

1 **STATE OF NEW HAMPSHIRE**2 **PUBLIC UTILITIES COMMISSION**3 **January 4, 2024 - 9:02 a.m.** **Day 1**4 21 South Fruit Street
5 Suite 10
6 Concord, NH7
8 RE: **DE 23-039**9 **LIBERTY UTILITIES (GRANITE STATE**
10 **ELECTRIC) CORP. d/b/a LIBERTY UTILITIES:**
 Request for Change in Distribution Rates.
 (*Hearing regarding Motion to Dismiss*)11
12 **PRESENT:** Chairman Daniel C. Goldner, *Presiding*
13 Commissioner Pradip K. Chattopadhyay
 Commissioner Carleton B. Simpson14 Alexander Speidel, Esq./*PUC Legal Advisor*

15 Doreen Borden, Clerk

16
17 **APPEARANCES:** **Reptg. Liberty Utilities (Granite State**
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 Michael J. Sheehan, Esq.19 **Reptg. Trustees of Dartmouth College:**
20 Thomas B. Getz, Esq. (*McLane Middleton*)21 **Reptg. Clean Energy New Hampshire:**
22 Christopher Skoglund

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

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APPEARANCES: (C o n t i n u e d)

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Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:
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P R O C E E D I N G

1
2 CHAIRMAN GOLDNER: Okay. Good morning.
3 I'm Chairman Goldner. I'm joined today by
4 Commissioners Chattopadhyay and Simpson.

5 This is the hearing addressing the New
6 Hampshire Department of Energy's Motion to
7 Dismiss Liberty's rate case filing, which was
8 filed on December 13th, 2023, in conjunction with
9 the DOE's testimony and the Company's rate in
10 chief.

11 The Office of the Consumer Advocate
12 filed an initial response letter to the DOE
13 Motion to Dismiss on December 13th, 2023, and a
14 further response on December 26th, where the OCA
15 indicated that it supported the DOE's Motion.

16 Liberty filed its response in
17 opposition to the Motion to Dismiss on December
18 26th, 2023.

19 No other party has filed a response to
20 the Motion to Dismiss or associated pleadings.

21 This hearing was scheduled by the
22 Commission in a procedural order issued on
23 December 15th, 2023, which was reconfirmed by the
24 Commission order, in our Order Number 26,924,

1 issued on December 29th, 2023, which granted the
2 DOE's separate Motion to Stay in this proceeding
3 until January 31st, 2024, with the exception of
4 the Commission's consideration of the Motion to
5 Dismiss.

6 Before we take appearances, we'll
7 address the general question of how we are to
8 approach this hearing. The Department of Energy
9 is the moving to party in the Motion to Dismiss,
10 with the OCA in support. It's our expectation
11 that the DOE will make its presentation first,
12 with the OCA then presenting its position, in
13 support of the DOE, with the Company then having
14 the opportunity to present its position.

15 No witness list or exhibit list has
16 been presented by the DOE or any other party.
17 The Commission will inquire about this with the
18 DOE and the other parties after appearances.

19 That said, are there any objections to
20 our general approach on how to begin?

21 MR. DEXTER: No objection.

22 CHAIRMAN GOLDNER: Okay. All right.
23 Seeing none.

24 If there's no other preliminary

1 matters, we'll now take appearances, starting
2 with the Department of Energy.

3 MR. DEXTER: Good morning, Mr.
4 Chairman, Commissioners. Paul Dexter, on behalf
5 of the Department of Energy, joined by co-counsel
6 Matt Young and Ally Ladwig.

7 CHAIRMAN GOLDNER: Thank you. And the
8 Office of the Consumer Advocate?

9 MR. KREIS: Good morning, Mr. Chairman,
10 Commissioners. I'm -- excuse me -- I'm Donald
11 Kreis, the Consumer Advocate. With me today is
12 our Staff Attorney, Michael Crouse.

13 CHAIRMAN GOLDNER: Very good. And,
14 finally, the Company?

15 MS. RALSTON: Good morning. On behalf
16 of Liberty Utilities (Granite State Electric)
17 Corporation, doing business as Liberty, Jessica
18 Ralston, from the law firm Keegan Werlin, joined
19 by Michael Sheehan, in-house counsel for the
20 Company.

21 CHAIRMAN GOLDNER: Thank you.

22 Okay. I'll begin by asking -- sorry?
23 Oh. Mr. Getz?

24 MR. GETZ: Good morning, Mr. Chairman,

1 Commissioners. I'm Tom Getz, from the law firm
2 of McLane Middleton, on behalf of Dartmouth
3 College. And I will, at some appropriate point,
4 have a very brief statement about the Dartmouth
5 College's position.

6 Thank you.

7 CHAIRMAN GOLDNER: Okay. Thank you.

8 Are there any other parties here
9 today?

10 MR. SKOGLUND: Yes. Good morning,
11 Commissioners. Chris Skoglund, with Clean Energy
12 New Hampshire. This will be probably be my last
13 remark today.

14 CHAIRMAN GOLDNER: Okay.

15 Okay. Thank you. I'll now ask some
16 questions of Attorney Dexter of the Department of
17 Energy.

18 Is it fair to say that the Department
19 does not intend to call any witnesses today?

20 MR. DEXTER: I do not intend to call
21 any witnesses today, no. If the Commission has
22 questions that I can't answer as counsel, all of
23 the "witnesses" in the rate case are here. But I
24 wasn't planning on putting them on and conducting

1 any direct examination.

2 CHAIRMAN GOLDNER: Okay. So, maybe
3 just let me ask you a general question before we
4 begin, in terms of your intention of supporting
5 your Motion to Dismiss. It will be conducted
6 solely by yourself and the legal -- the legal
7 side of the Department?

8 MR. DEXTER: Yes. That's my
9 anticipation, yes.

10 CHAIRMAN GOLDNER: Okay. All right.
11 Let me go -- turn to attorney -- let me turn to
12 Liberty, and ask if the Company intends to put
13 any witnesses on the stand today?

14 MS. RALSTON: So, I think we're in a
15 similar position to DOE. We're intending to rely
16 on arguments by counsel and our legal Objection.

17 We did, as you can see, bring, you
18 know, the subject matter experts. But we were
19 not intending to call them to the stand.

20 CHAIRMAN GOLDNER: Okay. Thank you.
21 And Attorney Kreis?

22 MR. KREIS: We didn't bring any of our
23 witnesses with us today. The Commission didn't
24 ask us to bring any witnesses or indicate that it

1 expected to hear testimony. And I'm not
2 expecting to hear any at all.

3 CHAIRMAN GOLDNER: All right. So, I
4 think, right now, we're proceeding "on the
5 papers", as it were, with the parties using
6 today's hearing as a forum for legal arguments.

7 In the interest of judicial economy at
8 today's hearing, we have a hard stop at noon.
9 So, we'll invite each party, starting with the
10 DOE, to make its statement of position regarding
11 the Motion to Dismiss. After which, after the
12 parties have all had an opportunity to comment,
13 the Commission does have some questions for the
14 attorneys.

15 So, without any further ado, Attorney
16 Dexter, if you'd like to begin.

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

18 As you indicated, the Department filed
19 its Motion to Dismiss earlier in this case, on
20 December 13th, 2023. In summary, I want to
21 stress the basic point of the Motion, is that we
22 believe that the Company has presented three
23 different sets of financial information in this
24 case, and all three of them can't be -- can't be

1 correct. And it's our position that the
2 financial information as presented for 2022
3 should not be relied on for setting rates in this
4 case, because of the various flaws in the 2022
5 information that was pointed out in the Motion to
6 Dismiss.

7 I want to point out that the Motion --
8 we intended the Motion to be comprehensive, and
9 we included all the information supporting the
10 Motion, as attachments to the Motion. We
11 included the Audit Report, which I don't believe
12 the Commission had seen at this point, and any of
13 the various data requests that had been submitted
14 in this case that were relevant to the Motion to
15 Dismiss we attached, as well as any of the cases
16 that we submitted.

17 So, we did not come here today to then
18 go over all that stuff. I just want to get back
19 to your very first question.

20 Second of all, -- so, we think the
21 Motion, you know, speaks for itself. And we
22 stand by all the points that were made in the
23 Motion.

24 Second of all, Liberty, in its response

1 on December 26th, didn't contest any of the facts
2 that we put forth in the Motion or in any of the
3 attachments that we included. They have
4 basically taken responsibility for keeping their
5 books in 2022, and they have acknowledged the
6 need, you know, that it was necessary for all the
7 various corrections that were made to have been
8 made. And they didn't dispute any of the -- of
9 the facts that were included with the Motion.

10 As far as the Audit Report, as is
11 typical practice, the Company has an opportunity
12 to comment on the audit report, even before the
13 Rate Case Division of the Department of Energy
14 sees it, and they did that. And, so, there's
15 contained within the Audit Report Liberty's
16 comments on the audit issues, and the
17 Department's response to Liberty's comments on
18 the audit issues.

19 So, all of that is before the
20 Commission in the Audit Report. So, I just
21 wanted to throw that out sort of preliminarily.

22 Basically, I think what this Motion
23 comes down to is the fact that the books that
24 were presented, the books that the Company kept

1 in 2022, and were used as the basis for the rate
2 case, contained a significant flaw. And we, at
3 the Department of Energy, understand that there
4 are two steps that a company must go through when
5 producing a rate case.

6 The first is really a bookkeeping or
7 accounting step. The utilities are required to
8 keep their books using the Uniform System of
9 Accounts. That is provided for in the statutes
10 and in the PUC rules. And the Uniform System of
11 Accounts dictate where the various costs and
12 expenses and plant items and assets and
13 liabilities are to be booked. And, when the year
14 is over, the Company goes through a year-end
15 closing process, whereby the books are reviewed,
16 while the books are still open, and addresses any
17 discrepancies or irregularities or mistakes, and
18 corrects the books while the books are still
19 open, and then the books are closed. And, at
20 that point, the books are kept according to the
21 Uniform Systems of Accounts, and the FERC Form 1
22 is produced from the closed books, and there
23 should be no discrepancies between the FERC
24 Form 1 and the books that are presented.

1 It's the utility's job, frankly, to
2 make sure that this information is presented to
3 the Commission and to the FERC in an accurate
4 fashion. If it happens to be a situation where
5 the Company is filing a rate case, then, based on
6 those, that test year information, that
7 information that's in the books and in the FERC
8 Form 1, then they start with that, and then they
9 produce the rate case. And we understand that
10 there can be differences between what's presented
11 in a rate case and what's presented in the books
12 of the Company for two reasons. Most of the
13 differences are because rates are set not just on
14 per books information, but there are adjustments
15 that are made, we understand that. There are *pro*
16 *forma* adjustments, there are normalizing
17 adjustments, and things like that.

18 But what we don't expect to find are
19 hundreds and hundreds of differences between the
20 books that were closed, the FERC Form 1, and then
21 trying to translate that over into the rate case
22 that was presented.

23 And I think Liberty's Objection
24 indicates a fundamental disagreement with this

1 process that I just laid out. In the Objection,
2 Liberty states that "it's not unusual for there
3 to be variances between the three sets of data
4 because the three sets of data are used for
5 separate purposes and developed at different
6 points in time."

7 And they continue on Page 8 of their
8 Objection to say "To prepare the proposed revenue
9 requirement in a rate case, the utility starts
10 with its books and records with the full
11 knowledge that its actual, unadjusted books and
12 records for the test year will not be a
13 one-for-one match with the revenue requirement
14 that is ultimately proposed in support of a
15 change in rates. The Motion to Dismiss plays on
16 this practicality, concluding that, because there
17 is an alleged "unexplained" variance between the
18 Company's books and records, the FERC Form 1, and
19 the proposed revenue requirement schedules, none
20 of these records is reliable."

21 So, when we see that, we believe that
22 Liberty takes the approach that they -- that they
23 close their books, and then somehow, after the
24 books are closed, go in and do some sort of an

1 examination, and then -- and then produce
2 information for the FERC Form 1 and for the rate
3 case that doesn't match the books. We believe
4 that's the fundamental flaw in the case that was
5 filed here. And it's our position that that
6 review of the books, and that the presentation of
7 information has to take place while the books are
8 still open. And, if it doesn't, it's violating
9 their requirement to keep the books according to
10 the Uniform System of Accounts, and their
11 requirement to file a FERC Form 1 that's
12 accurate.

13 Now, the Uniform System of Accounts has
14 been around for generations, and it's used by all
15 utilities. And it's important, because it allows
16 regulators to look at the books of various
17 utilities, and the books of the particular
18 utility, year-to-year and make comparisons and
19 analyses. And, if you go through the examples of
20 the accounting errors that were made in this
21 case, there are fundamental significant
22 misbookings that prevent the type of analysis
23 that I just referenced.

24 You know, understandably, there might

1 be, you know, an expense that was booked to -- an
2 invoice that was booked to one expense account or
3 another expense account. And, you know, we don't
4 expect that there won't be an occasional
5 situation where you might have to make an
6 adjustment like that.

7 But what we've got here is a different
8 situation. And I highlighted all of these in the
9 Motion, but I just wanted to go through a few of
10 them today.

11 And, if you have a moment, I'd like you
12 to go to the Audit Report, at Page 141, and
13 that's Bates Page 167 in the Motion filing, in
14 the Motion that I filed. And I'm just going to
15 take a minute to get there myself.

16 *[Short pause.]*

17 MR. DEXTER: So, on Page 167, Bates
18 Page 167, it's Audit Report Page 141, in the
19 middle of the page, there's a bunch of numbers
20 that total to about \$1.2 million. And the last
21 two of them are 316,000 and 182,000. And this
22 paragraph in the Audit Report is trying to
23 explain a discrepancy between the FERC Form 1 and
24 the SAP, which is synonymous with the general

1 ledger, balance sheet account of Account 182.3,
2 which is a balance sheet account.

3 So, these last two items, totally over
4 five -- almost \$500,000, are corrections, because
5 the general ledger, I want to make sure I get
6 this right, the correcting entry had to move
7 these accounts from an income statement account,
8 which is 922, which is an expense account, to a
9 balance sheet account. So, again, not from an
10 expense account to an expense account, but a
11 significant half a million dollar entry from a
12 balance sheet account to an expense account.

13 You see the same thing on the next
14 page, if we go to Page 142. This page in the
15 Audit Report is basically just all correcting
16 entries that needed to be made to take
17 information from the balance sheet, Account 184,
18 to an income statement account, 920, which is an
19 expense account.

20 So, again, not, you know, it's not that
21 the expense account was booked into the wrong
22 account, which is significant, but it's not as
23 significant as dozens and dozens of entries that
24 needed to be corrected, to take money from the

1 balance sheet to the income statement.

2 And I could sit here and go on and on,
3 but it's all in the Audit Report, and that's why
4 we provided it.

5 The point is, and the dollar figures,
6 as you can see here, are not insignificant.
7 These are significant dollar amounts.

8 At Page 140, there's an example where
9 money was moved from construction work in
10 progress to an office supply expense. It was
11 only \$14,000, significant nonetheless. The
12 reason I point that out is it's contrary to law
13 to set rates by including construction work in
14 progress in rates. So, if that entry had not
15 been made, we would be presented -- the books
16 reflect a construction work in progress, when it
17 should be an expense account.

18 Now, Liberty has said -- or, has
19 described the so-called "errors" as "mapping
20 errors", and that it was related to their
21 implementation of their new general ledger system
22 and customer billing system that took place on
23 October 1st, in the middle of the test year --
24 not the middle, during the test year. And we

1 understand, at the DOE, that the mapping issues
2 are essentially a computer programming issue. In
3 other words, you have an old set of books, and
4 you have to produce a new set of books, and you
5 have to make sure that the expenses and the
6 various costs on the old set of books get into
7 the right place on the new set of books. And
8 that clearly did not happen in this case, and
9 Liberty has admitted that.

10 But it's also not been demonstrated
11 that the underlying IT issue has been corrected.
12 And what concerns us at the Department of Energy
13 is that, if this is, indeed, an IT issue, and if
14 it's not corrected, there's no indication that
15 the books that are produced in 2023 are going to
16 be any more accurate than the books that were
17 produced in 2022, because this is a recurring --
18 the mapping issues are recurring, is what I'm
19 trying to say.

20 And, again, to the extent that there
21 were mapping issues, this is a situation that the
22 utility needs to correct before it closes its
23 books, before it produces its FERC Form 1, and
24 before it produces its rate case schedules.

1 Now, again, I don't want to read the
2 whole Motion to you, I don't want to read the
3 whole Audit Report to you. So, I'm not -- I'm
4 not trying to deemphasize the importance of this,
5 but I'm actually trying to emphasize the
6 importance of it, without going page-by-page and
7 number-by-number.

8 But I urge you to go through Audit
9 Issue 1 in detail, as I tried to do in the
10 Motion, and indicate that this is not a typical
11 situation, where a few corrections had to be made
12 that were not significant. These are significant
13 corrections that moved money from either the
14 balance sheet to the income statement, or vice
15 versa, and they total in the millions of dollars.

