

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

March 6, 2024 - 9:01 a.m.
21 South Fruit Street
Suite 10
Concord, NH

RE: **DG 23-067**
LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP, d/b/a
LIBERTY UTILITIES:
Request for Change in Distribution Rates.
(Hearing regarding various motions)

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

Alexander Speidel, Esq./*PUC Legal Advisor*
Tracey Russo, Clerk

APPEARANCES: **Reptg. Liberty Utilities (EnergyNorth**
Natural Gas) Corp. d/b/a Liberty
Utilities:
Jessica A. Ralston, Esq. (*Keegan Werlin*)
Michael J. Sheehan, Esq.

Reptg. Residential Ratepayers:
Michael Crouse, Esq.
Marc H. Vatter, Dir./Economics & Finance
Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:
Paul B. Dexter, Esq.
Mary E. Schwarzer, Esq.
Molly M. Lynch, Esq.
(*Regulatory Support Division*)

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

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P R O C E E D I N G

CHAIRMAN GOLDNER: Okay. And we'll go on the record. I'll just say, before we get started, please wait until the "Please be seated" before you're seated please. Thank you.

Good morning. This is the hearing on pending motions in the Liberty-Gas rate case, Docket DG 23-067, as noticed by the Commission's procedural order issued on February 27th, 2024. I'm Chairman Goldner. I'm here today with Commissioner Simpson and Commissioner Chattopadhyay.

The Commission is aware of the application of temporary rates is still outstanding, after the January 8th, 2024, hearing, and the Liberty, DOE, and OCA briefs, and responses filed through January. This issue, for the time being, that is the temporary rates, was overtaken by events: The Company's February 5th Motion to Stay, the Department of Energy's Partial Motion -- or, Partial Objection, rather, and Partial Assent to the Motion to Stay, which was filed on February 12th, and the February 16th DOE Motion to Dismiss, and

1 associated filings and objections. The OCA also
2 filed testimony on February 21st.

3 We have three hours allotted for this
4 hearing, due to other Commission time commitments
5 in the afternoon. This hearing is not meant to
6 be a blow-by-blow of all the arguments and issues
7 presented in the various filings and
8 counterfilings. Rather, it's meant to be a
9 vehicle where the Commission and parties can
10 probe the question "Where do we go from here?"

11 This question, the Commission believes,
12 benefits from the recent experience of the DE
13 23-039 Liberty-Electric proceeding, and the
14 Commission's issuance of Order Number 26,952 on
15 February 22nd.

16 In that order, the Commission issued a
17 continued stay until April 15th, to give
18 Liberty-Electric the capability to produce a
19 report, with cooperation of
20 PriceWaterhouseCoopers, PriceWaterhouseCoopers,
21 its consultant, regarding the SAP
22 conversion-related accounting issues. The
23 Commission expanded that ambit to include the
24 same analysis for 2023.

1 Liberty-Gas has made a similar offer of
2 a PwC report for itself in this proceeding.

3 We note, for the record, that the
4 parent Liberty company has integrated the SAP
5 program for both the electric and gas New
6 Hampshire utilities.

7 So, for statements of position of each
8 of the parties, to be made after appearances, we
9 would like the parties to address the question of
10 an interim remedy, such as that established in
11 23-039, for this proceeding.

12 Also, the Commission will ask questions
13 of the various parties from the Bench on next
14 steps.

15 So, let's begin by taking appearances,
16 beginning with the Company.

17 MS. RALSTON: Good morning. Jessica
18 Ralston, from the law firm Keegan Werlin, joined
19 by Michael Sheehan, in-house counsel, for Liberty
20 Utilities.

21 CHAIRMAN GOLDNER: Thank you. And the
22 Office of the Consumer Advocate?

23 MR. CROUSE: Good morning,
24 Commissioners. My name is Michael Crouse, Staff

1 Attorney for the Office of the Consumer Advocate.
2 Joining me today is Marc Vatter, our Director of
3 Economics. We represent residential ratepayers
4 in this matter.

5 Thank you.

6 CHAIRMAN GOLDNER: Thank you. And the
7 New Hampshire Department of Energy?

8 MR. DEXTER: Good morning. Paul
9 Dexter, appearing on behalf of the Department of
10 Energy. Joined by co-counsels Mary Schwarzer and
11 Molly Lynch.

12 CHAIRMAN GOLDNER: Okay. Thank you.
13 And I see Attorney Schwarzer.

14 Okay. So, let's move now to take some
15 statements of positions, starting with the
16 Department of Energy, which was the moving party
17 in the Motion to Dismiss.

18 MR. DEXTER: Well, Commissioner, I have
19 some prepared remarks, and I'm mindful of what
20 you just laid out for how the hearing is going to
21 go.

22 But I guess I will continue to state,
23 on behalf of the Department of Energy, that we
24 believe the appropriate path forward in this case

1 is dismissal, rather than remedying or
2 resuscitating the 2022 test year data.

3 I can keep my remarks brief. But I
4 think it's really important that he focus on two
5 items which support dismissal.

6 First of all, we're all familiar with
7 the statutes RSA 378:27 and 28, which govern
8 temporary and permanent rates, and which direct
9 the Commission to rely on information provided in
10 reports submitted by the company, unless there's
11 reasonable grounds for questioning the figures in
12 those reports. And I think we've provided ample
13 ground for reasonably questioning the figures in
14 the reports that the Company has presented.

15 First of all, I wanted to address the
16 issue of the Form F-16 Report. This is a report
17 that's required to be filed with the Commission,
18 through Commission and Energy rules. It
19 requires -- those same rules require that the
20 Commission -- that the Company keep its books
21 according to the Uniform System of Accounts, and
22 that they report those results in the F-16. The
23 F-16, if you will, is a corollary to the FERC
24 Form 1. However, it's a New Hampshire report

1 specific. And, so, therefore, it doesn't have a
2 FERC designation. And one of the roles of the
3 Audit Department, at the Department of Energy, is
4 to review the F-16 for accuracy.

5 In this docket -- in this instance, I
6 should say, Liberty filed its Form F-16 Report in
7 May of 2023. And the Audit Department
8 immediately noted some discrepancies and
9 questions for information -- and issued questions
10 for information concerning the information
11 provided in the F-16.

12 There was a correspondence back and
13 forth of several letters from the Audit
14 Department requesting corrections. And, after
15 submitting four letters, and getting three
16 revisions to the F-16 Report, the Audit, as noted
17 in the Audit Report, at Page 7, said "The
18 remaining issues outstanding", in other words
19 items that were not corrected, "will be taken up
20 in the rate case."

21 So in the view of the Department of
22 Energy, there is no final, reliable F-16 Report
23 for the Commission to use in this case.

24 Adding to that confusion is the fact

1 that -- is the fact that the Audit Report that
2 was produced and submitted in this case was able
3 to rely on the F-16, with the three revisions.
4 But the F-16, without the revisions, is the
5 document that's posted on the Commission's
6 website, the PUC Commission's website, and in the
7 electronic filing system.

8 On the Department of Energy's website,
9 you'll find the corrected F-16 Report. And, if
10 you scroll through it, you'll see multiple pages
11 crossed out, and replaced with pages that say
12 "Revised on", for instance, "July 7th, 2023", a
13 number of them are noted that way, or "Second
14 Revision" or "Third Revision".

15 Apparently, there's some confusion
16 between the Company and the Department of Energy
17 about who files the final Report. And I don't
18 mean to hold the Company responsible for any
19 confusion that was generated because of the split
20 of the Agency, and we're still working out who
21 files what.

22 The point is -- the point I want to
23 make is that there are conflicting F-16s out
24 there in the public to look at. And, so, when

1 the Commission is looking at the F-16 to decide
2 whether or not it's reliable, we urge you to look
3 at the version that is submitted on the
4 Department of Energy's website.

5 And, in fact, in Liberty's Objection to
6 our Motion to Dismiss, at Attachment D, they have
7 also provided corrected pages for the F-16. And,
8 if you go, you'll see that many, many numbers, on
9 many, many pages, have been corrected.

10 So, again, back to the key point. The
11 Audit Department never "signed off" on the F-16,
12 and continues to have questions about the
13 information there.

14 So, number one reason to dismiss, we
15 don't have a reliable Report, as required by
16 378:27, on which to base the rates in this case.

17 Second reason for dismissal centers
18 around the Audit Report Issue Number 1, at
19 Page 196. And, if you were to go to that page in
20 the Audit Report, which we provided as an
21 attachment to our Motion to Dismiss, you'll see a
22 long schedule, which is a little bit difficult to
23 read, but, basically, what it says is, on the
24 left-hand side, we have general ledger accounts

1 and amounts. And, then, in the middle of that
2 page, we have a column that says where there are
3 disagreements between the F-16 and the general
4 ledger.

