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P R O C E E D I N G

CHAIRMAN GOLDNER: Okay. Good
afternoon. I'm Chairman Goldner. I'm joined by
Commissioner Simpson and Commissioner
Chattopadhyay.

We're here for a prehearing conference
in Docket DE 23-039, in which the Commission has
docketed the Liberty Utilities' distribution rate
case. This prehearing conference will touch on a
number of topics, which I'll go over in the order
that we plan to take them up.

We'll start by addressing intervention
petitions; notice and Liberty's Motion for
Confidential Treatment; after that, we have asked
Liberty to provide an Executive Summary of its
request in this matter, and Liberty will provide
a presentation in response to that request; we'll
then hear preliminary positions of the parties;
finally, we will discuss a procedural schedule in
this matter, including discussion of a hearing
schedule, how the Commission can be kept informed
of the parties' progress, and steps to ensure an
adequate record is before the Commission for the
hearings. If time remains, we'll take up other

1 issues as raised by the parties.

2 First, let's start by taking
3 appearances for the record, beginning with
4 Liberty.

5 MR. SHEEHAN: Good afternoon,
6 Commissioners. Mike Sheehan, for Liberty
7 Utilities (Granite State Electric) Corp. There
8 are a number of people in the room. So, I will
9 introduce the Liberty folks, to the extent some
10 of you may not know them.

11 To my right is Gregg Therrien, a
12 consultant working with us in this case; Erica
13 Menard, with the Regulatory Department; and
14 Jessica Ralston, outside counsel, who is helping
15 me; and behind me is Tyler Culbertson, our new
16 Director of Regulatory Affairs here in New
17 Hampshire, Erica is moving to a regional
18 position; and Jimmy King, an Analyst with the
19 Regulatory Division.

20 Thank you.

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

23 MR. DEXTER: Good afternoon.
24 Commissioners. Paul Dexter, appearing on behalf

1 of the Department of Energy. I'm joined by
2 co-counsel Matthew Young and Alexandra Ladwig in
3 this matter. Also at counsel's table is Jay
4 Dudley, an Analyst in the Electric Division.

5 CHAIRMAN GOLDNER: Thank you. And the
6 Office of the Consumer Advocate?

7 MR. KREIS: Good morning [sic], Mr.
8 Chairman, members of the Commission. I'm Donald
9 Kreis, the Consumer Advocate. We represent the
10 interests of residential utility customers. With
11 me today is our Staff Attorney, Michael Crouse,
12 who is newly admitted to the Bar of this fine
13 jurisdiction.

14 CHAIRMAN GOLDNER: Congratulations,
15 Mr. Crouse.

16 CMSR. SIMPSON: Congratulations. Quite
17 an achievement.

18 MR. CROUSE: Thank you.

19 CHAIRMAN GOLDNER: And let's move to
20 the potential intervenors, beginning with
21 Dartmouth College?

22 MR. GETZ: Good afternoon, Mr.
23 Chairman, Commissioners. I'm Tom Getz, of the
24 law firm of McLane Middleton, on behalf of the

1 Trustees of Dartmouth College. Also here today
2 are Jessica Nylund, in-house Counsel for
3 Dartmouth College, and Viggo Fish, also from the
4 law firm of McLane Middleton.

5 Thank you.

6 CHAIRMAN GOLDNER: Thank you. And
7 Clean Energy New Hampshire?

8 MR. SKOGLUND: Good morning,
9 Commissioners -- or, good afternoon
10 Commissioners, Chris Skoglund, Director of Energy
11 Transition with Clean Energy New Hampshire,
12 sharing a microphone with the OCA.

13 CHAIRMAN GOLDNER: Thank you. And the
14 Community Power Coalition of New Hampshire?

15 MR. BELOW: Good afternoon,
16 Commissioners. Clifton Below, on behalf of the
17 Coalition.

18 CHAIRMAN GOLDNER: Okay. Is there
19 anyone else here today?

20 *[No indication given.]*

21 CHAIRMAN GOLDNER: Okay. Seeing none.

22 Let's turn to interventions. There are
23 three petitions to intervene pending. And there
24 is an issue with the current intervenors in

1 Docket Number 17-189.

2 First, let's take on the three pending
3 intervention requests. I'll note that there are
4 no objections -- we received no objections from
5 Liberty.

6 MR. SHEEHAN: None.

7 CHAIRMAN GOLDNER: I do have one
8 comment to make with respect to Dartmouth's
9 petition. I do want to disclose for the record
10 that my daughter is an undergraduate student at
11 the College. Therefore, there is an economic
12 interest similar, but not identical, to being a
13 customer of the utility. I consider this to be
14 *de minimus* in nature. But, if anyone wants to be
15 heard on this, or wants a moment to consider the
16 disclosure, we can do that?

17 MR. SHEEHAN: No issue with the
18 Company.

19 CHAIRMAN GOLDNER: Thank you, sir.
20 Does anyone have anything further to say with
21 respect to these three petitions to intervene?

22 MR. DEXTER: The Department of Energy
23 has no objections to the petitions.

24 CHAIRMAN GOLDNER: Okay. All right.

1 Okay. Well, we have reviewed and
2 determined that Dartmouth College, Clean Energy
3 New Hampshire, the Community Power Coalition of
4 New Hampshire would -- we'll grant intervention,
5 and, in the interest of justice -- I'm sorry,
6 would be in the interest of justice and would not
7 impair the orderly and prompt conduct of the
8 proceedings, and therefore grant intervention
9 pursuant to Puc 203.17 and RSA 541-A:32, II.

10 Second, there is the issue of
11 intervenors from Docket 17-189, from which issues
12 related to the future of Liberty's Battery
13 Storage Project are addressed by Liberty in
14 prefiled testimony in this docket. The
15 Commission issued Order Number 26,849 today. The
16 Commission approved the transfer of issues from
17 Docket 17-189 into this docket, and granted an
18 extension of the intervention deadline in this
19 matter to parties in Docket 17-189.

20 We, therefore, note for the record that
21 parties interested in that specific topic may
22 intervene through June 21st, 2023. There is also
23 a deadline for Liberty to object. However, I'll
24 ask that, if Liberty does not intend to object,

1 let the Commission know, so that we can wrap up
2 the intervention issues quickly.

3 Next, moving to the newspaper
4 publication issue. I note that the newspaper
5 publication was delayed, as identified by
6 Liberty's June 1st, 2023, affidavit of
7 publication, as updated by Liberty's June 7th
8 supplemental affidavit of publication. In the
9 June 1st filing, Liberty requests that the
10 Commission deem publication to be timely. Do any
11 parties wish to be heard on this issue?

12 MR. GETZ: No, Mr. Chairman.

13 CHAIRMAN GOLDNER: Okay. Thank you.
14 Seeing none.

15 Liberty has filed several Motions for
16 Confidential Treatment with its full rate case
17 filing. Liberty filed a motion related to
18 compensation information as required by Puc
19 1604.01. With its Excel spreadsheets, Liberty
20 filed a motion related to proprietary models and
21 cybersecurity information.

22 We would like to set a deadline for
23 responses to these motions. Before we do that,
24 would any parties like to be heard on these

1 motions at the prehearing conference today?

2 MR. GETZ: No, Mr. Chairman.

3 CHAIRMAN GOLDNER: Okay. Thank you.

4 Okay. Seeing none.

5 Okay. At this time, I think we'll turn
6 to Liberty for the Executive Summary
7 presentation. In the interest of time, I'll ask
8 that the hour allocated for the presentation be
9 kept.

10 Thank you.

11 MR. SHEEHAN: Thank you.

12 MR. DEXTER: Mr. Chairman, before we
13 move to the actual presentation, the Department
14 of Energy had a concern that the presentation is
15 essentially testimony by the Company, and,
16 therefore, we would request that the presenters
17 be sworn in. And, since it's going to be
18 presented to the Commission, and it's lengthy,
19 and it's detailed, and it covers essentially the
20 whole case, we believe it should be admitted as
21 evidence.

22 To the extent we had cross-examine of
23 the witness -- cross-examination of the
24 witnesses, we would be willing to withhold that

1 until these witnesses take the stand in the
2 ordinary course. But we think it would be a more
3 appropriate use of the Executive Summary if it
4 were admitted as evidence.

5 CHAIRMAN GOLDNER: Okay. Would anyone
6 else like to be heard on that?

7 MR. SHEEHAN: The Company objects.
8 Would you like to hear from me?

9 CHAIRMAN GOLDNER: Yes, please. Go
10 ahead.

11 MR. SHEEHAN: This is a prehearing
12 conference. A prehearing conference does not
13 take testimony. The rules that govern the
14 conference talk about making a position statement
15 of the case, and that's, in effect, what this
16 presentation is. It is admittedly more detailed
17 than usual, but that was at the Commission's
18 request. We are providing a highlight of the
19 case.

20 The topics in the presentation, many of
21 them are outside the expertise of the two people
22 speaking, it covers the whole case. So, it's not
23 appropriate, we believe, to put the witnesses
24 under oath for that purpose.

1 The presentation itself is filed in the
2 record. If DOE wishes to make it an exhibit and
3 evidence, it can do so at the hearing.

4 So, we would respectfully ask that the
5 witnesses not be placed under oath.

6 CHAIRMAN GOLDNER: Okay. Would anyone
7 else like to be heard on the topic?

8 MR. KREIS: The Office of the Consumer
9 Advocate, assuming you just called on me, agrees
10 with the Department of Energy. Certainly, it's
11 customary in prehearing conferences for the
12 parties to state preliminary positions. And
13 there's a long history of petitioners, in
14 particular, offering up brief summaries of their
15 petitions. That's what the lawyers are for. So,
16 if Mr. Sheehan wants to offer up a summary of the
17 rate case as counsel to Liberty, he certainly
18 ought to be allowed to do that.

19 But, if the Company's witnesses are
20 going to be here talking about the -- well,
21 talking about the new rates, and the
22 justification for those new rates, then that
23 walks and talks a lot like testimony, and,
24 therefore, in our opinion, ought to be presented

1 under oath. And it's a little disconcerting to
2 see a utility say its people are not willing to
3 swear to the truth of what they are about to say.

4 CHAIRMAN GOLDNER: Would any of the
5 intervenors like to be heard on the topic?

6 MR. GETZ: Dartmouth takes no position
7 on the issue, Mr. Chairman.

8 CHAIRMAN GOLDNER: Okay.

9 MR. BELOW: Neither does the Coalition.

10 MR. SKOGLUND: Neither does Clean
11 Energy New Hampshire.

12 CHAIRMAN GOLDNER: Okay. Just a
13 moment, the Commissioners and counsel will confer
14 for a moment. We'll just stay here for this.
15 Thank you.

16 *[Chairman, Commissioners, and Atty.
17 Wind conferring.]*

18 CHAIRMAN GOLDNER: Okay. So, we won't
19 put the Company under oath. We'll just ask
20 Mr. Sheehan and the Company to monitor the
21 presentation. If the Company slips into a
22 justification of the request, then the parties
23 would have good reason for objecting. But we
24 asked you here to sort of give us the overview of

1 the case, and we appreciate that, and we'd like
2 you to proceed.

3 So, without any further adieu, let's
4 move to the presentation.

5 MR. SHEEHAN: Thank you. And Mr.
6 Therrien and Ms. Menard will be presenting it.
7 And we have it on the screen to watch as well.

8 Thank you.

9 MS. MENARD: Good afternoon.
10 Mr. Therrien and I will be presenting, and we'll
11 be tag-teaming. So, we appreciate the
12 opportunity to give you an overview of the filing
13 before you. It is lengthy in nature. So,
14 appreciate the opportunity to present it in a
15 visual and just kind of a story format.

16 We intend to go over topics. One is to
17 provide an overview of the case, kind of the key
18 components and elements of the case. And then,
19 next, move to the Multi-Year Rate Plan and the
20 Performance-Based Ratemaking approach.

21 At any point feel free to interrupt us
22 with questions. We're here to answer any
23 questions you have. This is very much a summary
24 and an overview of the case. We don't intend to

1 introduce anything new. But anywhere where we
2 reference something in testimony, we can try to
3 note who's testimony that's in and give you sort
4 of a road map to that.

5 And, certainly, if there's anything you
6 would like before we start, we would welcome
7 that? Just want to make sure we hit them.

8 CHAIRMAN GOLDNER: Please proceed.
9 Thank you.

10 MS. MENARD: All right. So, we have it
11 up here on the screen. I don't know if you have
12 it in front of you. We also have paper copies,
13 if that would be easier to review in a paper copy
14 form, or if anybody in the audience needs one?

15 *[Atty. Sheehan distributing documents.]*

16 MS. MENARD: So, at a high level, the
17 Company's distribution rate case contains a
18 series of key elements. There are some key
19 innovative elements, as well as an alternative
20 ratemaking framework.

21 At a high level, there's a Multi-Year
22 Rate Plan, a three-year Multi-Year Rate Plan
23 associated with this case, and Performance-Based
24 Ratemaking methodology. It's based on a calendar

1 year 2022 historical test year, with a forward
2 look on the three-year rate plan, running through
3 2026.

4 This case contains historical
5 investments in some capital projects related to a
6 new computer software system, SAP, as well as a
7 new Rockingham Substation, as well as other
8 distribution infrastructure investments the
9 Company has made. The last case was filed in
10 2019, using a 2018 historical test year. We've
11 had three step adjustments since then. And, so,
12 this case will true up any investments that have
13 not been incorporated into step adjustments, as
14 well as any other changes since that last rate
15 case.

16 Included in our case are new,
17 modernized rate offerings. There is the
18 time-of-use rate for residential and small
19 commercial customers, as well as demand charge
20 alternatives for electric vehicle rates that we
21 already have in place.

22 There are also proposals to maintain a
23 secure, reliable, and resilient grid, with
24 investments in cybersecurity, Automated Metering

1 Infrastructure, Battery Storage, and other
2 distribution asset replacements and upgrades.

3 And, finally, we have operating
4 expenses included in this plan. We look out over
5 the three years, there are specific adjustments
6 for certain key elements in our proposals,
7 including vegetation management, pension,
8 cybersecurity, and other distribution and
9 customer operating costs.

10 And, with this Multi-Year Rate Plan,
11 we'll get into this a little bit further in the
12 presentation, but there is also an option for a
13 rate stabilization, to smooth out the impacts of
14 the first year rate increase.

15 Liberty is proposing this alternative
16 regulation framework because we agreed to it in
17 the last rate case, as a, you know, base matter.
18 But, also, we feel that this alternative
19 framework provides a lot of flexibility to
20 regulation in New Hampshire.