16 Now, Liberty will tell you that it all
17 nets out to a couple of percent, that it's not a
18 big deal. But I think what you're looking at,
19 the magnitude of errors, you have to take an
20 absolute value look at it. You can't just add
21 them all up, because some of them offset one
22 another, and that's fortunate. But the fact of
23 the matter is, that these were significant
24 accounting errors, that totaled millions of

1 dollars, and were identified to number in the
2 hundreds, okay?

3 Now, the other thing that's troubling
4 about all this, from the Department's standpoint,
5 is, as we understand it, none of this was
6 disclosed to the Department or the Commission
7 when the case was filed. In other words, we were
8 presented with what looked like a standard -- a
9 standard rate case.

10 And I'm looking at the Testimony of
11 Kristin Jardin and Daniel Dane that was filed
12 with the case. And it talks about their test
13 year. And I'm on Bates Page II-276 of the
14 filing. I don't think it's necessary to go
15 there. I just want to read a couple of
16 sentences.

17 Under the paragraph that says "Test
18 Year", it says: "Our analysis began with the
19 Company's financial results in the Test Year
20 (i.e., the twelve months ending December 31,
21 2022). From those results, we removed
22 flow-through items (e.g., purchased power and
23 transmission wheeling revenues and expenses), and
24 made *pro forma* known and measurable adjustments.

1 The resulting Test Year *pro forma* net income
2 reflects normalized revenues at current rates,
3 expenses, and net income for ratemaking purposes,
4 as presented on RR-2."

5 So, nowhere in here does it say, you
6 know, "the Company began with the financial
7 results in the Test Year", okay, that's a true
8 statement. "We removed flow-through items, and
9 made *pro forma* known and measurable adjustments."
10 Well, included in the *pro forma* known and
11 measurable adjustments were significant instances
12 where the -- where the rate case schedules,
13 because all sorts of financial information is
14 presented in the rate case schedules, could not
15 be taken from the books or from the FERC Form 1,
16 because there were significant adjustments that
17 had to be made. These were not disclosed to the
18 Department, or to the Commission. These were
19 discovered in the audit process and in the
20 discovery process.

21 And, so, again, we're talking about a
22 situation where we start with the books, and then
23 the Company produces the FERC Form 1. And most
24 of what I've been talking about so far were

1 differences between the two, where there really
2 should be no differences, because they have to
3 come from the same database. But, apparently,
4 Liberty realized that the books were not
5 accurate. And, in order to produce a more
6 accurate FERC Form 1, they had to make these
7 various adjustments.

8 And, then, there's the second step,
9 which is to take you from the books and the FERC
10 Form 1 to get to the rate case. What I'm talking
11 about now is that second step, getting to the
12 rate case.

13 So, in the Audit Report, on -- it's
14 Audit Issue Number 28, and it's at Bates 216 of
15 the Audit Report. And I would recommend if you
16 have a moment to go there.

17 There's a -- Bates Page 216 is,
18 basically, a chart that lists five significant
19 entries, differences, between the rate case and
20 the FERC Form 1 -- and the FERC Form 1. And
21 these same five issues were questioned in a data
22 response, which is data response to DOE 11-14.
23 And it basically has the question, and the text,
24 and it has this chart.

1 I'd actually like to hand that out, if
2 there's no objection from the Company. I know
3 the Commission doesn't have data responses.
4 You've got the essence of it in the Audit Report.
5 But I think, to provide the better context, if
6 there's no objection, I'd like to hand out
7 Response 1-14 [11-14?].

8 CHAIRMAN GOLDNER: Attorney Dexter,
9 would you like to make this an exhibit?

10 MR. DEXTER: Sure. I guess we should
11 do that, yes.

12 CHAIRMAN GOLDNER: Attorney Ralston,
13 are you okay with marking that?

14 MS. RALSTON: No objection from the
15 Company.

16 CHAIRMAN GOLDNER: Thank you. Attorney
17 Dexter, please proceed.

18 MR. DEXTER: Yes, I will. And my
19 colleagues have corrected me, that it's "Response
20 11-14", not "1-14".

21 CHAIRMAN GOLDNER: Okay. I'll assume
22 it's still okay with the Company, yes?

23 MS. RALSTON: Yes. No change.

24 CHAIRMAN GOLDNER: Thank you.

1 *[Atty. Dexter distributing documents.]*

2 MR. DEXTER: So, Request 11-14
3 references two discrepancies from the FERC
4 Form 1, which is -- and the general ledger, to
5 what's called the filing at "Schedule RR-2-10".
6 That's a required financial schedule that's in
7 the rate case filing. You can find RR-2-10 at
8 Bates II-307 and II-308. I don't think it's
9 necessary to go there. But, basically, it's a
10 horizontal spreadsheet that lists the Company's
11 operations by FERC account.

12 And it points out that -- it asks the
13 Company to explain the variances, and then it
14 asked them to identify any other such
15 discrepancies between the FERC Form 1 and the
16 filing, Schedule 2-10. And, in response, we got
17 an explanation for the two variances, which are
18 significant. One of them is half a million
19 dollars, another one is \$356,000. Again, they
20 both are expense accounts that flow directly into
21 the revenue requirement.

22 And, then, in the horizontal sheet that
23 was presented, to highlight the other four
24 differences, we see the first one is almost

1 \$700,000, has to do with a discrepancy between,
2 again, construction work in progress, versus an
3 expense account. So, money is being corrected
4 from, again, the balance sheet to income
5 statement, again, almost \$700,000, and affecting
6 construction work in progress; construction work
7 in progress cannot be included in rates by law.

8 The second entry is over \$850,000.
9 Again, affects construction work in progress.
10 This one goes from an asset account to a
11 liability account, that doesn't affect the income
12 statement, and so on and so forth. The point
13 is -- and, then, Liberty says "Well, those are
14 the five differences."

15 These were not disclosed to the
16 Company -- to the Department, or the Commission,
17 at any time, as I understand it, in the course of
18 this case. And, to the contrary, we have a
19 statement in their testimony that says "We
20 started with the Test Year, and we made *pro forma*
21 known and measurable adjustments." This is not a
22 "*pro forma* known and measurable adjustment".
23 This is a correction to the fundamental financial
24 information that supports the rate case filing.

1 And, in the Department's view, that presents a
2 serious flaw.

3 Now, we have no way of knowing whether
4 or not these are the only five adjustments that
5 needed to be made. You know, we're told by the
6 Company that these five adjustments were made.
7 But, again, we're talking about adjustments that
8 were made from the books in order to put the rate
9 case together. And it's our position that these
10 should have been disclosed up front.

11 So, in the Objection to the
12 Department's Motion, the Company has noted that
13 "Yes, there were problems. But they have all
14 been corrected. And, if you look at the
15 November 27th Corrections and Updates filing,
16 that that should be used for the basis of the
17 case. And there's really no reason to dismiss
18 the case, because all the problems have been
19 identified and corrected."

20 And, you know, the Department has a
21 couple of thoughts on that. I guess we are -- we
22 are skeptical that all the problems have been
23 identified, and therefore corrected. And one of
24 the reasons is, is that, if you go through the

1 Corrections and Updates filing, and the Company
2 put together a nice summary, it's an Excel sheet,
3 and I think it's called "RR Tracker", or
4 something like that, and it lists all 26
5 adjustments that they made as the result of the
6 investigation. All of those adjustments have
7 come to be because things were questioned by
8 either the Department or the Office of the
9 Consumer Advocate, or the Department's Audit
10 Staff. As far as we can see, none of these
11 corrections have come organically from the
12 Company based on an examination of the books,
13 which we believe should have taken place before
14 the case was ever filed.

15 So, it's been a situation where we've
16 pointed out a discrepancy in the books, or the
17 Consumer Advocate has pointed out a discrepancy
18 in the books, and Liberty has said "Oh, yes,
19 there's a discrepancy, and we'll fix it. So,
20 we'll make sure the revenue requirement is
21 correct."

22 That's not a -- that's not an adequate
23 presentation. And, in our view, that doesn't
24 meet the Company's burden of proving that the

1 rates are reasonable based on accurate books.

2 The Audit Staff -- so, that's number one.

3 Number two, the Audit Staff looked at
4 the various correcting entries that the Company
5 said would need to be made in order to reconcile
6 their books and their FERC Form 1. And, in the
7 Audit, at Page 149, it's Bates 175 in the Motion,
8 the Audit concludes, it says "All transactional
9 or system mapping adjustments should have been
10 addressed. Because of the quantity of the noted
11 adjustments, and the time required to identify
12 variances among the FERC Form 1 accounts, Audit
13 is unable to determine if the reported
14 adjustments are accurate nor if they represent
15 all of the adjustments that should have been
16 done."

17 So, we've completed our audit, and
18 that's the conclusion. Is that "We are unable to
19 determine whether these are accurate or that it's
20 all that should have been done."

21 Secondly, our Audit Department is
22 small. And, like any audits, audits rely on
23 sampling. The Audit Department did not go
24 through every entry that was made to the

1 Company's books. It couldn't. It's not possible
2 in the time allowed, and it's not standard audit
3 practice. There is sampling that goes on. So,
4 there's no -- there's no indication, as they
5 concluded, that their findings were
6 comprehensive.

7 Thirdly, if the Audit had been able to
8 spend it's -- so, the Audit Department routinely
9 verifies the Company's books to the FERC Form 1
10 to the rate filing. And I'm told that that's
11 generally a fairly standard exercise, and a
12 fairly simple exercise, because there aren't
13 significant differences. All the numbers are
14 coming from the same place.

15 In this instance, most of the Audit's
16 time that was spent reporting the -- preparing
17 the report and tracking the issues, was trying to
18 trace these dollars from the three various sets
19 of financial informations that were presented.
20 And, as such, they were not able to perform the
21 second function to the extent that they would
22 like to, which is analyzing the underlying costs,
23 once you find out what account they're in. In
24 other words, the Audit Department verifies the

1 numbers, and then they do an analysis of the
2 underlying information that's in those accounts.
3 They go through invoices, and payroll time cards,
4 and they go through this. And a lot of that was
5 not able to be done to the extent that it would
6 like to be done.

7 Now, there were instances where they
8 were thwarted from tracing various underlining --
9 not "tracing", but verifying underlying
10 information, and I put those in the Motion. One
11 of them had to do with corporate allocations from
12 Liberty's parent company. There's almost a
13 million dollars, I believe, in corporate
14 allocations that the Company -- that the Audit
15 Staff was not able to verify to the correct
16 accounts because of information that was no
17 longer available since the new accounting system
18 was implemented.

19 And, secondly, the standard payroll
20 comparison that the Audit Department does was not
21 able to be performed, because of reports that
22 were not available because of the new accounting
23 system. And those are detailed in the motion
24 completely.

1 Third, as to why we have concerns about
2 the Corrections and Update filing? As recently
3 as I think it was December 1st, and we put this
4 in the Motion, in Paragraph 43 of the Motion,
5 Liberty disclosed another error that occurred
6 because of the transition from the old system to
7 the new system. It had to do with receivables
8 and payables, and a correction -- it was a
9 mapping issue, but, in correcting the mapping
10 issue, receivables and payables were overstated
11 by over \$500 million. Now, you know, it's not
12 like that found its way into the rate case or
13 anything like that. But it's a significant,
14 significant amount, in a balance sheet account,
15 that they discovered, in response to a question
16 that we raised, in December of 2023, almost
17 twelve months after the test year was closed.

18 Another real concern we have, we've
19 been talking a lot about the accounting and the
20 books. But the SAP system that was implemented
21 on October 1st also is a complete customer
22 billing system. And we've had concerns from the
23 outset, based on information we've read in the
24 paper, and from calls to the Consumer Services

1 Division, that bills were not being issued on a
2 timely basis.

3 And, so, the Rate Case Team was
4 immediately concerned that the test year revenues
5 would not be accurate, because there would be
6 customers that weren't billed in the test year,
7 because the implementation took place in October,
8 and we had heard there were bills that were being
9 delayed for multiple months. And, so, we asked
10 the Company, right at the outset of the case,
11 about unbilled revenues that resulted from the
12 system. And they told us that they weren't able
13 to quantify the unbilled revenues. And, then, we
14 asked again, and then they were able to quantify
15 the unbilled revenues. And I detailed this in
16 the Motion, at Paragraph 36. And there's an
17 attachment to the Motion at Bates Page 266, which
18 actually is the chart that the Company provided
19 to detail the unbilled revenues that resulted
20 from the conversion to the new billing system in
21 October.

22 They identified over 650 customers, and
23 then they traced those customers forward, and
24 indicated, you know, when they were -- when they

1 were actually billed. And some of them were as
2 late as August of 2023.

3 Now, as far as we've been able to --
4 so, the impact of that, from the Department's
5 viewpoint, is that the test year revenues and
6 billing determinants are understated, because
7 this was consumption that took place during the
8 test year, but doesn't show up on the books until
9 2023. And, if your test year revenues and test
10 year billing determinants are understated, your
11 requested revenue increase is going to be
12 overstated. And we don't see an adjustment in
13 the Corrections and Updates filing for that
14 situation. That's number one.

15 Number two, the way the question was
16 asked, we were focused on the test year, 2022.
17 In other words, who consumed services in 2022,
18 but weren't billed until 2023. And that's the
19 answer that we got, you know, 670 -- or, 684
20 customers, I think it was, and roughly \$750,000.

21 We didn't ask, you know, "did this
22 situation occur in 2023 also?" So, we have no
23 idea whether or not there are customers that were
24 consuming electricity in 2023, and have not been

1 billed. We've had anecdotal evidence that
2 billing issues persist. But I just want to point
3 out that that's not captured in the 750 or so
4 thousand dollars on that chart on Bates Page 266.
5 And, again, I don't see that there's any
6 adjustment in the Corrections and Updates filing
7 for that revenue situation.

8 Another point we wanted to stress was,
9 and, obviously, a test year information is always
10 important. But, in this case, it's even more
11 important than usual, because the Company has
12 presented a three-year rate plan. So, if the
13 Department were to -- if the Commission were to
14 set rates based on the 2022 information, they
15 would be setting rates for three years, under the
16 Multi-Year Rate Plan, number one. So, added
17 importance on the accuracy of the test year.

18 Number two, you know, I said before,
19 you know, maybe it doesn't matter if one expense
20 account gets into the wrong expense account, it's
21 still going to factor into the revenue
22 requirement the same way. That's generally true
23 under a traditional ratemaking scheme. But, in
24 this Multi-Year Rate Plan, the Company has

1 different escalators that apply to different
2 accounts. They have an inflation escalator, a
3 payroll escalator. So, it's even more important
4 that the costs get into the exact FERC accounts,
5 because that's how they apply the escalators
6 under the Multi-Year Rate Plan.

7 So, my point here is that, in this
8 case, given the Multi-Year Rate Plan, the
9 accuracy of a 2022 test year is even more
10 important than in a typical rate case. And I
11 don't want to understate the importance of the --
12 of the typical rate case.

13 2023 is not at issue in this case. The
14 case was based on 2022. But I did want to point
15 out, obviously, that Audit has not reviewed the
16 books of 2023 to see if the corrections were
17 made, the "corrections". What the Audit
18 Department reported, and it's in the Audit
19 Report, was that, when these various mapping
20 issues were identified, they were not "corrected"
21 in 2022's books, but the corrections would be
22 made in 2023. Now, Audit didn't verify that, we
23 haven't audited the 2023 books.

24 But that raises an immediate concern

1 with the Department. If there are hundreds and
2 hundreds of correcting entries that relate to
3 2022, that are being made in 2023, if 2023
4 becomes a test year in a future case, those
5 various entries don't relate to 2023, and that
6 would have to somehow be accounted for in a
7 future rate case, if it were based on 2023.

8 So, again, we've got a situation where
9 we weren't able to verify that these are all the
10 mapping corrections that needed to be made. They
11 weren't made in 2022. We're told they were made
12 in 2023, we would have to verify that. But,
13 then, if a rate case was based on 2023, there
14 would be hundreds and hundreds of correcting
15 entries that would have to be made right off the
16 bat before you could use 2023 as a test year.
17 So, that's of significant concern to the
18 Department.

19 Secondly, there hasn't been any
20 demonstration that the mapping issues were
21 addressed. And it's our view that it would be
22 very unlikely for them to have been addressed on
23 January 1st, 2023, because most of what we've
24 been talking about, the audit, the closing of

1 books, the FERC Form 1, the filing of the rate
2 case, that took place over a six-month time
3 period in 2023. So, if these issues were just
4 coming to the forefront in the beginning of 2023,
5 the Department is very, very doubtful that there
6 aren't mapping issues that continued into 2023.

7 So, you know, I'm throwing a lot of
8 numbers and accounts and theories and things out
9 here. But the bottom line is, that the reason
10 the Department filed the Motion, which is --
11 which was an unusual motion, we understand that.
12 It's essentially unprecedented. And it's not an
13 issue that we took lightly. And we didn't come
14 to the conclusion to file it lightly. But it was
15 impossible for us to read the Audit Report, and
16 then have witnesses, you know, produce testimony,
17 having read that Audit Report, which raised
18 fundamental -- which raised significant doubts
19 about the fundamental information that was
20 presented.

