

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

May 18, 2023 - 9:15 a.m.
21 South Fruit Street
Suite 10
Concord, NH

RE: DG 23-027
LIBERTY UTILITIES (ENERGYNORTH NATURAL
GAS) CORP. d/b/a LIBERTY UTILITIES:
Petition to Modify Cost of Gas
Procedures. (*Prehearing conference*)

PRESENT: Cmsr. Carleton B. Simpson, *Presiding*
Eric J. Wind, Esq./PUC Legal Advisor
Doreen Borden, *Clerk*

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth
Natural Gas) Corp. d/b/a Liberty
Utilities:
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Reptg. Residential Ratepayers:
Donald M. Kreis, Esq., Consumer Adv.
Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:
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(Regulatory Support Division)

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

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P R O C E E D I N G

CMSR. SIMPSON: On the record. So, we're here today in Docket DE 23 -- excuse me -- DG 23-027, for a prehearing conference, which the Commission has docketed "Liberty Utilities (EnergyNorth Natural Gas) Corp. doing business as Liberty's Petition to Adjust Cost of Gas and Local Distribution Adjustment Charge Procedures."

The issue presented in this matter is whether the current procedures governing Liberty's annual cost of gas and LDAC rate adjustments should be changed, and, if so, whether Liberty's proposal, or another framework, should be adopted?

So first, we'll start with appearances. Liberty?

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

CMSR. SIMPSON: Thank you. Department of Energy?

MS. SCHWARZER: Good morning. Mary Schwarzer, for the Department of Energy.

CMSR. SIMPSON: Thank you. And the

1 Office of the Consumer Advocate?

2 MR. KREIS: Good morning. I am the
3 Consumer Advocate, Donald Kreis. The OCA
4 represents the interests of residential utility
5 customers.

6 CMSR. SIMPSON: Excellent. Thank you.
7 Are there any preliminary matters that folks
8 would like to address?

9 *[No verbal response.]*

10 CMSR. SIMPSON: Okay. So, we'll turn
11 to Liberty's filing. And we'll hear preliminary
12 positions, and then discuss a procedural
13 schedule. I'll turn it over to the Company.

14 MR. SHEEHAN: Thank you.

15 This docket came about over several
16 years of cost of gas filings that included LDAC
17 sometimes getting complicated, and time crunch,
18 *et cetera*, and the Commission, in one of its
19 recent orders, suggested that the parties talk
20 and see if we could come up with a better way to
21 handle the two components of the cost of gas
22 proceeding, the cost of gas itself and the LDAC.

23 Recognizing that the cost of gas
24 component really can't change, because of the

1 traditional summer/winter periods, the thought
2 was we could carve the LDAC into a different
3 track, with more time, and to allow some of the
4 quirky issues that come up in the LDAC a better
5 opportunity to review them.

6 We do think -- and, so, that resulted
7 in the proposal you see. I do believe DOE
8 supports this proposal. I'm not sure where OCA
9 stands, due to calendars, I don't think I got a
10 "yes" or "no" from him by the time I filed this,
11 but we'll hear from him today.

12 So, the basic concept of this schedule
13 was to give the LDAC more time to avoid the
14 year-end, which is default service time, and
15 everyone is busy on that, so it bumps it after
16 the first of the year.

17 To implement this would, at a high
18 level, be relatively straightforward. The first
19 year of the new schedule would require some
20 extended periods of existing rates, and maybe
21 some estimates and projections. But, once it's
22 in place, it would be the same annual adjustment.
23 We recognize that. And Ms. Schwarzer and I were
24 talking before that the mechanics of implementing

1 it will require some tariff changes, and we have
2 to be careful and get right.

3 And, frankly, what hadn't occurred to
4 me until this morning is, those tariff changes
5 would have to be approved prior to the filing,
6 because it would be a new schedule. So, it would
7 require some language proposed, and hopefully
8 agreed to this summer, that the Commission could
9 approve June, July, August, so, by the time we
10 file in September, the new schedule is in place.

11 So, as set out in the Petition, the
12 outline is a September 1 filing for the cost of
13 gas only, a hearing in October, order by
14 November 1, which is the traditional schedule.
15 And then, the LDAC filing would be two weeks
16 later, September 15th, a hearing in January,
17 order by February 1. And that's the basic
18 outline.

19 If approved, the parties plan to fill
20 in intermediate dates, sort of have a template
21 schedule in place, which would fluctuate by a few
22 days each time, depending on calendar. It's
23 something we did last year, a year plus ago, you
24 know, discovery dates, proposed tech session

1 dates, *et cetera*. We will fill those dates in,
2 if the Commission is amenable to this schedule.

3 And we do think it will help, and we
4 ask the Commission would approve it.

5 CMSR. SIMPSON: Great. Thank you.
6 Department of Energy, Attorney Schwarzer.

7 MS. SCHWARZER: Thank you. Thank you,
8 Commissioner. With me is our Gas Director,
9 Faisal Deen Arif. And, if the Commission has
10 questions, he is available to direct answer them
11 specifically.