21 From the last rate case, there were a
22 couple of very specific clauses about the Company
23 proposing alternative regulation with
24 performance-based ratemaking. Those clauses are

1 listed here on the screen. I won't read them,
2 because I am sure everyone can read them here.
3 But the intent is to have a Performance-Based
4 Ratemaking approach that defines goals, outcomes,
5 applies performance metrics. And there's a
6 revenue adjustment mechanism that will reward and
7 penalize the Company.

8 So, beyond what is required of the
9 Company, we believe it is in customers' best
10 interest as well, and it balances both risk and
11 reward. For utilities and customers alike, it
12 aligns our incentives as a utility with those of
13 our customers. It holds the Company to certain
14 performance standards, and allows for
15 modernization of investments and rate offerings.

16 We believe one of the key elements of
17 this PBR framework and Multi-Year Rate Plan is
18 regulatory efficiency. The Company is proposing
19 an annual reconciliation with the Multi-Year Rate
20 Plan. This allows the Commission and the parties
21 oversight into all the Company's spending. It
22 looks at all aspects of the Company's revenue
23 requirement, both operating expenses and capital
24 expenditures. We believe our proposal reduces

1 the time and creates a more efficient process to
2 review the Company's costs by looking at all
3 elements of the case.

4 In comparison to what is done today,
5 with step adjustments, steps review one aspect of
6 the Company's revenues. Those have historically
7 been done on a "look back every year" basis.
8 We've spent a lot of time and effort on capital
9 step adjustments. We don't intend for that
10 process and that review to go away. But we
11 proposed a framework that will make that process
12 more efficient, reviewing investments in advance,
13 and reviewing any variances between what actually
14 happens and what the Company has proposed.

15 And this Performance-Based Ratemaking
16 is intended to align the state's goals,
17 stakeholders' goals with the Company's, and
18 incent the Company to focus on emerging policy
19 goals, and incent, where needed, to do that.

20 So, as a high-level overview, and,
21 again, this is all presented in testimony, this
22 just summarizes it in a graphical format, a
23 tabular format. There's three rate years
24 associated with the Company's proposal. Rate

1 Year 1 begins in July of 2023, and then there
2 would be subsequent increases in July of '24 and
3 July of '25, to round out the third rate year.

4 You can see the --

5 MR. THERRIEN: Whoops, sorry about
6 that.

7 MS. MENARD: You can see all the key
8 elements of the rate increase, and all other
9 components that go into the revenue requirement.

10 Now, as I mentioned before, the
11 Multi-Year Rate Plan allows for an opportunity to
12 look at rates over a three-year period, a
13 comprehensive look. And the Company has proposed
14 an option where that first year revenue increase
15 can be levelized over time and phased in, where
16 we would propose to defer that \$6.2 million in
17 that first rate year over the remaining two rate
18 years, to create a level increase over the plan
19 year. And, again, this is a benefit to
20 customers, in that it kind of creates a known
21 path for rate changes over time, and smooths in
22 the increase for that first year.

23 MR. THERRIEN: And I would add that
24 this is really an option for the Commission.

1 It's really neutral to the Company, whether these
2 rate increases are performed as the "no
3 levelization" plan that you see in the first
4 portion of this, or whether it is spread out
5 "with levelization".

6 The cumulative numbers are different.
7 And I think you should understand that, you know,
8 there is a cost of money associated with leveling
9 out the rate increase, because, without
10 levelization, Rate Year 1 has a higher increase
11 than Rate Year 2 and Rate Year 3.

12 MS. MENARD: For a typical residential
13 customer, we presented the change in rates. And
14 we presented it both at a distribution rate
15 itself component, as well as a total bill impact.
16 And these rates were as of March of 2023.
17 Obviously, as rates change throughout the case,
18 the impacts will change as well.

19 This is a graphical display of the
20 elements that make up the rate increase. The
21 first bar is really the temporary rate increase
22 that is before you, and we will discuss next
23 week. And that eight and a half million dollars
24 incorporates all capital investments that have

1 not been included in capital steps, as well as
2 other aspects related to the rate base that come
3 with capital investments. So, it's the return on
4 any rate base investments not previously
5 recovered, or any other changes in rate base
6 since the last -- since the last rate case.

7 Beyond the first bar, that would
8 essentially get you to the 2022 test year and the
9 Company's allowed rate of return. Beyond that
10 first bar is the difference between where we are
11 today, sitting at 2022, and then to get to the
12 first rate year's increase. And you can see that
13 the components are additional investments that
14 are made, and a return on those investments.
15 Vegetation management, depreciation, property
16 taxes, you know, all the other elements that go
17 into creating the revenue requirement for the
18 Company, to the ultimate \$15.5 million, in the
19 first rate year, is made up of all these
20 elements. This was just a way to kind of break
21 down what the increase is related to.

22 And, to further discuss the spending
23 and investment plan that the Company has proposed
24 and included in the Multi-Year Rate Plan, put a

1 benchmark of "2022 Test Year" in there, so you
2 can see the historical investments that were
3 made. Does look a little bit bigger than the
4 three rate years. This is where the Company has
5 had investments in the Rockingham Substation, as
6 well as Customer First computer software
7 applications.

8 Beyond that, in the Rate Years 1, 2,
9 and 3, is the Company's traditional investments
10 in reliability, safety, asset replacements,
11 upgrades, and those types of things. You'll see
12 in the third rate year, it does bump up a little
13 bit, and that is the inclusion of the first year
14 of an AMI project, Automated Metering
15 Infrastructure Project. There's some engineering
16 and infrastructure that needs to be done in the
17 beginning phases of the AMI Program before meters
18 are actually installed, and that is included in
19 that third rate year.

20 I will also just mention, I'll go back,
21 all the investments are laid out in testimony as
22 to where the Company is investing in capital
23 projects. As we present this Multi-Year Rate
24 Plan, we would use all the investments, the list

1 of the projects, the proposed budgets, that would
2 form the basis of the variance review going
3 forward. So, the Company has laid out its plan
4 for investments, and by project. Those can be
5 reviewed during the pendency of this case, and
6 questions can be asked of the Company. And that
7 is sort of the initial look at, you know, that is
8 the initial base setting for the regulatory
9 efficiency. So, it's reviewed in this case, in
10 the Multi-Year Rate Plan format. And then, every
11 year, you go back to what was proposed and
12 assumed in rates, and then the variance between
13 what actually happens and what was assumed in
14 base rates would be reviewed.

15 So, there's -- we'll get to this in a
16 little bit later as to the mechanics of how
17 that's done. But this is, essentially, the
18 starting point for how capital investments will
19 be reviewed.

20 Similarly, the operating expenses,
21 here's a review of the components of the
22 Company's operating expense plan. Same thing,
23 we're laying out where the Company expects to
24 spend OpEx, where increases are proposed and

1 presented, in terms of vegetation management,
2 property taxes, other known and measurable
3 increases throughout the case. There are
4 forecasts that are in place over the Multi-Year
5 Rate Plan. And, again, as the year progresses,
6 after the year is complete, then you review how
7 the Company actually did compared to what the
8 forecasts were.

9 Some other key elements, I'll call the
10 "more innovative" elements of the case. Less
11 number-related, and more program
12 offering-related, we have some modernized rate
13 offerings. In our last rate case, in the
14 Settlement Agreement, the Company was -- not only
15 agreed to this Performance-Based Ratemaking
16 methodology, but also an Advanced Rate Design
17 Road Map. We've presented a road map for that.
18 The first step, the first phase in that road map,
19 is more modernized rate design, absent an AMI
20 project in meters. So, we will modernize rates
21 with a couple of time-of-use rate offerings, and
22 also make some adjustments to our electric
23 vehicle time-of-use rates. The demand charge and
24 current time-of-use rates is seen as a barrier to

1 EV adoption. And, so, the Company is proposing
2 an alternative to the demand charge rate offering
3 in effect today.

4 MR. THERRIEN: And, if I could, these
5 rate offerings will also be talked about in the
6 second portion of the presentation, having to do
7 with Performance Incentive mechanisms.

8 Certainly, the rate offerings are part of these
9 PIMs, and the electric vehicle would be a
10 reporting only, which I think is important that
11 the Commission have visibility into something
12 that is really brand new, before you consider a
13 financial associated PIM.

14 MS. MENARD: Another set of proposals
15 is an arrear -- payment options associated with
16 arrears management. This is not a new program,
17 it's very similar to one that is in the
18 Eversource -- in Eversource company for New
19 Hampshire. A very similar design to assist those
20 customers that need help with arrears.

21 And, then, finally, there are some
22 proposals, I am happy to hear we just received an
23 order in the Battery Storage docket, the intent
24 is to move those discussions here, into the rate

1 case.

2 There's some projects -- there's a
3 project in our capital plan to address what would
4 have been called "Phase 2", but it's really just
5 an expansion or an extension of the Company's
6 current batteries. And the capital plan calls
7 for 150 customers, there's a certain set of
8 dollars set aside for batteries within the
9 context of this rate case. And, also, a
10 discussion about a Bring -- installing a Bring
11 Your Own Device -- Bring Your Own Device Program.

12 And then, the more traditional system
13 resiliency and reliability investments. These
14 are investments focused on safety and
15 reliability, there's cybersecurity, AMI. Over
16 the Multi-Year Rate Plan, there's about \$89
17 million forecasted throughout the three years.

18 There is also a plan to support
19 vegetation management. Trees are the largest
20 cause of outages for the Company. And there's
21 certain areas of the Company where the system is
22 more heavily forested than other areas. And, so,
23 there will be a focus on vegetation management,
24 making sure that costs fully support a five-year

1 trimming cycle.

2 And then, there is some discussion
3 about storm preparedness and expanding our
4 pre-staging criteria, so that the Company can be
5 fully prepared for all types of weather.

6 And, finally, to close out the case
7 overview, there's a series of discussions in
8 testimony related to changes to the Company's
9 tariff. And changes to the line extension policy
10 to simplify and standardize the policy,
11 consolidate some policies that are currently in
12 place to make it easier for customers to do
13 business with the Company.

14 There's reconciling mechanisms, again,
15 to consolidate and standardize. We have a number
16 of reconciling mechanisms in different rates
17 today. And we're proposing to kind of combine
18 and consolidate, review all at one time. There's
19 also going to be some discussion a little bit in
20 our next section about the annual reconciliation
21 mechanism for the Multi-Year Rate Plan that's
22 discussed in testimony.

23 And then, finally, just a review of the
24 tariff itself, cleaning the tariff up a little

1 bit, and making sure that we can be successful as
2 a company in maintaining our tariff going
3 forward.

4 Any questions so far from the four of
5 you?

6 *[Chairman Goldner indicating in the*
7 *negative.]*

8 MS. MENARD: Okay. So, next, we're
9 going to switch over to the Multi-Year Rate Plan
10 and Performance-Based Ratemaking itself.

11 MR. THERRIEN: Finally, one of my
12 charts.

13 Good afternoon, everybody. Gregg
14 Therrien, Concentric Energy Advisors. Thank you
15 for having us here this afternoon.

16 I was asked to help the Company explain
17 kind of at a higher level a broad view of what
18 PBR versus MYRP might be.

19 "MYRP" is "Multi-Year Rate Plan", not
20 unlike what New Hampshire has done in the past
21 with step adjustments, however, it's more broad.
22 It encompasses more than just a set of
23 investments, it looks at the entire portfolio of
24 investments and the associated costs with them.

1 "PBR" is very similar to MYRP, but the
2 revenue treatment is different. So, instead of
3 having a Multi-Year Rate Plan, where you forecast
4 a future rate year, and you determine in advance
5 what those rates would be, a PBR completely
6 disassociates revenues from the cost of service.
7 So, it puts a lot of emphasis on the Company's
8 ability to find efficiencies. So, that
9 disassociation means that there could be revenues
10 that are derived based on inflation, you may have
11 heard "y minus x", which is inflation with a
12 performance factor in it. That's not what the
13 Company is proposing here.

14 The Company is proposing what is really
15 deemed in testimony as a "hybrid", okay, where
16 the Company is looking to make a first step
17 towards Multi-Year Rate Plan, with performance
18 incentives, and measurements and adjustments that
19 can benefit both customers and the Company. So,
20 what we have laid out here are a few of those
21 differences and a few of those similarities. But
22 I would just say that this is -- thank you.

23 MS. MENARD: Sorry.

24 MR. THERRIEN: Doing two things at

1 once, I'm not very good at that.

2 That there are benefits for
3 shareholders and there are benefits for
4 customers, and that's what these plans are
5 intended to do. Provide an opportunity for
6 customers to have some rate stability, and, in
7 the future, enjoy the hard work that the Company
8 has put in to help control their costs in the
9 meantime.

10 MS. MENARD: As we were developing this
11 proposal, this is the first time that this is
12 being introduced in the state, and the first time
13 it's being introduced for Liberty in New
14 Hampshire. However, you know, we have looked at
15 a number of other states that have this
16 framework. There doesn't seem to be a standard
17 way to implement this.

18 And, so, the Company has reviewed how
19 PBR, how Multi-Year Rate Making has done in other
20 jurisdictions. Many times this framework is
21 legislatively driven. So, this is a little bit
22 different for Liberty, in that this is an
23 agreement from the last Settlement Agreement.
24 And, so, we've been learning a lot. We've

1 engaged stakeholders, we've had discussions on
2 the framework, and the key elements that were
3 important to stakeholders. Over the past year,
4 we have been having these discussions. And this
5 is really the product of those discussions and
6 our proposal.

7 Multi-Year Rate Plan, if you look at
8 some of the trade press, you would see that New
9 Hampshire is considered a Multi-Year Rate Plan
10 state, and that is because we have step
11 adjustments. We have a mechanism to recover
12 capital investments within a rate case time
13 period. So, while the words might be new to us
14 here for Liberty in New Hampshire, the concept is
15 something that we've been doing all along.

16 None of this in and of itself is new or
17 different. But combining it all in this
18 framework is a little bit different than how we
19 have done things in the past.

20 So, again, we're establishing rates
21 over a three-year period, as we have talked
22 about, and you can see what the three rate years
23 are. And, then, at the end of each one of those
24 rate years, we would perform a review. And,

1 based on some criteria, which we'll get into a
2 little bit later, there's opportunities to true
3 up some of those assumptions that were made with
4 actual -- how we actually performed.

5 There's an earnings sharing mechanism
6 that will be proposed, we'll describe that in a
7 little more detail.

8 And, then, we'll review how the Company
9 performed. And there will be incentives or
10 penalties, based on what the Company agreed to do
11 and the benchmarks set in place, and how the
12 Company actually performed.