5 And you will note, in that middle
6 column, that there are not many discrepancies
7 between the F-16 and the general ledger. But,
8 again, the Audit Report relied on the corrected
9 F-16s. So, there were discrepancies, but they
10 were largely corrected through the audit process.

11 The important part of that schedule is
12 the right-hand side, which compares then the
13 general ledger, the corrected F-16, with the
14 Company's rate case schedules, and, in
15 particular, RR-EN-2-1, which is the rate case
16 schedules that lay out all the various financial
17 information. There you'll find over 25 accounts
18 with discrepancies over \$50,000, between the
19 books/general ledger, F-16, and the rate case
20 schedules. And that is the essence of the
21 Department's issues with setting rates based on
22 those numbers.

23 As we went through in detail in the
24 electric case, this is not supposed to be a

1 three-step process. There are three steps, but
2 they're all supposed to rely on the same
3 information. There aren't supposed to be
4 discrepancies between the books, the F-16, and
5 the rate case.

6 Occasionally, maybe you'll find an
7 account that has a mischarge or something, and
8 you might make a correction in the rate case, and
9 you'll note that in the rate case. Maybe you'll
10 find, if you're using a test year 2022, you might
11 find a change -- or, a charge in the books that
12 was really related to 2021, and, therefore, is
13 not appropriate, and so you make a *pro forma*
14 adjustment, and you kind of get on with your
15 life. We understand that.

16 But what's not supposed to happen in a
17 rate case is that virtually all of the O&M
18 accounts of the Company have significant
19 differences between the books and records and the
20 rate case schedules.

21 Now, compounding that problem is the
22 requirement that the -- that the utility seeking
23 the rate case file an attestation, which they
24 did, which states that "The information in the

1 case represents the financial position of the
2 Company, and that all differences between the
3 books and records of the Company are expressly
4 noted." And that attestation is in the case, you
5 can find it at Bates Page I-142.

6 It's our position that that attestation
7 is not correct, because the differences were not
8 "expressly noted". Not only were they not
9 "expressly noted", they were never mentioned.

10 If you go to the testimony of the
11 Company that started off the case, you go to the
12 testimony of Mr. Culbertson and Mr. Clayton, and
13 that's at Bates Page II-060, they will tell you
14 that the development of the -- that the revenue
15 requirement was "based on the financial results
16 of the Company." Well, I suppose that's true.
17 But it certainly is not an "express noting" of
18 the 25 accounts with the variances of over
19 \$50,000.

20 And, so, this -- these discrepancies,
21 instead of being disclosed and noted and
22 explained up front, were raised by the Audit
23 Division. And, so, the Audit Division asked for
24 a reconciliation. And they were provided a

1 reconciliation, and it's in the Audit Report --
2 I'm sorry, they got an audit data -- let me back
3 up.

4 The Audit Department requested an
5 explanation through a written audit request, and
6 they were provided a written audit response,
7 which Liberty Utilities has provided in their
8 Objection to our Motion to Dismiss. And it was
9 provided on -- by email from Attorney Ralston,
10 dated February 26th, and that is the explanation
11 of the variances.

12 And I think it would be important, if
13 the Commission wants to take a moment, to open up
14 that Excel spreadsheet, which provides the
15 explanations. I have it open on my screen.
16 Again, you can't access it from the docket page,
17 because it's an Excel spreadsheet. So, you need
18 to find an email from Attorney Ralston on
19 February 26th, when Liberty filed the Objection
20 to the Motion to Dismiss.

21 And I'll pause, until you are able to
22 pull up the spreadsheet.

23 *[Short pause.]*

24 CMSR. SIMPSON: Titled as

1 "Attachment B"?

2 MR. DEXTER: It's entitled
3 "Attachment B (Part 2) 003".

4 CMSR. SIMPSON: Thank you.

5 CHAIRMAN GOLDNER: There's a single tab
6 called "35"?

7 MR. DEXTER: That's what I see, yes.

8 And, so, if you were to go to the top
9 of that page, you will see what I was talking
10 about earlier. The spreadsheet, with the general
11 ledger accounts on the left-hand side, the
12 comparison to the F-16 in the middle, and, on the
13 right-hand side, at the very top, you know, the
14 first 20 or 30 or 40 rows, these are the various
15 accounts that I was talking about with the
16 significant discrepancies.

17 Now, if you scroll to the right of this
18 Excel sheet, and you get to Columns S through
19 W -- or, I guess S through Y, you'll see the
20 explanation that Liberty provided as to why there
21 were significant discrepancies between their rate
22 case and their F-16 and their books.

23 And you can -- the sheet is over 2,500
24 lines. And, so, you can scroll down. And, in

1 the Column W, they have highlighted, in brown,
2 the various discrepancies between the revenue
3 requirement schedule, RR-EN-2-1, and the books.
4 And, so, what you'll see, as you scroll down, is
5 an explanation "Not reflected in RR-EN 2-1", and
6 various numbers, both positive and negative,
7 highlighted in brown. And that goes on and on,
8 and on and on, and that's the roadmap.

9 So, that raises a couple of questions.
10 You know, in particular -- well, let me just
11 demonstrate. If you go to -- I want to pick an
12 account, if you go to Line 399, and, you know,
13 look between 399 and Line 415, you'll see Account
14 878. "878" is an operation expense account, it
15 deals with meters and regulators. And, so, a
16 positive number in this account would mean an
17 expense that would eventually find its way into
18 the Company's revenue requirement.

19 So, you'll see, in the middle of the
20 page there, a bunch of numbers that are brown,
21 that are highlighted, and they're mostly
22 negative, they net out to about \$180,000. And
23 the answer is, well, they're "Not reflected in
24 the revenue requirement".

1 So, that means \$180,000 of credits,
2 negative expenses, were taken out of this
3 account, therefore, increasing the Company's
4 revenue requirement by \$180,000. No explanation.
5 We don't know what these charges are, other than
6 the cryptic message in Column 10 [Column T?],
7 which says "Settle Lbr", maybe means "labor",
8 "WBS Materials", "Benefits".

9 It's just, you know, I'm not saying
10 that -- those explanations are not clear to the
11 Department of Energy. Maybe they could be with
12 further follow-up. This response was provided in
13 early October, two months after the case was
14 filed, and, again, is in response to something
15 that should have been provided in the case from
16 the outset. And, which, in fact, the Company
17 attested that they had provided, but hadn't, you
18 know, at the outset of the case, on July 27th.
19 So, you know, two plus months later into it, this
20 is the so-called "detailed roadmap", as the
21 Company puts it in their Objection to our Motion
22 to Dismiss.

23 And this is just one account. And, you
24 know, I urge you to scroll up and down and see.

1 It doesn't tell us what happened to these
2 charges. Not all of them are negative, some of
3 them are positive. And, if they're not in the
4 revenue requirement schedule, what happened to
5 them?

6 You know, follow-up audit requests,
7 which I don't think has been provided in the
8 record, there was a statement that "most of the
9 accounts are settlement accounts, and they net
10 each other out." Well, again -- you know, net to
11 zero. Well, again, as we described in the
12 electric hearing, accounts that net to zero, that
13 have wide variances going one way or the other,
14 are not harmless. And that's because all
15 accounts don't end up in the revenue requirements
16 calculation, some do and some don't. And, so, if
17 you're netting account -- and that's just the way
18 rates are set. You know, there are certain
19 balance sheet accounts that don't go into rate
20 base, like cash and accounts receivables, and
21 there are liabilities, like accounts payable,
22 that don't affect rate base, they're still on the
23 books.

24 If you've got accounts netting out,

1 between ones that are in the revenue requirements
2 calculation, and netting out to ones that aren't,
3 they don't net to zero from a revenue requirement
4 standpoint, and that's what this case is all
5 about.

6 So, that's where we stand here, on
7 March 6th, with an explanation as to why the test
8 year information is reliable. We don't have an
9 awful lot of information, and seven months have
10 gone by.

11 It's our position that this is a flawed
12 filing, that has not been remedied, is in
13 conflict with the Commission's rules, and, in
14 fact, the Company attested otherwise.

15 Now, in their Objection, I have a hard
16 time following the logic as to what they actually
17 attested to, I think the logic and the Company's
18 argument was "Well, we made all the corrections.
19 So, that means everything's okay. And that's
20 what we attested to, is that everything is okay."

21 And the attestation does have two
22 parts. The first is that the books are accurate.
23 But the second is, that any differences between
24 the books and the rate case have been expressly

1 noted, and that's what we don't have here.