12 CMSR. SIMPSON: Very good. Appreciate
13 you being here.

14 MS. SCHWARZER: I do want to speak
15 about a couple of topics that are of concern to
16 the Department. I certainly agree with the
17 Company's position, as stated, that we have
18 largely looked at this schedule, and discussed
19 it. We have some concerns that I'll get to in a
20 moment.

21 We are -- one of the larger concerns
22 that we have is that we anticipate that the
23 tariff changes, which will need to be in place
24 before the fall cost of gas and LDAC season, if

1 you will, that if the Commission hopes to
2 implement this separation in the immediate
3 future, will need to be detailed. And that, to
4 the extent LDAC elements have different annual
5 periods, for example, the Gas Assistance Program
6 has a specific period that is distinct from and
7 not necessarily parallel to either the cost of
8 gas or the LDAC, which will mean that changes
9 made to the determination period will require and
10 impact budgeting -- potentially budgeting
11 requests for those other entities.

12 So that, for that reason, it seems
13 likely to us that Liberty should file proposed
14 tariff pages sometime in early July, to give the
15 Department and related entities sufficient time
16 to make sure the details are there, to guarantee
17 a smooth transition and adequate time for
18 reflexion on what those changes are.

19 And, while Liberty described them in
20 its filing as "simple", it seems to me that,
21 while they are not academically complex, the
22 interrelatedness of them, and the necessity for
23 attention to detail, would recommend filing early
24 in July by the Company, and review by all

1 parties, you know, for a recommendation, perhaps
2 the Commission might at the end of July or the
3 first week in August, if -- I mean, particularly,
4 as we look at the dates, there are some concerns
5 around those dates.

6 So, we would -- we understand the
7 Commission has been interested in this for a long
8 time. However, to the extent the tariff is going
9 to be a roadmap, it might -- if it can't be
10 accomplished smoothly before this season, it
11 might even necessitate implementation the
12 following year. And I know that's not what the
13 Commission hopes, but it is -- it is a change.

14 To go to the next tariff issue for us,
15 before moving on to some of the scheduling
16 issues, we know there's been a determination that
17 conversations with DOE's Tariff Administrator are
18 not *ex parte*. And that is not something that we
19 are challenging here in this hearing at all.
20 However, for reasons of efficiency and access,
21 the Department does ask that, in the event any
22 utility, but particularly for this hearing,
23 Liberty, contact the Tariff Administrator for
24 advice or input or interpretation of the 1600

1 rules, that the Department be included in those
2 conversations. We don't want to find ourselves
3 in the position of the Tariff Administrator
4 interpreting and telling the Company something
5 that we then don't understand and file an
6 objection to, only to find out, after effort,
7 that the Commission was in agreement with the
8 initial filing. That's just inefficient. And we
9 do believe that we, as the Department, ought to
10 have a voice in reviewing tariffs as they're
11 submitted, before the Commission comments on
12 them, because the Department has its own
13 understanding and agenda of each particular
14 docket item.

15 And, so, we would ask that the
16 Commission explicitly ask the Tariff
17 Administrator to include the Department in any
18 conversation with utilities.

19 To go back to the proposed default
20 schedule, I would point the Commission to Docket
21 Number 21-130, which included a Joint Report on
22 LDAC and Cost of Gas by the Company and by the
23 Department. The OCA participated, but did not
24 agree with that particular report.

1 And I point it out, because, in
2 addition to a suggested default schedule, it
3 includes requests with regard to redlining and
4 with regard to opportunity to review trigger
5 filings before approval that are important to the
6 Department. I won't mention them in detail here.
7 But I do believe that, at the tech session, to
8 the extent the parties are able to provide the
9 Commission with a very detailed default schedule,
10 and a list of elements and aspects of any filing
11 that are important to all parties, that we would
12 seek to see continued. It would be useful and
13 beneficial all around for us to be able to
14 provide that to you, perhaps before the middle --
15 before June 10th, so that you could approve not
16 just the conceptual schedule that Liberty has
17 provided here, but a more specific schedule.

18 To step back again from the broad
19 outline that Liberty has provided, and even the
20 outline that the party -- that the Department and
21 the utility agreed upon in the DG 21-130
22 December 28th Report, which I ask you to take
23 judicial notice -- administrative notice of, the
24 default schedule, as contemplated at that time,

1 considered a hearing in the last week of the
2 period. So, for fall, that would be October.
3 There's a similar report in the Liberty-Keene
4 docket, which we assume is also at issue here,
5 because there are two separate Liberty cost of
6 gas proceedings in the fall. The LDAC is
7 separate, but we would have a separate cost of
8 gas for Keene and a separate cost of gas for
9 EnergyNorth.