13 At the end of Rate Year 2, we would
14 look for guidance as to whether we should be
15 continuing this for the next rate plan. Ideally,
16 how this would work is, you would then go into
17 your next, Rate Year 4, at the end of Rate
18 Year 3. And, based on a twelve-month schedule of
19 approving a rate case, you would need to have
20 sort of indication whether that is to continue
21 before you end your rate plan.

22 So, we would be kind of quickly
23 reviewing to see if this is working, and then
24 planning for the continuation of that into the

1 next rate plan.

2 In terms of the annual reconciliation
3 we've talked about, the annual reconciliation
4 filing would be filed on September 1st, after the
5 completion of the rate year. So, the rate year
6 would end at the end of June. We would gather
7 actual financial data, prepare a filing on
8 September 1st. That filing would contain
9 variances from the approved capital spending
10 plan, demonstrate the impact that had on rate
11 base. We would look at net operating income and
12 earned return. These are filings that the
13 Company makes today. We have financial filings
14 that are filed.

15 We would perform a reconciliation of
16 certain key elements of operating expense that
17 the Company deems known, in terms of how the
18 costs will occur, but not known, in terms of what
19 the actual costs will be. And those things would
20 be vegetation management, cybersecurity, pension
21 costs.

22 We would take a look at both the rate
23 base and the net income. There would be a review
24 of how the Company performed from an earned ROE

1 perspective. And, based on certain thresholds,
2 the Company would share earnings with customers,
3 if it over-earned, and share any deficit with
4 customers, if we under-earned.

5 There are also opportunities to exit
6 the Multi-Year Rate Plan and the PBR, if things
7 go awry.

8 There's a Performance Incentive
9 Mechanism review, or the term is "PIMs", we'd
10 review those; assess any penalties or rewards.
11 And the Company has proposed, and we'll get to
12 that in a little bit more, the Company has
13 proposed a limited set of performance mechanisms
14 at this point, incentive mechanisms at this
15 point. Those can be reviewed during the case,
16 and we have reviewed these with stakeholders.
17 And this is a first attempt at sort of dipping
18 our toes into the PIMs world.

19 And, then, you put all that together,
20 the outcome of that will be some adjustment,
21 either a positive or a negative, and then that
22 would be -- a rate would be calculated as an
23 outcome of that, a volumetric rate, and that
24 would be adjusted and applied on a class-by-class

1 basis.

2 We're proposing a 60-day review period.
3 A lot of the items, if we have a framework in
4 place, everyone agrees on what the framework in
5 the mechanism is to review costs, we believe a
6 60-day review period should be sufficient time to
7 review any variances. And then, rates will
8 become effective on November 1st.

9 So, digging down a little deeper into
10 the adjustment mechanism, on the capital
11 investment side, for each rate year, within
12 testimony, within our revenue requirement, we
13 have a list of projects, we have a list of
14 investments associated with each project. We
15 would, on that annual reconciliation review, we
16 would include the documentation associated with
17 those projects. We would include the actual
18 costs, and any other documentation that's needed
19 to allow for a sufficient and full review of the
20 Company's capital performance.

21 There's a set of rules as to how the
22 Company would adjust for any variances. So,
23 projects scheduled to be in service, but did not
24 actually get into service, will be reviewed from

1 rate base, as they should not be included. There
2 is an opportunity to have replacement projects
3 for those projects that we either canceled or
4 delayed. And we would identify those for
5 proposed inclusion. And variances between
6 approved and actual will be reviewed. And
7 anything above a specified limit could be
8 deferred for review at the end of the rate plan.
9 Variances that decrease rate base would be
10 reconciled as to however -- whatever actually
11 happened. If it was lower than what we had
12 planned, we would adjust accordingly downward.

13 And we propose certain caps on any
14 variances for specific projects versus annual
15 projects. There's different ways that the
16 Company manages and reviews capital for a
17 specific project that is a known specific
18 project, versus an annual blanket, which is a
19 bunch of smaller type of work that's kind of
20 lumped into one overall project. And the Company
21 manages those a little bit differently. So,
22 there's different ways to handle those.

23 And, then, there's an overall cap on
24 plant in service. And, again, rate base would be

1 adjusted for the standard depreciation and
2 deferred taxes.

3 So, this does allow for a deep dive
4 into each of the capital projects. We're not
5 passing over any opportunity for review. We're
6 not taking away opportunities for review. Just
7 providing a more streamlined and defined way to
8 review projects, in a more efficient manner, in a
9 specific timeframe.

10 MR. THERRIEN: And, if I could, in a
11 more fulsome manner, it's everything. This is
12 the entire capital budget. Unlike the step,
13 which is a very specific set of projects, this is
14 everything.

15 MS. MENARD: And to that, so, the steps
16 for Liberty have been based on non-growth and a
17 very specific list of projects. There have been
18 discussions and debate about what projects should
19 and shouldn't be included, what's growth, what's
20 non-growth. Because we're looking at the full
21 revenue requirement here, we've got the revenue
22 side of things, you've got expenses, you've got
23 rate base, it's appropriate to review the full
24 set of capital investments that the Company

1 makes.

2 And this is pulled straight from
3 testimony. I know it looks like a lot of numbers
4 and letters and words. But it's really just to
5 identify how the Company would review capital
6 projects. So, specific projects is on the
7 left-hand side, the annual/blankets are on the
8 right-hand side. And all it's saying is, you
9 know, there's an approved cost that's in the base
10 rate itself. There's an actual cost as to how it
11 actually comes in. At the end of the year,
12 there's a variance associated with that. There's
13 a calculation of the variance, there's an
14 adjustment based on a limit, and then plant in
15 service would be adjusted accordingly. And,
16 then, if we're outside of the limit, that would
17 be deferred to the end of the rate plan.

18 And, then, annual blankets, again, they
19 are reviewed on an aggregate basis, because we
20 really do manage them a little bit differently
21 than a specific project. We tend to, as we're
22 planning and reviewing throughout the year, we
23 shift money around, based on how the Company is
24 performing on an overall basis. So, if one

1 annual blanket is performing higher than
2 expected, we might take money from a different
3 bucket. But, overall, we manage them as a group.
4 So, this annual review would review them as a
5 group as well.

6 The adjustment mechanism would also
7 include this earnings sharing mechanism. And
8 earnings sharing mechanisms are not new in New
9 Hampshire. I think the other utilities have
10 earnings sharing mechanisms or have had them in
11 place in the past. And this sets bands around
12 the Company's earned ROE. And, if the earned ROE
13 is higher or lower, according to the bands, then
14 there's a return of the excess to customers or,
15 in this case, there would be a deficit collected
16 from customers. So, it's equal on the upside and
17 downside, as well as the sharing. There would be
18 symmetry in the sharing with customers.

19 And, you know, the left-hand side again
20 looks like a lot of numbers, but it's really
21 just outlining how the return is calculated.
22 Which, again, is something the Company files
23 today. On a quarterly basis, we file our
24 supplemental F-1 quarterly return calculation.

1 So, this is just using the same information we
2 file today. It would just be done at the end of
3 the rate year.

4 And, then, the last element of the
5 adjustment mechanism is the performance
6 incentives. The Company has outlined three
7 reward/penalty components, and one "reporting
8 only". And we've tried to have a blend of
9 reliability -- operational metrics, as well as
10 some emerging -- what is typically called
11 "emerging PIMs". And, so, reliability is SAIDI
12 and SAIFI, these are things that the Company does
13 today. Where the Company would review
14 reliability performance, compared to some peer
15 utilities. So, based on how we're investing our
16 capital, how we're trimming trees, the Company
17 should review its reliability metrics and how
18 we're performing, from a reliability perspective,
19 given the investments that the Company is making.

20 For distributed energy resource
21 interconnections, the proposal is to reduce the
22 time to process applications, to incent the
23 Company to process applications quicker. This
24 will allow customers to install the distributed

1 resources at their site on a quicker basis.

2 One of the struggles that we've had is
3 there's certain things that the Company controls
4 and certain things that the Company does not
5 control. And, so, when designing our PIMs, these
6 needed to be focused on things that the Company
7 can control and is within our control. The DER
8 interconnections, depending on the size of the
9 interconnection, sometimes those go into the
10 outside of the Company's control. So, we are
11 limiting it to the items that -- and the size of
12 the applications that are within the Company's
13 control.

14 And, then, the last item is a
15 time-of-use rate penetration. So, this is
16 related to the new time-of-use rates that the
17 Company is proposing, and to measure how adoption
18 rates are performing. And, so, in order to make
19 sure that the Company is encouraging customers,
20 so, we'll have education outreach, communication
21 on the time-of-use rates. And, by doing all of
22 those things, we should see an increase in
23 penetration rates for time-of-use rates. And, if
24 the Company can achieve certain benchmarks, there

1 would be incentives related to that.

2 So, that's what I have. I went through
3 it a little quicker than we had expected. So,
4 hope nobody minds that.

5 CHAIRMAN GOLDNER: I think I'll just
6 first say that the Commission appreciates the
7 Company pulling this together and help orient us
8 going into a very complicated rate case. It's
9 much appreciated, and appreciate the time you put
10 into this. And, in particular, I think this
11 piece of having -- in the MYRP, having the
12 equations laid out, and clarity on how all the
13 math works, is extremely helpful, and we
14 appreciate that. So, that's very helpful.

15 Do the Commissioners have anything to
16 add to the --

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

19 CHAIRMAN GOLDNER: No? Okay. Very
20 good. Okay. So, in the spirit --

21 MS. MENARD: Okay. I just want to say,
22 we were a little concerned about putting lots of
23 numbers and things into the charts, but --

24 CHAIRMAN GOLDNER: We have no fear.

1 Yes, that's okay. I mean, we're okay on the
2 numbers front. And I appreciated that. This
3 amount of clarity for us is very helpful.

4 Okay. Very good. So, let's, at this
5 time, move to preliminary positions of the
6 parties and intervenors. After which we'll take
7 a quick break, and come back to talk a little bit
8 about the procedural schedule, and discovery and
9 so forth, and give the stenographer an
10 opportunity to take a quick break.

11 So, without any further adieu, I think
12 we can start with the Department of Energy. And,
13 then, Mr. Sheehan, we'll circle back to you, if
14 you have anything to add to your presentation.

15 Attorney Dexter.

16 MR. DEXTER: Thank you, Mr. Chairman.

17 The Department has spent some time over
18 the last month looking over the Company's
19 proposal. And we do have some preliminary
20 assessments of the issues. Nothing we say here
21 is intended to be final or binding. We've taken
22 a look as best we could in the short time period,
23 and we're going to give you our initial
24 impressions and concerns.

1 The first one should be obvious. This
2 is Liberty's third rate case in the last, I
3 guess, six or seven years. The last two rate
4 cases requested increases in the area of \$5
5 million, with multiple step adjustments
6 thereafter. This one requests \$15 million. So,
7 we are immediately struck by the size of the
8 request, in connection or in comparison to
9 previous requests of the Company. The Company
10 hasn't grown considerably in size. And,
11 therefore, our initial concern is of the sheer
12 magnitude of the request. And that's where we
13 intend to spend the next eight to ten months
14 focusing.

15 I, having heard the power
16 presentation -- the PowerPoint presentation
17 today, I'm thinking that part of the difference
18 might be because it looks like we're putting in
19 an extra year of plant, in that, in a traditional
20 rate case, the plant would have been based on the
21 test year. And, if I understand the PowerPoint
22 presentation, it looks like the plant that goes
23 into the 15.5 million would be the test year,
24 plus one more year, to get us to July 1st, 2023,

1 or even 2024.

2 So, maybe that's where it is. I'm not
3 sure, frankly. But we will take a hard look at
4 that. The sheer magnitude of the case concerns
5 the Department.

6 We, as always, will focus a large
7 amount of our analysis on the rate base growth.
8 Mr. Strabone's testimony, at Page 17, indicates
9 that the Company spent about \$115 million in
10 plant additions since the last test year of 2018.
11 And, on Page 25 of Mr. Strabone's testimony, he
12 forecasts an addition of about the same
13 magnitude, 110,000 [sic] or so, over a four-year
14 period. Those are large, large plant increases
15 for a company the size of Liberty. And we
16 will -- we will be examining that.

17 In particular, there are two projects
18 that jump out at us that were mentioned in the
19 power presentation -- PowerPoint presentation
20 that we will examine. One involves the Salem --
21 the investments that were made in the Salem area.
22 The Company referred to them today as the
23 "Rockingham Substation". But, in fact -- at \$6
24 million. But, in fact, it's more like a \$9

1 million figure, that includes the Rockingham
2 Substation, a subtransmission line, and some
3 other enhancements in that area.

4 They were, I don't want to say
5 "proposed" in the last case, but they were
6 discussed in the last rate case, and they were
7 specifically reserved for the review in this
8 case. So, those Rockingham/Salem projects will
9 continue to be a focus of review and concern for
10 the Department. We have been keeping tabs on the
11 project, and the projected revenue that has
12 been -- the revenue that's been projected to come
13 from those infrastructure investments.

14 As of the last time we talked to the
15 Company about this, which was during the least
16 cost integrated planning case, those revenue
17 forecasts had not panned out to the extent they
18 were forecasted, but the number was growing. So,
19 we'll be looking forward to see how that -- how
20 that worked out.

21 The second area of concern is what the
22 Company referred to as the "SAP" or the "customer
23 service computer system" investments. That's
24 cited as a \$13 million investment that went in

1 towards the tail end of the test year. So, we
2 will be spending some time looking at that
3 project.

4 Both of these projects revolve in --
5 involve replacing existing systems, or upgrades
6 to existing systems. So, it's going to be
7 important for us to make sure that whatever they
8 replaced has been retired and is no longer in
9 rate base. So, we will be making sure that, for
10 instance, the two or three substations that were
11 being replaced by the Rockingham Substation, if
12 the Rockingham Substation ends up in rate base,
13 the retirements of the prior plants have to be
14 there. And there can be a timing difference,
15 depending on test years. Of course, with the
16 Multi-Year Rate Plan, could be a different
17 paradigm. But we'll have to make sure that
18 nothing that's been replaced is still in rate
19 base.

20 Sticking with rate base, we've noticed
21 that the Company has an inclusion of prepayments
22 in rate base. In past cases, the Commission has
23 recognized that it's not appropriate to include
24 prepayments in rate base, when there's a detailed

1 lead/lag study that covers the underlying
2 components of the prepayments. So, we will be
3 looking into that, to determine whether or not
4 it's appropriate to include any prepayments in
5 rate base.

6 As always, the Company will be focusing
7 on the return of equity requested in this case.
8 10.35 percent return on equity is, in the
9 Department's preliminary assessment, too high.
10 It's higher than what's been approved in any
11 recent rate case, and certainly higher than what
12 the Company is currently allowed, which was 9.1
13 percent.