21 Now, our witnesses did go ahead and
22 produced a rate case, you know, the way we
23 normally do, and we put a -- I don't want to call
24 it a "disclaimer", but an explanation at the

1 beginning of Ms. Nixon's testimony, saying that,
2 by producing the rate case, the various
3 adjustments, the opinions on the Multi-Year Rate
4 Plan, on the return on equity, on all the various
5 issues, that we were not -- we were not waiving
6 or discounting or underplaying the issues that
7 were raised in the Motion to Dismiss. But we
8 went ahead to do our job, so to speak, using the
9 information that was provided. But the point is,
10 that we don't view the 2022 information as
11 reliable for setting rates.

12 And the Company, you know, is in total
13 control of when the rate case is filed, when the
14 system is implemented, and they chose, in this
15 case, to do both of those things at the same
16 time. And they have said in their Objection, at
17 Page 3, at Page 3, over to Page 4, that everybody
18 knows that, when a system is converted, there
19 will be challenges. They knew it. And, so, they
20 went into this knowing that there were going to
21 be challenges.

22 And I think, unfortunately, for all
23 involved, that have spent hours and hours, and
24 lots of money on this case, that the appropriate

1 remedy is to dismiss the case, and not spend any
2 further time trying to figure out if the
3 underlying information is correct, and certainly
4 not setting rates for the next three years, based
5 on the information, where the problems are so
6 obvious. They're right in our face. They're
7 not -- they're not hidden. And that's what we
8 tried to lay out in the Motion.

9 So, we respectfully, regrettably, but
10 respectfully request that the Department *[sic]*
11 dismiss this case, and not -- and not allow it to
12 go forward, because that essentially represents a
13 shifting of the burden of proof, in our view, for
14 us, and the Consumer Advocate, to ask questions,
15 and then seek corrections, and then -- and then
16 reconcile this, and make sure the rate case is
17 right. That's all supposed to be done by the
18 Company before the case is filed. And the way
19 this case has played out, in our view, it's an
20 impermissible shifting of the burden of proving
21 that the rates are just and reasonable.

22 So, that concludes my comments, and
23 thank you for your time.

24 CHAIRMAN GOLDNER: Thank you, Attorney

1 Dexter. We'll move now to the Office of Consumer
2 Advocate, and Attorney Kreis.

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

4 I listened very carefully to what
5 Attorney Dexter just told you, and I agree and
6 adopt every single word of what he said. The
7 motion that's pending before you raises very
8 serious issues, both for the Commission and for
9 us, as the Consumer Advocate. Because, as we
10 explained in our response to the Department's
11 Motion, we don't have an audit team. We rely
12 entirely on the auditing work that the Department
13 does and, prior to the creation of the
14 Department, the PUC's own Audit Division did.
15 And, if our witnesses and our team can't rely on
16 the books and records that the Company produces
17 that underlie its rate case, then our testimony
18 and our positions, and our ability to evaluate
19 what the Company has filed, are just as
20 challenged and ultimately just as flawed as the
21 Department's are, and as the Commission's review
22 is.

23 You know, this has been styled as a
24 "Motion to Dismiss", and the Department's Motion

1 invokes the sort of traditional standard that
2 would apply to a motion to dismiss if this were a
3 civil proceeding. But I don't really think that
4 is a helpful way of evaluating the situation
5 we're in today, because, in a civil proceeding,
6 you would accept all of the facts in the claim, I
7 guess, the complaint, as true, and then see if
8 there's no basis for providing relief as a matter
9 of law.

10 Well, here, what the Department is
11 telling you, and I agree with it, is that you
12 can't accept all of the factual assertions in the
13 Commission's -- in the Department -- in the
14 Company's rate case filing is true, because the
15 underlying books and records don't support what
16 the Company has offered to all of us in support
17 of its request, for what is a very, excuse me,
18 significant rate increase.

19 So, I think it really is less about the
20 niceties of civil procedure that would apply in a
21 courtroom, and more about what the Commission's
22 job is here, which is to assure that rates are
23 just and reasonable, under a statutory standard
24 that unambiguously places on the Company the

1 burden of proof, which includes the burden of
2 going forward with the evidence and the burden of
3 persuasion. And the Company clearly hasn't met
4 it, for all the reasons that Attorney Dexter has
5 just explained to you.

6 A rate case, and this has been
7 something of a problem in lots of dockets that
8 I've seen at the PUC over the years, a rate case
9 filing by a company isn't a trial balloon. It
10 isn't just "Well, you know, we've looked, and we
11 think we're not earning a reasonable return on
12 our investment. So, we think we need a rate
13 increase. And here's our initial hypothesis
14 about what we ought to be able to" -- "what kind
15 of a rate increase we really need." Everybody is
16 supposed to be able to rely on the Company's
17 filing, and allowing it to perpetually update and
18 correct and change what it is asking the
19 Commission to do creates the kind of moving
20 target that makes it impossible for other parties
21 to participate meaningfully, and ultimately makes
22 it impossible for the Commission to make a
23 reasoned decision based on an established factual
24 record.

1 You know, there's been a lot of talk
2 here about the FERC Uniform System of Accounts.
3 And I think it's useful to remember why we have a
4 Uniform System of Accounts. Uniform Systems of
5 Accounts emerged from the ooze of the first
6 several decades of the Twentieth Century, when
7 lots of business corporations, certainly
8 utilities, were engaging in all kinds of
9 unconscionable financial depredations, many of
10 which led directly to the Great Depression, and
11 turning the nation's economy into a disaster
12 area.

13 And, so, what happened is that the
14 Securities & Exchange Commission was founded, and
15 other federal regulatory initiatives were
16 undertaken, and oversight of public utilities
17 before state commissions was enhanced, so that
18 there is now a recognized and, indeed, uniform
19 system through which public utilities that are
20 regulated account for their -- the way their
21 handling their money.

22 And, so, if you can't rely on the way
23 this Company is applying the Uniform System of
24 Accounts, then the fundamentals here just are so

1 troubling that the Commission really has no
2 choice, other than to grant the Department's
3 Motion.

4 Now, as we said in our response, merely
5 granting the Motion and saying "Well, start
6 over", that's not enough, from our perspective,
7 because lots and lots of, as Mr. Dexter has
8 already told you, money has been expended on this
9 rate case. And, ordinarily, all of that money
10 would be recovered from customers. None of that
11 money should be recovered from customers in this
12 case, if the Commission grants the dismissal
13 motion, it's essential that every single dime of
14 costs that anybody has incurred be taxed to this
15 Company's shareholders.

16 I think that's all I have to say at
17 this point, in the interest of time.

18 CHAIRMAN GOLDNER: Thank you. We'll
19 move now to the Trustees of Dartmouth College,
20 and Attorney Getz.

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

22 Dartmouth's chief interest in this
23 proceeding concerns rate design issues related to
24 efficient load management and electrification of

1 its energy usage. It has not weighed in on
2 revenue requirement issues.

3 Dartmouth has, however, reviewed the
4 positions that the DOE and the Consumer Advocate
5 have taken relative to the sufficiency of
6 Liberty's rate filing, and it has reviewed
7 Liberty's Objection. Because of it's limited
8 focus on rate design issues, however, Dartmouth
9 is simply not in a position to provide the
10 Commission a substantive opinion on the
11 sufficiency of Liberty's test year data or the
12 import of the DOE's Audit findings, nor is it in
13 a position to offer you an opinion on the
14 efficacy of Liberty's alternative proposal to
15 supplement the record with additional evidence.

16 Thank you.

17 CHAIRMAN GOLDNER: Thank you, Attorney
18 Getz. And we'll turn now to Clean Energy New
19 Hampshire, and Mr. Skoglund.

20 MR. SKOGLUND: Thank you, Mr. Chairman.

21 This topic does fall well outside of
22 our area of expertise and our typical area of
23 interest. Though, I would note that we do find
24 Attorney Dexter's points raised today to be very

1 compelling, and worthy of deep scrutiny by the
2 Commission, and would suggest that they give them
3 the highest level of consideration.

4 Thank you.

5 CHAIRMAN GOLDNER: Thank you. And
6 we'll turn, finally, to the Company.

7 MS. RALSTON: Good morning. Thank you.

8 Before I get into the merits of the
9 Company's position, I wanted to introduce the
10 representatives of the Company that are here
11 today. So, we have Neil Proudman, the President
12 of Granite State and EnergyNorth; Lauren Preston,
13 Liberty's Vice President of Customer Care; Sarah
14 Knowlton, Liberty's General Counsel; Peter Dawes,
15 Vice President of Finance and Administration for
16 the East Region; Erin O'Brien, Director of
17 Accounting for the East Region; and Erica Menard,
18 Senior Director of Rates and Regulatory Affairs
19 in the East Region.

20 Mr. Proudman, Ms. Preston, Mr. Dawes,
21 and Ms. O'Brien have expertise related to the
22 issues we're speaking about this morning. And,
23 as I indicated earlier, the Company was not
24 intending to call them. But I just wanted to

1 make sure the Commission was aware that they're
2 here, and they could answer questions if the
3 Commission decided to go down that avenue.

4 So, in addition, I thought it might be
5 helpful to make some introductory comments and
6 provide some context about the Company's
7 transition to the SAP system that we heard a lot
8 about this morning from the Department of Energy.

9 So, as an initial matter, the Company's
10 investment in SAP is consistent with its intent
11 to invest in industry standard systems. These
12 systems are intended to allow the Company to run
13 efficient and effective operations, provide
14 transparency and visibility to the Commission,
15 and provide benefits to its customers. In filing
16 this case, it was the Company's intent to provide
17 accurate financials upon which the Commission can
18 determine rates. So, while we recognize that
19 this case has been more challenging because of
20 the issues that have played out as a result of
21 filing in close proximity to that system
22 conversion, the Company is confident that it can
23 provide the assurances the Commission needs that
24 the financial information is dependable for

1 purposes of ratemaking.

2 And, for additional context, and to
3 understand how we go to where we are today, I
4 think it's helpful to go back and discuss some of
5 the history related to the system conversion.
6 So, the Company, as the Commission is aware, is
7 one of many utilities owned by Algonquin Power &
8 Utilities Corp., and has operated on its legacy
9 Cogsdale customer service and Great Plains
10 accounting platforms since it was acquired from
11 National Grid in 2012. Other utilities within
12 its corporate family have operated on different
13 legacy systems as they were acquired.

14 In 2016, when the Commission conducted
15 its review of EnergyNorth and Granite State
16 through a management audit that was conducted by
17 a third party firm selected by the Commission,
18 there was criticism of Liberty's prior systems
19 and a recommendation and recognition that it's
20 time to move to one system that could better
21 serve customers. That system, it was recommended
22 that it provide more robust enterprise business
23 system platforms. And, so, the Company's move to
24 these new SAP systems was based on that

1 recognition that there was a need to put these
2 robust systems in place.

3 The Company believed that accepting the
4 recommendations of that audit and moving to these
5 new systems was the right decision. But, as
6 Attorney Dexter mentioned earlier, with any
7 system transition, there's a period of
8 challenges, to adjust to the new ways of
9 understanding the information and the new ways of
10 operating.

11 The Company also wants to recognize, as
12 we've also heard from the other parties, that
13 there's been a significant investment of time in
14 this case, including the audit conducted by the
15 Department of Energy, the time spent responding
16 to the Company's proposals, including the
17 recently filed testimony by the Department of
18 Energy, the Office of Consumer Advocate,
19 Dartmouth College, the Community Power Coalition,
20 and Walmart. This testimony comes after months
21 of robust discussions and exchange of information
22 between the parties through discovery and
23 technical sessions.

24 For the reasons I will describe, to

1 dismiss the case in face of all the work that has
2 been done, including by the Department of Energy,
3 which has recommended a rate increase based on
4 its calculations using the Company's books and
5 records, simply doesn't make sense, and would
6 call for an unprecedented action by the
7 Commission. Based on my review, the Commission
8 has never granted a motion to dismiss an entire
9 rate case. And, as detailed in the Company's
10 Objection, the Commission's standard that would
11 warrant such a result has not been met here.

12 There have been challenges with the
13 transition, but there is no support for a
14 determination that the Company's filing is so
15 deficient that there would be no basis for the
16 Commission to make its necessary determinations
17 on the rate filing, which is the legal standard
18 that governs the DOE's Motion. In fact, the
19 Department of Energy could not cite to any legal
20 precedent that actually supported its Motion.
21 It's also noteworthy that the Department of
22 Energy didn't file its Motion to Dismiss
23 following the issuance of the Audit Report, and
24 instead the Department of Energy requested the

1 Company to provide an updated revenue
2 requirement, which the Company did, to reflect
3 all of the identified adjustments, and then filed
4 testimony that includes a proposed rate increase.
5 The DOE's ability to calculate the proposed rate
6 increase undercuts its position that the
7 Company's records cannot be relied on.

8 In support of its arguments, the DOE's
9 Motion argues that the Company's efforts to
10 correct its financial information are incomplete,
11 complicated, and represent a shifting of the
12 burden from Liberty to the DOE and other parties.

13 And I think the use of the word
14 "complicated" on Page 1 of the Motion to Dismiss
15 is very informative. The Company has
16 acknowledged it is the conversion of the
17 Company's accounting system to the new SAP system
18 that caused the complication that we've been
19 speaking about this morning. So, this new system
20 resulted in an additional step that had to be
21 taken to conform this new SAP system to the
22 Company's FERC accounts. That's what we've
23 hearing this morning, referred to as this
24 "mapping", it's a mapping from those SAP accounts

1 to the FERC accounts. And this additional new
2 step has resulted in confusion, frustration, that
3 we've heard this morning. And the confusion and
4 frustration, however real, are simply not a basis
5 for depriving the Company of its opportunity to
6 present its case for the Commission's review, to
7 determine fair and reasonable rates that will
8 allow for recovery of prudently incurred costs
9 and a reasonable rate of return. Fair and
10 reasonable rates are necessary for the Company to
11 maintain its financial integrity and fulfill its
12 obligations to its customers.

13 The Company submitted its filing as
14 part of its normal course of business. The
15 Company has generally filed a rate case every
16 three years. The most recent rate case was filed
17 in 2019, and resolution of that case allowed for
18 step adjustments, and included a stay-out
19 provision that anticipated 2022 as the test year.
20 So, accordingly, this proceeding was the next
21 anticipated rate adjustment, and was necessary in
22 light of the Company's significant investments
23 that it has made in recent years, and had not
24 been recovered through the step adjustments.

1 We heard a lot this morning and the
2 Motion itself relies heavily on the Audit Report.
3 And the Audit Report concludes that the Company's
4 2022 books do not match the 2022 FERC Form 1 or
5 the revenue requirement schedules. The Company
6 has never contested that there are variances
7 among these three sets of data. And, in fact,
8 much of what the Audit Report is focused on are
9 the adjustments that the Company made before it
10 filed this case. So, earlier, when Attorney
11 Dexter was pointing us, I believe it was Page 167
12 of Audit Report, and there was a list of
13 adjustments, all of those adjustments were
14 identified by the Company, and were made prior to
15 filing this case. They were reflected in the
16 FERC Form 1, and they were reflected in the
17 revenue requirement that was submitted to the
18 Commission. DOE's argument that the utility
19 cannot meet its burden of proof if those three
20 sets of data do not match is unsupported. I'm
21 not aware of any legal precedent that would
22 support such a conclusion.

23 The Motion also fails to acknowledge
24 that the existence of the variance between the

1 three datasets is proof that the Company took the
2 appropriate steps to address the mapping issues
3 within its new SAP system. For example,
4 Paragraph 19 of the Motion to Dismiss discussed
5 the variance between the FERC Form 1 and the 2022
6 booked amounts, reaching the conclusion that the
7 Company produced three sets of data. Attorney
8 Dexter repeated that this morning a few times.
9 This is correct, and this occurred because the
10 Company has been diligently reviewing and making
11 the adjustments necessary to produce an accurate
12 revenue requirement that can be relied on to set
13 rates. Updating the revenue requirement is
14 typical in a rate proceeding, and is appropriate,
15 regardless of whether there had been a change in
16 the rate proceeding. Any time the Company was
17 made aware of an issue, it has made that
18 adjustment and reflected it in the revenue
19 requirement.

20 It's also important to note that SAP is
21 a standard accounting system that's prevalent,
22 including for utility companies across the
23 country, and it has many benefits. It will
24 improve the Company's ability to integrate its

1 accounting records with other systems, including
2 billing, asset management systems, it also
3 provides for robust reporting for a variety of
4 purposes, and will provide a consistent set of
5 processes across all Algonquin companies. So,
6 these are some of the ways of addressing the
7 concerns previously raised by the Commission in
8 2016.