10 The schedule here anticipated a hearing
11 in the very last week of October, or, for summer,
12 at the very last week of March. And because,
13 understandably, the Commission has asked for
14 additional time, and pushed that period forward
15 by about a week, so that the hearings are now in
16 the middle of October, we are now looking at the
17 last discovery time, and are interested in
18 speaking with Liberty about whether that
19 September 1st date can be pushed back a week, or
20 a way in which we might accommodate two sets of
21 data requests for the Department, and also give
22 consideration to a deadline for updating or
23 amending, absent emergency, the docket and
24 information and data and schedules that are

1 filed. Because the Department often -- the
2 Department can find itself in a position where,
3 having analyzed something in two weeks, then, a
4 week before hearing, significant changes are
5 made, that is a challenge for us.

6 We also believe that, conveniently, the
7 trigger filing process permits adjustment with up
8 to a 25 percent increase in an agreed upon rate,
9 or a decrease without limitation, based upon the
10 initial order. And, therefore, it is our
11 expectation that, as happens for another gas
12 utility, even in the event of a change, absent an
13 emergency or highly unanticipated events, that
14 the trigger filing process could probably
15 adequately address any adjustment that needed to
16 be made.

17 While we agree that an adjustment would
18 be necessary in advance of hearing, if there were
19 a significant error or miscalculation, I think
20 all parties here have the goal of that not being
21 the case. And it is our hope that we could reach
22 agreement again on a deadline, where, absent
23 emergency circumstances or unexpected events,
24 that the utility would not change its filing.

1 The overriding concerns of the
2 Department are that we have enough time to review
3 something that the utility has probably taken six
4 months at least to assemble and put together.
5 And that the Department have the opportunity to
6 use the most accurate and current data possible,
7 minimizing estimated data to the extent possible
8 as well. That can -- that might mean an update
9 in September to add July and August data, were
10 that data then available. That's sort of the
11 gist of our concern.

12 So, if I may have a moment?

13 CMSR. SIMPSON: Please.

14 *[Atty. Schwarzer and Director Arif*
15 *conferring.]*

16 MS. SCHWARZER: Thank you, Commissioner
17 Simpson.

18 I think I will just reiterate that the
19 Department has an ongoing concern that,
20 consistent with using accurate data and
21 minimizing estimated data, it would be most
22 appropriate to both leave Keene's in separate
23 dockets, the fall and the summer; and to give
24 specific attention to dividing the EnergyNorth

1 docket again, as it was as recently as five years
2 ago, into a separate fall and a separate summer
3 filing.

4 Thank you.

5 CMSR. SIMPSON: Thank you, Attorney
6 Schwarzer. To the Office of the Consumer
7 Advocate, Attorney Kreis.

8 MR. KREIS: Thank you, Mr. Presiding
9 Officer.

10 I can't really account for the fact
11 that the Company wasn't able to extract a
12 position out of us on the Petition that they
13 filed back on March 10th. I guess it might be
14 because some of this is a little hard to follow.
15 There's just a constant flurry of email messages
16 flying around between the Department and the
17 Company about all of the complicated stuff that
18 Ms. Schwarzer was just describing.

19 We're generally supportive of what the
20 Company is proposing in its Petition. We're
21 eager to cooperate with the Company, with the
22 Department, and the Commission, because I would
23 imagine that the Commission has its own set of
24 needs and preferences, that really perhaps ought

1 to drive this. Because, at the end of the day,
2 the Commission is the decider, and needs to think
3 about what information it needs, and what the
4 right sequencing of various determinations is, so
5 that it can make the best possible decisions on
6 behalf of the Company and its customers.

7 The question of "What kinds of contacts
8 are appropriate between a utility and the
9 Commission's Tariff Administrator, and whether
10 other parties should be "present" for those
11 conversations?" That's a pretty big question, I
12 think, and may be beyond the scope of this
13 particular docket. I'm not sure what I think
14 about that, because this is, frankly, the first
15 I've heard of it today.

16 I, frankly, could see it going either
17 way. I mean, tariff administration, in the
18 perfect world, would be a pretty ministerial act.
19 And, so, it wouldn't really require a full-blown
20 due process to allow minor tariff issues to be
21 worked out between the utilities that file
22 tariffs and the Commission that approves them.

23 So, I want to think about that one.
24 And I would prefer that it not necessarily be

1 resolved within the four corners of this docket.
2 And we're just eager to get to a paradigm that
3 makes logical sense for everybody concerned.

4 Hope that was helpful under the
5 circumstances.

6 CMSR. SIMPSON: That is helpful. Thank
7 you. And you're here today. So, that's all that
8 really matters, right? Thank you.

9 MR. KREIS: Absolutely.

10 CMSR. SIMPSON: On the topic of "tariff
11 administration", from my perspective,
12 practically, these tariff issues can be extremely
13 complex. And we, in some other dockets, have run
14 into a situation where letters end up being
15 exchanged back and forth, and the Company files
16 revisions. And then, the Tariff Administrator
17 reviews them, and there was a gap, or at least a
18 different understanding.