14 The proposed ROE is coupled with an
15 increase in the capital equity ratio, from 52
16 percent to 55 percent. So, we will be looking at
17 that, what would cause a change in the equity
18 ratio, based on what's happened since the last
19 case.

20 In order to develop a revenue
21 requirement, the Department will focus some time
22 on test year revenues. We are concerned about
23 three things at this stage, and I'm sure there
24 will be others. But, first of all, we understand

1 that there were some significant billing issues
2 related to the implementation of the SAP system,
3 that customers' bills were delayed. We've asked
4 the Company to quantify that in a data request,
5 they haven't done that, but it's early. So, we
6 will continue to see what that came to.

7 But, if revenues are reduced, because
8 bills were not sent out, and, again, that falls
9 in the test year, we want to make sure that the
10 test year is representative of what would have
11 been billed had the transition gone smoothly.
12 Again, this could change under the Multi-Year
13 Rate Plan mechanism. We will have to keep
14 that -- keep that in mind.

15 We did not see an adjustment do
16 revenues based on the error that was presented by
17 the Company in its third step adjustment from the
18 last case, DE 22-030. We were here about three
19 weeks ago talking about that. The Department
20 indicated then that we would make sure that the
21 rate case was properly adjusted for that under
22 billing which occurred during the test year; the
23 Company agreed that they would do that. We
24 haven't found it in the rate case yet, but we

1 will make sure it's there.

2 Finally, we have a question that we
3 have to explore, which is, we were here about six
4 months ago and the Company received approval for
5 its first decoupling revenues on the electric
6 side. We have to make sure that decoupling
7 revenues are accounted for properly in the
8 revenue requirement calculation. So, that's an
9 area of exploration for us.

10 Turning to the Multi-Year Rate Plan and
11 the Performance-Based Rate mechanism, which the
12 Company spent most of its time on this afternoon.
13 We agree that the Company met the obligations, at
14 least our preliminary position is that the
15 Company met its obligations under the Settlement.
16 They had a good faith effort to include
17 stakeholders in the development of this plan.
18 And we believe they satisfied their requirements.

19 We don't want the Commission to get the
20 impression that this is, in any way, a consensus
21 proposal. This is -- we sat at the meetings, and
22 we shared some thoughts, and -- but this is not a
23 proposal that was intended, I don't believe, it
24 certainly wasn't presented as a consensus

1 proposal. We will review it.

2 Our preliminary assessment I think is
3 in line with what we just heard Ms. Menard say,
4 that it's really not much different from what
5 we've been dealing with, which is a fairly --
6 well, a large increase at the end of the case,
7 based on what's happened since the last case, and
8 then a couple of step adjustments in between.

9 It's a lot more complicated than what
10 we've done in the past. So, that concerns us.
11 There's a lot of reconciliations. There seem to
12 be an endless stream of rate increases. If I
13 understand it, there will be a temporary rate
14 increase, a permanent rate increase, a series of
15 forecasted rate increases, then reconciliations.
16 And, then, in the Company's PowerPoint
17 presentation says that the next rate case is teed
18 up already for 2026.

19 So, it doesn't address the primary
20 concern that the Department had, with respect to
21 performance-based rates, which was that we were
22 hoping we would slow down rate cases and rate
23 increases. And our preliminary assessment of
24 this plan is that it does not do that.

1 As I said, we're concerned that it
2 injects a fair amount of uncertainty by setting
3 rates based on forecasts, rather than actual
4 costs. That's something that I don't think has
5 ever been done in New Hampshire before. It's
6 actually a significant departure. It is trued
7 up. And, if you end up in the same place, that's
8 a concern for us. A lot of extra steps, a lot of
9 extra complication, if we're going to basically
10 end up in the same place.

11 The Company did point out that their
12 proposal would take into account revenue changes
13 between rate cases, which is something that the
14 current step adjustments do not do. It's
15 something you've heard me speak about at all the
16 step adjustment hearings. So, we will take a
17 look at it. We're just trying to give you our
18 preliminary assessments right here.

19 I think a key issue, which was not
20 addressed in the PowerPoint, is how something
21 like this fits into a decoupling paradigm? In
22 other words, the Company is operating in a
23 decoupled arena. And we're unsure how those two
24 fit together. So, that's something that we're

1 going to have to look at during the course of
2 this case.

3 Along with the Multi-Year Rate Plan are
4 the performance incentive mechanisms. They were
5 designed, as the Company said, to be fairly small
6 steps, a toe in the water. We agree that's what
7 they are. Our general -- general position on
8 performance incentive mechanisms is that they
9 need to be objective, and easily verifiable.
10 And, generally speaking, we think things like
11 SAIDI and SAIFI fall into that. They can be
12 easily reported and evaluated.

13 Things like adoption of a particular
14 rate, we're not sure is an appropriate mechanism
15 for -- to incentivize a company to do that.
16 Choosing a rate really is up to the various --
17 it's really a choice for the customers to make.
18 And we'll have to explore how adoption of a
19 time-of-use rate would fit into a performance
20 incentive scheme, and whether or not that's an
21 appropriate thing for a company to be
22 incentivized for.

23 Our general position on performance is
24 that they need to be balanced, there need to be

1 penalties, as well as rewards. And, while see
2 that it's proposed as symmetrical for the
3 reliability statistics, only rewards are proposed
4 for the other two performance metrics. And we'll
5 have to explore the reasoning behind that.
6 That's an initial concern to the Department.

7 A few other topics that we're -- that
8 jumped out at us in the case that we intend to
9 look at in detail. The Company is looking to
10 expand its eligibility for pre-staging for storm
11 prep. They raise an interesting question about
12 uncertainty of storms, and that's something the
13 Department will look into further, seeing whether
14 or not it's going to increase storm readiness to
15 go along with the extra costs.

16 The increase in the Company's veg.
17 management budget is of concern for us, the
18 magnitude of it. We understand it to be
19 essentially a doubling of what was allowed in the
20 last case. We have two concerns. One is the
21 magnitude of the requested request. And,
22 secondly, a concern we have would be how much of
23 any of this requested doubling of the budget is
24 going to be used to address work that was left

1 over from the last three years. In other words,
2 we talked about this in the veg. management
3 docket. The Company was -- agreed to a veg.
4 management budget over the last three years, and
5 some years they spend it, some years they spent
6 less. But, I think, in all years, they did less
7 work than what was expected that was underlying
8 the budget. The Department of Energy feels
9 strongly that money collected now should not be
10 applied to work that was not done last time, when
11 the Company was operating under the budget that
12 was set last time.

13 So, determining how much of the budget
14 is for backlog work will be a concern of the
15 Department. It's something that we will address.

16 We see that the Company moved to
17 incorporate the Battery Storage Program into this
18 case. Our preliminary assessment on that is,
19 we're pleased to see that the Phase 1 batteries
20 will stay in place, continued to be monitored and
21 provide information. As we said in the Battery
22 Storage docket, we have concerns about going
23 forward with Phase 2. Phase 1, as we understood
24 it, was marginally cost-effective. And, unless

1 Phase 2 can be demonstrated to be providing
2 additional information or additional benefit that
3 we didn't get from Phase 1, we have concerns
4 about that, primarily because, under the Phase 2
5 proposal, the additional 300 batteries go into
6 rate base, and that's of concern to the
7 Department.

8 We will look at the Bring Your Own
9 Device proposal that the Company has made. We
10 think it's appropriate for that to be in this
11 case. It was something that was taken over from
12 the other docket.

13 Those are the preliminary positions we
14 have on the substantive part of the case. We are
15 trying to work with the parties on a procedural
16 schedule that allows for a thorough review, and
17 also tries to address some of the parameters that
18 the Commission laid out in the prehearing order.
19 I think we're going to talk about procedural
20 schedule later. So, I'll leave it at that.

21 Thank you for the opportunity for this
22 preliminary investment [sic]. We look forward to
23 working with the parties and the Company over the
24 next ten months, to see what we can make of this

1 very, very complicated and large rate increase
2 that's requested.

3 Thank you.

4 CHAIRMAN GOLDNER: Thank you, Attorney
5 Dexter. We'll move to the Office of the Consumer
6 Advocate, and Attorney Kreis.

7 MR. KREIS: Thank you, Mr. Chairman.

8 On behalf of the residential customers
9 of this utility, let me say at the outset that I
10 listened carefully to what Mr. Dexter just said
11 on behalf of the Department. And, with the
12 possible exception of his somewhat less than
13 bullish outlook on the Company's Battery Storage
14 initiative, and about which we're slightly more
15 bullish than the Department, apart from that, and
16 my possible disagreement with him about some of
17 that, I don't think I heard something from Mr.
18 Dexter with which the OCA disagrees.

19 Apart from that, I basically have a
20 four-word response as a statement of our initial
21 position. And those four words would be "three
22 hundred basis points". Because what the Company
23 is proposing here strikes us as a fairly
24 significant transfer of risk away from the

1 Company's shareholders. And I guess the only
2 place where that risk can go, if it's transferred
3 from the Company's shareholders, is over to the
4 customers. And that's fine, as long as there is
5 a substantial decrease in the Company's allowed
6 return on equity, which, as Mr. Dexter correctly
7 pointed out, is unreasonably high as proposed by
8 the Company in its initial filing, really by any
9 measure. You know, I'm not familiar with every
10 rate case in the country, but I can tell you that
11 10.3 is well north of what comparable companies
12 around the country are getting these days.

13 I was very pleased to hear Mr. Dexter
14 highlight the billing problems that the Company
15 has been experiencing, because my phone has been
16 ringing off the hook about that over the last few
17 months. And I think the way that the Company
18 implemented its new billing system, and the
19 problems that that has generated, and the revenue
20 issues that that's generated are fruitful areas
21 for inquiry here in this rate case.

22 I want it to be known that, even though
23 no party has been a more enthusiastic adherent to
24 the notion of "revenue decoupling" than the OCA

1 over the last five or six years or so, we are
2 examining the virtues of decoupling anew all the
3 time. And nobody should assume, because we have
4 advocated for decoupling in the past, we will
5 give this or any other utility a free pass, when
6 it comes to the role that decoupling will play in
7 their revenue and their rate design.

8 This might bleed into the scheduling
9 discussion that I know we will have next, but I
10 want to note that the OCA is very mindful of the
11 fact that, with the exception of a few of the --
12 well, with the exception of the other intervenors
13 in this case, every cent of the cost of this rate
14 case is ultimately going to be paid for by the
15 customers of this Company. And, so, for that
16 reason, it's important for us, in particular, as
17 the Consumer Advocate, to deploy our resources as
18 efficiently as we can. So, what we seek to do is
19 to minimize the extent to which we duplicate the
20 efforts of the Department of Energy, without
21 simply trusting them to do every bit of
22 examination in the areas that they have
23 traditionally examined.

24 So, there's always some temptation, and

1 we fall victim or we succumb to the temptation to
2 duplicate at least some of the work that the
3 Department of Energy does in its thorough
4 investigation of the propriety of the various
5 things that the Company wishes to put into its
6 recoverable operating costs and rate base.

7 It should be no secret to almost
8 everybody in the room that right now the Office
9 of the Consumer Advocate has precisely zero
10 analysts on its professional staff. And, as a
11 result of that, with respect to my participation
12 or the Office's participation in this or any
13 other rate case, I have to hire outside
14 consultants to provide me with the analytical
15 support, and, ultimately, the expert testimony I
16 need to advance our positions.

17 And I will be forthright with the
18 Commission, as I have been with the other
19 parties, that we are still in the process of
20 laying on expert help for that purpose. We have
21 some of it in place. But some of it is not yet
22 in place, and can't be in place, because it
23 requires me to go to the Legislature and get the
24 Joint Fiscal Committee to approve the

1 expenditures, because they have to be funded via
2 special assessment. I cannot do that until the
3 beginning of the new fiscal year, which is still
4 about two weeks away. So, we're in the process
5 of finalizing contracts with two additional
6 outside consultants that we will need to
7 participate in this rate case. And, so,
8 therefore, I am concerned about the way that
9 plays out in terms of the schedule.

10 I'm also concerned, not necessarily
11 averse to, but just concerned/interested in the
12 Commission's stated intention to change and
13 presumably update the way that rate cases are
14 handled here at the Commission. I'm always a
15 little queazy when the Commission starts revising
16 its procedures in a way that it feels like it
17 might even be sort of *ad hoc* rulemaking to me,
18 and I wonder if that's going on here. That said,
19 I'm eager to meet the Commission's stated needs,
20 because I've read them in the Order of Notice and
21 per the prehearing conference order, and I agree
22 with them. I just want to make sure that the
23 notions of fundamental fairness and due process
24 aren't compromised along the way, and making sure

1 that the Commission is able to stay engaged as
2 the case develops and unfolds, and to make sure
3 that the hearings unfold in a way that's orderly
4 and serves the Commission's needs. Because,
5 ultimately, the whole reason we're here is to
6 develop a record that's going to help the three
7 of you make a decision that results in just and
8 reasonable rates.

9 And the last thing I want to say is
10 that I'm really glad to see Dartmouth College
11 appear here as an intervenor. You know, if
12 there's one thing we know about Dartmouth College
13 is that, when it litigates, it plays to win.
14 Going all the way back to 1819, when this state
15 installed a rival management team on their campus
16 in Hanover, they called it "Dartmouth
17 University", and they fought all the way to the
18 U.S. Supreme Court to get those people thrown
19 out, and the original management of Dartmouth
20 College restored.

21 So, I'm happy to see them here, because
22 I know they play to win. That said, if you're
23 the ratepayer advocate for residential
24 ratepayers, you always get a little nervous when

1 you see a major non-residential customer
2 intervene in a rate case, because that usually
3 means it wants to claim or it wants to push a
4 greater share than might it otherwise be pushed
5 of the revenue requirement onto residential
6 customers, and away from it, the big customer.

7 That said, at least we don't see
8 Dartmouth-Hitchcock Medical Center here as well.

9 I think that's all I want to say. I
10 could go on and on, but, of course, we don't want
11 this to go well into the evening.

12 Thank you for your attention. We look
13 forward to working with the Company, with the
14 Department, and with the other intervenors, in
15 developing a record that will cause you to make a
16 fabulous decision at the end of this rate case.

17 CHAIRMAN GOLDNER: Thank you, Attorney
18 Kreis. We'll move to, let's see, let's move to
19 Clean Energy New Hampshire, and Mr. Skoglund.

20 MR. SKOGLUND: All right. Thank you,
21 Commissioners. We'll be brief, I will be brief.

22 And just note that many of the issues
23 that come up during a rate case are
24 backward-looking. But we're very excited to dig

1 further into, and not necessarily support at this
2 time, the proposals related to performance-based
3 ratemaking, demand charge alternatives,
4 time-of-use rates, and battery storage. We feel
5 that these are all essential for us to look at
6 how we can ensure that the utility business model
7 is continuing to transition into something that
8 can allow for the integration of innovative
9 technologies that bring down rates, maintain
10 reliability and safety, but, at the same time,
11 also deliver a range of other values that will
12 benefit the state.