9 Part of the confusion and frustration
10 we've heard throughout this morning's argument is
11 that this is a new system. It's not just new to
12 the Department of Energy, it's new to the State
13 of New Hampshire. Liberty is the first and only
14 utility that currently uses an SAP system. And
15 so, as a result, its implementation has created a
16 learning curve, not just for the DOE, but also
17 for the Company. And one of the biggest
18 differences is the mapping that I was discussing
19 earlier. So, that transition from the SAP
20 accounts, sometimes used as "GAAP accounts" or
21 "natural accounts", to the FERC regulatory
22 accounts. And the natural accounts are the
23 accounts used in the Company's books and that are
24 required by securities regulators, and then the

1 FERC regulatory accounts are those accounts used
2 in the FERC Form 1 and the Company's revenue
3 requirement schedules.

4 Under the Company's previous system,
5 this mapping didn't happen. The Great Plains
6 account system just used the FERC regulatory
7 accounts. So, this need to do this "mapping" has
8 created two sets of challenges, essentially:
9 First, the Company has had to make a number of
10 adjustments that we've been hearing about this
11 morning. So, this is not unexpected, it's
12 typical, as the mapping is sort of fine-tuned.
13 You set up the system, and then, as it's used,
14 you learn where there might be mapping
15 differences or where things need to be corrected.
16 That's what we're talking about, when we're
17 talking about "mapping corrections". The second
18 issue that this created, however, is that it
19 created an extra layer for the review process
20 undertaken by the Department of Energy, including
21 its Audit Staff. And the Company was aware that
22 this would happen, as Attorney Dexter referenced.
23 So, the Company took proactive steps to address
24 this by meeting with the Audit Staff to provide

1 an overview of the SAP system, they showed how
2 the mapping process worked, and then they have
3 been providing these mapping files throughout the
4 proceeding to help with the tracking.

5 In Paragraph 20 of the Motion to
6 Dismiss, the Department of Energy cites to the
7 Audit Division's conclusion that it could not
8 confirm that all the needed corrections to the
9 books were made. We heard the same comment again
10 from Attorney Dexter this morning.

11 But it's important to note that this
12 statement didn't indicate that it wasn't possible
13 to make those confirmations, it's that there was
14 a timing concern. And I think a lot of that
15 timing is related to the newness of this. As
16 Attorney Dexter referenced, it took so long to
17 review the adjustments, because they're new, that
18 the DOE Audit Staff couldn't do their normal,
19 typical review. But it's not unreasonable to
20 conclude that additional time might resolve this
21 issue, and the Company would be glad to work with
22 the DOE and other parties to provide additional
23 information to address any discrete issues that
24 would resolve that issue for the Audit Division.

1 As I mentioned earlier, the Company's
2 intent is for the Commission to have assurance
3 that its data can be relied on to set just and
4 reasonable rates. So, to that end, over the last
5 few weeks, the Company has undertaken additional
6 reviews, with the intention of providing further
7 assurances that its financial records are, in
8 fact, accurate. Through this process, the
9 Company has recently identified some additional
10 adjustments related to the 2022 FERC account
11 mapping issues. So, this will need to flow
12 through an additional update to the revenue
13 requirement. And we understand that this will
14 have an impact on the confidence and arguments
15 this morning.

16 So, to address this, we would like to
17 propose a path forward for the Commission's
18 consideration. Recognizing that further review
19 could be helpful, especially in light of all
20 these new challenges with the new system, the
21 Company would like to propose having a third
22 party perform certain agreed-upon procedures that
23 we'd be happy to discuss with the Department of
24 Energy and OCA, in order to provide an

1 independent level of comfort that the information
2 is reliable.

3 To achieve this within the confines of
4 the proceeding, we would suggest a stay for an
5 additional period of 90 days. During this time,
6 the third party would complete its work, and
7 provide a report to the Commission detailing its
8 findings. During this period, the Company would
9 also agree to forgo recoupment, if any, between
10 the temporary rates and permanent rates, and
11 costs related to the third party would not be
12 passed through to customers through rates.

13 So, in other words, the Company is
14 proposing to provide this third party review to
15 get that independent level of comfort, and it's
16 also making a proposal to hold customers harmless
17 while this happens.

18 The Company is committed to providing
19 the DOE and the Commission, and all the parties,
20 with the information they need to have confidence
21 in the systems and records. It's important to
22 get this right, and it's important for the
23 Company to be held accountable in doing so. So,
24 to achieve this, we would welcome the opportunity

1 to work with DOE Staff and the OCA to go through
2 this third party verification.

3 And, then, the Company also notes that
4 we heard this morning from the DOE that, with the
5 new system, there are certain types of reports
6 previously available that were not available when
7 the SAP conversion happened. As those reports
8 were identified, the Company has been working to
9 try to make them available on a going-forward
10 basis. One example, I believe, is the payroll
11 information. The Company was able to provide the
12 appropriate level of detail regarding payroll,
13 but not in a format that was familiar. But that
14 report that the DOE is used to has now been able
15 to be produced.

16 All of this being said, the Company,
17 you know, thinks that, you know, we're amenable
18 to schedule modifications, we're amenable to
19 additional process. We think that this could
20 assist the Commission's review, assist the
21 parties, and we're confident that we can meet our
22 burden with this additional work. But the Motion
23 to Dismiss simply doesn't meet the Commission's
24 standard. And, so, we would argue that the

1 Commission should consider our proposal, which
2 would allow this proceeding to move forward, so
3 it can make its own determination on whether the
4 identified adjustments are explained sufficiently
5 and support the revenue requirement; and also
6 determine if the Company has provided sufficient
7 information.

8 Thank you.

9 CHAIRMAN GOLDNER: Thank you. Just a
10 quick question.

11 Is the proposal that you just outlined,
12 has that already been proposed to the OCA, DOE,
13 and other parties, or is that a new proposal?

14 MS. RALSTON: It's a new proposal. And
15 we would welcome their feedback. Yes, it's a new
16 proposal this morning.

17 CHAIRMAN GOLDNER: Attorney Dexter,
18 would any of the parties, like to weigh in on the
19 proposal from the Company?

20 MR. DEXTER: I think I'd have to confer
21 with my colleagues before I can weigh in on the
22 proposal.

23 CHAIRMAN GOLDNER: Would it be helpful
24 to take a break and discuss, or would the parties

1 need more time to consider the proposal? If we
2 returned at 10:30, would that be enough time?

3 Or, would you like some days or some hours or --

4 MR. DEXTER: Well, I guess I'd like to
5 hear more about the proposal.

6 CHAIRMAN GOLDNER: Okay.

7 MR. DEXTER: But that would be my
8 additional reaction. The "90-day stay", I don't
9 know when that was proposed to start. The "third
10 party", who would select the third party? Would
11 the third party have expertise in both SAP and
12 utility accounting and Uniform Systems of
13 Accounts? Would the audit include any looking at
14 the IT problems, the map -- the so-called
15 "mapping" problems? Would the third party be
16 addressing the mapping problems? Would the 2022
17 books be redone?

18 I don't hear anything where the Company
19 is saying that they are in a position to produce
20 corrected 2022 books. My understanding is those
21 books are closed, and can't be corrected.

22 So, I don't know, you know, I don't
23 know how helpful the third party review would be.
24 I guess I'd want to hear more about it.

1 CHAIRMAN GOLDNER: Okay. Let me fill
2 up the bucket first, before we ask Liberty. So,
3 I'll ask each of the parties to make their
4 comments, and then allow Liberty the opportunity
5 to reply.

6 Attorney Kreis?

7 MR. KREIS: I have to confess, excuse
8 me, a measure of astonishment. Because, if I
9 understood Ms. Ralston correctly, the Company has
10 now told you it still hasn't produced books and
11 records from which you can make and we can make a
12 reasoned determination about what just and
13 reasonable rates really are. Ms. Ralston said
14 they have identified "additional adjustments"
15 that need to be made. I think the Commission
16 ought to know, and I would like to know, what the
17 extent of those adjustments are.

18 And I'm concerned about what the
19 Company's is essentially asking you here, which
20 is for yet another bite at the same apple. I
21 really think that, ultimately, what we confront
22 here is a situation where the Company can't meet
23 its burden. And, so, indulging yet further
24 opportunities for the Company to meet its burden

1 of demonstrating what a just and reasonable
2 revenue requirement would be, I just -- I don't
3 think it's in the public interest to do that.

4 And, so, while I'm happy to take a
5 break and think about it, and talk about it, and
6 hear more from the Company about it, my initial
7 position is that the OCA opposes this turn of
8 events as proposed by the Company.

9 CHAIRMAN GOLDNER: Thank you. Attorney
10 Getz?

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

12 Similar to Attorney Dexter, I would
13 need to understand in more detail what this
14 proposal is. And, then, I would also need the
15 opportunity to review it with my client.

16 CHAIRMAN GOLDNER: Thank you.
17 Mr. Skoglund?

18 MR. SKOGLUND: We have no comments at
19 this time. Thank you.

20 CHAIRMAN GOLDNER: Okay. So, let me
21 give Liberty the opportunity to reply to the
22 greatest extent possible, and then we'll take a
23 break.

24 MS. RALSTON: Thank you.

1 So, first, I just want to clarify, in
2 response to Attorney Kreis. The Company is not
3 suggesting the books and records are not
4 reliable. We're just offering this as a path to
5 provide further assurance. We understand there
6 has been an atypical number of adjustments
7 related to the system conversion. We want to
8 provide assurance to the Commission that the
9 adjustments have happened, and that all the
10 appropriate measures have been taken.

11 So, with respect to the proposal, the
12 90 days I believe would start -- it would be in
13 addition to the stay that's already in place.
14 Simply because the Company will have to return --
15 retain, excuse me, a third party, and that will
16 require a little bit of time. So, I think it
17 would have to be in addition to.

18 Secondly, I think the Company is
19 anticipating they would select the third party.
20 It would be, you know, a known entity. But, just
21 given the time constraints, it probably makes
22 sense for the Company to select the third party,
23 based on its prior relationships with an
24 accounting firm, or something along those lines.

1 The 2022 books would not be redone. As
2 the Company has already stated, the books have
3 been closed, financial statements have been
4 issued relying on 2022 books. And, so, there
5 isn't an opportunity to go back and reopen them.
6 But -- and that's sort of the issue we're talking
7 about over and over again, right, is that the
8 2022 books don't match. But what the Company has
9 done in this case, and will continue to do, and
10 provide whatever additional detail that's
11 required, is to show that the revenue requirement
12 is accurate and is based on adjustments to those
13 2022 books that were necessary and that have been
14 made. And, so, that would be what the third
15 party would be confirming, that the Company has
16 made the necessary adjustments, and you can rely
17 on the revenue requirement and use that to set
18 rates.

19 I apologize, did I miss any questions,
20 Attorney Dexter?

21 MR. DEXTER: No. Those were my initial
22 questions. Thank you.

23 MS. RALSTON: Okay. Thank you.

24 And one other point was that we know

1 the Audit Division has already undertaken a
2 significant effort to do some of this
3 verification work. But we, you know, we did hear
4 this morning, they're a small division, they
5 don't have, you know, unfettered resources. And,
6 so, our goal would be to do a sampling of
7 accounts that they were unable to get to, you
8 know, and provide that additional assurance that
9 there aren't things that are under -- that
10 haven't been identified.

11 CHAIRMAN GOLDNER: Okay. Thank you.

12 Attorney Dexter, how long a break would
13 you like to take?

14 MR. DEXTER: In order to come up with a
15 response to the offer?

16 CHAIRMAN GOLDNER: Yes. Uh-huh.

17 MR. DEXTER: Why don't we break for a
18 half an hour, and then I can let you know what I
19 find out there. We will do our best to come up
20 with a position. So, why don't I leave it at
21 that. And, if that's okay with the Bench, we'll
22 come back at 10:45?

23 CHAIRMAN GOLDNER: That would be fine.

24 Alternatively, we could take a shorter break, and

1 the Commission -- or, the Department, rather,
2 could have some days to reply?

3 It would be, I think, preferable to get
4 feedback today. But I don't want to -- I don't
5 want to short you of any time for consideration.

6 MR. DEXTER: Well, I think a 30-minute
7 break would be probably the way to go.

8 CHAIRMAN GOLDNER: Okay.

9 MR. DEXTER: See what I can find out.

10 CHAIRMAN GOLDNER: Okay. Very good.
11 Let's return at ten of. Thank you.

12 *(Recess taken at 10:21 a.m., and the*
13 *hearing resumed at 10:55 a.m.)*

14 CHAIRMAN GOLDNER: Okay. We'll go back
15 on the record, and resume with Attorney Dexter.

16 MR. DEXTER: Thank you, Mr. Chairman.
17 And we appreciate the 30-minute break.

18 We've considered the path forward laid
19 out by the Company. And the Department is going
20 to respectfully recommend that the Commission --
21 the Department is going to respectfully not
22 support the proposed path forward for several
23 reasons.

24 The fundamental issue in this case is

1 the books for 2022. The books for 2022, as we've
2 demonstrated, were not kept in conformance with
3 the Uniform System of Accounts, because of the
4 various multiple and significant entries, costs
5 that were recorded in the wrong accounts.

6 We believe dismissal is the appropriate
7 remedy, because, given the underlying financial
8 information, Liberty has not met its burden of
9 proof in this case. And we don't think it's
10 appropriate to add another five months to this
11 case, for it to not correct its books, but to
12 correct its regulatory filing.

13 We are concerned that errors continue
14 to be discovered, as disclosed by counsel today.
15 We don't know what those are or the significant
16 of those. I think it points to the conclusion
17 that 2022 should simply not be a test year. That
18 is the year that the conversion took place. The
19 conversion is the root cause of these problems.
20 It would be a logical expectation that these
21 problems could be cured over time. We don't know
22 whether they can be cured in 2023. We would hope
23 that, by 2024, they could be. But, clearly, they
24 were not cured in 2022, and trying to fix the

1 regulatory filing to account for all the
2 anomalies in 2022 is simply not a good path
3 forward, in our view.

4 We believe that the path that the
5 Company laid out, in other words, having an
6 independent party review a rate filing, compare
7 it to the books, make any corrections they need,
8 so that the revenue requirement could be
9 presented in a clean fashion, that's the type of
10 work that should have been done a year ago,
11 before this case was filed. And, in fact, if the
12 Company is going to refile a case, that's the
13 type of work that should be done in a future
14 case, in order to provide the assurances that any
15 future case has a foundation that's suitable for
16 setting rates.

17 We are concerned that, in this case, or
18 in 2022, the Company's external auditors have
19 already signed off on the books, as, you know,
20 whatever the word is in the audit letter,
21 appropriately representing the Company's
22 financial position. In other words, the
23 Company's books are audited by a major accounting
24 firm, and they had no problem with the Granite

1 State 2022 books, and issued that opinion.

2 So, we have real doubts that additional
3 time and effort to correct the flawed 2022 books
4 would be a fruitful effort. And, therefore, we
5 don't support the proposal.

6 CHAIRMAN GOLDNER: Thank you. Would
7 the Consumer Advocate care to comment?

8 MR. KREIS: I understand the position
9 Mr. Dexter to have just taken to be consistent
10 with the one I previously took before the break.
11 So, I guess I don't have anything to add at this
12 time.

13 CHAIRMAN GOLDNER: Okay. Attorney Getz
14 or Mr. Skoglund?

15 MR. GETZ: Nothing from Dartmouth
16 College on this issue, Mr. Chairman.

17 MR. SKOGLUND: Thank you, Mr. Chairman.
18 Nothing from Clean Energy New Hampshire. Thank
19 you.

20 CHAIRMAN GOLDNER: Okay. Thank you.

21 I'd just like to ask a couple of
22 questions, Commissioner Dexter -- I don't mean
23 "Commissioner Dexter", Attorney Dexter, sorry,
24 I'm the Commissioner.

1 *[Laughter.]*

2 CHAIRMAN GOLDNER: And then, I'll move
3 on to my fellow Commissioners, that's what I
4 meant to say.

5 If the Commission were to grant the
6 Motion to Dismiss, what does the DOE expect would
7 be the necessary sequence of next steps that the
8 Company or the Commission or the DOE would be
9 required to take?

10 And I'll ask you the opposite in a
11 minute, if you would like to contemplate both.
12 If we grant the Motion -- if we grant the Motion
13 to Dismiss or we don't grant the Motion to
14 Dismiss, what would you see as the necessary next
15 steps?

16 MR. DEXTER: Well, I think the only
17 thing that comes to mind, the case would end,
18 and, so, therefore, the temporary rates would
19 end, would have to end by statute. Temporary
20 rates are only available during the pendency of
21 the proceeding. So, I think that's the first
22 thing. That's what would have to happen, is that
23 the temporary rates would have to be -- would
24 have to be suspended.

1 CHAIRMAN GOLDNER: Sorry, Attorney
2 Dexter. And, like the OCA, would you recommend
3 denial of the rate cases expenses incurred thus
4 far?