2 So, those are the two primary reasons
3 that we recommend that we stop trying to fix the
4 2022 rate case seven months into it, and that
5 this Company be required to -- that the
6 Commission dismiss this rate case. And, then, if
7 the Company wants to file a rate case, that they
8 do it according to the Commission rules that are
9 set out, and the Department of Energy's rules
10 now, as we're splitting the rules, that are set
11 out, that books be kept according to the Uniform
12 System of Accounts, and that any differences be
13 expressly noted.

14 So, that's our -- that's our primary
15 recommendation for a path forward, which is what
16 you've asked for today.

17 Now, we are mindful of the fact that
18 that was not the course that the Commission took
19 in the electric case. That you have made the
20 decision to take the Company up on its offer to
21 have the third-party expert come in and issue a
22 report. And there are a couple of things that
23 the Department wanted to say about the report.

24 First of all, there was a statement

1 made, I believe in both cases, that "the
2 Department refused to cooperate with the Company
3 on developing the scope of the report." And, as
4 we pointed out in the filing in the electric case
5 yesterday, and I feel compelled to make the
6 statement on the record today, that that's just
7 simply not what happened. That the idea of the
8 third-party auditor or expert -- it won't be an
9 audit, actually, it will be an expert report.
10 The idea of the third-party report was first
11 raised by Liberty back in December, and again in
12 January, we heard it at the two hearings, and
13 immediately the Department expressed concerns
14 over what the scope would be, how independent the
15 auditor would be, or the expert would be, and the
16 timeframe, given the amount of issues that we
17 believe needed to be addressed. And, primarily,
18 a review of the Company's actual accounting
19 system and an IT audit that would identify
20 additional mapping errors that, you know, perhaps
21 had not been identified at the time.

22 We were told -- well, we were never
23 provided with a detailed scope of the audit.
24 And, so, therefore, we never had anything to

1 comment on, other than the comments that we gave
2 off-the-cuff, sort of, or, in a general manner,
3 in response to a general description.

4 So, I just want to correct the record
5 that the Department did not refuse to cooperate
6 with the Company. We were never provided with
7 the detailed scope.

8 Now, having said that, we're not sure
9 it's the Department's role to cooperate with the
10 Company on this. Maybe it is, maybe it isn't.
11 But it's the Company's rate case, and it's really
12 up to them. Again, going back to the basic rules
13 as to what they're supposed to provide, this is
14 all supposed to be taken care of before the case
15 is filed.

16 Whether or not it's appropriate for the
17 Department at this stage to weigh in on the scope
18 of the audit, I guess is an open question. But
19 the fact of the matter is, we were never provided
20 with the scope.

21 Yesterday, in the electric case, we
22 asked that the Commission ask the Company to
23 provide, so that we all know what the actual
24 scope is, which today we still have not seen. We

1 filed a request that the Commission issue a Bench
2 request or a record request for the
3 correspondence between Liberty Utilities and PwC,
4 including any letters or contracts or scope, that
5 so that we all know exactly what's being done
6 here.

7 And we would have issued this data
8 request ourself in the electric case, but the
9 case is on hold. So, it didn't seem appropriate
10 to be issuing data requests.

11 But the reason we brought it up
12 yesterday is, we would rather know this
13 information now. We're asking for existing
14 documents, not any additional work. But we'd
15 rather know that now as the third-party report on
16 the electric side is going on. And, so that we
17 can all see and all get on the same page as to
18 what it is exactly this third-party expert is
19 going to do.

20 We do have the affidavit from the
21 third-party. We have read that. We have the
22 description that was included in the Company's
23 motions.

24 But we think it would be important for

1 us, and the Commission, to have that information.
2 And, so, we urge the Commission to take that step
3 in the electric case, and, if we go down this
4 road in the gas case, we would urge that.

5 More importantly, what we asked for
6 yesterday in the electric case was a
7 clarification of what it is that the Commission
8 expects the expert third-party -- third-party
9 expert to do. We think the work was clear with
10 respect to 2022. In other words, I think you
11 directed the expert to review the 2022
12 information on the books of the Company; to
13 identify if there are any other additional
14 accounting or mapping errors that were not
15 identified thus far; and then to gather all those
16 corrections and trace them through the various
17 rate case filings that have been made on the
18 electric side, right up until the Corrections and
19 Updates filing that was filed in November, on the
20 electric side; and then any other additional
21 errors that were made. So that, for 2022, there
22 would be a complete path, as well as an
23 identification of any additional errors. And
24 that made perfect sense to us.

1 And we think, wisely, the Commission
2 extended that to 2023. Because, as we've been
3 saying all along, the 2022 test year is plagued
4 with mapping errors. And we heard from the
5 Company's Accounting team that, in their view,
6 the 2023 information, by then, the mapping issues
7 have largely been addressed.

8 Now, we still have concerns about 2023,
9 because, as we've said, any corrections for 2022,
10 that were made in 2023, can infect 2023. But we
11 understand that PwC is going to look at that.

12 What's not clear, we believe, in the
13 Commission's order, is what about the second part
14 of that analysis? Because, right now, there is
15 no revenue requirement for 2023. And there is
16 no, although there will be shortly, a FERC Form 1
17 for 2023. And we asked the Commission yesterday
18 to clarify, you know, whether or not that's going
19 to be provided in that docket, or whether or not
20 we're going to get an answer like "Well, not
21 applicable, because we didn't have a 2023 revenue
22 requirement to reconcile to."

23 We think the more inclusive and useful
24 approach is that we have two complete analyses,

1 one for 2022 and one for 2023.

2 Okay. So, why am I talking about the
3 electric case so much in this case? Only because
4 the Chair asked for a path forward. One of the
5 paths forward is a third-party report in the gas
6 case. So, if you're going to issue an order
7 similar, we would request that that clarification
8 be made in the order itself.

9 Thirdly, if we are going to go down the
10 third-party report, we ask that this docket be
11 stayed, as it was in the electric case. And
12 that -- and that, finally, after the report is
13 done, that Liberty file a new revenue
14 requirement, with corrections and updates, as
15 they had indicated that they would in the
16 electric case. And we believe that's the
17 understanding, that this ultimately would end up
18 with a new corrections and updated -- corrected
19 and updated revenue requirement.

20 I know, in the electric case, you had
21 asked the parties to work out a procedural
22 schedule, as to what to do with the report after
23 it comes out. We would need to include, in that
24 procedural schedule, time for the Department to

1 review the third-party report, and including,
2 potentially, having our own expert, either one in
3 the case or an outside expert, review the
4 results. So, there would have to be some time
5 built in for us to review the report. And we
6 would ask that we be allowed that same
7 opportunity on the gas side.

8 And, then, finally, in any issue to --
9 any decision issued to stay the case, we would
10 ask that the Commission address the motion to
11 extend the filing of DOE's testimony.

12 And, lastly, that's the third part --
13 third issue that I wanted to address for the
14 Commission today. We, at the Department of
15 Energy, were watching the electric case unfold.
16 And we observed that, after our Motion to Dismiss
17 was filed, there was a Motion to Stay the case.
18 And, therefore, we were able to release our
19 consultants from doing any further work at that
20 time. At that point, in the electric case,
21 testimony had already been filed, but data
22 requests were pending. And, so, we put the
23 brakes on. And we understood that to be the idea
24 of the stay, was to prevent wasted resources, in

1 the event that the case was ultimately dismissed.

2 So, when the testimony deadline was
3 approaching on the gas side, we also filed a
4 Motion to -- I'm sorry, the Company filed a
5 Motion to Stay. We filed what we termed as a
6 "Partial Assent/Partial Objection", and what we
7 meant by that was we agreed with the stay, but
8 for a different reason. We wanted the stay so
9 that you would consider the Motion to Dismiss,
10 which we then filed a few days later. The
11 Company wanted the stay to do the third-party
12 audit report. But, in any event, both parties
13 were seeking a stay.

14 And we made the decision not to
15 complete the testimony, with the expectation,
16 obviously, expectation that remained unfulfilled,
17 that a stay would be granted. And, then,
18 February 21st was approaching, and here we are
19 without testimony. And, so, we filed a request
20 to extend our testimony deadline, with the assent
21 of Liberty, over the objection of the Consumer
22 Advocate's Office, understandable, because the
23 Consumer Advocate did file their testimony on
24 that date.

1 So, we found ourselves in a very, very
2 uncomfortable situation of not having complied
3 with the testimony deadline. It's not something
4 that we -- that we -- it is not a situation that
5 we want to be in. And we'd like to have that
6 cleared up, so that we request that whatever
7 comes out of this hearing today, that there be a
8 date set for further testimony from the
9 Department of Energy, not "further testimony",
10 testimony from the Department of Energy.