13 We do have some concerns about the
14 timeframe as well, and we can go into more detail
15 later. But what we would note that we have a
16 staff that may rival the OCA's, in terms of size.
17 I spend about a quarter of my time here, and I'm
18 the only person that works on these issues.

19 But we will be deeply interested in the
20 energy efficiency docket that's going to be
21 coming up in the fall, as well as there will be
22 testimony that's going to be filed in the net
23 metering docket on November for intervening
24 parties.

1 So, there's a lot of very high-stakes
2 issues that are going to be occurring in the
3 fall. And we want to make sure that we're able
4 to divide our attention to all of those, and
5 ensure that the best decision for all in the
6 state can be made by the Commission.

7 Thank you.

8 CHAIRMAN GOLDNER: Thank you. And,
9 now, we'll move to the Community Power Coalition
10 of New Hampshire, and Mr. Below.

11 MR. BELOW: Thank you.

12 Let me say at the outset that the City
13 of Lebanon is represented through the Coalition,
14 it's a member of the Coalition, along with at
15 least four other municipalities that are served
16 by Liberty. The City of Lebanon was a
17 participant in DE 17-189, as well as 19-064. And
18 I represented the City in those cases, and was a
19 participant in those settlements as well. But
20 the City won't seek to participate in this case
21 separately.

22 Appreciate Liberty Utilities'
23 initiative on offering innovative rate and
24 customer program offerings. There are a few

1 issues that I could indicate some preliminary
2 issues or concerns about.

3 Particularly appreciate the expansion
4 and further development of time-of-use rates,
5 including for whole house applications. We
6 believe that it's essential that any rate
7 structure or design that they offer to their
8 default service customers be available to
9 community power aggregation default service
10 customers as well, as well as competitive
11 suppliers. That's not the case today.

12 The Coalition is now serving about
13 15,000 of Liberty's former default service
14 customers, or about 36 percent of what had been
15 their default customer base as of the end of last
16 year, and we expect that to grow. So, that's one
17 reason why it's important to be able to offer the
18 supply portion of time-of-use rates to this
19 alternative form of default service. As well as
20 it's consistent and implicit in RSA 374-F, RSA
21 53-E, as well as the Commission's original orders
22 on restructuring, including the EDI order, as
23 well as the language of the tariffs, and the 2200
24 rules. So, that is an issue we'll be exploring.

1 We appreciate the initiative on the
2 Bring Your Own Battery option, and believe
3 that -- and we'll want to explore that, so that
4 that's available to all customers, regardless of
5 their source of supply.

6 You know, we're interested in their
7 expanded payment options. I think that
8 certainly all of our municipalities deal with
9 supporting customers who struggle to make ends
10 meet, particularly in light of the increased
11 housing costs, and the increased issues around
12 homelessness. So, I think that's an initiative
13 worth exploring.

14 Also would note that, in the proposal
15 is a proposal to shift the recovery of net
16 metering costs, that is basically what they pay
17 for customers for their output onto the grid, to
18 shift that from being recovered within default
19 service, to all customers through an electric
20 reconciliation adjustment mechanism. A concern
21 that we have there is there's no indication that
22 there be an attempt to mitigate those costs. I
23 call the Commission's attention to RSA 362-A:9,
24 II, which provides that, for competitive

1 suppliers, including community power
2 aggregations, that, when a customer exports to
3 the grid, that those exports be used to offset
4 their wholesale load obligation from what it
5 would otherwise be from ISO-New England, just
6 based on the consumption of customers. So, you
7 take consumption of customers, less what they
8 export to the grid, and that's the power that has
9 to be bought.

10 RSA 362-A:9, XXII(a) [XXI(a)?], I
11 just -- I do want to read this into the record,
12 because I think it's relevant here. States that
13 "The commission shall consider the question of
14 whether or not exports to the grid by
15 customer-generators taking default service should
16 be accounted for as a reduction to what would
17 otherwise be the wholesale load obligation of the
18 load-serving entity providing default service
19 absent such exports to the grid." And it goes on
20 and states "The commission shall use its best
21 efforts to resolve such question through an order
22 in an adjudicated proceeding, which may be DE
23 16-576, issued no later than June 15th, 2022."

24 We're now exactly one year after that

1 sort of a "best efforts" deadline. And, while
2 that might appropriate -- and DE 16-576 has been
3 closed, appropriately so. But, considering --
4 and I think that's an appropriate issue also to
5 consider in the net metering docket, which is on
6 a more or less parallel timeframe as this docket.
7 But, because it says "in any" -- it allows it to
8 be considered in "any adjudicated proceeding", I
9 think that's an issue to be considered here as
10 well, because it's a way to potentially mitigate
11 those costs and that cost shifting from default
12 service to all customers.

13 So, we look forward to working with the
14 parties and the Department, and Liberty
15 Utilities, to consider all these issues and
16 others in this proceeding.

17 Thank you.

18 CHAIRMAN GOLDNER: Thank you, Mr.
19 Below. And we'll move to the Trustees of
20 Dartmouth College, and Attorney Getz.

21 MR. GETZ: Thank you, Mr. Chairman.

22 In terms of the revenue requirement,
23 Dartmouth College, of course, is a large customer
24 of Liberty Utilities, and is concerned that the

1 levels of temporary rates and permanent rates are
2 fully substantiated, but it has nothing to point
3 out here, in addition to the comprehensive list
4 of potential issues that were laid out by
5 Attorney Dexter.

6 With respect to the Multi-Year Rate
7 Plan and Performance-Based Ratemaking, Dartmouth
8 College, at this juncture, does not have a
9 preliminary position to take on those pretty
10 complicated and kind of ground-breaking issues.
11 So, we would defer on those matters for the time
12 being.

13 As for rate design, as suggested in the
14 Petition to Intervene, those are issues that
15 Dartmouth College expects to be most actively
16 involved in. The College is looking at a number
17 of projects that will play out over the next few
18 years, in terms of storage, electrification of
19 the load, decarbonization. And it has taken a
20 look at the existing tariffs, and thinks that
21 there are potential disincentives as they stand,
22 and that there could be a better formation of
23 those tariffs, and to provide incentives to other
24 efforts for Dartmouth College, and other

1 customers of Liberty, to look at their
2 alternatives going forward.

3 So, that, I think, encapsulates the
4 preliminary positions for the College.

5 CHAIRMAN GOLDNER: Okay. Thank you,
6 Attorney Getz. And we'll wrap up with Liberty,
7 and Attorney Sheehan, with any comments in
8 addition to the presentation.

9 MR. SHEEHAN: I think, since we got the
10 first 45 minutes, I don't need to say anything
11 further. We'll be engaging in a back-and-forth,
12 which we have six to eight months to do. So,
13 thank you.

14 CHAIRMAN GOLDNER: Okay. Very good.
15 Let's take a brief break, and come back at 3:15.
16 So, we'll come back then. Thank you.

17 *(Recess taken at 3:07 p.m., and the*
18 *prehearing conference resumed at*
19 *3:17 p.m.)*

20 CHAIRMAN GOLDNER: Okay. This is the
21 first full rate case for an electric distribution
22 utility since the PUC and DOE reorganization on
23 July 1st, 2021. And we anticipate some changes
24 to the discovery process and timeline relative to

1 rate cases that were before the reorganization,
2 including hearing sessions spread over a three to
3 four-month period, with the last hearing held by
4 the end of February 2024, to provide adequate
5 time for the Commission's of the record.

6 Even if a universal settlement is
7 reached between the parties, the Commission still
8 anticipates a series of hearings will be
9 necessary to address the large number of topics
10 in this rather complicated case.

11 Let's begin on those topics. Sort of
12 narrowing it down to how we can ensure an
13 informed -- an informed development and an
14 adequate record without duplicative and
15 voluminous record requests. In the spirit of
16 getting the discussion started, I'll throw out
17 some options to consider, and then I'd like to
18 hear from all the parties.

19 So, some options, and this just in the
20 spirit of brainstorming, you know, file discovery
21 questions or maybe summaries of topics into the
22 record, so the Commission has insight into what
23 topics are being explored. Would all parties or
24 just the DOE Regulatory Support Division file

1 reports on the discovery process and scope?
2 Would the parties file discovery answers as
3 admissions? Would there be deadlines for certain
4 stipulations of fact?

5 So, just some thoughts with the new PUC
6 and the new DOE, as it relates to rate cases.
7 And we're just trying to understand how the
8 Commission can stay informed and what the parties
9 would recommend.

10 MR. KREIS: Mr. Chairman, could you --
11 would you mind repeating the last trial balloon
12 you just noted?

13 CHAIRMAN GOLDNER: Oh, sure. Sure.
14 "Would there be deadlines for certain
15 stipulations of fact?"

16 MR. DEXTER: Mr. Chairman, I'm sorry to
17 interrupt you. I thought the Consumer Advocate
18 was going to ask you to repeat the one about
19 "answers", because that's the one I didn't hear.

20 CHAIRMAN GOLDNER: Oh, I'm sorry.

21 MR. KREIS: That's the one I was
22 getting. That's why I wanted the last one.

23 CHAIRMAN GOLDNER: I'll -- I'm sorry, I
24 probably went too fast. So, (c), the third one

1 was "Would the parties file discovery answers as
2 admissions?"

3 MR. DEXTER: "Admissions", that was the
4 word I missed. Thank you.

5 CHAIRMAN GOLDNER: Thank you. Thank
6 you. So, I'll pause there a moment. And then,
7 Mr. Sheehan, when you're ready, if you could
8 begin, that would be great.

9 MR. SHEEHAN: Sure. You know, these --
10 obviously, I can't make decisions today. I see
11 the value of filing -- providing you with
12 discovery, and however it happens mechanically, I
13 know it happens in Massachusetts, it's all
14 available. So, certainly, folks can get
15 comfortable with it. We haven't done it before.
16 Although, in recent time, discovery responses
17 have been used a lot at hearings, so that good
18 chunks of discovery make it in later.

19 How we would file discovery with you,
20 the rules do allow for admissions, I guess you
21 could consider it that. I don't think you need
22 to go that route. I think, if there's an
23 agreement that the Commission is entitled to
24 discovery, I think, you know, assuming all

1 parties sign on to that, we can figure out a
2 mechanical way to do it. I mean, we do it now
3 with all the other parties. And I don't have --
4 I'd really like to weigh the experience of other
5 folks, and what are the downsides that I'm not
6 seeing right now.

7 Fact stipulations, the downside I see
8 of that, having litigated outside, where judges
9 would sometimes want requests for findings of
10 fact ahead of a hearing, they take a huge amount
11 time. And then, you start writing them up and
12 circulating, and people wordsmithing, and we
13 could spend an enormous time just drafting it,
14 even if we really do agree on all those facts.
15 So, I'm not sure that would be fruitful.

16 So, those are my first reactions.

17 CHAIRMAN GOLDNER: Okay. Thank you.
18 The Department of Energy, Attorney Dexter?

19 MR. DEXTER: Thank you, Mr. Chairman.
20 Certainly, filing the discovery questions with
21 the Commission I don't think would prejudice
22 anyone, and it would serve to let the Commission
23 know where we were heading, where the parties
24 were heading. So, if the concern for the

1 Commission is that the case is over, and, you
2 know, three topics fell through the cracks and
3 you don't have any evidence on them, other than
4 what the Company presented, I suppose that would
5 give the Bench some comfort in knowing, you know,
6 what was covered and what wasn't, without really
7 overburdening the record at all. I don't see
8 that that would -- that that would create any
9 sort of administrative inconvenience.

10 We could file a report on discovery,
11 but it's probably easier just to read the
12 questions. I think, typically, in a rate case,
13 there's eight or nine or ten rounds of discovery,
14 and I don't think any of them are, you know,
15 probably going to be of a surprise, or most of
16 them, I should say, aren't going to be of a
17 surprise to those that have done this before on
18 the Bench and on your staff. So, I don't think
19 the Department would have any problem with that.

20 Again, like Mr. Sheehan, I don't -- you
21 know, I'm just talking off-the-cuff here, I'd
22 have to confer amongst other people, but that
23 doesn't strike me as a -- as a problem.

24 Filing all the answers in the case I

1 think could become a problem, just because then
2 the record does get unwieldy. I think, then, the
3 idea, and I've done cases in Massachusetts as
4 well, and I concur with what Attorney Sheehan
5 said, at least when I did them, the discovery was
6 available for the Commission and the staff.

7 But, in New Hampshire, it's always --
8 I've always been impressed the way the record
9 gets narrowed down, and I always thought made it
10 easier for the Commission to make a decision,
11 because of the, you know, two or three or four
12 hundred data requests that were answered, the
13 only ones that come to the Commission are the
14 ones that are actually bearing on the issues
15 that, you know, that are at issue in the case.
16 And I've always viewed that as helpful to the
17 Commission, the narrowing of materials.

18 So, I don't think, off-the-cuff, the
19 Department would be supportive of that. Not that
20 there's too many secrets in the discovery, I
21 think it's more the opposite. I think there's
22 just a lot of stuff and lot of material that
23 might bog the Commission down that ultimately
24 doesn't find its way, you know, into the hearing

1 room. I think the process up here of making data
2 requests exhibits is a good one, because it does
3 narrow the focus of the Commission.

4 Stipulation of facts along the way, I'm
5 not even sure what that would be. I guess I
6 don't have any comments on that, unless I
7 could -- unless I could -- I can't imagine what
8 that would be.

9 But let me say this. So, if the
10 parties, and this doesn't happen very often, but
11 I'm thinking back to the 2017 Liberty gas rate
12 case, where there was no comprehensive settlement
13 in the case, but there was a settlement of at
14 least one issue, and that was return on equity.
15 And I think there was a settlement as to how to
16 handle the tax cuts from 2017. Those were
17 presented to the Commission well in advance of
18 the hearing, so it sort of took those off the
19 table.

20 The department wouldn't have any
21 problem with that, if they were particular
22 discrete issues that were able to be settled
23 outside of a comprehensive settlement, we
24 wouldn't object to filing those early. I think

1 it happened in that case because there was no
2 comprehensive settlement. And, so, you know, a
3 lot of these issues tie into one another, you
4 know, so, you can't necessarily pick one out and
5 settle it. But, in that instance, where we
6 didn't have a comprehensive settlement, we were
7 able to do that.