19 And just for your -- everyone's
20 awareness, the issues I'm describing were in
21 Docket 17-189, the Company's Battery Storage
22 Pilot; 19-064, the Company's last electric base
23 rate case, prior to the one that was just filed;
24 and then DE 20-170, which is the general

1 utilities' electric vehicle time-of-use rate
2 docket.

3 And we did issue a procedural order in
4 March that put the public on notice that the
5 Commission's Staff and Tariff Administrator would
6 be having a technical session with the Company,
7 and the Company and the tariff folks within the
8 Commission had that public session, and discussed
9 some issues. We test drove that process
10 during -- in that docket, to attempt to resolve
11 some ongoing tariff questions in those
12 proceedings.

13 So, when we look at this docket, I
14 think that DOE had respectfully asked that they
15 would be notified if there was a similar
16 technical session. And my expectation would be
17 that, if the Commission, in the future, holds
18 similar technical sessions with respect to tariff
19 issues specifically, we would similarly issue a
20 public procedural order, putting the public on
21 notice, and holding that public discussion, so
22 that other interested parties would be welcome to
23 attend.

24 MR. KREIS: Commissioner, which of the

1 three dockets was the one you were just talking
2 about?

3 CMSR. SIMPSON: It's, unfortunately,
4 related to all three of those dockets. So, --

5 MR. SHEEHAN: The reason for that, it
6 was the time-of-use rates were where the problems
7 arose, and they were being adjusted in all three
8 dockets.

9 MR. KREIS: Oh.

10 CMSR. SIMPSON: Uh-huh. So, it was in
11 all of them. All the service lists were notified
12 with those, so, a long list of folks. But we
13 would, of course, notify folks on the applicable
14 service list.

15 I think, Attorney Schwarzer, you had a
16 question?

17 MS. SCHWARZER: Yes. Thank you,
18 Commissioner.

19 In addition to any sort of process that
20 was as explicit as the one that you were just
21 describing, it is our understanding that Liberty
22 has also -- well, in the gas dockets, --

23 CMSR. SIMPSON: Uh-huh.

24 MS. SCHWARZER: -- Attorney Sheehan

1 contacted me to say that he wanted to -- he or
2 his Company, or his clients, wanted to speak
3 individually, specifically with the Tariff
4 Administrator, around a range of issues.

5 CMSR. SIMPSON: With the DOE?

6 MS. SCHWARZER: Without DOE.

7 CMSR. SIMPSON: Okay.

8 MS. SCHWARZER: And we had initially
9 had a concern that I believe leadership has
10 resolved, but not *ex parte*.

11 CMSR. SIMPSON: Uh-huh.

12 MS. SCHWARZER: So, that's why I'm
13 saying I'm not challenging that conclusion at
14 all. However, to the extent, for example, in a
15 gas docket, --

16 CMSR. SIMPSON: Uh-huh.

17 MS. SCHWARZER: -- any Liberty staff
18 person were to call with a question as to how to
19 interpret the 1600 tariff rules, the Department
20 would like to be part of that conversation, not
21 just notified. And, in fact, if conversations
22 have happened, we have not been notified of
23 them, --

24 CMSR. SIMPSON: Uh-huh.

1 MS. SCHWARZER: -- and are unaware of
2 any content.

3 CMSR. SIMPSON: Okay.

4 MS. SCHWARZER: And, so, we would not
5 want to be in a position where we challenged an
6 interpretation that had already been reviewed or
7 blessed or presented to the Tariff Administrator
8 as acceptable. And, while, certainly, I think
9 Liberty would do its -- I have no reason to think
10 Liberty wouldn't notify us of those
11 conversations, we would vastly prefer to be part
12 of them.

13 CMSR. SIMPSON: Understood.

14 MS. SCHWARZER: Okay.

15 CMSR. SIMPSON: Thank you. I
16 appreciate that.

17 MS. SCHWARZER: Thank you.

18 CMSR. SIMPSON: So, my questions, just
19 briefly, I'll touch base with the Company first.

20 In your Petition, you have a few
21 bullets in Section 4 of the Petition, with the
22 schedule. Just double-checking here, that
23 remains your position, and you've worked with the
24 other parties in the room, or you will continue

1 to work with the parties in the room?

2 MR. SHEEHAN: Correct. I heard
3 Ms. Schwarzer say that "perhaps move the COG
4 filing earlier than September 1"; we've tried
5 that before, and it really does not work for us.
6 We don't have six months to work on this. The
7 limiting factor is the demand forecast for the
8 upcoming year, is really not prepared until the
9 summer. Doesn't make sense to prepare it any
10 sooner for all the obvious reasons.

11 So, last year, we had an earlier
12 filing, and it was a mess, trying to pull the
13 numbers at the last minute and put them together.
14 So, we strongly urge to stay with September 1 for
15 that filing.

16 And the fact that now COG is standing
17 alone for that period, we hope that that is
18 simplified enough to still allow for an
19 appropriate review.