11 And, of course, we threw out
12 "April 19th" as the date that we were looking to
13 extend the testimony due. But we kind of did
14 that in the dark, because we didn't know, really,
15 what was going to happen with the Motion to
16 Dismiss or the Motion to Stay. So, we picked a
17 period that was somewhat consistent with what was
18 done in the electric case.

19 And, so, we're not sure that that's the
20 appropriate date anymore, given what's going on
21 today. But we would ask the Commission to allow
22 us to file testimony on some certain date.

23 And, so, I think that concludes my
24 comments today. Again, we believe that the clear

1 path forward in this case is dismissal, and
2 that's what we urge the Commission to do.

3 Thank you.

4 CHAIRMAN GOLDNER: Okay. Thank you.

5 Let's turn to the Office of the
6 Consumer Advocate.

7 MR. CROUSE: Thank you. Since the
8 Commission advised not to go by a blow-by-blow
9 argument, I will try to be succinct in our
10 position.

11 The OCA supports the Motion to Dismiss
12 as the appropriate path forward. One of the
13 concerns, but not the primary concern, is, if the
14 Motion to Stay is granted, and all the parties
15 respond to the audit report proposed by
16 PriceWater, there might be a need for a new
17 revenue requirement, supplemental testimony that
18 could be filed. And the OCA, while adhering to
19 the procedural schedule as agreed to by the
20 parties, and filing our testimony, has abutted
21 the end of our budget for our consultants. And,
22 as much as I like cracking the whip for my
23 colleague, Marc Vatter, here, I can't do that
24 with those consultants anymore. And, so, we

1 would have to RFP potentially for new consultants
2 and engage in Executive Council approval, and so
3 forth.

4 And, so, there's some concerns about
5 how much more time might need to be added, in
6 order for the OCA to do its due diligence, when
7 the Consumer Advocate has characterized this as
8 being "whipsawed" by all the motions to stay,
9 motion to dismiss, the issues acknowledged and
10 explored in the electric side, versus the gas
11 side.

12 And, so, the OCA is in agreement
13 with -- or, I should say, concurs mostly with
14 what Paul Dexter has said currently regarding the
15 Motion to Dismiss, and why that's the best path
16 forward.

17 I think that's as succinct as I can
18 get. And I'm open to any questions that anyone
19 has. Thank you.

20 CHAIRMAN GOLDNER: Okay. Thank you.
21 We'll just give all the parties an opportunity,
22 and then we'll turn to questions.

23 So, we'll turn now to the Company.

24 MS. RALSTON: Good morning. And thank

1 you. I will also try to keep it brief, in light
2 of your directives.

3 But just to quickly respond to some of
4 the substantive arguments that DOE raised.

5 The Company disagrees that dismissal is
6 the path forward. We don't think the Motion to
7 Dismiss has met the legal standard that would
8 allow the Commission to dismiss this case.

9 I think that Attorney Dexter sort of
10 sums it up well when he said "the revenue
11 requirement is what this case is all about."

12 And, when we hear the Department of Energy list a
13 number of variances between the Company's general
14 ledger and the F-16 and the revenue requirement,
15 I would just -- I can't emphasize enough that the
16 revenue requirement schedules are the document
17 that we're asking for rates to be set on, and
18 that the Company has undergone a comprehensive
19 process to make sure that the revenue requirement
20 schedules are correct. So, that's why we see so
21 many adjustments. It's because, when the Company
22 was preparing the F-16s, it undertook a
23 comprehensive effort to make sure the data was
24 correct.

1 But it isn't stop there. When the
2 Company was preparing for this case, it did
3 another review. It made any necessary
4 adjustments that were identified, to ensure that,
5 when it filed this case, the revenue requirement
6 schedules that would be used to set rates were
7 correct.

8 So, we don't dispute that these
9 variances exist. We have never disputed that.
10 They are -- they do exist as a result of the
11 system conversion. But the Company has
12 undertaken a significant effort to make sure that
13 adjustments are made when they're identified,
14 that they can be explained, and that they can be
15 traced back, so that the Commission has
16 confidence that the numbers that they're using to
17 set rates are correct.

18 And, if you refer to the Audit Report,
19 you know, Attorney Dexter was pointing this out
20 earlier, if you look at Audit Issue 1, most of
21 those adjustments were made before we filed. So,
22 it's just further evidence that the Company did
23 review and make sure everything was correct.

24 For the same reason with the

1 attestation, you know, the Company signed the
2 attestation after making that review and ensuring
3 that all the numbers were correct. It is true,
4 there is not a list of variances in the Initial
5 Filing. In light of the experience in this
6 docket, and in the Granite State case, I think
7 the Company would agree that that list of
8 variances probably would have helped everyone
9 along the way. And the Company is certainly
10 taking note of that, and will make that change
11 going forward.

12 But it doesn't mean that the Company
13 didn't do the required checks that the DOE, you
14 know, refers to in its Motion regarding the
15 attestation. That check did happen. The Company
16 made sure that the adjustments were made and
17 they're reflected in the revenue requirement.
18 They list all the -- the changes are included in
19 the revenue requirement schedules. So, they are
20 included in the Initial Filing.

21 With respect to the Excel file that we
22 were looking at a few minutes ago, the brown
23 boxes that Attorney Dexter was referring to, I
24 just wanted to highlight. So, my understanding

1 is that the brown boxes relate to Account 999,
2 which we heard a lot of testimony about in the
3 Granite State case. That 999 Account is the
4 clearing account. And the Company -- there were
5 some issues with the 999 Account with the SAP
6 conversion. So, the Company undertook a
7 significant effort to go through and make those
8 adjustments.

9 So, are there a number of them? Yes.
10 But were they corrected in the revenue
11 requirement schedules for this case? That is
12 also "yes".

13 So, I just want to highlight that, you
14 know, just pointing to a large number of lines
15 shouldn't be what carries the day here. The
16 Company made all the necessary corrections, and
17 has identified them and been able to trace them
18 back, which is really what we should be looking
19 at.

20 So, without going into all the detailed
21 arguments and the objection, I'll kind of leave
22 substance there, and then turn to what we think
23 is the reasonable path forward.

24 The Company continues to support its

1 proposal that's in the Motion to Stay. We think
2 a brief pause of the case, to allow the Company
3 to file the report from PwC, would help the
4 Commission's review. You know, we're cognizant
5 of the challenges the Commission is facing, in
6 light of the very different positions that the
7 Company has taken and the Department of Energy is
8 taking.

9 We don't, you know, like I said a few
10 minutes ago, we do not think the Motion to
11 Dismiss should be granted. We do not think it
12 rises to the legal standard.

13 However, in an effort to try to narrow
14 the issues before the Commission, we think that
15 the PwC report will do that. We think that it
16 can be done on the timeline that we proposed. We
17 think that it can validate the 2022 data.

18 The one thing I would note is that,
19 when we filed our Motion to Stay, the Company had
20 not received the Commission's order in Docket
21 23-039, directing the Company to include the 2023
22 data for Granite State. So, I do think, in light
23 of that additional work being done for the other
24 proceeding, the report date we proposed in our

1 Motion to Stay would probably have to be pushed
2 out a little bit. But I just do want to
3 highlight that for the Commission.

4 And, related to that, the April 19th
5 testimony proposed by the DOE, that the Company
6 did not object to, would likely also need to
7 move.

8 So, our substantive proposal remains
9 the same. But I do recognize that some of the
10 dates will likely have to shift.

11 So, we would agree with Attorney Dexter
12 that, if the Commission were to stay the case,
13 and allow the Company to file the report from
14 PwC, the parties should probably confer and
15 propose a procedural schedule for the remainder
16 of the proceeding that takes into account all of
17 these factors.

18 And one of those, too, the OCA didn't
19 address this, and maybe they want to respond, but
20 the OCA filed their testimony. The deadline for
21 the Company to issue discovery on that testimony
22 was last Friday. The Company did file discovery
23 to the OCA. But, in light of the uncertainty, I
24 don't know if OCA would like an extension of time

1 to respond to the discovery, or any other
2 accommodation. But I just would highlight,
3 that's another deadline that is coming up, and
4 that could be impacted by what we're discussing
5 today.

6 The other item I wanted to address is
7 that the Department of Energy raised concerns
8 about the scope of work for PwC, and said it
9 wasn't consulted. The Company didn't -- I don't
10 think provided, you know, the letter from PwC,
11 but that was because DOE did not support PwC
12 performing the work. So, the Company moved
13 forward in the interest of time.