5 MR. DEXTER: Yes, certainly.

6 CHAIRMAN GOLDNER: Okay. Just
7 checking. I just wanted to check to make sure I
8 understood your position.

9 MR. DEXTER: Yes. No, that's a fair
10 question. And the answer is "yes." If the case
11 were dismissed for failure to produce a case that
12 could be acted on, we think it would be
13 inappropriate for customers to be asked to pay
14 for those rate case expenses.

15 CHAIRMAN GOLDNER: And, then, the
16 temporary rates would then have to be, in a way,
17 reversed, right? Because they're already in
18 place, we've done it for some months now, that
19 money would have to be returned to ratepayers, so
20 that that transaction would also need to take
21 place, correct?

22 MR. DEXTER: Yes. That would be our
23 position. I'm not sure that it would have to, I
24 think that's probably up for argument and debate

1 before the Commission.

2 CHAIRMAN GOLDNER: I guess that would
3 be the -- would that be the Department's
4 position? I guess would be the --

5 MR. DEXTER: The Department's position
6 would be that the temporary rates would have to
7 stop. The permanent rate increase then would be
8 zero. So, the difference between the 5.3 million
9 in temporary rates and the permanent rates is
10 5.3 million, that's, of course, over a
11 twelve-month period. So, yes, I believe there
12 would have to be a recoupment in the amount, the
13 temporary rates went into effect, I believe,
14 July 1st, so, there is a fair amount of time
15 that's gone on where the Company has been
16 collecting temporary rates. And, under the
17 recoupment statutes, and the cases that go along
18 with that, it indicates that recoupment can go
19 both ways.

20 And, yes, we would be advocating for a
21 refund of those temporary rates.

22 CHAIRMAN GOLDNER: Okay. So, if the
23 Motion *[sic]* is dismissed, does that complete
24 your thoughts on what would happen next?

1 MR. DEXTER: Yes. I can't think of
2 anything else.

3 CHAIRMAN GOLDNER: Okay. If the
4 Commission were not to grant the Motion to
5 Dismiss, what do you see as the next steps?

6 MR. DEXTER: If the Motion to Dismiss
7 were not granted, then the case would go forward.
8 Now, you've granted a 30-day stay, I don't think
9 there would be any reason to reverse that.

10 We would, in the case-in-chief,
11 continue to press the argument that the rate
12 increase should be zero, because of the --
13 because of the problems with the test year. As
14 we said, we presented our analysis as an "in the
15 alternative" analysis. So, I think it would go
16 forward in that vein.

17 CHAIRMAN GOLDNER: And, if the Company
18 were to refile in the former case, in the first
19 case, do you have a recommendation on the test
20 year that would be used? 2023? 2024? 2025?
21 What would be an appropriate test year, from the
22 point of view of the Department?

23 MR. DEXTER: Well, the only concerns we
24 have with the Company choosing a test year, is

1 that the test year, you know, start with books
2 that are reliable, that aren't infected, if you
3 will, by the SAP conversion. And, as I said
4 earlier this morning, we were told in the audit
5 process that none of the so-called "corrections"
6 were going to be made in 2022, those books were
7 closed, but they would be made in the FERC Form 1
8 and the regulatory filing. If, in fact, those
9 corrections need to be made in 2023, that would
10 present, I think, a serious impediment to relying
11 on 2023 as a test year.

12 Secondly, we understand there are still
13 billing issues, with respect to bills being
14 issued late. And, so, we would have a -- we
15 would have a concern that the 2023 test year
16 revenues and test year billing determinants,
17 again, would have been impacted by the SAP
18 conversion that took place in October. We don't
19 know that, but we suspect that that's going to be
20 the case.

21 And, again, understating revenues and
22 billing determinants in a test year has a direct
23 impact on the rate case. And an impact that
24 results in additional funds being collected by

1 the Company.

2 So, for those two reasons that we know
3 of, we have concerns about 2023.

4 The third issue that I mentioned this
5 morning is we don't know whether or not the
6 mapping issue, which we believe was an IT issue,
7 has been addressed, or, if it had been addressed,
8 when it was addressed. And we have -- we are
9 very doubtful that it happened on January 1st,
10 2023. Because, as I said, all of these issues
11 that we're talking about today were coming to the
12 forefront during that six-month period the
13 beginning of 2023. So, it's our strong suspicion
14 that the mapping issues were continuing into
15 2023. So, we view 2023 as a very challenged test
16 year.

17 So, if the Company were to refile, we
18 would -- we would recommend at a minimum that
19 they do what they just outlined, that they
20 offered to do for 2022, which is to take the
21 extra efforts that are needed to come to the
22 Commission with a case that can be relied on
23 before it's filed, not after.

24 As far as 2024 or 2025, we would

1 believe that by then the SAP issues would be
2 behind us. So, we don't have any thoughts on
3 that.

4 CHAIRMAN GOLDNER: Thank you. Has the
5 DOE explored any kind of SEC or FERC referral
6 letter, or any notification of federal
7 authorities, in terms of your findings?

8 MR. DEXTER: We have not, no.

9 CHAIRMAN GOLDNER: Okay. Is that
10 something that the Department will continue to
11 review, or has the Department made a decision on
12 that notification?

13 MR. DEXTER: I don't know. Our focus
14 has been on this rate case, and how to handle the
15 impacts of the FERC Form 1 issue on the rate
16 case. I don't know that the Department has even
17 thought about that course of action. I guess
18 that's something that we could look at. It's not
19 really the focus of what we're trying to do here,
20 which is to focus on the appropriate rate-setting
21 process.

22 CHAIRMAN GOLDNER: I understand. And
23 at the risk of a little levity in a very serious
24 hearing, that was a good Bill Belichick answer,

1 you're "preparing for the Jets on Sunday."

2 *[Laughter.]*

3 MR. DEXTER: Yes, yes. "We're onto the
4 Jets", exactly.

5 CHAIRMAN GOLDNER: Okay. I have a
6 couple of questions for Liberty, and then I'll
7 turn it over to my fellow Commissioners.

8 I just would like to hear from the
9 Company, in terms of the Company's decision to
10 file a rate case with a test year in the middle
11 of an SAP conversion?

12 I would just like to hear more about
13 this. It seems like a very -- I would like to
14 understand the motivation, because that's a very
15 strange decision, in my opinion.

16 MS. RALSTON: So, I'll do my best to
17 give you a response.

18 So, I think I had mentioned earlier
19 this rate case was long anticipated as being the
20 next rate case the Company would submit. So,
21 that was, you know, kind of the accepted date.
22 And, then, I think the Company made a lot of
23 significant investments in infrastructure, and,
24 in particular, in IT systems, and that, you know,

1 was a prudent decision.

2 And, then, I think, with respect to the
3 timing with SAP, I think there are a couple of
4 key things to keep in mind. First of all, the
5 Commission prefers a calendar year test year.
6 So, with respect to 2022, there are only three
7 months in 2022 that were impacted by the SAP
8 conversion. So, even though we're hearing about
9 a lot of adjustments, we're really talking about
10 a small portion of the test year. The first nine
11 months were under the legacy system, these
12 mapping issues did not impact those months.

13 In addition, the Company did do a lot
14 of testing and preparation for SAP. So, to some
15 extent, the adjustments were not entirely
16 anticipated -- you know, there was an
17 anticipation that there would be challenges, but
18 they had taken a lot of steps to make sure that
19 things were correct. And some of those were
20 taken during the end of 2022, and then those
21 efforts continued, leading up to the filing of
22 the rate case.

23 We've heard a lot of talk about the
24 Audit Issue Number 1 and the list of adjustments.

1 Those adjustments were made before the filing.
2 So, the Company -- you know, the Company didn't
3 take this lightly. They didn't just file their
4 rate case without a verification; they did the
5 verification. They made sure that adjustments
6 were made and were reflected in the revenue
7 requirement and the FERC Form 1 that support this
8 case.

9 So, I think that there's, you know,
10 sort of a disconnect. You know, the Company
11 didn't make the filing and then make all these
12 adjustments; the Company made the adjustments to
13 make sure the filing was correct. And I think
14 that's just an important distinction to draw.

15 I think it's also important to remember
16 that the mapping issues are issues of
17 "geography", I think is how I've heard it
18 described. So, the numbers are the numbers, and
19 the SAP issues are the result of the numbers not
20 ending up in the right place. So, the Company
21 has just been refining the SAP mapping, to make
22 sure that everything is flowing to the right
23 place the first time, so that they don't have to
24 keep making the adjustments.

1 But it's not an issue of, you know, the
2 numbers are incorrect and, you know, unreliable,
3 it's just that, as the system has been
4 implemented, there had to be some adjustments.
5 But the core data is there, and was able to be
6 relied on for developing the revenue requirement.

7 The universe of adjustments we've heard
8 about that had to be made after the filing are
9 not the same -- are not the same level of the
10 ones that were done prior to the filing. So, the
11 Company was able to make a level of refinement
12 and corrections, get the filing in a good place,
13 submit its filing, and then make some additional
14 adjustments as things were identified.

15 CHAIRMAN GOLDNER: Thank you. Has the
16 Company filed rate cases in other jurisdictions
17 with an SAP implementation in the test year?

18 MS. RALSTON: I would have to defer to
19 Mr. Sheehan, if he's able to. I don't know.

20 MR. SHEEHAN: If I may, we'll confirm,
21 and we'll get you an answer shortly.

22 CHAIRMAN GOLDNER: Okay. Okay. If
23 that has happened, I would like to know how
24 that's going. Or, if you know of any other

1 company that has implemented SAP in the middle of
2 a test year, that would be helpful for the
3 Commission to understand.

4 And I just want to verify something, I
5 think, Attorney Ralston, that you said earlier.
6 The books for the Company's 2022 reporting FERC
7 Form 1, those are all final, correct? There's
8 no -- you're not making adjustments to numbers
9 you've already disclosed to shareholders?

10 MS. RALSTON: I believe that is
11 correct. The books for 2022 are closed. And,
12 so, the adjustments -- there were a certain
13 number of adjustments that were made when the
14 FERC Form 1 was prepared, because the books were
15 closed in January, the FERC Form 1 was prepared
16 in the April/May timeframe. And, so, there were
17 adjustments that flowed into the FERC Form 1, and
18 then those are all reflected in the revenue
19 requirement as submitted in this case.

20 CHAIRMAN GOLDNER: And were the books
21 updated in 2022, after the FERC Form 1 was
22 updated?

23 MS. RALSTON: No, they were not. The
24 Company, I believe, spoke with its auditor. And,

1 because of the way financial statements had
2 already been released, it wasn't appropriate to
3 go back and reopen them. But the mapping issues
4 that resulted and the need for the adjustments
5 have all been applied to the system. And, so,
6 these mapping issues will not continue, if that
7 makes sense.

8 So, the mapping issues are, when they
9 happen and they're identified, there's an
10 adjustments made into the system. And, so, going
11 forward, the mapping has been corrected. So, for
12 2023, the mapping -- it would not -- you wouldn't
13 find the same mapping issue.

14 CHAIRMAN GOLDNER: Okay.

15 MS. RALSTON: I'm not an accountant,
16 but, hopefully, that makes sense.

17 CHAIRMAN GOLDNER: Okay. No, that I
18 understand. Thank you.

19 Has E&Y or an another internal -- or an
20 internal auditor reviewed the FERC Form 1
21 submission? Has that been audited?

22 MS. RALSTON: Yes.

23 MR. SHEEHAN: Yes.

24 CHAIRMAN GOLDNER: By who?

1 MS. RALSTON: E&Y.

2 CHAIRMAN GOLDNER: E&Y, okay. Does the
3 Company have an internal audit department?

4 MR. SHEEHAN: Yes.

5 CHAIRMAN GOLDNER: What is the internal
6 Audit Department's assessment of the DOE's audit?

7 MR. SHEEHAN: There is an internal
8 Audit Department centered in headquarters, but
9 with local representatives as well. They audit
10 various things in the Company. They have not
11 audited the DOE audit, if you will. They have
12 seen it, but I don't think they have taken formal
13 action on it, is my understanding.

14 CHAIRMAN GOLDNER: Have they commented
15 in any way to management or to legal
16 representation on their assessment to any --

17 MR. SHEEHAN: I'm not sure they have
18 done an assessment. So, the internal audit
19 will -- it's not just a financial audit, they
20 will audit processes. "Are we running our
21 warehouse the right way?", and the like. So, and
22 my understanding is that they haven't done
23 anything official with the DOE audit.

24 CHAIRMAN GOLDNER: Okay. But they're

1 aware of it?

2 MR. SHEEHAN: Yes.

3 CHAIRMAN GOLDNER: Okay.

4 Would the Company have any concerns
5 with managing a rate case in parallel with a
6 management audit? Would that be something where
7 the Company would have bandwidth limitations or
8 any concerns with running those two things
9 simultaneously?

10 MR. SHEEHAN: There are a couple people
11 in the room that went through that with the
12 Liberty Consulting audit of 2015-16. It is a
13 burden, there's no question. The Liberty
14 Consulting audit involved many data requests,
15 many meetings with the audit -- with the
16 consultants, with our folks. You know, it's --
17 if it's imposed, it's something we would deal
18 with. I don't think it's something that would
19 prevent us from proceeding with the rate case, it
20 would just be something we'd have to gear up and
21 handle. And, if that's the course we have to
22 take, that's the course we have to take.

23 CHAIRMAN GOLDNER: Okay. Thank you,
24 Attorney Sheehan.

1 I'll pause there, and turn over
2 Commissioner questions to -- beginning with
3 Commissioner Simpson.

4 CMSR. SIMPSON: Thank you, Mr.
5 Chairman.

6 So, just so we have terminology fully
7 understood, your former accounting customer
8 system you've referred to as "Great Plains", is
9 that -- am I understanding that correctly?

10 MS. RALSTON: Yes. That's correct.

11 CMSR. SIMPSON: And the new system is
12 the "SAP system". And you've mentioned
13 "mapping". So, moving the data from the Great
14 Plains system to SAP, and that's what you're
15 attributing --

16 MS. RALSTON: No.

17 CMSR. SIMPSON: Okay.

18 MS. RALSTON: And I apologize if
19 there's some confusion. So, there's two -- there
20 were two mapping exercises that had to happen.
21 The first is what you're describing.

22 CMSR. SIMPSON: Uh-huh.

23 MS. RALSTON: So, when the conversion
24 happened, the data from Great Plains had to be

1 mapped over to SAP. So, for 2022, for example,
2 that would be the first nine months were mapped
3 from Great Plains into SAP. To my knowledge,
4 there were no issues with that mapping.

5 The mapping that has caused the issues
6 that we've been referring to, that required some
7 adjustments, are because SAP uses natural or GAAP
8 accounting account numbers, and those accounts
9 have to be mapped or matched up with the FERC
10 regulatory accounts. And, so, when the system
11 was set up, there was a mapping setup that would
12 perform that process through the IT system. But,
13 as transactions input into the system, it's
14 expected, and did occur, that you find out that
15 some of the mapping didn't perform the way it was
16 intended. So, things that you thought were going
17 to map to a specific FERC account, may have ended
18 up in a different FERC account, because the
19 mapping had to be adjusted.

20 CMSR. SIMPSON: Are you still running
21 and maintaining the Great Plains system and its
22 data?

23 MS. RALSTON: I believe so.

24 MR. SHEEHAN: The data exists. We're

1 not operating it any further.

2 CMSR. SIMPSON: Okay. DOE noted that
3 you're skeptical that all the corrections for
4 this case have been made. And my question is, do
5 you have a position on the voracity of the data
6 that came from the Great Plains system?

7 Do we have confidence in the data that
8 came from Great Plains, and then was moved into
9 SAP?

10 MR. DEXTER: Well, I think that was the
11 problem. I think it was the moving of the data
12 from the Great Plains to the SAP that created
13 what we've been talking about all day.

14 You're asking, do we have questions
15 about the underlying first nine months?

16 CMSR. SIMPSON: Correct.

17 MR. DEXTER: So, you know, generically,
18 no. There was nothing that would cause concern
19 with the first nine months of data.

20 But, as I pointed out this morning,
21 most of the audit function is generally dedicated
22 to analyzing that test year data, which would
23 include those nine months. Given the amount of
24 time that was eaten up, with the mapping and the

1 issues that we've been talking about, not -- the
2 standard amount of time that's dedicated towards
3 analyzing the underlying accounts was not
4 performed.

5 But, no. Nothing -- there was nothing
6 systemwide in the first nine months of the data
7 that would, you know, cause questions.

8 CMSR. SIMPSON: So, you would agree
9 with Attorney Ralston that it's the final three
10 months of 2022 where there are concerns from the
11 Department?

12 MR. DEXTER: Well, no, I don't think
13 so. Because, when the mapping took place, it was
14 the year-end -- it was -- the problem lies with
15 the comparison of the year-end books, to the FERC
16 Form 1, to the rate case. And those are twelve
17 months' worth of data, that was being recorded in
18 the incorrect accounts. Those weren't just the
19 last three months.