20 But, otherwise, that schedule is what
21 we propose. We're still comfortable with it.
22 And I'd be happy to work with the parties to fill
23 in those intermediate dates.

24 CMSR. SIMPSON: And I can imagine this

1 answer would be on the record somewhere. But, if
2 you'd enlighten us, indulge me, and just
3 reiterating why the process that you follow today
4 is how it was? Just so that we don't miss, in
5 making this determination, if we decide to split
6 the LDAC and cost of gas, so that we have a full
7 understanding of history. Why did EnergyNorth
8 combine them in the past?

9 MR. SHEEHAN: They have been together
10 forever. The LDAC was always, and I don't know
11 what "forever" means, certainly, for the ten/
12 eleven years I've been at the Commission or at
13 Liberty, LDAC and cost of gas were together.

14 My guess is, and I can research this,
15 is those LDAC components are just things that
16 need to be -- they're reconciling mechanisms,
17 like the cost of gas, and they need to be
18 adjusted every year. We already have a cost of
19 gas that's happening every year. So, why not
20 combine them? I suspect there was no more logic
21 to it than that.

22 CMSR. SIMPSON: Okay.

23 MR. SHEEHAN: There's no magic to the
24 LDAC components being on the same schedule, other

1 than convenience. So, by separating them, it's
2 not upsetting any "bigger picture" issue. It
3 will be, again, sort of a tracking schedule, and
4 the -- as Ms. Schwarzer mentioned, some of these
5 components are on different schedules, we'll have
6 to account for that.

7 For example, the decoupling year is set
8 at these 12 months, and other things might be a
9 calendar year, *et cetera*. But that's what we
10 always do in a reconciling mechanisms. There's
11 always -- you've got to pick a date and work with
12 it. And, so, we're choosing a different date to
13 adjust these mechanisms. Some will be easier to
14 move to the new date, some might be a little
15 trickier, and that's what we have to work through
16 on the tariff changes.

17 CMSR. SIMPSON: Thank you. And then --
18 oh, go ahead, Ms. Schwarzer. You have a
19 question?

20 MS. SCHWARZER: Thank you, Mr.
21 Commissioner. Just a point of clarification.

22 I believe Liberty has submitted, and
23 the Department has been working with a split
24 schedule, to separate the cost of gas and LDAC,

1 because, after this issue came up in multiple
2 other gas dockets, it was our understanding that
3 that was clearly the Commission's preference. I
4 believe the initial order had asked for a unified
5 schedule, as well as a divided schedule. And,
6 certainly, for the benefit of consistency among
7 gas utilities, the Department might continue to
8 recommend a unified schedule, --

9 CMSR. SIMPSON: Uh-huh.

10 MS. SCHWARZER: -- or at least continue
11 to consider it. However, if the Commission has
12 decided that it wants to direct us to do a
13 clearly divided schedule, we'd rather just pursue
14 that, and not spend time on a unified schedule.

15 CMSR. SIMPSON: Yes. Understood. I
16 don't think we've decided that just yet.

17 MS. SCHWARZER: Okay.

18 CMSR. SIMPSON: But we are
19 investigating the possibility of aligning with
20 the other gas utility, in terms of separating
21 cost of gas and a reconciliation.

22 So, that's why we're here, to try to
23 better flesh that out.

24 MS. SCHWARZER: Would you like the

1 parties to file an updated default schedule,
2 leaving the cost of gas and LDAC combined?

3 CMSR. SIMPSON: No thank you.

4 MS. SCHWARZER: Okay.

5 CMSR. SIMPSON: No.

6 MS. SCHWARZER: So, I'm sorry, and if
7 you don't have an answer, that's certainly
8 acceptable. But looking forward to the last week
9 in September, or September 1st, do we -- does the
10 Commission anticipate that this will be resolved
11 at that time, and we'll be going forward with a
12 new framework?

13 CMSR. SIMPSON: So, that was my next
14 question to you.

15 MS. SCHWARZER: Sorry.

16 CMSR. SIMPSON: Simply on the schedule,
17 you offered some comments on the schedule. We're
18 mindful of the resources and of the resource
19 constraints with the Consumer Advocate, you know,
20 the Commission has significant resource
21 constraints as well. So, this would be an
22 expedited process in some ways. Are you amenable
23 to the schedule that the Company has put forth?

24 MS. SCHWARZER: I think it's too bare

1 bones. I think we need to look at the details in
2 the schedule that we filed in the December 28th,
3 2021 Report, that was agreed upon by the Company,
4 to deal with LDAC and cost of gas, which included
5 things like redlining, and specific dates for
6 discovery, a compromise by Liberty of less than
7 10 days to provide responses, in the first
8 instance, to accommodate a compressed schedule.
9 I think it's important to the Department to have
10 those details before we could --

11 CMSR. SIMPSON: Support?

12 MS. SCHWARZER: Yes.

13 CMSR. SIMPSON: Okay.

14 MS. SCHWARZER: Before we could
15 respond. So, that is why I had mentioned a
16 June 10th date, --

17 CMSR. SIMPSON: Uh-huh.

18 MS. SCHWARZER: -- perhaps as a time
19 when the Company's -- when at least the Company
20 and the Department, and certainly with OCA
21 comment or, ideally, agreement, could propose
22 something with sufficient specificity that, were
23 the Commission to approve it, it would be
24 actionable on September 1st, or whatever the date

1 agreed upon was.