14 However, we certainly can provide that
15 information. It's confidential. But we would be
16 happy to provide it to both the DOE and the OCA,
17 confidentially, and, of course, to the
18 Commission, either in response to DOE's filing,
19 you know, yesterday, or just -- we can just agree
20 to that this morning.

21 And I would also just, you know, I
22 think I just said, the DOE did not want to --
23 didn't support the PwC report. We did meet with
24 them again, you know, to discuss this after the

1 hearings in the other docket, and they just --
2 they continued to support dismissal, which is
3 their right to do so. But the Company thinks
4 that this is a reasonable path forward that would
5 help the Commission. And, so, we have moved
6 forward with that on our own while all of this
7 has been pending.

8 MR. CROUSE: Chairman Goldner, if I may
9 just very briefly interrupt, to respond to
10 Attorney Ralston? The OCA is seeking no
11 extensions.

12 Thank you.

13 MS. RALSTON: Fair enough. I just
14 wanted to flag it, so we get the full spectrum.

15 And, then, finally, I would just also
16 note that PwC is, you know, performing the work.
17 And it is, you know, fully entrenched with
18 Granite State, and then will be moving on to
19 EnergyNorth, and thinks that process will go
20 faster. But they're fully engaged, and the work
21 is progressing. And it's progressing on, you
22 know, the timelines that are necessary.

23 I guess, so, and my co-counsel just
24 reminded me, the last thing to discuss is the

1 revenue requirement for 2023, and whether or not
2 that is part of their review?

3 So, as I sit here today, I don't think
4 it is, because, I think as Attorney Dexter
5 pointed out, the 2023 revenue requirement
6 schedules don't exist for EnergyNorth. The
7 Company's proposal here is a 2022 test year.

8 And, so, if the Commission were to
9 order the Company to include an analysis of the
10 2023 data for EnergyNorth, that's something we
11 would have to create. It doesn't exist, and that
12 would take time. So, I think there are timing
13 concerns.

14 And it's also my understanding that, if
15 the goal for reviewing the 2023 data is to ensure
16 that the issues that were identified in 2022 have
17 been addressed, and that the 2023 data is "in
18 better shape", that can be achieved without
19 revenue requirement schedules. So, those would
20 be our comments on that.

21 And I think that's all I have. Thank
22 you.

23 CHAIRMAN GOLDNER: Okay. Thank you. I
24 think we can turn now to Commissioner questions,

1 beginning with Commissioner Simpson.

2 CMSR. SIMPSON: I don't think I have
3 any questions at this time. Thanks.

4 CHAIRMAN GOLDNER: Okay. Let's turn to
5 Commissioner Chattopadhyay.

6 CMSR. CHATTOPADHYAY: Just very few
7 questions.

8 The first one is, there was a lot of
9 discussion about the "F-16 and the ledger", how
10 they should compare. Can you give me a sense of,
11 typically, what happens? Like, there are other
12 rate cases that have happened. You wouldn't
13 expect F-16 and the ledger to match completely,
14 or am I wrong in saying that?

15 MR. DEXTER: Well, I don't have our
16 Audit Department here today. But I'm certain the
17 answer would be "They should match." In other
18 words, the general ledger, ultimately, has to
19 produce account balances that conform to the
20 Uniform System of Accounts. Whether they start
21 with that, or whether they go through some
22 process to get to that, ultimately, there has to
23 be information on the Company's books that is
24 recorded according to the Uniform System of

1 Accounts. And the F-16 is set up according to
2 the Uniform System of Accounts.

3 So, I don't believe there should be any
4 differences between those two documents.

5 CMSR. CHATTOPADHYAY: Thank you. In
6 this rate case, when the Audit is looking at the
7 matching of F-16 and the ledger, do you have a
8 sense whether the discrepancy is very significant
9 or, you know, I'm just trying to get a sense?

10 MR. DEXTER: Well, yes. I think it
11 is -- I think the accounts are certainly
12 significant, and I tried to capture the flavor of
13 that in the Motion. And I can point you to that
14 paragraph, I think it's Paragraph 14 or 15 in my
15 Motion. Let me just take a look.

16 So, V, Section V in our Motion to
17 Dismiss, talks about the significant
18 discrepancies between the books and records, the
19 F-16, and the Rate Filing. And it refers to the
20 Audit Report, at Page 7, which describes numerous
21 corrections that Liberty made to its F-16 Annual
22 Report.

23 In other words, there was a series of
24 correspondence back and forth between the Audit

1 Department and the Company, trying to -- because,
2 again, part of -- because this is a state report,
3 it's not a FERC report, part of the role of the
4 Audit Department is to verify the accuracy of the
5 F-16 Report. And, in doing that, they found
6 significant discrepancies, and, as I pointed out,
7 they included plant in service, construction work
8 in progress, operating revenues, A&G expenses,
9 all of which were highlighted -- which had areas
10 that needed to be addressed, discrepancies.

11 And, after three or four letters back
12 and forth asking for updated pages, and still not
13 getting them, the Audit Department, as they noted
14 in the Audit Report, at Page 7, said "We're going
15 to take up any further discrepancies in the rate
16 case."

17 If you wanted to see the magnitude of
18 those, I would point you to either two places:
19 One is the DOE's website, where all the revised
20 pages have been posted in the F-16 report, or in
21 the Company's Objection to our Motion to Dismiss,
22 I believe it's Attachment D, the Company has
23 provided, and they highlighted them in yellow,
24 all the various accounts that were updated.

1 Again, this is to get us from an F-16
2 Report filed on May 1st, I believe it was, to one
3 that the Department's Audit Division was
4 satisfied was accurate. And we never got to that
5 point, from the Audit Division's point of view.

6 CMSR. CHATTOPADHYAY: The last
7 question, and maybe that I didn't fully grasp
8 this, but, in the electric rate case, I didn't
9 hear the mention of "F-16", to the extent that we
10 are talking about it here. Is the F-16 also
11 relevant in the other docket?

12 MR. DEXTER: So, my understanding is
13 the F-16 is sort of the functional equivalent of
14 the FERC Form 1. The FERC Form 1 is required by
15 the FERC.

16 CMSR. CHATTOPADHYAY: Yes. My question
17 really is, it doesn't matter whether it's
18 electric or gas?

19 MR. DEXTER: Well, there is no FERC
20 Form 1 for gas. The requirement is that the
21 Company file an annual report, --

22 CMSR. CHATTOPADHYAY: Okay.

23 MR. DEXTER: -- which is called the
24 F-16. And they look a lot alike, I guess is what

1 I'm saying.

2 CMSR. CHATTOPADHYAY: Okay. That was
3 helpful. Thank you. That's all I have.

4 CHAIRMAN GOLDNER: Okay. A few items.
5 Attorney Ralston, you had mentioned
6 that you were willing -- the Company was willing
7 to file the scope of work with the parties and
8 with the Commission. Would that be something
9 that you could file this week?

10 *[Atty. Sheehan indication in the*
11 *affirmative.]*

12 MS. RALSTON: Yes.

13 CHAIRMAN GOLDNER: Okay. Thank you.
14 So, let's make that -- I guess that would be
15 Record Request -- that's Record Request Number 1.

16 *[Record Request Number 1 reserved.]*

17 CHAIRMAN GOLDNER: All right. Number
18 two, Attorney Dexter, you have -- you mentioned
19 on a couple of occasions the work that the
20 Department has done with the F-16, and referenced
21 the Department's website as being the appropriate
22 place to find that material.

23 Would the Department have any objection
24 with filing that material with the Commission and

1 with the parties? And, if so, would it be
2 possible to file it this week?

3 Just so it's in the record and on the
4 Commission's website.

5 MR. DEXTER: So, that would be all the
6 various updates to the F-16 that now are on the
7 DOE's website, to file them in this docket?

8 CHAIRMAN GOLDNER: Yes. I think
9 you're -- I think what you're suggesting is that
10 the record, from your point of view, shows that
11 there's lots of changes, that's not in the
12 Commission's record. So, that would be
13 potentially something that the Department would
14 be interested in filing, probably with a cover
15 letter or something, --

16 MR. DEXTER: Sure.

17 CHAIRMAN GOLDNER: -- to describe
18 what's going on. But --

19 MR. DEXTER: Yes. We can do that.

20 CHAIRMAN GOLDNER: Okay. Thank you.
21 What would be, I know that might be a fair amount
22 of work, so maybe this week is too quick?

23 MR. DEXTER: Well, we'll try for the
24 end of the week. But, if it were to come in on,

1 say, Tuesday, that would be March 12th, maybe.