8 So, those are my off-the-cuff thoughts
9 on discovery.

10 CHAIRMAN GOLDNER: Okay. Thank you.
11 Let's move to the Office of the Consumer
12 Advocate, and Attorney Kreis.

13 MR. KREIS: Thank you, Mr. Chairman,
14 Commissioners.

15 I'm really intrigued by these ideas
16 that have been floated here. I do want to say,
17 though, and it might be because I am too much of
18 a plodding bureaucrat, I do get anxious when the
19 Commission talks about doing things that
20 effectively revise the Commission's procedural
21 rules without going through the rulemaking
22 process. And that comes to mind, in particular,
23 on the question of discovery, because the
24 Commission actually has fairly elaborate rules

1 governing discovery, especially in the realm of
2 confidentiality in discovery.

3 Because, right now, for reasons I don't
4 think are particularly good, the Commission
5 allows the utilities to basically treat discovery
6 responses as presumptively confidential. And,
7 then, to the extent that any of that needs to be
8 introduced into the record, then the RSA 91-A
9 issues come to the fore and then are decided
10 then.

11 If everything goes to the Commission,
12 every bit of discovery, you know, you really have
13 to revisit the whole process of transmitting data
14 requests and receiving responses to data
15 requests, and then handling the actual files that
16 comprise the questions and the answers. So,
17 that's an issue.

18 I, unlike Mr. Dexter, and maybe
19 Mr. Sheehan and some of the other attorneys in
20 the room, I've never practiced in Massachusetts.
21 So, I'm aware that, in Massachusetts, all the
22 discovery is available to the Commissioners. I
23 don't know if that's the same thing as
24 "everything is in the record." I don't have any

1 insight into how that actually works, whether
2 that's good or bad, either from a sort of "good
3 practice" standpoint or a "ratepayer favorable"
4 standpoint. So, I want to think about that, and
5 maybe educate myself a little more about how
6 things really work in Massachusetts, probably by
7 consulting my counterpart in Massachusetts that
8 knows a lot more about this than I do.

9 This question about written factual
10 findings in the form of proposed findings or
11 factual stipulations, it's very interesting,
12 because I decided recently to conduct a little
13 experiment of my own, which is to say, in an
14 unrelated docket involving another utility, I
15 actually sent a pleading to the Commission
16 recently with proposed findings of fact in it.
17 And I will be very curious to see how that
18 request is received, both by the utility and by
19 the Commission.

20 And, so, I'm going to reserve judgment
21 about proposing factual findings to the
22 Commission until I find out how that little
23 process goes. And I'm not going to mention the
24 docket and I'm not going to mention the utility,

1 but I'll tell you its initials are "Eversource".

2 I want to say something about
3 settlement, and it is this. The state of
4 practice before the Commission is now such, in my
5 opinion, that it is highly unlikely for it to be
6 even remotely advantageous to the Office of the
7 Consumer Advocate to enter into any settlement
8 agreements. Because the Commission has made very
9 clear by now that settlements enjoy no
10 presumptive validity before the Commission. So,
11 in other words, if I compromise away a series of
12 positions in the interest of settlement, I have
13 no assurance that that's going to meet with your
14 favor as Commissioners. And, so, I really have
15 no reason to do it anymore. It's probably more
16 efficient and straightforward for me to just
17 bring my positions and my witnesses into the
18 hearing room and just present them to you as
19 alternatives to what the utility is proposing,
20 cross-examine their people, present my people,
21 and let you folks decide. And, you know, that
22 might be the way to go.

23 An alternative vision for managing rate
24 cases probably arises out of the fact that my

1 prior experience involved working for courts,
2 including a federal trial court. And in the --
3 under the Federal Rules of Civil Procedure, a
4 federal district judge typically manages cases
5 pending on her or his docket rather aggressively
6 and vigilantly, sometimes doing it herself,
7 sometimes by having a magistrate judge convene
8 the parties to talk about how the case is going.
9 And, thereby, the court keeps itself acquainted
10 with how the case is developing, including the
11 settlement potential, without embroiling itself
12 in the discovery process. In other words, the
13 district judges in federal court don't read the
14 discovery papers, unless there's a discovery
15 dispute. But they still have a pretty good
16 handle on how the case is developing, what issues
17 are seeming to resolve themselves, and what
18 issues are remaining.

19 And, then, you know, you can also look
20 in other places in the Federal Civil Procedure
21 Rules on various mechanisms that are designed to
22 narrow issues and reduce actual trials, or, in
23 this case, hearings, to issues that are genuinely
24 in dispute.

1 So, I guess my bottom line is, I'd like
2 to take those trial balloons back and think about
3 them for a bit. And I would like the Commission
4 to consider whether it -- whether the answer to
5 its need to be more actively involved in rate
6 cases and other cases as they develop is really
7 just a matter of more active case management by
8 convening what really would be, under the
9 Administrative Procedure Act, a series of
10 prehearing conferences.

11 I think that's all I have to say. And
12 I'm really, I mean nothing edgy by anything that
13 just came out of my mouth, other than just
14 wanting to collaborate with the Commission and
15 the other parties on how to improve this and get
16 the Commission the record it needs to make a
17 great decision.

18 CHAIRMAN GOLDNER: Okay. Thank you,
19 Attorney Kreis. Let's move to Clean Energy New
20 Hampshire, and Mr. Skoglund.

21 Sorry, maybe I should reverse the order
22 in the future.

23 MR. SKOGLUND: No, that's quite all
24 right, Mr. Chair.

1 I think, at this point, we don't -- we
2 would defer to other parties in terms of how
3 these issues are taken. Certainly, the
4 experience and expertise that each party's --
5 yes, each party's counsel brings will exceed our
6 own.

7 Although, I think what I am hearing is
8 a general issue that may relate more broadly to
9 the PUC's capacity. Having worked for the State,
10 I understand that's -- it sounds like some of the
11 work is being passed on to us in order to distill
12 down what would be beneficial to the PUC. And no
13 disrespect to the position that the PUC was --
14 that you were left in in 2021, when all of your
15 staff was taken and assigned to the Department of
16 Energy, without many of you taken back.

17 I feel like what we are being presented
18 with is a problem where we need to clone Attorney
19 Wind many, many times, so that some of this work
20 can be taken on by the PUC.

21 And I think I'll just leave it there.

22 CHAIRMAN GOLDNER: Thank you. And
23 let's move to Community Power Coalition, and
24 Mr. Below.

1 MR. BELOW: Thank you, Mr. Chairman.

2 I think, having been on both sides of
3 this issue, I do think there's potential value in
4 the Commissioners having access, more access to
5 discovery and the responses. I certainly know
6 that, when I was on the other side of the Bench,
7 particularly when presented with a settlement, I
8 often had -- still had questions that I would
9 like to have seen run down that were part of
10 discovery, and only that which was brought
11 forward as part of testimony or an exhibit at the
12 live hearings came forth. And sometimes, you
13 know, I would certainly ask for more follow-up
14 when there was sort of awareness that there might
15 have been discovery, but not -- that it wasn't
16 provided as part of the record.

17 On the other hand, being part of the
18 process of receiving and answering discovery
19 questions, or making the questions and answering
20 them, there's a lot of discovery that ends up
21 being irrelevant. And, so, there's a lot of
22 material that -- that might have been, you know,
23 the thought is it might have been productive and
24 useful, but it turns out it's just not

1 significant or relevant. And, certainly, in
2 reviewing that can take a lot of time to review.

3 So, I'm not sure what the right answer
4 is, but I think it's a good question, I guess is
5 what I'd say.

6 I don't see stipulation of facts, I
7 can't -- I think there are contexts in which
8 that's valuable, but I'm not sure this is one of
9 them. So, I guess that's what I'd say.

10 I would also note that the PUC's own
11 200 rules, and consistent -- consistent with the
12 Right-to-Know law, point out the fact that
13 anything filed with the Commission is a matter of
14 public record, unless there's an exemption. And
15 some are listed in the rules, and others are by
16 the process of a party claiming that it's
17 confidential commercial, financial, or financial
18 information subject to nondisclosure.

19 And I think, even without the rule,
20 that applies to the Department of Energy, the
21 Consumer Advocate, and the Coalition, because
22 we're all subject to the Right-to-Know law. So,
23 anybody could come and ask me, or the Coalition,
24 for all the discovery that we have made or

1 responded to in any case that we're part of. And
2 the only thing that we would not be allowed to
3 disclose to them is that which, you know, there's
4 a claim for confidential treatment. So, that's
5 just another observation.

6 CHAIRMAN GOLDNER: Well, thank you, Mr.
7 Below. And the Trustees of Dartmouth College,
8 and Attorney Getz.

9 MR. GETZ: Thank you, Mr. Chairman.

10 You've brought up a lot of issues. And
11 it appears to me, of course, what's driving it is
12 the change in the restructuring of the PUC and
13 with the DOE, and, in effect, the PUC does not
14 have a staff who is litigating the case.

15 And I'm just going to, you know, the
16 last of Mr. Below's issues. You know, in the
17 past, all of that information would have been in
18 the possession of the PUC and subject to a
19 Right-to-Know law request. But, now, it is not
20 in the possession of the PUC.

21 But, taking another step back, there
22 always was the expectation, and it was the
23 culture of, you know, the previous PUC, in my
24 experience, was that the Staff was independent.

1 That there -- the culture of the Staff was to
2 make sure that there was a full record for the
3 Commissioners to make a decision on, without the
4 Commissioners, you know, overseeing what they
5 were doing. You now have the further obstacle
6 of, you know, there's a hard wall now between you
7 and the DOE, and they are independent in all, you
8 know, forms of that understanding.

9 So, I kind of put that out there. It
10 seems like, if I understand the overlay, and your
11 eagerness to make sure that everything will be
12 available to have a full record.

13 In terms of discovery, and data
14 requests, data responses, they have been treated
15 in different ways over the years. I mean, it was
16 not unusual, in cases past, at the end, at the
17 hearing, that either the utility or the Staff, or
18 together, would say "Let's move all of the data
19 requests and data responses into the record."
20 There has been some getting away from that. And
21 I think, in most part, driven by the utilities
22 who had filed the petition, to say "No, let's
23 just move into the record those specific requests
24 and responses that were used by either of the

1 parties." Which, of course, any party could
2 bring in a specific set of answers to support
3 their position, you know, as opposed to putting
4 in in wholesale. But I think, you know, the
5 discretion is there to do that.

6 You know, it sounds like that -- but I
7 think the distinction here again is, "don't do
8 that at the hearing, let's do it in real time,
9 put it all in, to be available to the Commission
10 and to the world." And I guess, in some respect,
11 that may be an issue more of "do you have time
12 and are you inclined to read all this discovery
13 as it comes in?" And that's quite an
14 undertaking.

15 But I guess, you know, it would be
16 differentiation of DOE Staff, you know, from the
17 PUC entirely, is that something you need to have
18 a comfort that there's a complete record? So
19 that you don't get to the issue that Mr. Kreis
20 raises, that there are information requests,
21 record requests at the tail end, because there's
22 something that you haven't seen and would like an
23 answer to.

24 So, I'm not offering any answers here.

1 But I would say two specific things.
2 Stipulations of fact I don't think are, and I
3 agree with Mr. Below on this as well, and
4 probably Mr. Sheehan, are really not conducive to
5 like rate cases. There are other types of
6 proceedings where that could be helpful, whether
7 it's a complaint about some particular issue, and
8 you want it narrowed by the parties before it
9 gets to you. But I don't think that really
10 necessarily helps here.

11 And, as for admissions, you have, and,
12 again, I don't know that that label moves the
13 ball forward. You're going to have data
14 responses that have a respondent, have a sponsor.
15 It's not under oath. So, then, maybe that
16 becomes an issue again "is it in your possession
17 or is it in the record for decision-making
18 purposes?"

19 And, so, I think those are kind of the
20 issues that I think need to be thought through.

21 CHAIRMAN GOLDNER: Okay. Thank you
22 very much, Attorney Getz. Mr. Below.

23 MR. BELOW: One more issue just for you
24 to be aware of. Sometimes, in the technical

1 session that may follow a round of discovery,
2 there are clarifications, which are just verbal
3 between the parties. And there's no formal
4 record of them, but they actually may put the
5 discovery in a different light. And it may be a
6 reason why a party chooses not to use the
7 discovery as part of their testimony. And you
8 wouldn't be aware of that.

9 And, so, there is a potential sort of
10 hazard of having discovery that none of the
11 parties choose to make part of the record, and --
12 but being aware of it could still influence your
13 thinking about the case, for better or for worse.
14 I don't know what the right answer is on that.

15 CHAIRMAN GOLDNER: Okay. Yes, thank
16 you. Thank you, everyone. I think that was a
17 very helpful dialogue on the topic. And that's
18 what we were looking for, some brainstorming on
19 how to do this in this.

20 MR. SHEEHAN: May I chime in with one
21 or two more?

22 CHAIRMAN GOLDNER: Please.

23 MR. SHEEHAN: I had the disadvantage of
24 going first, and the advantage now of having

1 heard everyone. Just a few things to think of.

2 One is the audit reports. There's two
3 pieces to that. One is, do they and how do they
4 come into the record, and should they?

5 Second, Audit is part of DOE, and often
6 they are conducting an investigation parallel to
7 DOE Staff. And is there any -- and maybe this is
8 an issue between us and the DOE, but is there a
9 way to minimize some of that duplication? Today,
10 we are fielding dozens of calls from the Audit
11 Staff doing their audit of this case, and we are
12 also fielding data requests. So, is there some
13 efficiencies there?

14 Could the Commission -- of course, the
15 Commission has asked data requests through its
16 record requests. Could we maybe formalize that a
17 bit? As a litigator, my fear of written requests
18 and responses to the Commission is we can't speak
19 to them. So, if maybe a -- with several hearing
20 dates, there's a period of time where you folks
21 can ask questions, and we could come in and give
22 you the written ones, but then explain them, or
23 have a conversation about them, like a hearing,
24 you know, without cross-examination.

1 On the confidentiality issue, the
2 mechanics of filing discovery with the Commission
3 was illustrative with what I did last night. We
4 provided all of these spreadsheets in support of
5 this filing in discovery, and, under the rules, I
6 can assert confidentiality, just to hold it in
7 place until a future time. Once I filed with you
8 folks, I couldn't rely on that. So, I had to
9 file that separate motion for confidential of
10 those particular spreadsheets. So, that's just,
11 again, a complicator of how to handle that.

12 I haven't read the rule to know if my
13 assertion of confidentiality in something
14 presented to you similarly would preserve it,
15 pending a later motion. But it was -- it's a
16 risky thing for us.

17 And, last -- oh. Mr. Therrien just
18 mentioned to me as a "for instance", in
19 Connecticut, all discovery is "in the record",
20 not available, but actually in the record. So,
21 for what it's worth.