2 CMSR. SIMPSON: Okay. That's helpful.
3 In light of your earlier comments, that helps to
4 clarify for me.

5 Another question I had for you was with
6 respect to the "related entities" that you
7 mentioned. Could you just specify who you're
8 thinking of?

9 MS. SCHWARZER: Certainly. And I'm not
10 sure that there would be direct impact. I
11 haven't sketched it out in my head. But, for
12 example, I believe budgets are filed for the Gas
13 Assistance Program early in the fall -- in late
14 August, for example.

15 CMSR. SIMPSON: Uh-huh.

16 MS. SCHWARZER: And were the Gas
17 Assistance Program, which includes, and I hope
18 I'm not confusing this with the Energy -- with
19 the Energy Assistance Program, which includes --
20 I guess the Gas Assistance Program is just the
21 utilities, is that correct?

22 *[Atty. Sheehan indicating in the*
23 *affirmative.]*

24 MS. SCHWARZER: Okay. So, then, it

1 is -- it would just be internal budgeting,
2 perhaps, for the utilities. But, if the Gas
3 Assistance Program year for 2022-2023 were now
4 18 months, or whatever it is, until February 1st,
5 instead of 12 months, presumably, there would not
6 be an adjustment in the gas -- in the GAP
7 component of the LDAC, and it would simply be
8 extended at the existing rate. That seems most
9 simple. Although, that might then require an
10 increased request for the February 1 period. I
11 truly don't know. I haven't thought through the
12 math.

13 But I would imagine that, for example,
14 there are other components as well. The property
15 tax component of the LDAC, if that were to have
16 to accommodate, what is it, like instead of
17 October, November, December, January, so, three
18 additional months. So, a 15-month schedule,
19 perhaps at the existing rate. They're just
20 calculations that other entities would need to
21 take into effect, and that's my concern.

22 And if I could have a moment?

23 CMSR. SIMPSON: Sure.

24 *[Atty. Schwarzer and Director Arif*

1 *conferring.]*

2 MS. SCHWARZER: The concern that I
3 would clarify is that, even the tariff
4 adjustments to extend the timelines and the
5 values of the LDAC rates might require discovery,
6 and time to look at and adjust, particularly for
7 the initial transition year. And we have a
8 concern that there may not be sufficient -- we
9 don't want a -- we don't want a tariff that is
10 inadequate to the purpose it is asked to assume.
11 So, it's a little hard to predict at this time.

12 CMSR. SIMPSON: Okay. Thank you.

13 And then, I just will turn to the
14 Consumer Advocate. Again, the schedule is maybe
15 somewhat aggressive. Do you feel that your
16 office would be able to participate thoroughly
17 under the proposals offered by the Company?

18 MR. KREIS: Commissioner, that's a
19 really difficult question for me to answer. At
20 this point, the OCA is so under-resourced that
21 I'm not sure we have the ability to participate
22 thoroughly in much of anything. And, so, for me,
23 you know, those questions are always -- it's
24 always a matter of triage, and our ability to

1 scramble around even in the best of
2 circumstances.

3 So, I guess that my hypothesis, or the
4 way I approach conversations like this is, I
5 listen to what the Department says, and I listen
6 to what you, meaning the Commission, say, because
7 you and the Department carry the laboring oar in
8 this, and we are always just kind of drafting
9 along behind like a -- like we're running a
10 bicycle race.

11 So, I think the short answer to your
12 question, Commissioner, is "yes".

13 CMSR. SIMPSON: Okay. Thank you. I
14 just want to be mindful of everyone's time, and
15 the schedule that I appreciate that the Company
16 put forth. So, wanted to confirm and --

17 MR. KREIS: Sure. We're willing to do
18 our best to work within the schedule that the
19 Company is proposing.

20 CMSR. SIMPSON: Okay. Thank you so
21 much.

22 *[Cmsr. Simpson and Atty. Wind*
23 *conferring.]*

24 CMSR. SIMPSON: Perfect. Thank you,

1 Eric.

2 So, we'll take administrative notice of
3 the Report that the Department noted from Docket
4 DG 21-130. It was the DOE Joint Report filed on
5 December 27th, 2021, in Tab 46.

6 And then, I'll also take administrative
7 notice of the Office of the Consumer Advocate's
8 position, filed on the same day, December 27th,
9 2021, located at Tab 47, for the purposes of this
10 proceeding.