2 CHAIRMAN GOLDNER: Okay.

3 MR. DEXTER: But we will endeavor to do
4 it quickly. I don't think it actually should be
5 that difficult. But I won't be the one trying to
6 extract the data from the website. I need to
7 talk to Karen Moran, our Audit Director. And I'm
8 sure she can take care of that.

9 CHAIRMAN GOLDNER: Okay. Let's make
10 that Record Request Number 2.

11 *[Record Request Number 2 reserved.]*

12 CHAIRMAN GOLDNER: The Commission does
13 appreciate a cover letter or some other kind of
14 description to orient us. And let's just make
15 the deadline for that Tuesday, as you suggested,
16 Mr. Dexter, which is March the 12th.

17 MR. SHEEHAN: Mr. Chairman?

18 CHAIRMAN GOLDNER: Yes.

19 MR. SHEEHAN: I was advised from the
20 back row that the PwC engagement letter for
21 EnergyNorth is not finalized. Frankly, because
22 we were waiting for this hearing to get
23 clarification on the '23 scope.

24 So, we can file the Granite State one

1 now. I can tell you that the EnergyNorth is very
2 similar, and, once finalized, we can file that.

3 CHAIRMAN GOLDNER: Okay. Thank you.
4 Would it be, just for the Commission record,
5 would you have an estimate of when that letter
6 would be available for this docket?

7 MR. SHEEHAN: I think it partly would
8 be when the Commission resolves how it wants to
9 do the '23. You will see, in the Granite State
10 letter, we interpreted your prior order about
11 '23, you can see how we characterized it in the
12 engagement letter. And we would do the same for
13 EnergyNorth, unless you issue an order that says
14 "No, do something different."

15 I guess that's the open question.
16 So, --

17 CHAIRMAN GOLDNER: Which I think would
18 be resolved in the order -- oh.

19 MR. SHEEHAN: Ms. O'Brien was the one
20 involved in these back-and-forths with PwC. She
21 advised that '23 is not in the Granite State
22 letter yet.

23 So, we will give you what's in effect
24 now, what they're working on. And, once the 2023

1 letter is finalized -- the letter with the 2023
2 scope is finalized, we can file that as well.

3 *[Atty. Sheehan conferring with*
4 *Ms. O'Brien.]*

5 MR. SHEEHAN: Yes. The question is,
6 "What is '23 scope?" We have your letter, we
7 have our understanding of it.

8 And, if there's any further guidance
9 from the Commission, great. Otherwise, we will
10 run with what we think the Commission intended
11 with the '23 scope.

12 CHAIRMAN GOLDNER: Okay. I think I
13 would anticipate that being clarified in the
14 order that would come out of this hearing. And,
15 then, perhaps we could just set a deadline of
16 within a week after we issue the order, that the
17 Company can file the scope for -- because we'll,
18 depending on if the Commission asks for
19 information from PwC for 2023, and what that
20 scope looks like to Attorney Dexter's point, then
21 the Company will have everything it needs to work
22 with PwC on the scope. So, a week after the
23 order, I think, would -- if that would be okay?

24 MR. SHEEHAN: That would be fine, yes.

1 CHAIRMAN GOLDNER: Okay.

2 MR. DEXTER: Commissioner, I apologize
3 for interrupting.

4 But, if the scope is not yet finalized,
5 there have been a couple of concerns that the
6 Commission -- that the Department has expressed
7 from the beginning that we believe should be
8 included in the scope. And, if they're not, we
9 would like to -- I guess we would like it to be
10 clear what the scope is.

11 And number one is, will the scope of
12 the review identify any other accounting/mapping
13 issues from 2022 or 2023 that were not uncovered,
14 because that has been a key concern of the
15 Department?

16 Number two, it's never been clear to
17 us, this was presented a long time ago as an
18 "audit", and, along the way, it morphed into an
19 "expert consulting report". We are very familiar
20 with the standards that go into an audit. But we
21 aren't familiar with the standards that go into
22 an expert consultant report. And we don't know
23 what those standards are. We saw in the
24 affidavit that the auditor attested that he would

1 comply with professional and ethical
2 requirements, I believe, but we're not sure what
3 that means.

4 In other words, when we get this
5 report, will it be of the quality of an audit?
6 And, if not, you know, how is it different from
7 an audit?

8 Now, we've been told by the Company,
9 through the accounting firm, that it's not an
10 audit, because an audit is a review of the books,
11 and this is more of a rate case report.

12 But we are concerned, and we would like
13 the scope to address what standards are being
14 applied to this professional -- this third-party
15 expert consulting report.

16 And, then, lastly, the item that we've
17 mentioned many times, is will this include a
18 review of the Company's accounting system? We've
19 called it an "IT audit", because it's clear to us
20 that the issues that have been raised are, you
21 know, as a result of the accounting systems.
22 And, so, we believe that, in order for the
23 results of those accounting systems to be used
24 for rate-setting, there has to be a review of the

1 accounting systems themselves.

2 And, so, if you're going to issue an
3 order resulting from today that deals with scope,
4 we believe those should be included in the scope.

5 CHAIRMAN GOLDNER: Thank you, Attorney
6 Dexter. Attorney Ralston.

7 MS. RALSTON: Yes. I can respond to
8 some of those questions.

9 So, I would first point out that the
10 Company did include an affidavit from Sean Riley
11 from PwC, who is performing the work, with our
12 Objection, as Attachment E, which, I think,
13 answers some of these questions that includes the
14 scope of work.

15 And, then, with respect to the -- and,
16 hopefully, Attorney Dexter will help me if I
17 misunderstand the question, the question of "Why
18 this isn't an audit report?" The Company has
19 tried to explain this, I think, a few times.

20 If it were an audit report, and in the
21 way that PwC and professional auditors define an
22 audit, they would not be allowed to come in and
23 provide testimony to the Commission. And we
24 thought that that was a really important part of

1 this process, was to file the report, and then
2 have Mr. Riley, from PwC, come in and provide
3 testimony, if the Commission had questions, if
4 DOE had questions, if OCA had questions.

5 So, in order to allow that testimony to
6 take place, it cannot be an audit. Which is why
7 we are providing this expert consulting report.
8 That doesn't mean that the report is not subject
9 to strict professional and ethical guidelines, it
10 is. And I believe that is captured in the
11 affidavit. And I believe that it cites to the
12 American Institute of Certified Public
13 Accountants' Code of Conduct.

14 So, you know, there is a formal process
15 that applies to this. It's just that, you know,
16 I am not an auditor. So, I can't, you know, tell
17 you exactly what those differences are. But it's
18 just, for practical purposes, if this was truly
19 an audit, they would not be able to come in and
20 testify, and we wanted to have that opportunity.

21 CHAIRMAN GOLDNER: Attorney Ralston,
22 can you develop that distinction?

23 I know that the auditors from the DOE
24 have testified before. Can you share the

1 distinction of why the auditors here can't
2 testify?

3 MS. RALSTON: You know, I might have to
4 turn around for that question, because I thought
5 of the same thing myself. I know that that has
6 happened. So, if you can just give me one
7 second?

8 CHAIRMAN GOLDNER: Sure.

9 *[Atty. Ralston and Ms. O'Brien*
10 *conferring.]*

11 MS. RALSTON: So, I think the
12 difference may be because this is a financial
13 statement audit, versus, you know, I think other
14 examples are business process audits and things
15 of those nature, that maybe have different
16 standards that apply to them. "Audit" is a
17 term -- a "financial audit" is a term of art that
18 has a very specific meaning. And, so, I think
19 that's where the issue comes into play here.

20 With respect to Attorney Dexter's
21 questions about an "IT audit", part of the PwC
22 review will be a review of the SAP system, to try
23 to identify where the adjust -- what caused the
24 need for adjustments. So, you know, again, I

1 don't know that it will be considering a "IT
2 audit", but there is going to be a review of the
3 system as part of the PwC review, and that will
4 be addressed in the report.

5 I think those were all the items. But
6 I'm happy to respond, if there are other
7 follow-up questions.

8 CHAIRMAN GOLDNER: Attorney Dexter,
9 I'll just turn back to you. You had raised the
10 concern of the audit, versus the expert
11 consulting report, and the differences and so
12 forth.

13 Is the Company's description
14 satisfactory for the Department?

15 MR. DEXTER: Well, no. We understood
16 that. We accept the statement that, if it was an
17 audit, they couldn't testify, and we have a
18 fairly good idea of what an "audit" is, a
19 "financial audit". And our understanding is that
20 the books of Liberty Utilities and, you know,
21 from the corporate level, right down to
22 EnergyNorth, were audited by Ernst & Young. And
23 they issued a report, a standard audit, that says
24 something along the lines of "The books", you

1 know, "substantially represent the financial
2 position of the Company." And that's already
3 been done.