20 CMSR. SIMPSON: Do you have a response
21 to that, Attorney Ralston?

22 MS. RALSTON: I think the Company's
23 position is we disagree, respectfully. That the
24 mapping issues that we've acknowledged and that

1 existed are related to the final three months of
2 2022. There were no mapping issues related to
3 bringing the Great Plains data over to SAP.

4 CMSR. SIMPSON: And just to confirm,
5 the Great Plains data remains available?

6 MS. RALSTON: Correct.

7 CMSR. SIMPSON: Okay. I'll give the
8 Company an opportunity to address temp. rate
9 recoupment recommendation from the DOE, if this
10 case is dismissed.

11 MS. RALSTON: I think the Company would
12 need a little additional time to consider. You
13 know, we've heard the DOE's recommendation. I
14 think we would just want a little time to think
15 about it and respond, after we've looked into it.

16 CMSR. SIMPSON: Okay. And you've
17 recommended a stay in this case of 90 additional
18 days, correct?

19 MS. RALSTON: Correct.

20 CMSR. SIMPSON: Is the Company prepared
21 to waive the statutory twelve-month requirement
22 for this case?

23 MS. RALSTON: They are.

24 CMSR. SIMPSON: Okay.

1 MS. RALSTON: And I also would just
2 note, we would also indicate, we would waive
3 recoupment during that period as well.

4 CMSR. SIMPSON: Okay. The Chairman
5 asked the DOE whether they had a position on
6 contacting the Federal Energy Regulatory
7 Commission or other securities regulators, given
8 the concerns that exist with the financial
9 reports. Has the Company formed a position on
10 this?

11 MR. SHEEHAN: I will look over my
12 shoulder to get a nod after I make this
13 statement. The FERC Form 1 is appropriate, it
14 was accurate as filed, based on the knowledge we
15 had, and that's the standard. The same with
16 year-end financial statements. You close the
17 books, that's the information that we had at the
18 time. And it always happens that things change.
19 And, so, any changes that came to light after
20 that filing would be reflected in next year's,
21 and that is all par for the course.

22 Is that fair?

23 *[Atty. Sheehan confirming with Liberty*
24 *representatives.]*

1 CMSR. SIMPSON: So, does the Company
2 stand by the accuracy of the 2022 FERC Form 1 as
3 filed?

4 MR. SHEEHAN: At the time, yes. I
5 mean, we acknowledge things have changed since
6 then. We are not disputing that. But the
7 standard for filing the FERC 1 was met.

8 And, again, the exercise here is
9 tracing the changes from the FERC 1 to the
10 revenue requirement. And that's, you know, the
11 mapping adjustments we made, FERC Form 1 said the
12 number "2", we since found out it should be a
13 number "3". We tracked the change from the "2"
14 to the "3" that results in a correct number in
15 the revenue requirement.

16 CMSR. SIMPSON: Okay. I'm looking at
17 the FERC Form 1 that the Company filed on
18 May 5th, 2023. Just for example, I'm looking at
19 Pages 47, 48, and 49, and there are obvious
20 presentation errors, in terms of the data, that's
21 afforded fields that are incorrect, multiple
22 figures that are listed. So, I just point that
23 out.

24 Could the DOE address the continued

1 discovery dispute in this case? And I'll afford
2 the OCA and other parties as well.

3 That the DOE raised some concerns with
4 the Company's responses and timeliness in
5 responses throughout this case. Can you just
6 enlighten us on that process and where it stands?

7 MR. DEXTER: You're referencing
8 questions that we -- not the objection that I
9 filed last week on the questions they send to us,
10 you're asking about questions that we sent to
11 Liberty?

12 CMSR. SIMPSON: Correct. And their
13 response to those questions throughout the case.

14 MR. DEXTER: Well, I can't cite you
15 specific, we had eleven, I think, or twelve sets
16 of data requests. But there was a significant
17 number of responses that were filed late, and a
18 significant number of responses that were
19 incomplete, maybe filed on time, but the answer
20 was "We don't have the information. We'll get
21 back to you." And then, the information would
22 come in.

23 There is also an ongoing obligation to
24 correct or to update prior data requests, and I

1 don't believe that's been done.

2 But I don't have a specific, you know,
3 list of instances with me right now.

4 CMSR. SIMPSON: Okay. There was one
5 item, the payroll cost report, I think I heard
6 this morning that that has been produced?

7 MR. DEXTER: Yes. I heard that as
8 well. That was an issue that was raised in the
9 Audit Report.

10 CMSR. SIMPSON: Uh-huh.

11 MR. DEXTER: I suspect that that was --
12 that there was an underlying audit request issued
13 for that. I'm not sure how that worked. I could
14 check with our Chief Auditor. But, as far as I
15 know, the Chief Auditor was unaware that that
16 payroll reconciliation report was now available.

17 CMSR. SIMPSON: Okay. The OCA, do you
18 have anything you'd like to provide, in terms of
19 a response to discovery process in this case?

20 MR. KREIS: We have not interposed any
21 objections or issues with respect to the OCA's
22 responses to our discovery requests. And, as you
23 know, we objected to quite a number of their
24 discovery questions. But, as far as I know, that

1 is all on hold.

2 It will be necessary, at some point, to
3 clarify exactly what the "stay" means in relation
4 to pending discovery. But I don't have anything
5 else to add about that at present.

6 CMSR. SIMPSON: Okay. Thank you.

7 So, in the Company's Objection to the
8 Motion to Dismiss, the Company describes a
9 solution, from their perspective, which should be
10 to develop "a plan to assist the Department (and
11 the Commission) in familiarization of the new
12 system and new presentation of information."

13 Did I understand that correctly?

14 MS. RALSTON: Yes.

15 CMSR. SIMPSON: I'm struggling to
16 understand how that conforms with the fact that
17 the Company does not dispute the variances that
18 have been raised by the Department, most notably
19 in their Audit Report?

20 MS. RALSTON: So, I think it's maybe
21 two separate issues. So, one issue is the
22 variances that we have discussed, and we've
23 provided explanations for why those exist, the
24 steps the Company took to identify the

1 adjustments, and the steps the Company has taken
2 to sort of provide that explanation to the
3 Department of Energy.

4 And, then, with respect to helping the
5 DOE familiarize itself with SAP, that's sort of a
6 secondary issue, I think. You know, we recognize
7 it's a new system. I think some of the
8 challenges were just simply related to it being a
9 new system. And, so, we were just hoping that,
10 maybe if there were additional efforts to meet
11 with the DOE, that that would help ameliorate
12 some of these issues going forward. It's not --
13 I don't know if it's a one-for-one. I think we,
14 you know, there's -- I think, like I said,
15 there's two issues. One is variances and our
16 explanations, and we want to make sure they're
17 comfortable with those. That's part of our third
18 party verification offer, is to make sure that
19 everyone, you know, feels comfortable that we've
20 taken the appropriate steps to make the
21 adjustments, and that they're explainable. And,
22 then, we also think there could be value in
23 providing more training or meetings with the DOE
24 or OCA, or any of the parties, about how SAP

1 system works.

2 CMSR. SIMPSON: So, how does SAP
3 present information differently that would
4 necessitate training?

5 MS. RALSTON: So, I think it is related
6 to the mapping. So, now, there's the natural
7 accounts, which are how the data appears in SAP,
8 and it has to map over to the FERC accounts. So,
9 I think it's just understanding how the data is
10 housed and how it's linked between the two
11 separate accounts.

12 CMSR. SIMPSON: Why do you feel that
13 that's the Department's job to understand, or our
14 job? Isn't that the Company's responsibility
15 that, within your system, you appropriately map
16 the information to the standards that are
17 required?

18 MS. RALSTON: Agreed. I think we were
19 hoping to explain how it happens, so that, when
20 there's a review going on, it's familiar, and
21 that the review is easier. We think it may have
22 been more burdensome than usual to review the
23 Company's records, even if the Company maintains
24 them correctly, there's some value in helping

1 explain how it works, so that going forward it's
2 more familiar.

3 CMSR. SIMPSON: Okay. And, then,
4 you've referred to the "Commission's standard for
5 dismissal". Can you articulate what standard
6 you're referring to and why you don't believe
7 that the Department's Motion meets that standard?

8 MS. RALSTON: Sure. So, under the
9 Department's standard, the Department has to
10 assume that all the facts are true in the
11 pleading, which, as I think Attorney Kreis
12 mentioned, I mean, it's a little bit awkward for
13 this proceeding before us, but I think what you
14 have to assume is that the Company provided --
15 so, the DOE's argument is that, because the three
16 sets of data don't match, they can't be relied on
17 to set rates. But the Company has provided an
18 explanation for why they don't match, and we've
19 explained what has happened that led us to have
20 three sets of data with variances. And we think
21 the Commission's job is to decide "Does that make
22 sense?" "Can that be" -- and, "if that's true,
23 that the Company has" -- "what the Company has
24 explained, if that's accurate, that those

1 adjustments are warranted, and necessary, and
2 they link everything together, can reasonable
3 rates be set?" And I think the answer to that is
4 "yes".

5 The revenue requirement informs the
6 rate the Commission would ultimately determine.
7 And the Company has set forth in this proceeding
8 how it got to the revenue requirement. So, even
9 though the 2022 books are not the same as the
10 numbers we're seeing in the revenue requirement,
11 we have provided you with an explanation and a
12 path to get from one to the other, so that you
13 can set rates.

14 CMSR. SIMPSON: The Company has
15 recommended that a third party is retained to
16 review the underlying information. Would that be
17 a shareholder expense?

18 MS. RALSTON: Yes.

19 CMSR. SIMPSON: And would the Company
20 object to that third party being retained by the
21 Department?

22 MS. RALSTON: I would have to confer,
23 but I think, as I mentioned earlier, one of the
24 concerns is the timing. So, I don't know if

1 having the Department retain the consultant would
2 impact the time, the 90-day timeline and make it
3 unworkable. It might require additional time,
4 excuse me.

5 But, if it would provide any comfort,
6 you know, the Company is thinking of a known
7 third party auditor, like Deloitte or PwC. So,
8 it would, you know, and we could certainly
9 provide names to the Department, I think. I
10 just -- I don't know if the Department's
11 processes for retaining a consultant would just
12 put us up against the timeline.

13 Beyond that, I don't know if there's a
14 real, you know, concern other than that.

15 CMSR. SIMPSON: I'll offer an
16 opportunity to weigh in by the Department.

17 MR. DEXTER: Well, the Department's
18 process for, you know, hiring a firm is slow.
19 You know, I can't tell you exactly what it is.
20 You guys probably know it better than I do. But
21 it's not a quick process. It has to go to
22 Governor and Council, and so on and so forth, an
23 RFP. And it's a multi-month process just to get
24 someone onboard.

1 MR. SHEEHAN: Mr. Chairman, I can add
2 one piece to that. Is, if the Commission were to
3 go that way, and let's say we selected PwC to do
4 the work, we could certainly review with the
5 Department the scope of work that we propose, and
6 they can comment on that. So, there can be some
7 input from the parties as to what review is
8 actually conducted.

9 CMSR. SIMPSON: Okay. Thank you.
10 That's all I have at this time, Mr. Chairman.

11 CHAIRMAN GOLDNER: I think we'll move
12 now to Commissioner Chattopadhyay.

13 CMSR. CHATTOPADHYAY: Thank you.

14 I want to first understand a couple of
15 the discussion threads that Commissioner Simpson
16 had with DOE. So -- and then we also looked at
17 responses from the Company.

18 So, this whole notion of "moving from
19 Great Plains to SAP", the nine month information
20 was converted to SAP, and then the three months
21 is where, it appears to me, and I need to clearly
22 understand this, that the three months' data was
23 where it was the issue of mapping between SAP and
24 FERC accounts appears. And, so, then, when this

1 question was being asked, Attorney Dexter said
2 "but, ultimately, it's part of the year-end
3 data."

4 So, is the DOE's position that, because
5 of the mapping, because you have now, apparently,
6 accounts -- different account numbers not being
7 properly captured, that could also pick up or
8 create issues with even the nine-month data that
9 happens before October? Is that what you were
10 trying to say?

11 MR. DEXTER: Yes. All the numbers --
12 all the adjusting entries that are laid out in,
13 you know, roughly, Pages 140 to 150 of the Audit
14 Report, and all of the instances that I talked
15 about in the Motion, those are -- these are
16 adjustments that would need to be made to, you
17 know, to correct the books, these were related to
18 twelve months of operations, as we understand it,
19 because it was a mapping issue. So, if you take
20 nine months of information, and it maps to the
21 wrong place, and then you add it to the three
22 months of information and map it to the wrong
23 place, that's twelve months of information.

24 That's my understanding. I'm not sure

1 it's significant. If the numbers were tiny, and
2 there were only three months, then maybe it's not
3 a problem. But, whether these are three months'
4 worth of numbers or twelve months' worth of
5 numbers, the numbers are large. And, as I said
6 at the beginning, they're not going from one
7 expense account to another, they're fundamentally
8 misrecorded; assets being recorded as
9 liabilities, liabilities being recorded as
10 expenses.

11 But, I think, to answer your question
12 directly, I believe these are -- we believe these
13 are twelve months' numbers.

14 CMSR. CHATTOPADHYAY: Okay. So, to be
15 doubly sure, I think what I'm hearing is, it's
16 the usage of wrong accounts, and then going
17 between SAP and FERC, that would have impacted
18 the information that came from Great Plains,
19 which was associated with the nine months. And,
20 so, you're saying year-end number could include
21 the other -- the problems from, you know, --

22 MR. DEXTER: I believe it does, yes.

23 CMSR. CHATTOPADHYAY: Okay. I just
24 wanted to make sure.

1 MR. SHEEHAN: Commissioner
2 Chattopadhyay?

3 CMSR. CHATTOPADHYAY: Please.

4 MR. SHEEHAN: If it would help,
5 Mr. Dawes is willing to talk through -- we're
6 afraid there's some misconceptions here. And Mr.
7 Dawes is willing to talk through this issue, if
8 you think that would be helpful?

9 CHAIRMAN GOLDNER: Normally, we would
10 swear in the witness. So, I think, and we'll
11 talk more about this later, but I think this is
12 moving towards a continued hearing, and that may
13 be the appropriate venue for that.

14 CMSR. CHATTOPADHYAY: Okay.

15 I want to give DOE the opportunity to
16 respond to the back-and-forth that had happened
17 between Commissioner Simpson and the Company's
18 attorney, about the standard, and, you know, as
19 to what -- what is the DOE's role. And, so, can
20 you -- you know, do you have any response to it?

21 MR. DEXTER: Well, yes. First of all,
22 I think it's important to note that the Company
23 did not dispute any of the findings in the Audit
24 Report, other than the comments that are in the

1 Audit Report. But the Audit Report itself was
2 reviewed by the Company, they made their
3 comments, the Final Audit Report was issued.
4 And, in their Objection filed on the 26th, they
5 acknowledged that there were accounting issues,
6 and they took responsibility for them.

7 So, this notion of "you take the facts
8 in the light most favorable to the party", you
9 know, the facts are all agreed to here. They
10 agree that there are fundamental issues with the
11 2022 books that were directly related to the SAP
12 conversion. Our position is that it would be
13 inappropriate to base rates on those 2022 books,
14 especially given that all the errors have been
15 agreed to.

16 What we're debating here, I think, is
17 whether or not you can fix the 2022 books and
18 make them suitable for ratemaking? Our position
19 is that you can't, for a number of reasons. One
20 being, that we -- again, we don't know that all
21 the issues have been identified. We heard today
22 that there were additional issues that we don't
23 even know about that were raised today. We know
24 there was an additional issue that was raised in

1 early December. We know that our audit relies on
2 sampling, and can't review every journal entry,
3 which might be necessary in this case. We know
4 that the Audit's work was curtailed a bit because
5 of the problems in this case.

6 We know that there are billing issues,
7 that there are billing determinant -- there were
8 customers that were not billed in 2022. There's
9 no correction for that \$750,000 worth of revenues
10 in the Company's rate filing.

11 So, at some point, I think you come to
12 the conclusion that the Company has not met its
13 burden of proof. And that's why I think we've
14 met the standard in this case.

15 CMSR. CHATTOPADHYAY: So, my question
16 was really trying to probe further whether you
17 agree with the notion that, you know, that "the
18 DOE's job is to just assume what they have given
19 you as fact", but you have characterized it
20 differently, and I agree with what you're saying.
21 So, --

22 MR. DEXTER: Well, then, let me state
23 clearly, the DOE does not assume that what's
24 given to us is facts.

1 CMSR. CHATTOPADHYAY: Okay.

2 MR. DEXTER: That's why we do the
3 investigation.

4 I think what we were talking about is
5 this legal standard, but it's an awkward standard
6 in this case. I think, really, what you need to
7 look at, as the Commission, is "are the 2022
8 books and records reliable for setting rates?"
9 And, if they're not, I think you should dismiss
10 the case.