22 Thank you.

23 CHAIRMAN GOLDNER: Thank you. So,
24 again, thank you, everyone. That was extremely

1 helpful.

2 We'll move now to the important topic
3 of the hearing schedule. So, the Commission
4 plans to begin hearings from end of October, with
5 one or more hearings each month, concluding by
6 the end of February, so the Commission has time
7 to consider a full record and issue an order. We
8 recognize all parties are entitled to probe
9 Liberty's request through discovery, provide
10 testimony and evidence and rebuttal testimony.

11 And, so, I'd like to hear from the
12 parties on a procedural schedule. And the
13 hearing schedule, I'll just add that, kind of a
14 revision in the prehearing conference order that
15 we'll issue after this proceeding, is to provide
16 the hearing schedule days. So, beginning end of
17 October, we'll provide hearing schedule days, all
18 the way up through the end of February. And
19 then, the parties would sort of fill those in.

20 So, if decoupling was an item that
21 belonged on one of those hearing days, then the
22 parties would suggest "No, October is too soon.
23 We would like to do that in January", or vice
24 versa.

1 So, I'll just pause there, and maybe
2 start again with Mr. Sheehan, and get your
3 comments on the procedural and hearing schedule.

4 MR. SHEEHAN: Sure. The parties have
5 talked about this some, and I will leave it to
6 Mr. Kreis and Mr. Dexter about the -- how much
7 time is necessary between now and then. From our
8 perspective, a shorter time between now and
9 October is more of a detriment to them. They
10 have less time to ask questions, file testimony.
11 So, I'll leave it to them.

12 What I think is important to think of,
13 though, is whenever the first hearing starts,
14 what happens up to that point, and what happens
15 after? Settlement's one issue. Usually, the
16 settlement happens before any hearings, because
17 then you know what you're presenting to the
18 Commission. If you settle the case, you're going
19 to have a very different hearing than if it's a
20 litigated case.

21 So, let's say the first hearing day is
22 ROE. Do we settle the case and present you an
23 agreed ROE? Or, if a settlement is going to
24 happen later, how can we fight over ROE at a

1 hearing, and then try to incorporate it into a
2 settlement later?

3 And, as an absolute, I think there's no
4 way the Commission could issue an order on any
5 hearing until the very end, because that would,
6 obviously, be a real problem.

7 So, my preference would be that a
8 settlement happens, if it happens, before
9 hearings. Which would mean we have to litigate a
10 case, file testimony, file rebuttal, and settle
11 the case in three months, which may be tough.

12 So, those are my initial thoughts on
13 that.

14 As for hearing dates, I agree that they
15 should be by topic, it makes perfect sense. And
16 there may be a logical order to them, but that is
17 something the parties can talk about.

18 CHAIRMAN GOLDNER: Thank you. We'll
19 move to the Department of Energy, Attorney
20 Dexter.

21 MR. DEXTER: Thank you, Mr. Chairman.

22 We've been puzzling over this question
23 for the last couple of weeks. And we tried to
24 come up with a schedule that would have three

1 sets of hearings, December, January, and
2 February, which would meet the Commission's
3 objective of having the record closed by
4 February, and then therefore leaving time for the
5 Commission to work on a decision.

6 We circulated that to the parties, and
7 quickly heard back, I'll let the OCA speak for
8 the OCA, but quickly heard back from the OCA
9 that, given the contracting problems he's facing
10 or contracting situation he's facing, that, in
11 all likelihood, OCA wouldn't be able to put in
12 testimony until the end of November. On our
13 draft schedule, we had testimony going in in the
14 middle of October.

15 Having heard what the OCA said, and
16 spoke to my own people about the contracting
17 situation we are in, we agree with the OCA. And,
18 when I say "the contracting situation we are in",
19 we do have analysts on Staff obviously, all of
20 them are here or most of them were, I haven't
21 turned around, maybe they have left. But we do
22 have staff, but, traditionally, the Department or
23 the Commission Staff has relied on outside
24 experts for things like return on equity and

1 revenue deficiency issues -- I'm sorry, yes,
2 revenue deficiency -- revenue requirement issues,
3 and rate design issues. And our in-house Staff
4 works to feed information to those consultants,
5 generally speaking.

6 So, what we were going to try to do,
7 after this session, was to revise this schedule
8 with the parties here, to see if we could move
9 that set of hearings from December, and hold the
10 hearings in January and February. That would
11 still provide the Commission a tiered hearing
12 schedule. So, you wouldn't hear it all at once.
13 And, shifting the calendar, we were hoping to be
14 able to move the date for intervenor testimony
15 back to the end of November.

16 Having heard what the Commission laid
17 out, which is to have hearings start in October,
18 I think then intervenor testimony would have to
19 be done by middle of September. And I think that
20 would preclude any use of outside experts from
21 both the OCA and the Department, which would be
22 problematic. And it's problematic in the sense,
23 and I probably should have said this at the
24 outset, since the split between the DOE and the

1 PUC, our statutory obligation is to develop a
2 record for the Commission. So, when we sit here
3 and say "We need more time or we need more
4 experts", it's not because, you know, we're doing
5 it for ourselves, we're doing it to produce a
6 record upon which the Commission can make a
7 decision. So, you know, stating the obvious,
8 it's in the statute.

9 But that's our statutory mandate. And,
10 you know, I posed a hypothetical in my earlier
11 comments that, you know, you don't want to get to
12 the end of the case and find out that we haven't
13 addressed an issue that the Commission finds of
14 interest.

15 Our intent is to weigh in on all the
16 issues. That's what we've done. We have a
17 pretty good track record of that as the PUC
18 Staff, and we intend to continue that as the DOE.
19 And, in fact, we don't plan to leave any, you
20 know, that doesn't mean that we would examine
21 every issue in the same way you would. I think a
22 good example of this is the issue Commissioner
23 Chattopadhyay has raised in recent step
24 adjustments, about the change in net plant, and

1 this analysis that we, at the DOE, did not think
2 of and didn't participate in. So, obviously,
3 there's a role for the Commission to ask
4 independent questions. But I don't want anyone
5 to have the impression that the Department of
6 Energy doesn't plan on investigating this
7 thoroughly.

8 Now, having said that, we can't do it
9 and have testimony to you in the middle of
10 September. It's just -- we would be then relying
11 only on in-house Staff, for the most part. And
12 we would do what we could, but that would be a
13 departure, I think, in the wrong direction.

14 I think the parties could get together,
15 and put together a schedule that has hearings in
16 January and February, and has testimony by the
17 intervenors at the end of November, and would
18 provide you a record, you know, that hits all the
19 issues, still doesn't have all the hearings
20 compressed. Doesn't necessarily presume a
21 settlement. In other words, there would be
22 enough hearing days reserved in January and
23 February that, if the case did not settle, that
24 we would be able to -- because my experience is,

1 if you're actually going to litigate the rate
2 case, as we did in the Liberty gas case from
3 2017, we were looking at -- you know, we had two
4 days of hearings on the schedule. But, because
5 the case didn't settle, we ended up having six or
6 seven or eight, or something like that.

7 So, I think you need to put aside, you
8 know, eight to ten hearings days, if we're going
9 to litigate the case. But I think we can do that
10 in January and February. And, then, the record
11 would close in February. And then, the intent is
12 to have the order out in early May, that would
13 leave March and April for a decision.

14 So, that's the track that we would
15 propose. And I can't imagine -- I can't imagine
16 working on a schedule that has hearings started
17 in October, that would provide you an adequate
18 record. Unless we had moving testimony dates, in
19 other words, if we decided what the topics were.
20 But, you know, these cases are so interrelated.
21 You know, ultimately, we have to develop a
22 revenue requirement, and I just don't see that as
23 working out.

24 So, I'll leave it that. Thank you.

1 CHAIRMAN GOLDNER: Yes, let me just
2 follow up with a question, and I think
3 Commissioner Chattopadhyay has an additional
4 question.

5 The thought process I think was taking
6 items that you could handle earlier in the
7 process. So, for example, the Battery Storage
8 Pilot Program, maybe that could be earlier in the
9 process. The arrearage management, the fee-free
10 credit card program, some of those items that
11 perhaps don't need the same level of consulting
12 report -- or, consulting effort. And to look at
13 what those topics would be, and handle those in
14 kind of a sequential order.

15 The other thing I'll mention, everyone
16 knows this, and I don't think Mr. Sheehan will
17 fully appreciate this option, but there's, of
18 course, the option that the Company can request
19 more time than the twelve-month window from the
20 Commission, right, through either a statute or
21 rule, Mr. Sheehan, right?

22 MR. SHEEHAN: I'm not sure about that.
23 I mean, my recollection is that twelve months is
24 a statutory deadline. It was waived by the

1 Governor during COVID. I'm not sure we could
2 agree. But I've also heard other variations
3 where parties have tweaked that twelve months in
4 various ways.

5 CHAIRMAN GOLDNER: Mr. Kreis is
6 grabbing the statute book. I believe I saw that,
7 I believe it's in the statute, that the Company
8 can petition the Commission for additional time,
9 if needed. So, that may be something to
10 consider.

11 I'll try to pause for long enough for
12 Attorney Kreis to reach the right page, before I
13 ask him to weigh in on the topic.

14 MR. SHEEHAN: And, without authority, I
15 could see that being okay, provided, you know, we
16 do have the temp. rate date, things are
17 reconciled back to that date. So, I can see that
18 being an option.

19 CHAIRMAN GOLDNER: Maybe be an option,
20 yes. I'm just trying to think of ways to get
21 everyone to the right place. I understand fully,
22 the Commission understands fully the need for all
23 the parties to have access to their resources.
24 And, you know, we know how the fiscal process and

1 the G&C process and all the things that go into
2 that. So, we're very understanding of the
3 challenges, and also the need to resolve the case
4 as quickly as possible. So, we're just trying to
5 balance the two.

6 Mr. Kreis, would you like me to --
7 would you like to go next, or would you like to
8 skip and go to Mr. Skoglund?

9 MR. KREIS: No. Thank you. You
10 stalled long enough so that I can open the
11 statute, and also basically state my positions.

12 First of all, let me just thank
13 Attorney Dexter, because he did a really good
14 job. I'm really glad that I had some discussions
15 with him before today's session, because he
16 really understands the situation the OCA is in.
17 And he's done a really good job of explaining it
18 to you, and setting out why it really doesn't
19 seem possible, from our perspective, to do
20 anything other than the schedule that Mr. Dexter
21 just laid out, that really wouldn't involve
22 hearings until the beginning of 2024, in January.

23 I want to say that I do regret that I
24 had no idea, really, that the Commission was

1 going to make significant changes in the way it
2 handles rate cases, until I read the order that
3 was titled the "Commencement of Adjudicative
4 Proceeding Order", that used to be called an
5 "Order of Notice". Because if I had known back
6 in, well, earlier this year that there were going
7 to be these big changes, I probably could have
8 done more to prepare and get outside help onboard
9 in time to get testimony filed by the fall, so
10 that we could do early hearings. And, now, I'm
11 just not in a position to do that.

12 And this kind of reverts back to the
13 point I made earlier, that I get queasy when the
14 Commission makes big changes in the way it does
15 business, without amending its rules. Because,
16 obviously, what we're talking about here will
17 have implications for other utilities. We've got
18 a whole river of big rate cases coming between
19 now and 2025, I think. As far as I know, every
20 major utility in this state plans on doing a rate
21 case, and these issues are going to come up in
22 all of them. So, there really ought to be
23 standard procedures in place that every utility
24 can follow. That's what we have rules for.

1 Even though I complimented Mr. Dexter
2 on doing a really good job of stating our
3 position, I just want to note that our interest
4 is a little different than his. While I share
5 the Department's objective of building a complete
6 record, so the Commission can make a great
7 decision, we're advocates. And we are here as a
8 counterweight to the interests of utility
9 shareholders, on behalf of utility customers, or
10 at least some of them. So, our interest really
11 is pretty adversarial. It really is a pretty
12 adversarial process. Us balancing ratepayer
13 interests, or you balancing ratepayer interests,
14 as represented by us, and shareholder interest,
15 as represented by Mr. Sheehan and his team, so
16 that you can make a good decision. But it's
17 still adversarial. We have real interests. And,
18 therefore, we need to be very protective of
19 things like due process.

20 So, even though we want the Commission
21 to be able to operate as effectively and
22 knowledgeably as it can, we're going to be pretty
23 vigilant in making arguments that our interests
24 need to be protected. So, I guess I'm just

1 honestly pleading for a little indulgence in this
2 instance.

3 Now, let me deliver the bad news.
4 Which is my instant analysis of what RSA 378,
5 Section 6, Paragraph I, says is the following:
6 Basically, that says that "the commission can
7 suspend new rate schedules", which it has done in
8 this case already, "for such period or periods
9 not to exceed twelve months in all, as in the
10 judgment of the commission may be necessary for
11 such investigation." Now, there is an exception
12 in Paragraph II of that statute, but it doesn't
13 apply here, I don't think.

14 So, I think we are stuck with that
15 twelve-month period by statute. And
16 Mr. Sheehan's memory is correct, we went to
17 18-month rate cases during the pandemic, because
18 the Governor exercised his emergency powers to
19 waive certain things, and he waived that
20 provision explicitly.

21 CHAIRMAN GOLDNER: Okay. Thank you,
22 Mr. Kreis.

23 And, Commissioner Chattopadhyay, I'm
24 sorry, I believe you had a follow-up question.

1 CMSR. CHATTOPADHYAY: I wanted to go
2 back to Attorney Dexter's discussion. And I
3 understand the point about, you know, generally,
4 rate cases are where all of the testimonies are,
5 you know, they're handled together, because
6 everything is connected, and even though there
7 might be one issue that appears rather
8 disconnected, even that can end up influencing
9 the whole package.

10 If that happens, and I'm just trying to
11 understand, what you were saying was, you know,
12 folks can provide testimonies by end of November,
13 but there's also the need for rebuttal testimony
14 and all of that.

15 So, have you -- do you have any
16 thoughts on that? I'm just curious what -- how
17 that will play out. And this is a free-wheeling
18 discussion. So, the Company can also provide its
19 opinion.

20 MR. DEXTER: Shall I go first,
21 Commissioner?

22 CMSR. CHATTOPADHYAY: Yes.

23 MR. DEXTER: So, we didn't -- I have
24 the schedule sitting here in front of me, it's

1 not agreed to, and we're just circulating it.
2 The schedule had intervenor testimony in the
3 middle of October and rebuttal testimony in the
4 end of November. So, it did provide for rebuttal
5 testimony. So, all we were suggesting was,
6 though, was moving that back one month. So, in
7 that instance, I guess the intervenor testimony
8 would come in in November, and the rebuttal
9 testimony would come in in December, and then
10 hearings would start in January.