4 And we have found that that statement,
5 while, obviously, useful to the Company, as a
6 corporation, in its financial dealings, is not
7 useful in a regulatory setting, because they
8 don't get to the level of detail. They're not --
9 they don't review the Uniform System of Accounts.
10 And, as long as everything, you know, in a total
11 basis, for the corporation, was okay, they issued
12 that report.

13 I'm getting off on a bit of a tangent.
14 That's a "financial audit". We understand that's
15 not what's being proposed with the PwC report.
16 Which is good, because that wouldn't be of any
17 use, that's already been done.

18 And we understand that there are
19 auditing standards that our auditors are familiar
20 with that are done when you're doing a financial
21 audit. What we don't know is what standards are
22 done in this "expert consulting report". It's
23 not something we have any experience with, and it
24 has not been, I believe, explained to us what

1 standards will apply to the expert consulting
2 report, number one. And, number two, are they
3 less strict, if you will, than standards that
4 apply to a financial audit? That's really the
5 key question.

6 We understand that they couldn't
7 testify, they're not doing a financial audit.
8 And, if they were, they wouldn't be able to come
9 in and testify anyway. We understand all that.

10 What we're really trying to understand
11 is, what, other than the broad statement about
12 "We will follow the professional and ethical
13 guidelines of the AICPA", what standards will be
14 applied in making conclusions that are included
15 in this expert consulting report?

16 MS. RALSTON: Maybe this is something
17 the Company should address when it files the
18 record request response? Maybe we should include
19 something to speak to this, when we provide the
20 letter from PwC of the scope of work?

21 CHAIRMAN GOLDNER: Thank you for the
22 offer. That's a good idea.

23 And I'll also sort of augment that
24 record request a little bit. I think what would

1 be helpful is, if the Company could file the
2 current scope by Friday, or Tuesday, or whatever
3 is appropriate, so that the Commission and the
4 parties know what you're currently planning on
5 doing. And, then, to the extent that there's a
6 different direction from the Commission in the
7 order, then an updated -- an updated scope could
8 be filed at that time, within a week or so.

9 Okay. Let's move forward with that.

10 *[Record Request Number 1 expanded at*
11 *noted above.]*

12 CMSR. SIMPSON: Mr. Chairman, I'd be
13 interested to have the Company articulate the
14 standards that are used, and whether they're
15 industrywide, publicly available, if they're
16 independently developed by PwC.

17 Because we've heard from the Department
18 on several occasions that it's unclear to them,
19 and I think I share that position, that it's
20 unclear to me, what standards PwC must use in
21 this review.

22 Thank you.

23 MS. RALSTON: We'll include that.

24 CHAIRMAN GOLDNER: Thank you. Anything

1 else, Commissioner Simpson? Is that
2 satisfactory?

3 CMSR. SIMPSON: Yes. I'm quite
4 supportive of the request. Thank you --

5 CHAIRMAN GOLDNER: Thank you.

6 CMSR. SIMPSON: -- for indulging my
7 additional request.

8 *[Record Request Number 1 further*
9 *expanded as noted above.]*

10 CHAIRMAN GOLDNER: Okay. I'll also, I
11 think this was a comment that Attorney Ralston
12 made earlier, relative to the request -- or, the
13 requests from the Commission in the expert
14 consulting report in the electric rate case.
15 I'll just point out, for the record, that there
16 is the possibility that -- that the Commission
17 would require a 2023 test year eventually, versus
18 2022. That's a possibility. And, so, to the
19 extent that this process yields useable numbers
20 in 2023, that's something that I'd like to make
21 everyone aware that that's a possible outcome
22 through this process.

23 The Department had mentioned before
24 that they were concerned that 2023 would not be

1 acceptable for a test year, and that we would
2 move potentially to a 2024 test year, which I can
3 imagine, from the Company's perspective, would be
4 problematic.

5 So, the idea is to sort through 2022
6 and 2023, so the Commission has all the
7 information to make a rational decision on that
8 eventually.

9 Commissioner Simpson?

10 CMSR. SIMPSON: And, just to clarify,
11 while not, at this time, requiring a 2023 revenue
12 requirement to be developed.

13 CHAIRMAN GOLDNER: That's correct.
14 We're gathering information today. And we'll
15 communicate the Commission's decision in the
16 order, the forthcoming order.

17 CMSR. SIMPSON: Thank you.

18 CHAIRMAN GOLDNER: All right. Just a
19 couple of additional items, and then we'll take a
20 quick recess and come back to wrap up.

21 A question for the Company. Based on
22 what you've learned so far in the process of
23 dealing with PwC, have you identified
24 similarities or differences with the SAP

1 conversion and financial data? So, are those
2 issues -- are you finding those issues are
3 basically the same, or are there differences
4 between the gas and electric cases?

5 MR. SHEEHAN: It's very similar. And,
6 so, the expectation is the EnergyNorth review
7 will go much quicker, because these folks have
8 already dived into the SAP, they have looked at
9 all the issues, and looked at what we did and
10 tracked what we did.

11 And, so, when it comes to EnergyNorth,
12 it's "been there, done that". And it will be
13 just, you know, the specific numbers related to
14 EnergyNorth.

15 CHAIRMAN GOLDNER: Okay. Thank you.

16 Would the Company support a waiver of
17 the twelve-month deadline, just as you did in the
18 electric case?

19 MS. RALSTON: Yes, we would.

20 CHAIRMAN GOLDNER: Okay. Thank you.

21 Would the Company be able to file the waiver this
22 week?

23 MS. RALSTON: Yes.

24 CHAIRMAN GOLDNER: Thank you. Okay.

1 So, now, a question for all the
2 parties. Would the parties support a stay in
3 this proceeding through May 15th, 2024, in the
4 context of the PwC report?

5 So, that presumes, for the moment, that
6 we move forward with the same process as in the
7 electric case. And, so, the question from the
8 Commission is the timeframe for the stay, and
9 would May 15th be sufficient?

10 And I'll start with the Department.
11 Understanding that's not your first choice.

12 MR. DEXTER: What would happen at the
13 end of the stay? I guess it depends on what
14 happens.

15 So, our request -- the Company made the
16 request for a stay. We supported the stay, until
17 the Commission ruled on the Motion to Dismiss, or
18 took other actions. So, if all that -- if those
19 actions, which could be the PwC report, could be
20 a granting of the Motion to Stay, if all that was
21 done by May 15th, that sounds like a reasonable
22 timeframe to us. Although, I think I heard from
23 the Company that the EnergyNorth work hasn't
24 started, if 2023 is added, it may take longer. I

1 mean, I guess that's really a better question for
2 them, if we're addressing the PwC option.

3 But that sounds like a reasonable -- a
4 reasonable date to the Department.

5 CHAIRMAN GOLDNER: Okay. I'll come
6 back to you, Attorney Crouse, but that's a good
7 idea to ask the Company first. So, --

8 MS. RALSTON: Yes. So, if the
9 Commission is going to add 2023 data to the PwC
10 analysis, the Company would need just a little
11 bit more time beyond May 15th, just to make sure
12 we can get that analysis added.

13 I believe that the end of May would
14 work. So, not a significant amount of additional
15 time, but just a couple more weeks.

16 CHAIRMAN GOLDNER: Okay. Let's see. I
17 always like to -- I don't want to put any
18 additional pressure on the Company. Let me just
19 look at the calendar here, May 15th. So,
20 maybe -- maybe the 7th of June, to be safe, would
21 that be comfortable for the Company?

22 MS. RALSTON: I think so. Thank you.

23 CHAIRMAN GOLDNER: Okay. So, would
24 June 7th be problematic for any of the other

1 parties?

2 Attorney Crouse, I promised I would let
3 you go next.

4 MR. CROUSE: Yes. Thank you. I was
5 just discussing, with the start of the fiscal
6 year being in July, that might be an opportunity
7 for the OCA to engage in the RFP process and time
8 things.

9 But, understanding that Motion to Stay
10 is not our first choice, and with the challenges
11 that I communicated very briefly, but generally,
12 it's hard to be supportive with those in mind.
13 But it's an option that seems to parallel what
14 happened in the electric case. And, so, we'll --
15 it is reasonable.

16 CHAIRMAN GOLDNER: Okay. Thank you.
17 Attorney Dexter?

18 MR. DEXTER: Well, again, the notion of
19 a stay we believe is a good idea, because
20 deadlines are passing, and we're sitting here in
21 noncompliance, and we're not comfortable with
22 that. So, yes, we support a stay.