11 CMSR. CHATTOPADHYAY: And I understand
12 your point.

13 So, I'm going to go to, again, let's
14 stick with the DOE first, I will go to the -- you
15 know, I'll give equal priorities to both parties.
16 So, I'll ask questions to the Company as well
17 later.

18 But can the DOE provide some
19 understanding to me, in terms of, let's say, the
20 previous rate cases, when you were looking at
21 FERC 1 information, the rate case filing, or the
22 books, is it sort of -- should I understand it's
23 always the case you want to try and see whether
24 those three sets of information are matching

1 reasonably? Is that how it worked in the
2 previous rate cases?

3 MR. DEXTER: Well, yes. That's a
4 standard Audit function. And, typically, it's a
5 very quick -- it's a very quick analysis. In
6 other words, the books match the FERC Form 1.
7 And, if there are differences between the FERC
8 Form 1 and the books, between that and the rate
9 case filing, those are questioned and explained
10 in a fairly quick timeframe.

11 You know, in this instance, like I
12 said, there had been five differences between the
13 rate filing and the FERC Form 1 that were
14 identified, but were not disclosed. They could
15 have been disclosed up front, but that's a
16 tangent.

17 To answer your question, typically,
18 it's a fairly routine process that the Audit
19 Division goes through.

20 CMSR. CHATTOPADHYAY: There were
21 conflicting opinions, I think. So, for DOE, as I
22 understood it, even after what the Company is
23 doing, trying to fix the SAP issues or the
24 mapping issues, maybe there is a difference in

1 those, too. But, as I understood it, they're
2 kind of saying, that the information for 2023, if
3 that was being used as a test year, would still
4 be a problem?

5 MR. DEXTER: Well, I went through a
6 couple of reasons why we believe it could very
7 well be a problem, yes. But we haven't analyzed
8 the 2023 information at all. It's not an issue
9 in this case. So, we don't know. But, from what
10 we've heard, you know, I laid out a couple of
11 reasons why I thought the 2023 could be
12 problematic for setting rates.

13 CMSR. CHATTOPADHYAY: Does the Company
14 have a response, like, because the Company was
15 saying "a lot of the problems have been
16 identified, fixed, and so the numbers for 2023
17 would be", I don't want to put words in your
18 mouth, but I'm assuming "good enough" or --

19 MS. RALSTON: So, I don't know if I can
20 speak definitively to the 2023 books, I'm
21 probably not the right person to do that. But
22 what I can confirm is that the mapping issues
23 that we have been discussing this morning, a
24 large volume of them were discovered in

1 preparation of the FERC Form 1, because that's
2 the first time a FERC Form 1 was prepared by the
3 Company, and that relies, obviously, on the FERC
4 regulatory accounts. And, so, that large volume
5 of adjustments was made as part of that
6 preparation ahead of this rate case filing as
7 well.

8 And all of those mapping issues, once
9 they're corrected in the system, they're
10 corrected going forward. So, they would be
11 applied to 2023. So, you wouldn't see the
12 same -- you wouldn't have to make the same
13 adjustments again next year when you're preparing
14 the FERC Form 1. Does that make sense?

15 CMSR. CHATTOPADHYAY: It does. Has the
16 Company tracked how many SAP issues were
17 identified before the rate case?

18 MS. RALSTON: I don't know the number.

19 CMSR. CHATTOPADHYAY: Or, the mapping
20 issues, I'm using them, you know, --

21 MS. RALSTON: No, I understand what
22 you're asking. I don't know if I have -- I don't
23 have that number.

24 CMSR. CHATTOPADHYAY: Were there SAP

1 issues being discovered after the rate case was
2 filed?

3 MS. RALSTON: Yes. Those are -- some
4 of those issues were discovered through discovery
5 and the audit process, and those have also been
6 reflected in the updated revenue requirement.
7 It's just that the large volume are the ones that
8 happened before the rate case was filed. But
9 there have been a few here and there that have
10 happened.

11 CMSR. CHATTOPADHYAY: With the data
12 requests from the DOE and the process, would you
13 say that, when you were identifying the SAP
14 issues, they were being discovered in response to
15 the data requests, or there were some that you
16 identified on your own?

17 MS. RALSTON: I think the answer is
18 that it was happening both by the Company and in
19 response to data requests. I would have to
20 confirm.

21 Yes. Yes. So, some were identified by
22 the Department of Energy, as they stated, and
23 then the Company has also continued its own
24 review of its system, and has made some

1 adjustments on its own.

2 CMSR. CHATTOPADHYAY: Is the DOE also
3 in the loop about those identified issues that
4 you hadn't really probed on, but they have told
5 you that "we have these additional issues"?

6 MR. DEXTER: Well, we've learned about
7 them in a number of ways. One was during the
8 course of the audit, the mapping issues were
9 discovered and explained. And, now, the audit
10 happened after the FERC Form 1 was filed. So,
11 those were issues that, apparently, the Company
12 had identified, and submitted a FERC Form 1 that
13 didn't match the books. So, those would have
14 been disclosed by the Company to the Audit Team.

15 Other issues that have come up, mostly
16 in terms of reviewing the rate case, have been
17 identified, in our view -- in other words, we
18 didn't learn about them until we read the data
19 requests. And, you know, a good example are the
20 ones that I put in the Motion concerning the
21 office lease expenses, where we asked a simple
22 question about, you know, "how did the office
23 lease" -- actually, the OCA asked the question,
24 about "how did the office lease expenses compare

1 to, you know, last year's?", or whatever it was.
2 And, you know, we got answers like "Well, we left
3 off three, three buildings weren't accounted
4 for", you know, I've got it in the Motion, I
5 don't want to read the motion to you.

6 All of those types of examples were
7 ones that were identified by data requests. And,
8 actually, if you go to the tracker page in the
9 Company's Corrections and Updates filing, which
10 they attached to their motion -- to their
11 Objection to our Motion, you will see the source
12 of all the various adjustments, and it will
13 identify whether it was an OCA data response, a
14 DOE data response, or an audit issue.

15 CMSR. CHATTOPADHYAY: Thank you.

16 Are there -- this is to the Company.
17 Are there SAP issues being identified even now?

18 MS. RALSTON: So, I referenced this
19 earlier. There was one additional issue that was
20 identified recently, that the Company will be --
21 that would need to flow through the revenue
22 requirement. It is not included in the November
23 update. But it would be included in a subsequent
24 update. The impacts on the revenue requirement I

1 think is still being determined. So, I don't
2 have a number for you this morning. But it's not
3 an enormous number. We just don't want to --
4 we're just working on the details. So, yes.

5 But I will also say that, as part of
6 that review, which was done, you know, in
7 preparation for today, the Company feels
8 confident that there won't be additional
9 adjustments made.

10 And we also, again, this is why we
11 thought the third party verification was an
12 important offer to make this morning, so we
13 can -- so, you know, I understand that saying
14 this morning "there's another adjustment" doesn't
15 give you a lot of confidence. And that's why
16 we're hoping this third party review would
17 provide that assurance. That you can take our
18 word that we've done our due diligence, and we've
19 made the necessary adjustments.

20 CMSR. CHATTOPADHYAY: If you know the
21 latest one, when did that happen?

22 MS. RALSTON: I would have to consult
23 with the Company to get a date for you. I
24 apologize.

1 CMSR. CHATTOPADHYAY: Please do.

2 [Short pause to consult with Liberty
3 representatives.]

4 MS. RALSTON: So, it was discovered
5 within the last two weeks, while the Company was
6 doing an additional verification in preparation
7 for this morning.

8 CMSR. CHATTOPADHYAY: Is the Company
9 keeping account of when these are being
10 identified, which date, sort of a listing right
11 from the beginning? And I'm --

12 MS. RALSTON: Yes.

13 CMSR. CHATTOPADHYAY: Okay. Will it be
14 possible for the Company to identify what are the
15 top, let's say, ten SAP conversion issues, in
16 terms of dollar amount impact?

17 MS. RALSTON: Sure. We could do that.

18 CMSR. CHATTOPADHYAY: Okay. So, there
19 was some discussion about "Cogsdale", and I'm --
20 this is purely because I'm confused a bit. When
21 you say "Great Plains", is that a different, you
22 know, system than Cogsdale?

23 MS. RALSTON: So, Cogsdale was the
24 billing platform used by the Company.

1 CMSR. CHATTOPADHYAY: Uh-huh.

2 MS. RALSTON: And Great Plains was the
3 accounting system.

4 CMSR. CHATTOPADHYAY: So, Great Plains
5 was there when Liberty took responsibility of the
6 National Grid New Hampshire operations, right?

7 MS. RALSTON: I think the answer is
8 "no", but we're just confirming it.

9 CMSR. CHATTOPADHYAY: Okay.

10 MR. SHEEHAN: So, a clarification, the
11 Company was on Grid's systems in 2012, when the
12 acquisition occurred, and, as part of the
13 acquisition, is when the Cogsdale and Great
14 Plains were implemented. And, so, that would
15 have been 2013ish, 2014, as part of breaking away
16 from National Grid. And there were certain
17 transition agreements between Grid and the
18 Companies, that Grid had to provide certain
19 services for periods of time while we
20 transitioned to those two new platforms. So,
21 they were both 2013ish.

22 CMSR. CHATTOPADHYAY: Do you know how
23 long that transition was? Like, in terms of
24 figuring out the glitches, and making sure that,

1 as you moved from the National Grid system to
2 Great Plains, how long was that process?

3 MR. SHEEHAN: I don't. That was before
4 I was at the Company, and -- I can tell you we
5 filed rate cases in 2013 and 2014; Electric in
6 '13, Gas in '14.

7 CMSR. CHATTOPADHYAY: So, going back to
8 Cogsdale, that is simply for billing. And was
9 that acquired or was it a legacy from National
10 Grid?

11 MS. RALSTON: This was a new system
12 that the Company implemented after it was
13 acquired from National Grid.

14 CMSR. CHATTOPADHYAY: And how was that
15 process? During the transition, like, did you
16 face issues, and how long did that continue?

17 MR. SHEEHAN: The same issue, I'm not
18 sure of any details with that.

19 CMSR. CHATTOPADHYAY: Okay.

20 MR. SHEEHAN: Both were done at roughly
21 the same time, as part of the breakaway from
22 Grid.

23 CMSR. CHATTOPADHYAY: I'm going back to
24 DOE, I have a -- and this is the last question.

1 Can you give us a sense of, because
2 there was a management audit 2015, '16, I may get
3 the year wrong, but -- and there were
4 recommendations from Liberty Consultants. And
5 can you give us your sense of whether the Company
6 has followed up and, you know, implemented those
7 recommendations in a way that gives you
8 confidence that a lot of it is already happening?

9 MR. DEXTER: Well, that's a -- that's a
10 big question, probably needs a big answer. Let
11 me say this. Nothing -- I don't recall that the
12 Liberty Consulting audit dealt with accounting
13 issues that we're talking about today. My
14 recollection was that it was focused on capital
15 expenditures, primarily, and customer service.

16 Well, I don't have a clear enough
17 recollection of that to give you an answer. I
18 could -- I could provide that answer in writing.

19 CMSR. CHATTOPADHYAY: I will say that
20 it's in one of the testimonies, it's being
21 discussed in the filing.

22 MR. DEXTER: Well, certainly, in
23 Mr. Dudley's testimony, which focuses on the
24 capital expenditures, he goes back and discusses

1 the Liberty Consulting audit and what's gone
2 forward. But I knew there were four pieces to
3 the audit, and I just don't have the details on
4 it.

5 CMSR. CHATTOPADHYAY: Yes. I think
6 I'll stop there. It could continue forever.

7 CHAIRMAN GOLDNER: Just a quick
8 question for the Company, before I go into a line
9 of questioning for the DOE, and then I think we
10 can wrap up for the day.

11 This Great Plains system, this is a
12 Microsoft product?

13 I think Great Plains sold out to
14 Microsoft in, like, 2001, something like that.
15 So, the answer is "yes", for the stenographer.

16 Do you have a main -- are you operating
17 on any mainframe systems or are using purchased
18 software on your accounting systems?

19 MR. SHEEHAN: I don't know, I -- I
20 don't know. For the current systems?

21 CHAIRMAN GOLDNER: Yes.

22 MR. SHEEHAN: I can --

23 CHAIRMAN GOLDNER: Yes. I mean,
24 normally, and, historically, companies that had

1 mainframe systems that were transitioning to SAP
2 would keep their mainframe systems on until
3 everything tied out with SAP.

4 So, I'm just wondering about the
5 Company's process to tie out their old system to
6 the new system, and I'm just trying to understand
7 the process.

8 MR. SHEEHAN: Let me -- if you give me
9 two seconds?

10 CHAIRMAN GOLDNER: Sure.

11 MS. RALSTON: And, while Attorney
12 Sheehan is checking on that, I wanted to follow
13 up on Commissioner Chattopadhyay's question about
14 the "top-ten impacts". Is that a record request
15 that you would like us to respond to?

16 CMSR. CHATTOPADHYAY: I -- I'm sorry.
17 That would be helpful. So, maybe I should
18 rephrase it, so that it can be transcribed:
19 Please provide the -- just a moment, I'm going to
20 restart: Identify the ten top SAP issues, in
21 terms of dollar impact, that impacted the test
22 year 2022?

23 MS. RALSTON: Thank you.

24 CMSR. CHATTOPADHYAY: Thank you.

1 CHAIRMAN GOLDNER: And we'll make that,
2 I'll wrap up with it, too, but we'll make that
3 "Exhibit 5", there are already three exhibits, I
4 think, in the file, and Attorney Dexter's
5 handout, we'll make that "Exhibit 4". So, just
6 for everybody's information.

7 *(The documents, as described above,
8 were marked as "**Exhibit 4**" for
9 identification, and "**Exhibit 5**" was
10 reserved for the record request noted
11 above, for identification purposes.)*

12 CHAIRMAN GOLDNER: Okay. So, I think
13 we can just wrap up with, it's a lengthy -- it's
14 a lengthy question, Attorney Dexter, but it's
15 directed at the Department.

16 So, looking at Commission orders cited
17 by the Company in their Objection to the DOE's
18 Motion, I looked back at the chain of citations
19 going, you know, all the way back to the
20 beginning. Liberty cited "Order Number 26,534",
21 which was from October 22nd, 2021, and issued in
22 the Eversource/Consolidated Pole Transfer
23 Petition. On Page 7, that cited a PSNH/Burgess
24 Station "Order 25,213", from April 18th, 2021, on

1 Page 71.

2 So, if you would like to pause there
3 for a second and take a look at 26,534, at
4 Page 7, is -- I'm about to reference. So, I'll
5 just pause for a second, from 2011. Yes. The
6 Burgess order is from 2011.

7 So, in Order 26,534, it says "decisions
8 on such motions", and we've talked about this
9 today, but I just want to go back to it. In
10 Order 26,534, it says "decisions on such
11 motions", meaning "motions to dismiss", "are made
12 before a factual record is developed", this
13 requires us "to assume that all of the
14 petitioner's assertions are true." So, we talked
15 about this today. I'm just kind of going through
16 the baseline.

17 So, when I went back to Order 25,213,
18 the Burgess order, it says that "the motion to
19 dismiss", and that one was decided in Order
20 Number 25,192, so I had to look at that one,
21 because you see there's a long tree here, was
22 issued on January 14th, 2011.

23 So, on Page 6 of Order 25,192, there's
24 a citation to "Order 25,171", I'm sorry for the

1 long tree here, but this is what the research
2 shows, which was issued on November 17th, 2010,
3 in the same docket.

4 Okay. Now, we'll speed up. Docket
5 Number DE 10-195, regarding an earlier Concord
6 Steam motion to dismiss the Burgess filing, and
7 also the Southern New Hampshire Water Company
8 case, Order Number 19,826, from 1990, and
9 Mountain Springs Water Company, the New Hampshire
10 Supreme Court case from 1985, as cited in 126 New
11 Hampshire 199, Pages 200 and 201. So, I'm just
12 putting all this on the record, but I'll get to
13 the question in a moment.

14 These cases were mentioned by the
15 Company in their Objection. I looked at the PNE
16 Energy Supply order from 2016 cited in the
17 Company's Objection, "Order 25,881". One thing I
18 saw in the -- was that, in the PNE matter and the
19 Mountain Springs matter referred to litigation in
20 superior court. So, that's one thing.

21 Then, for all the other cited orders,
22 there was the following commonality: There was
23 no testimony or supporting schedules that had
24 been filed by the party moving in favor of the

1 motion to dismiss. In fact, in the Burgess order
2 from 2010, that was 25,171, the Commission
3 referred to the fact that "at this stage of the
4 proceedings, we have before us only PSNH's
5 petition and supporting testimony, and do not
6 have the benefit of any responsive prefiled or
7 hearing testimony, or any briefing on the legal
8 issues involved."

9 So, that paints the picture. And, so,
10 I'd like to ask, with that backdrop, Attorney
11 Dexter, just a few questions.