11 MR. KREIS: And I just want to leap in
12 and say, that is -- like, that will put a
13 tremendous pressure on the outside experts I'm
14 hiring. That's the fastest I can conceive of
15 doing it. I'll get push-back about that from the
16 people I'm hiring.

17 I do -- I guess I have interrupted in a
18 way that might not be helpful. But let me just
19 say, part of what matters, and I think Chairman
20 Goldner alluded to this, is the order of the
21 topics of the hearings. I had been assuming that
22 there is a sort of really dull, but logical order
23 of issues in a rate case, that starts with
24 revenue requirements issues, and then goes to,

1 you know, cost allocation issues, and rate design
2 issues.

3 And I guess I was kind of assuming,
4 because I'm not that creative, that all of these
5 sort of little "glitter bomb" issues, like, you
6 know, the Battery Pilot and, you know,
7 Performance-Based Ratemaking and stuff like that,
8 I've always assumed that those are the last
9 things you take on. But you made an intriguing
10 suggesting that maybe taking some of those issues
11 early on, because they wouldn't necessarily
12 require the same degree of outside help from
13 expert witnesses. And I just -- I found that to
14 be an intriguing suggestion, I just want to say.

15 CHAIRMAN GOLDNER: Thank you, Attorney
16 Kreis. Attorney Sheehan, did you have any
17 more --

18 MR. DEXTER: I had one extra comment, I
19 kind of got interrupted there.

20 MR. KREIS: Sorry.

21 MR. DEXTER: Excuse me, Mike. And it
22 had to do with the idea of having an early
23 hearing on a discrete. So, let's say that we
24 twisted the schedule around and were able to do

1 that, I'm not sure what we gain, though. So, it
2 would mean that a few discrete issues would have
3 come to the Commission a few months earlier.
4 Again, I'm not in your position. So, I'm not
5 trying to judge or anything. But I'm just not
6 sure what that actually gains, if there are some
7 peripheral issues that come to you in October and
8 November, versus January and February? And the
9 impact of them isn't calculated into the ultimate
10 revenue requirement yet, but we've gotten a few
11 hearing days out of the way, I'm just not sure
12 how much added value, you know, that is?

13 CHAIRMAN GOLDNER: I'll just comment on
14 that briefly. It's sort of like drinking through
15 a straw versus a fire hose for us. If we're able
16 to spread the issues out a little bit, and take
17 them -- kind of compartmentalize those
18 one-by-one, very helpful for us to process all
19 the information.

20 MR. SHEEHAN: My sense is that you were
21 thinking of a schedule -- hearing schedules
22 roughly once a month. Maybe you separate them by
23 two weeks.

24 CHAIRMAN GOLDNER: Yes.

1 MR. SHEEHAN: And then, there's January
2 and February, every two weeks we have two hearing
3 days. So, it lessens the "fire house" effect.

4 As far as taking the "glitter bombs"
5 separately, I think the answer is "yeah, maybe we
6 could do some of those." But so many of them
7 have tentacles, and they wouldn't -- anyway, the
8 Battery Storage is a perfect example. Part of it
9 is the forward-looking piece that Mr. Skoglund
10 talked about of programs; part of it is the
11 several million dollars of batteries we're going
12 to buy, if it gets approved. So, again, you have
13 that connection.

14 And, as far as settlement goes, you
15 know, do we -- do parties agree to all of the
16 batteries or part of them? And assuming -- it
17 would be hard to really carve off clean,
18 stand-alone issues to take early. There are
19 probably a couple, but I'm not sure, again, it
20 would really advance the ball very far.

21 CHAIRMAN GOLDNER: Okay. Thank you.
22 Let's move to Mr. Skoglund. Oh, sorry, I did it
23 again.

24 MR. KREIS: Let me just say "glitter

1 bomb" is a term of art that I imported from the
2 previous Eversource rate case, in case anybody is
3 wondering.

4 MR. SKOGLUND: Well, Clean Energy New
5 Hampshire is all about the "glitter bombs",
6 that's why we're here.

7 And I think I'm finding this
8 conversation really intriguing. One of the
9 challenges is, there are definitely things that
10 we, if we can skip a hearing, great. And that's
11 like arrearages, and billing, and revenue
12 requirements, that we respect, but don't have the
13 experience and expertise, and they are
14 backward-looking, in some cases.

15 However, I do worry about the notion
16 that we can "compartmentalize". I guess we view
17 it there as being an energy system where I think
18 the term that was just used by Attorney Sheehan
19 was "tendrils", where everything is related and
20 feeds into one another. And, so, if we're
21 talking about time-of-use rates for homes, that
22 could influence batteries. If we're talking
23 about demand charges for EVs, that affects
24 possibly other elements.

1 And, really, this Performance-Based
2 Ratemaking, one of the reasons why we are so
3 interested in that is for, you know, since grid
4 modernization was brought up in 2015, there's
5 been this notion of "how do we get away from or
6 creating a utility business model that aligns a
7 utility's interests with those of society as a
8 whole, whether they're economic, social, or
9 environmental, while still kind of keeping rates
10 as low as possible, but delivering the highest
11 possible value?"

12 And, so, to us, that seems to be kind
13 of like the frosting that might be wrapping all
14 this together, and then having sprinkles put on,
15 rather than glitter, because glitter is toxic and
16 lasts forever in the environment.

17 So, I think I completely respect the
18 challenge of trying to do all of this and break
19 it off into pieces that, for administrative
20 efficiency, only has the people in the room that
21 need to be there, provides it not in a "fire
22 hose" format, but still respects the interrelated
23 nature of the past, present, and future that
24 we'll be looking at in this particular case.

1 And really appreciate Liberty bringing
2 it all together, because I think they're driving
3 the conversation forward, and have been for
4 years, with the other utilities to follow suit.

5 CHAIRMAN GOLDNER: And Attorney --

6 MR. SKOGLUND: And I could also just
7 ask that maybe we could get another microphone?

8 CHAIRMAN GOLDNER: It will show up on
9 your bill, that's the problem, the ratepayer's
10 bill.

11 Attorney Kreis, I do want to follow up
12 with you on a quick question.

13 You had mentioned, if you would have
14 had more of a heads up, from a consulting
15 perspective, you would have, you know, been able
16 to pull the schedule farther forward, that's what
17 I understood you to say anyway. If you would
18 have had -- if you would have known about all
19 this back in January, when could you have been
20 ready for the first hearing?

21 MR. KREIS: Let me think about this.
22 The reason I'm hesitating is that this gets a
23 little technical. But the extra help that I'm
24 still laying on will be funded by a special

1 assessment. And, when I do that, I have to bring
2 the contract not just to the Executive Council,
3 but to the Joint Fiscal Committee. And the Joint
4 Fiscal Committee has a, I guess I'll just come
5 out and say, a ridiculously arbitrary rule that
6 says that they -- and it's not even a rule, it's
7 just their practice, they will not consider
8 anything that applies to the coming fiscal year
9 until the beginning of that fiscal year. In
10 other words, until the budget for that fiscal
11 year is in place.

12 Now, that's weird in this instance,
13 because the consulting help I'm talking about
14 isn't in the budget, that's why I need to do it
15 via special assessment. But that's the reality I
16 confront.

17 So, if I had known in January that the
18 Commission was going to make some major changes
19 in the way it does rate cases, if nothing else, I
20 think I might have asked the Legislature to
21 include some provisions in the budget trailer
22 bill perhaps that would have allowed me to jigger
23 around that particular problem.

24 CHAIRMAN GOLDNER: Okay. Thank you

1 very much. That's helpful.

2 And we'll move to Mr. Below.

3 MR. BELOW: I'm not sure I have
4 anything to add. You know, I would concur with
5 the remarks of Mr. Skoglund, and Mr. Kreis and
6 Dexter, and Sheehan. So, nothing to add.

7 CHAIRMAN GOLDNER: All right. And
8 Attorney Getz.

9 MR. GETZ: Thank you, Mr. Chairman.
10 Well, I have before me -- I have before me the
11 proposed procedural schedule that was put
12 together by some combination of DOE and Liberty.
13 And I think, you know, Mr. Dexter has pointed out
14 that, you know, there is a gap between the
15 proposal to start hearings in October versus
16 December or January, that looks like it needs to
17 be figured out.

18 You know, Dartmouth does not have the
19 statutory obligations that DOE has to make sure
20 you have a complete record, nor does it have the
21 responsibility that OCA has to, you know, to take
22 positions on behalf of all residential customers.
23 So, you know, since we're -- since Dartmouth is
24 only going to be focusing on most likely some

1 discrete issues, it can meet either, probably,
2 sets of schedules.

3 But I am concerned that the testimony,
4 as I understand it, like now, if you were going
5 to have hearings begin in October, we'd be back
6 to September. And it's sure sounding like that's
7 something that would be really, really hard for
8 DOE and OCA to accommodate.

9 So, we would be, you know, largely in
10 favor of the proposal that Mr. Dexter has
11 outlined. But I think some of this comes down
12 to, it's hard to address this, you know, at the
13 30,000-foot level, it gets into the details. If
14 you're going to phase this, how do you phase
15 this? I mean, there's the traditional, you know,
16 as others have stated, revenue requirement,
17 depreciation, return on equity, rate design, and
18 you can schedule those out in increments. But
19 are there other things that maybe you can
20 dispense of earlier? I think that would require
21 a lot of thought. I've heard some suggestions,
22 but really haven't had a chance to figure out is
23 there a way to really advance them.

24 And, then, finally, I guess it goes to

1 this issue about the twelve-month suspension
2 period in RSA 378:6. I agree what I believe is
3 the position that Mr. Kreis has taken, that the
4 Commission, on its own, can't waive that
5 statutory timeframe. But my reconciliation is
6 there have been cases before the Commission where
7 there was an agreement to extend, which I really
8 think comes down to an agreement by the utility
9 who has filed the rate case to not to seek to
10 enforce the twelve-month deadline.

11 Now, again, maybe that can be worked
12 around as well, in terms of "can you take care of
13 the revenue requirement before the end of the
14 twelve months, and there are other things that
15 can go beyond it, maybe rate design?"

16 But that's my understanding, though, is
17 that it would require -- going beyond the twelve
18 months would require the utility to agree.

19 CHAIRMAN GOLDNER: Mr. Sheehan, you
20 don't have to answer that now.

21 MR. SHEEHAN: I won't.

22 MR. KREIS: I just want to say, I think
23 Mr. Getz is right. I mean, really, even though
24 that deadline is statutory, if the utility agrees

1 to it, and nobody else is complaining, then it's
2 a "no harm/no foul" kind of scenario, and the
3 State Police are not going to show up and arrest
4 you for failure to enforce that twelve-month
5 deadline.

6 CHAIRMAN GOLDNER: That's the kind of
7 news I was looking for at the end of the day.

8 *[Laughter.]*

9 CHAIRMAN GOLDNER: Okay, very good. I
10 think we've covered all the topics.

11 I'll just ask at this point if there's
12 any other matters or ideas or anything else that
13 the parties wish to comment on, before the end of
14 the proceeding today?

15 MR. SHEEHAN: My question is whether
16 you would like us, as a group, to propose
17 something, or whether you folks, the Commission,
18 is going to issue a schedule?

19 MR. DEXTER: Could I jump in before you
20 answer?

21 CHAIRMAN GOLDNER: In the nick of time,
22 yes.

23 MR. DEXTER: I would like to propose
24 something along the lines, so that at least you

1 have, because I've just been dropping tidbits
2 from this draft, if we could get together after,
3 and maybe, by tomorrow, present you something
4 that at least you would have for comparison
5 purposes to what you might ultimately decide.
6 And it would have, hopefully, a testimony date
7 November, and hearings spread out in January and
8 February. And this way you get to see what the
9 rest of the schedule looks like.

10 CHAIRMAN GOLDNER: Okay. That's very
11 generous, Mr. Dexter. Thank you for pulling that
12 together.

13 Again, my request would just be to
14 consider the desire, the need for the Commission
15 to drink from straws, and not fire hoses, and
16 give us as much time as possible to consider
17 these important matters in the rate case. But I
18 appreciate the offer to pull together the
19 schedule, and --

20 MR. DEXTER: And I said "tomorrow", but
21 maybe by Monday, would that still be helpful?

22 CHAIRMAN GOLDNER: I think so.

23 MR. DEXTER: That will give us a little
24 more time to --

1 CHAIRMAN GOLDNER: That would be fine.
2 We'll just wait to issue our post-hearing order
3 until after we receive the schedule.

4 MR. DEXTER: Okay. Thanks.

5 CHAIRMAN GOLDNER: So that we don't --
6 Attorney Wind has reminded me to just cover
7 the -- I think I might have covered pieces of it
8 before, but just to be clear on the intervention
9 deadline. So, we'll extend the intervention
10 deadline for all parties that are a party to
11 Docket 17-189.

12 Therefore, affirm a deadline for the
13 parties to file a proposed procedural schedule or
14 schedules to the permanent rates phase of the
15 proceeding will be set in the next week or so.
16 So, we'll allow a little bit more time there.

17 We anticipate having interventions
18 finalized on or about June 26th. Although, if
19 Liberty can provide notice earlier, if it will
20 not be objecting to any intervention requests
21 from the parties 17-189, that may speed things up
22 a bit. As soon as interventions are finalized,
23 we'll set a deadline for the parties to propose a
24 procedural schedule, we just covered that, and

1 respond to Liberty's pending Motions for
2 Confidential Treatment.

3 So, we've got some spaghetti going on
4 here. But I think the first step, Mr. Dexter, is
5 we appreciate getting back with us on Monday,
6 that would be perfect. And then, we'll issue a
7 post PUC order after we receive your filing.

8 Okay. Is there anything else we need
9 to cover today? Mr. Below.

10 MR. BELOW: Yes. Just wanted to note,
11 the Coalition won't be participating in the
12 temporary rate hearing part of the process.

13 Thank you.

14 CHAIRMAN GOLDNER: Okay. Okay. Thank
15 you, Mr. Below.

16 Anything else today?

17 MR. KREIS: Just want to say "thank
18 you". I think this was a very productive
19 exchange of ideas.

20 CHAIRMAN GOLDNER: Good. Thank you.
21 Thank you. We appreciate all of the feedback.
22 This is very helpful for us. And we just have a
23 new process here, with the new Commission and
24 Department of Energy, and we appreciate the help.

1 Okay. If there's nothing else, I'll
2 thank everyone for their time today. And we are
3 adjourned.

4 ***(Whereupon the prehearing conference***
5 ***was adjourned at 4:18 p.m.)***

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