic or any
20 others?

21 Commissioner Chattopadhyay.

22 CMSR. CHATTOPADHYAY: You mentioned
23 "net plant parameter". Wouldn't, if you -- I
24 think I understand what you mean by that, you

1 know, what that is. But, even to get the
2 parameter, wouldn't you require a lot of
3 scrutiny, sort of going into like whether that
4 number is right?

5 MR. DEXTER: No, I don't think so. And
6 I think, actually, "change in net plant" might
7 not even be the right number. We might be
8 looking at "change in rate base".

9 Now, the utilities are required to file
10 reports on, I think, a quarterly basis, Return on
11 Rate Base Reports, and as well they're required
12 to file their PUC Annual Reports or FERC Form 1.
13 The numbers to calculate net plant are in those
14 reports. So, I think the calculation is very
15 simple.

16 It becomes complicated when you say
17 "well, let's allow rate recovery for every item
18 that's in that net plant number." That's where I
19 believe it's the obligation of the Department and
20 the Commission to review the prudence of each and
21 every one of those investments.

22 So, I think it can serve as a
23 parameter. But it's not -- it's not a -- you're
24 not basing rates on all that plant. You're using

1 it as a guide to whether or not the actual
2 request, in other words, what's on the list, is
3 within reason. And, again, it's just a
4 parameter.

5 Like I said, I'd have to see the
6 calculations. But I would be surprised that a
7 "list approach" would result in a revenue
8 requirement that would exceed the Company's
9 change in net plant. But, again, we haven't done
10 that analysis.

11 CMSR. CHATTOPADHYAY: Okay. So, I
12 think, when you use the term "net plant
13 parameter", you're not necessarily talking about
14 that will be filed by the utility formally in the
15 docket. You sort of -- you mentioned something
16 about they report that normally through the FERC,
17 you know, process, or maybe the quarterly
18 reports, all of that, they come in. That is not
19 within the step increase docket *per se*, but
20 you're sort of saying you're going to rely on
21 that?

22 MR. DEXTER: Well, I think it could
23 easily be calculated in the step --

24 CMSR. CHATTOPADHYAY: Okay.

1 MR. DEXTER: -- in the step docket.

2 And I think it would provide protection against
3 the situation that I don't think is a real --
4 there's a real issue.

5 CMSR. CHATTOPADHYAY: Okay.

6 MR. DEXTER: But I understand that it
7 could be. That a step adjustment, based on a
8 list, was so -- "generous" isn't the right word,
9 but the amount was so high that it actually
10 resulted in the company earning on more plant
11 than was on its books.

12 And I think this was, you know, I think
13 this was a concern that the Commission itself
14 raised over the course of the last year.

15 CMSR. CHATTOPADHYAY: Uh-huh.

16 MR. DEXTER: So, I think it is
17 appropriate to look at. I don't think utilities
18 should be returning -- earning a return on a
19 number that's in excess of their net plant. We
20 understand that. But I don't think, in order to
21 get there, you have to base the step adjustment
22 on the change in net plant. I think you could
23 look at the change in net plant as a parameter.

24 CMSR. CHATTOPADHYAY: Thank you. I

1 think good to have the -- sort of the accounting
2 view of it. And I'm just thinking "How does that
3 get reflected in the step increase docket?" So,
4 thank you.

5 That's all.

6 CHAIRMAN GOLDNER: Anything else today?

7 *[No verbal response.]*

8 CHAIRMAN GOLDNER: All right. Well,
9 thank you very much. We look forward to working
10 with you in this investigation. And this
11 proceeding is now adjourned.

12 ***(Whereupon the prehearing conference***
13 ***was adjourned at 11:15 a.m.)***