12 So, the first one is, whether the fact
13 that the DOE has filed its testimony and
14 supporting schedules, and supported the
15 conclusions that the DOE has reached in the
16 Motion to Dismiss, is that a distinguishing fact
17 from the other cases cited, where no such
18 testimony or supporting information was filed?

19 MR. DEXTER: Well, it sounds like it's
20 a distinction. I don't know that there's any
21 significance to it.

22 CHAIRMAN GOLDNER: Okay. Thank you.
23 And I'll come back to the Company and any other
24 parties that want to weigh in at the end. But

1 I'll ask another --

2 MR. DEXTER: And I can tell you why, I
3 didn't know if you wanted to hear more, but --

4 CHAIRMAN GOLDNER: I do. I do. I just
5 wanted to let folks know. But please proceed,
6 yes.

7 MR. DEXTER: Yes. The Motion to
8 Dismiss and the testimony are really two
9 different things, is all I wanted to say. The
10 testimony, we're operating under a procedural
11 schedule, and we had an obligation to put our
12 case on on December 13th. And we did that,
13 knowing that we were filing the Motion to
14 Dismiss. Ideally, the Motion to Dismiss would
15 have been filed earlier. It just took longer to
16 put together then. You know, the Audit Report
17 was issued late October. By the time we digested
18 it, and realized the significance of the impact,
19 we put together the Motion to Dismiss, and it all
20 happened to come together on the same day. That
21 was more a coincidence than anything else.

22 But it was not intended to -- the
23 filing of the testimony, as we said in the
24 preface to Ms. Nixon's testimony, wasn't -- it

1 was done because we had to do it according to the
2 procedural schedule, but it wasn't -- it was done
3 in the alternative to the granting of the Motion
4 to Dismiss.

5 CHAIRMAN GOLDNER: Okay. Thank you.

6 Second question is, how about the fact
7 that we are dealing with a rate case at the
8 Commission, and not a civil suit in superior
9 court, is that a distinguishing fact that we can
10 consider?

11 MR. DEXTER: Well, I would think so.
12 The Commission -- the Supreme Court cases give
13 the Commission great authority and discretion
14 over rate-setting.

15 And, so, yes. I think you would have
16 more discretion than a civil court might have.

17 CHAIRMAN GOLDNER: Thank you. Is it
18 fair to say, based on your arguments that you've
19 provided answering my questions, that the
20 Commission is not required to presume that the
21 Company's assertions made in its filing or
22 otherwise are true, but, rather, that the
23 Commission can make an assessment of the
24 supporting testimony and schedules provided by

1 the DOE on its own merits in considering the
2 Motion to Dismiss?

3 MR. DEXTER: So, the Company has
4 admitted to all the facts. So, I don't think
5 there's any dispute there. In other words, like
6 I said this a couple of times today, you know,
7 you're supposed to take the facts most favorable
8 to the Company in this case, because they're the
9 petitioning party.

10 And they have agreed with everything
11 that we've put in the motion. It's just a
12 question of what you do with it. So, I don't
13 think there's a question of, you know, how you
14 have to look at the facts in order to decide the
15 case.

16 In terms of relying on our testimony, I
17 don't think it's necessary to rely on the
18 testimony, because the testimony takes the case
19 as it was presented, and then deals with all the
20 various issues that are raised in a typical rate
21 case, like rate of return and rate base and
22 depreciation and lead/lag study, and everything
23 else. It doesn't really get into the Motion to
24 Dismiss.

1 And there are some elements of the
2 Nixon/Trottier testimony that talk about some of
3 the issues that came up in the case. So, I
4 guess, in a sense, that that testimony might be
5 useful. But, by and large, that was, you know,
6 the intent was to defer the Motion to Dismiss --
7 to the Motion to Dismiss, which stands on its
8 own.

9 CHAIRMAN GOLDNER: Okay. Thank you.

10 And the final question is, would it be
11 helpful for the Commission to provide some
12 hearing testimony on the Motion to Dismiss
13 issues, including scope for cross-examination and
14 briefing on the legal issues, in light of our
15 discussion here?

16 And I'll just sort of add to that, that
17 it seems logical to me, given the Department's
18 Motion, with the OCA's support, that the Company
19 would have the opportunity to cross the
20 Department with any questions they might have,
21 given -- so, I'll just stop there.

22 I would -- I would assume that the
23 Department's position would be to allow the
24 Company to cross?

1 MR. DEXTER: Well, we would, if
2 required to, but I don't think there's any facts
3 in dispute. I think it's a question of -- I
4 think the question before the Commission is "what
5 do you do with the facts that are laid out in
6 Motion, because no one has disputed them?"

7 So, we could have the auditor talk
8 about the Audit Report. You know, we could have
9 Ms. Noonan talk about the customer service
10 results.

11 We didn't hear any disagreement with
12 the facts in the Company's Objection. So, I
13 don't think a hearing is necessary.

14 CHAIRMAN GOLDNER: So, your position
15 would be the facts are -- there's no disputing
16 the facts, the only thing we're talking about
17 today is the remedy?

18 MR. DEXTER: Yes.

19 CHAIRMAN GOLDNER: Okay. I'll pause
20 there, and give the other parties an opportunity
21 to weigh in on any of those questions.

22 Attorney Kreis.

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

24 I think that, based on the colloquy

1 that you just had with Mr. Dexter, the
2 appropriate analogy here, in terms of the way a
3 civil procedure works, is actually through a
4 motion for summary judgment, rather than a motion
5 to dismiss, because the standard Mr. Dexter just
6 articulated is the summary judgment standard.
7 You determine that there is no genuine issue of
8 material fact, and I agree with Mr. Dexter that
9 there appears not to be. And, so, therefore, you
10 determine whether one party or another is
11 entitled to judgment as a matter of law. And the
12 answer here is "yes", because the facts, as they
13 have been laid before the Commission, demonstrate
14 that you can't rely on the schedules in the rate
15 case, essentially, to determine what the just and
16 reasonable rates are. So, that I think is the
17 way it sugars off.

18 Now, that all occurs against the
19 context of what Mr. Dexter also told you, which
20 is the Commission has a lot of discretion here.
21 Because (a) this is not a civil proceeding, the
22 rules of civil procedure do not apply. There's
23 nothing in the Commission rules about either
24 motions to dismiss or motions for summary

1 judgment; and (b) a rate case is considered, in
2 some respects, to be a legislative function,
3 rather than an adjudicative function. And, you
4 know, I don't necessarily want us all to get
5 caught up in that distinction.

6 But I do note that the Commission is
7 doing more in a rate case than just making
8 factual findings based on an administrative
9 record. It's making, essentially, what is a
10 subjective determination about what just and
11 reasonable rates are, and it's exercising a lot
12 of policy discretion when it does that.

13 When the data that's been laid before
14 the Commission is fundamentally unreliable, the
15 Commission really can't do that.

16 CHAIRMAN GOLDNER: Thank you.

17 Attorney Getz or Mr. Skoglund, any
18 comments?

19 MR. GETZ: Dartmouth College has no
20 position on this issue, Mr. Chairman.

21 MR. SKOGLUND: Thank you, Mr. Chairman.
22 Clean Energy New Hampshire does not have any
23 position either.

24 CHAIRMAN GOLDNER: Thank you. And the

1 Company?

2 MS. RALSTON: Thank you.

3 So, I guess I would start by just
4 stating the Company doesn't agree that there are
5 no facts in dispute here. We have acknowledged
6 that there are differences between the Company's
7 books and records from 2022, the FERC Form 1, and
8 the revenue requirement. But the Company isn't
9 asking the Commission to set rates based on those
10 2022 books when it closed. The Company is asking
11 the Commission to set rates that reflect the
12 adjustments we have made, that we have explained,
13 and that are on the -- that we have included in
14 testimony, and that would be explained at a
15 hearing.

16 I think everyone is in agreement the
17 Commission has a lot of discretion and authority
18 to set those rates. And we think the right thing
19 is for the Commission to hear all the evidence at
20 a hearing, and give the Company an opportunity to
21 file rebuttal testimony, present its case. And,
22 then, the Commission can decide if there are any
23 adjustments that are warranted in light of what
24 has occurred. The adjustments that you -- you

1 can review them, you can make sure the Company
2 has properly explained them, that they're
3 reflected in the revenue requirement that would
4 be used to set rates.

5 It seems like it's getting glossed over
6 that the revenue requirement is what is being
7 provided to support rates. It's not the 2022
8 books, that was a starting point. The Company
9 recognized that adjustments were necessary. They
10 were made, they were explained, they were
11 supported.

12 So, I just want to make sure that
13 that's clear, this is not -- we didn't dispute
14 the 2022 books needed adjustments, that is
15 accurate. But we do dispute that nothing else
16 can be relied on, and that the revenue
17 requirement is fundamentally flawed, because of
18 the adjustments that were necessary.

19 CHAIRMAN GOLDNER: Thank you, Attorney
20 Ralston. That's a helpful clarification.

21 So, let's do this. I know we're a
22 little bit past the hard-stop. But I would like
23 to have clarity on next steps. So, the
24 Commission will take ten minutes, returning at

1 let's call it 12:20, and wrap up the hearing
2 today. So, off the record.

3 *(Recess taken at 12:11 p.m., and the*
4 *hearing resumed at 12:28 p.m.)*

5 CHAIRMAN GOLDNER: Okay. So, in terms
6 of next steps, the Commission will provide
7 additional process. So, we're going to continue
8 the hearing. We believe that there are facts in
9 dispute, and we want to hear from both Liberty
10 and DOE witnesses.

11 And, if everyone can open up their
12 calendars, February 23rd appears to be open. I
13 know this is time constraints, we're trying to
14 move as quickly as possible. Would that be
15 acceptable for everyone?

16 I'm sorry, what did I say?

17 CMSR. SIMPSON: "February".

18 CHAIRMAN GOLDNER: I'm sorry. January.

19 *[Short pause.]*

20 CHAIRMAN GOLDNER: Yes. That Northern
21 hearing is -- we have a cancellation coming on
22 that one. So, there's no other hearings that
23 day. So, that's Tuesday, January 23rd.

24 *[Short pause.]*

1 CHAIRMAN GOLDNER: Vote first; hearing
2 second, is the concept.

3 *[Laughter.]*

4 CHAIRMAN GOLDNER: All right. Any
5 concerns with the 23rd? Is that an acceptable
6 day?

7 Would people want to move -- if there's
8 a desire to move faster, we can look at dates
9 inside of that?

10 MS. RALSTON: So, I was just going to
11 say, for the Company, that date works, with the
12 exception of Mr. Proudman, who will be out of the
13 country.

14 CHAIRMAN GOLDNER: Okay. Okay. Thank
15 you.

16 Is there another date that would work
17 better? Is there a date the prior week that
18 would work?

19 I'm looking at our calendar. Yes,
20 we're booked all week, the prior week.

21 Just a moment please.

22 *[Chairman and Commissioners*
23 *conferring.]*

24 MR. SHEEHAN: Mr. Chairman,

1 Mr. Proudman is out of the country. But,
2 frankly, he's not a fact witness likely to the
3 issues that are of most concern to you.

4 So, I guess I'm saying, don't let that
5 be an obstacle to the first date you proposed.

6 CHAIRMAN GOLDNER: Okay. Thank you.

7 *[Chairman and Commissioners*
8 *conferring.]*

9 CHAIRMAN GOLDNER: Okay. So, it sounds
10 like the 23rd third is acceptable to everyone.
11 And we understand that Mr. Proudman will be
12 traveling.

13 MR. DEXTER: Mr. Chairman, I'm not sure
14 which -- when you said "witnesses available",
15 witnesses relevant to the Motion to Dismiss, not
16 all the witnesses in the rate case, obviously,
17 correct?

18 CHAIRMAN GOLDNER: That's correct.
19 We're discussing the testimony that we saw that
20 was relevant, for example, Ms. Nixon's. And, so,
21 the witnesses that were germane.

22 We can, in the procedural order that
23 we'll issue posthearing, we can suggest
24 witnesses, if that's helpful to the Department,

1 or we can be silent. It's the Department's
2 preference.

3 MR. DEXTER: Okay. I think we would
4 like an indication, if you're willing to provide
5 that? That would help us prepare.

6 CHAIRMAN GOLDNER: Sure. Yes. We
7 would be happy to. We'll put that in the
8 procedural order.

9 MR. DEXTER: Thank you. I'm also
10 hearing a request if we could possible start at
11 10:00 that day, for those people that live in
12 towns where voting precincts/polls close at
13 5:00 p.m.?

14 CHAIRMAN GOLDNER: Sure. So, you would
15 like to start at 10:00 a.m.?

16 MR. DEXTER: If that would be
17 acceptable, that would help.

18 CHAIRMAN GOLDNER: Of course.

19 MR. DEXTER: Thank you.

20 CHAIRMAN GOLDNER: We can do that.

21 MS. RALSTON: Will the Commission be
22 identifying topics?

23 I just also wanted to note that Ms.
24 O'Brien and Mr. Dawes didn't provide initial

1 testimonies. We were planning on having them
2 file rebuttal testimony, I think. But, to date,
3 they haven't filed anything. But they would be
4 important to help address some of these SAP
5 mapping and accounting issues.

6 CHAIRMAN GOLDNER: Just a moment, let
7 me check with Attorney Speidel. I think the
8 answer is "yes", but just a moment.

9 *[Chairman Goldner and Atty. Speidel*
10 *conferring.]*

11 CHAIRMAN GOLDNER: So, our thought is
12 that, from the Company's perspective, to protect
13 your assertion that the books and records are
14 sufficient to proceed in the rate case. So, in
15 the case of the Company, we would want to have
16 wide discretion in terms of who you believe is
17 the correct witness.

18 MS. RALSTON: Okay. Thank you.

19 CHAIRMAN GOLDNER: Or witnesses.

20 Okay. Because we're continuing the
21 hearing, I think we can forgo closing statements
22 today.

23 And, seeing no objections, we'll strike
24 ID on Exhibits 4 and 5. That was the handout

1 from Attorney Dexter in 4, and the record request
2 from Commissioner Chattopadhyay on the top-ten
3 SAP issues.

4 And I'll pause here, and see if there's
5 any other comments from the parties, before we
6 break on the continued hearing?

7 MR. DEXTER: I have one final item to
8 bring up, which is embarrassing, in light of the
9 topic at today's hearing.

10 But, in the motion that I filed on
11 December 13th, I had some information about
12 numbers of customer contacts to the Department.
13 And those numbers were slightly incorrect. And
14 what I would propose, they don't change the tenor
15 of the paragraph, this is Paragraph 48, on
16 Page 21. They don't change the conclusion. But
17 I'd like to take the opportunity to correct the
18 numbers. And I think the easiest way would be to
19 do that in a letter that I would propose to file
20 today.

21 And apologies for the error.

22 CHAIRMAN GOLDNER: No, thank you for
23 filing that. Please, please do.

24 Any other comments from Dartmouth or

1 the OCA or Mr. Skoglund?

2 MR. KREIS: Mr. Chairman, I just want
3 to clarify what I understand to be the effect of
4 the stay that you have imposed in this docket.

5 I've instructed everybody on my team
6 essentially to stop work on the rate case. And
7 that, unless you tell me to do something other
8 than that, is what I intend to continue to do.

9 So, there are discovery issues that are
10 pending. Nobody is working on responding to any
11 of the discovery requests. The Company, I think,
12 might object to some of the discovery objections
13 that we interposed, they might want to deal with
14 that. None of that is going on.

15 And the reason I think that's the right
16 answer is that, should you grant the Department's
17 Motion, then I wouldn't want to be incurring any
18 additional expenses that I would then want to be
19 taxing to the Company without recovery from
20 customers.

21 So, I just want to clarify or make sure
22 that my understanding is identical to the
23 Commission's?

24 CHAIRMAN GOLDNER: It is. The intent

1 of the stay is to stop work until the Motion to
2 Dismiss is dispositioned. Yes.

3 Anything else from the parties, before
4 I turn to the Company?

5 MR. GETZ: No, Mr. Chairman.

6 CHAIRMAN GOLDNER: Okay.

7 MR. SKOGLUND: None from Clean Energy
8 New Hampshire.

9 CHAIRMAN GOLDNER: Thank you. Anything
10 from the Company, before we adjourn?

11 MS. RALSTON: Just one procedural
12 question, with respect to the record request.

13 Is the timeline to respond one week?
14 Or will you be including it in the order you're
15 issuing?

16 CHAIRMAN GOLDNER: I think a week is
17 fine. We won't need that to issue the procedural
18 order.

19 MS. RALSTON: Okay. Perfect. Thank
20 you.

21 CHAIRMAN GOLDNER: So, let's make it a
22 week from today. So, 1/11.

23 Okay. Seeing nothing else, we'll
24 schedule the continued hearing. And the hearing

1 is adjourned. Thank you.

2 *(Whereupon the hearing was adjourned at*
3 *12:36 p.m., and the continued hearing*
4 *is scheduled to resume at 10 a.m., on*
5 *January 23rd, 2024.)*

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