11 Do I have any objections to that?

12 MR. SHEEHAN: No.

13 *[Administrative notice taken as noted*
14 *above regarding filings in DG 21-130.]*

15 MS. SCHWARZER: Mr. Commissioner, in
16 Docket Number DG 21-132, there is an essentially
17 parallel report for the Liberty-Keene cost of
18 gas. And, because my belief would be that we
19 would need to adjust that schedule as well, it
20 would -- the Department would appreciate the
21 Commission taking administrative notice of that
22 December Report as well.

23 CMSR. SIMPSON: Okay. I would agree
24 with that.

1 So, I'll also take administrative
2 notice in Docket DG 21-132 of the DOE's Joint
3 Report, that's located at Tab 36, also filed on
4 December 27th, 2021, as well as the OCA's
5 position, filed on December 27th, 2021, located
6 at Tab 37. Any objections to that?

7 MR. SHEEHAN: No objections. But, just
8 to be clear, my non-objection to taking
9 administrative notice does not mean that I will
10 agree to all the dates. I think the concept is
11 the same. And we will work out perhaps slightly
12 modified dates. But you looking at that is
13 absolutely fine.

14 CMSR. SIMPSON: Thank you.

15 MS. SCHWARZER: Mr. Commissioner, if I
16 might? I believe the OCA's position strenuously
17 objected to any default schedule. And, while,
18 certainly, the OCA is free to take that position,
19 I just wonder if they still do?

20 CMSR. SIMPSON: Okay. Do you have any
21 response, Mr. Consumer Advocate?

22 MR. KREIS: I don't think a prehearing
23 conference is an appropriate place for me to
24 answer questions from the Department of Energy.

1 CMSR. SIMPSON: Do you have any
2 objection to taking administrative notice of your
3 two reports?

4 MR. KREIS: No.

5 CMSR. SIMPSON: Perfect.

6 *[Administrative notice taken as noted*
7 *above regarding filings in DG 21-132.]*

8 CMSR. SIMPSON: Okay. Is there
9 anything else that folks would like to cover?

10 As stated in our Order of Notice, you
11 know, we do want to move this proceeding along.
12 Our goal is to reach a conclusion in time for the
13 filings this autumn. But we want to ensure a
14 full and transparent process here in reviewing
15 the Petition by the Company. Is there anything
16 else from the parties that they would like to
17 provide today?

18 MS. SCHWARZER: I think I would ask if
19 my other parties are amenable to working together
20 to file a more specific schedule with the
21 Commission by June 10th?

22 CMSR. SIMPSON: Okay. I think we
23 should set a date for the procedural schedule to
24 be filed, for a joint procedural schedule to be

1 filed to the Commission. Do you all have --

2 MS. SCHWARZER: Apologies, Mr.

3 Chairman. I think there's confusion over the
4 procedural schedule. Certainly, we need a
5 procedural schedule for this docket. But I was
6 thinking of a proposed default schedule for the
7 Commission's review, to put flesh on the bones of
8 what Liberty has presented, which I believe it
9 would be possible to do by June 10th. Perhaps
10 that was your understanding. But I'm not asking
11 about a procedural schedule for this docket.

12 I believe we can all -- I think it is
13 possible for us to reach agreement on a detailed
14 procedural schedule for the coming period -- for
15 the -- I think it's possible to replace the
16 default schedule in the December reports you just
17 noticed, with a more detailed fleshing out of the
18 skeleton the Company has filed in its Petition,
19 by June 10th. Which would -- as I believe will
20 permit the Commission to make a decision about
21 when detailed tariffs would need to be provided.

22 I'm not trying to muddy the issue.

23 But, unlike many dockets, this seems highly
24 procedural. And, so, certainly, while discovery

1 might be an element of it, it seems to me the
2 focus is on logistics and elements and details
3 that we might be able to provide to the
4 Commission in the form of a proposed schedule for
5 COG and LDAC no later than June 10th. And, if
6 that were the case, then the Commission could
7 take up the issue of when detailed tariffs would
8 be required.

9 And, certainly, we could consider
10 whether discovery was necessary in this docket.
11 But this seems like a docket, unlike many, that
12 is very procedurally heavy, if you will.

13 CMSR. SIMPSON: So, I'm sorry, I'm
14 confused. You do not want to propose that
15 process and those dates within the procedural
16 schedule for this docket?

17 MR. SHEEHAN: If I may? My suggestion
18 is that the Commission leave the parties to
19 propose a procedural schedule for this docket.
20 The elements of that procedural schedule will
21 include (a) the deadline, as Ms. Schwarzer
22 suggests, perhaps for a more full schedule to be
23 proposed; (b) a deadline for filing proposed
24 tariff language. Both of which will happen early

1 enough so that the Commission can act on it prior
2 to a September 1 cost of gas filing.

3 And I don't think discovery is
4 necessary. This is not "mostly a procedural
5 docket"; this is "solely a procedural docket", in
6 my view.