23 If we're talking about the PwC report,
24 and like in the electric case, there's an

1 opportunity to work out a schedule for what
2 happens after that, there would have to be, you
3 know, we would have to work that out. There
4 would have to be adequate time to review the
5 report once it comes out.

6 But, in concept, yes, we support a
7 stay. And, yes, June 7th seems like a reasonable
8 date, given all the various moving parts.

9 CHAIRMAN GOLDNER: Okay. Thank you.

10 So, at this point, let's take a brief
11 recess. And, then, we'll come back and wrap up
12 the hearing today. Let's return at 10:30. Thank
13 you. Off the record.

14 *(Recess taken at 10:14 a.m., and the*
15 *hearing reconvened at 10:32 a.m.)*

16 CHAIRMAN GOLDNER: Okay. Back on the
17 record.

18 The Commission has no further
19 questions. And we'll give the parties an
20 opportunity to wrap up with anything the parties
21 would like to close with. And we'll begin with
22 the Department of Energy.

23 MR. DEXTER: Well, I don't want to do a
24 lot of repeating.

1 But I keep coming back to the Audit
2 Report, at Page 197, Audit Issue Number 1. And I
3 think our auditors summed up this situation. And
4 they said that "Liberty should have ensured that
5 the actual financial records within the new SAP
6 system were accurate, prior to filing the current
7 rate case. All transactional or mapping
8 adjustments should have been addressed. Because
9 of the quantity of noted adjustments, and the
10 time period required to identify variances among
11 the F-16 filing balances, Audit is unable to
12 determine if the reported balances are accurate
13 nor if they represent all of the adjustments that
14 should have been done."

15 That alone, in the Department's view,
16 is grounds for a dismissal.

17 If the Company files a case, and the
18 Audit Department, that does this as a matter of
19 course, comes to that conclusion after months of
20 work, this Audit Report was issued in January,
21 and the case was filed in July, I think we're
22 making an awful lot of effort here to remedy
23 things that weren't done that should have been
24 done at the outset of the case.

1 And we view this as a threshold
2 question in deciding whether to dismiss. If the
3 underlying books aren't reliable, the case just
4 can't go forward. And we spent a lot of time in
5 both cases trying to demonstrate that to the
6 Commission. We think that paragraph in the Audit
7 Report clearly says it best.

8 Having another auditor come in to
9 contradict, potentially, the conclusions of our
10 auditors, we don't think is a good practice.
11 And, therefore, we recommend the path forward in
12 this case to be dismissal.

13 CHAIRMAN GOLDNER: Thank you.

14 And we'll turn now to the Office of the
15 Consumer Advocate.

16 MR. CROUSE: Thank you.

17 Keeping in line with the succinct
18 statements that I'm trying to keep today for
19 these blow-by-blow conversations, the OCA echos
20 and concurs with the Department and the path
21 forward for Motion to Dismiss.

22 But, whether a motion to dismiss is
23 granted, or in the event that a motion to stay is
24 granted, if parties review what is presented by

1 PwC and this expert consulting report, and we
2 find ourselves back in the same position, where
3 the books are, as alleged, unreliable, the OCA
4 would likely file a motion to have our expenses
5 and other rate case expenses send to the
6 Company's shareholders, as opposed to recovered
7 through the surcharges added to rates.

8 That's it. Thank you.

9 CHAIRMAN GOLDNER: Okay. Thank you.

10 And, finally, the Company.

11 MS. RALSTON: Thank you.

12 The Company continues to object to the
13 Motion to Dismissal. There are variances between
14 the data sets, that is a product of this
15 Company's system conversion during the test year.
16 However, the existence of the variances does not
17 warrant dismissal of the case.

18 The Company did a rigorous review
19 before filing, to ensure that the data presented
20 to the Commission to be used to set rates was
21 accurate. That is actually why there are so many
22 variances is because of that rigorous review.

23 The Company has continued to support
24 and explain these adjustments, and thinks that

1 there is sufficient evidence in this docket to
2 allow the Commission to allow the proceeding to
3 move forward and make its own determination.

4 However, as we stated previously, we do
5 understand that the adjustments have made the
6 Commission's review more challenging. And that
7 is exactly why we have requested a stay, and
8 proposed the PwC report. And we think that is
9 the path forward. And that that will address
10 whether or not the underlying data can be relied
11 on, and give the Commission some additional
12 information to use in its determination.

13 And, so, we would request that the
14 Motion to Dismiss be denied, that this docket be
15 stayed, and that the Company be allowed to file
16 the PwC report.

17 Thank you.

18 CHAIRMAN GOLDNER: Okay. Thank you.

19 So, we expect that, based on what we've
20 heard today, the Commission will be issuing an
21 order commissioning an expanded PwC report, and
22 establishing a stay in this proceeding until
23 June 7th, 2024.

24 We will defer ruling on the DOE's

1 Motion to Dismiss, as in the electric rate case,
2 and on the matter of temporary rates.

3 We expect the Company to file its
4 waiver of the twelve-month deadline no later than
5 the close of business Friday, March 8th.

6 We have the two record requests that
7 we've already discussed.

8 And the parties should expect a
9 Commission order on these matters no later than
10 the close of business on Thursday, March 14th.

11 I'll just check now to see if there's
12 any further matters requiring our attention
13 today?

14 MR. DEXTER: I have two issues I would
15 like to bring up. One is with respect to the
16 order -- both with respect to the order that
17 you're about to issue.

18 One has to do with the record request
19 on the scoping information from PwC. In the
20 letter that we submitted in the electric case,
21 and in my comments at the beginning of the
22 hearing today, we had requested that the Company
23 provide all correspondence between PwC and
24 itself, so that we see not just the final scoping

1 report, but how they got there. And we would
2 request that the Commission include that as part
3 of its record request.

4 And I'm blanking on my second point, if
5 you just give me a minute?

6 CHAIRMAN GOLDNER: I'll rescue you
7 briefly, and ask the Company if they have any
8 objections to the Department's request?

9 MS. RALSTON: I believe that some of it
10 might be falling under the attorney/client
11 privilege, just due to the way that the
12 correspondences went. There may be some
13 correspondence we could include.

14 MR. SHEEHAN: We could certainly
15 identify what, you know, without waiving the
16 privilege, we can identify that three letters
17 went this way, four letters went that way, and we
18 can certainly provide those that are not
19 privileged.

20 So, if you make the request, we will
21 respond in that kind of fashion.

22 CHAIRMAN GOLDNER: Okay. And let me
23 formally make that the request in the record
24 request here.

1 And, then, based on what we see, the
2 Department may object or ask for more
3 information. But, at least it gets the ball
4 rolling, and, hopefully, it will be satisfactory
5 to the Department.

6 *[Further expansion of Record Request 1*
7 *as discussed above.]*

8 MR. DEXTER: Thank you. I did have a
9 second point.

10 Throughout the discussion in the
11 electric case, and I believe in the discussion in
12 the gas case, when the idea of the third-party
13 review has come up, it's been coupled with two
14 statements by -- or, three statements by the
15 Company. One is that the Company will pay for
16 it; two, that they would agree to extending the
17 twelve-month suspension period; and, three, that
18 they would not seek recoupment of temporary rates
19 during the period of additional time because of
20 this report.

21 When the Commission asked for something
22 in writing from the Company in the electric case
23 about the suspension period, which the Company
24 provided, the Commission did not ask about the

1 forgoing the recoupment of the temp. rates in
2 this extended period. And we believe that's
3 something that the Commission -- that the Company
4 has already stated that they would do, but we
5 thought it would be appropriate for the
6 Commission to include that request in their -- in
7 what they asked the Company to, I forget the term
8 you used, "certified" or "agreed to", which the
9 Company did on the electric side.

10 And, if I've mischaracterized that
11 position of the Company, or if that position has
12 changed, with respect to forgoing recoupment, I
13 think it would be important to know that today,
14 while we're all here.

15 And we do support that position, where
16 they would not be entitled to recoupment for that
17 additional period necessitated by this additional
18 review.

19 MS. RALSTON: Attorney Dexter is
20 correct. The Company did previously state it
21 would not request recoupment during the stay
22 period. And I think we could easily include a
23 statement to that effect in the waiver that
24 you've requested on Friday.

1 CHAIRMAN GOLDNER: Okay. Thank you.

2 Okay. Is there anything else that we
3 need to cover today?

4 *[No verbal response.]*

5 CHAIRMAN GOLDNER: All right. Seeing
6 none. Thank you for everyone's time today. And
7 the hearing is adjourned.

8 ***(Whereupon the hearing was adjourned***
9 ***at 10:39 a.m.)***

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