7 And last, just two side comments. The
8 GAP Program is a percentage of the prevailing
9 rate. So, the timing, unlike the EAP discount,
10 if you approve a cost of gas rate November 1, the
11 GAP percentages will apply to that rate. And,
12 when the cost of gas changes each month with the
13 trigger filings, the GAP will apply to that rate.
14 So, the reconciliation periods will change with
15 the new dates. But the actual GAP itself will
16 not.

17 And property tax is similar. It's
18 based on its own property tax calendar year. And
19 the change of an effective date would just change
20 the effective date of the reconciliation with
21 whatever over/under carrying charges.

22 So, again, they need to be carefully
23 done. But it's not a -- it doesn't implicate
24 rate setting, it's just all reconciliations.

1 CMSR. SIMPSON: Okay. That would align
2 with my hope today, to set a date for the
3 proposed procedural schedule. And I'd let the
4 parties take the time to develop the details of
5 that procedural schedule. If that's amenable to
6 the Department?

7 MS. SCHWARZER: That is certainly
8 amenable to the Department. And it is sort of a
9 unique docket. But Attorney Sheehan's statement
10 makes sense. Although his explanation, while I
11 have no reason to doubt it, is something the
12 Department will have to take a little more time
13 to review fully for each element.

14 CMSR. SIMPSON: Okay. Great.

15 So, today is May 18th. Would a week
16 afford the parties enough time to propose a
17 procedural schedule to the Commission?

18 MS. SCHWARZER: With my apologies, I
19 would prefer some more time, given the press of
20 other business.

21 CMSR. SIMPSON: Okay. Do you have a
22 suggested date?

23 MS. SCHWARZER: Could it be the end of
24 May? So, --

1 CMSR. SIMPSON: The 31st?

2 MS. SCHWARZER: The 31st.

3 CMSR. SIMPSON: Sure.

4 MS. SCHWARZER: Thank you.

5 CMSR. SIMPSON: Okay. So, we will set
6 a date of May 31st for the filing of a proposed
7 procedural schedule from the parties.

8 MR. SHEEHAN: And one last question.
9 The end of this procedural schedule we'll be
10 submitting to the Commission a final proposal
11 for -- to be implemented for, let's say, a
12 September 1 filing. How much time should we
13 build in for the Commission to review and
14 hopefully approve what we file?

15 My guess is we shoot for an August 1
16 filing, to give you the month of August to review
17 it and approve it, with us assuming it's a
18 September 1 filing or something like that.

19 *[Commissioner Simpson and Atty. Wind*
20 *conferring.]*

21 CMSR. SIMPSON: I think part of that
22 would depend on whether the parties recommend a
23 Commission order without a hearing or with a
24 hearing. So, if the parties feel that they can

1 reach an agreement, and do not require a hearing,
2 then more limited review time would be necessary
3 by the Commission. If a hearing is required,
4 then I think that month would probably be
5 appropriate.

6 Maybe, if the parties can reach an
7 agreement and propose a change to the process
8 without a hearing required, I would say two weeks
9 would be adequate for the Commission.

10 MR. SHEEHAN: Thank you.

11 MS. SCHWARZER: Mr. Chairman, if there
12 were concerns about tariff language, that might
13 necessitate a hearing, correct?

14 CMSR. SIMPSON: Just a moment.

15 MR. SHEEHAN: If I may? If we can't
16 agree, then we're going to have a hearing. I
17 think the hope is what we filed, it's already
18 been reviewed, vetted, and agreed to. And, if we
19 can't get there, then, of course, the parties
20 have a right to contest at a hearing.

21 CMSR. SIMPSON: Yes. That makes sense
22 to me.

23 MS. SCHWARZER: Thank you.

24 CMSR. SIMPSON: Okay. So, we will set

1 the date of May 31st for the filing of a proposed
2 procedural schedule. As noted, if there's
3 agreement, a couple of weeks advance in that
4 procedural schedule for a Commission order would
5 be fine. If the parties do not reach an
6 agreement on the issues, then a month would be
7 necessary, so that we can schedule a hearing
8 date.

9 MS. SCHWARZER: And I apologize, I'm
10 just having a little trouble following the dates.
11 Attorney Sheehan had mentioned "August 1st" as a
12 filing. Is it the Commission's position that
13 August 1 is acceptable, if there's no need for a
14 hearing, but that, if there is a need for a
15 hearing, you would need more time?

16 CMSR. SIMPSON: No. August 1st is "if
17 a hearing is necessary".

18 MS. SCHWARZER: Thank you.

19 CMSR. SIMPSON: Okay. Anything else,
20 anyone?

21 MR. SHEEHAN: Not from me. Thank you.

22 CMSR. SIMPSON: Okay. Thank you.

23 We will issue an order covering this
24 prehearing conference. We'll look forward to the

1 proposed procedural schedule from the parties.

2 Thank you all for being here. We're adjourned.

3 Off the record.

4 ***(Whereupon the prehearing conference***

5 ***was adjourned at 10:00 a.m., and a***

6 ***technical session was held thereafter.)***