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P R O C E E D I N G

CHAIRMAN GOLDNER: Okay. Good morning, everyone. I'm Commissioner Goldner. I'm joined today by Commissioner Chattopadhyay and Commissioner Simpson. We're here in Docket Number DG 23-076, Liberty's Annual Cost of Gas Rates for the 2023 and 2024 Winter Period and 2024 Summer Period.

I want to start off by commenting on the schedule for this hearing, and the next hearing, DG 23-084, which is for Liberty-Keene Division Winter Cost of Gas Rates. We've scheduled sequential hearings for two hours each today, at 9:00 and 11:00, respectively, which is shorter than the normal time that we allow for hearings. This is because we have a scheduling conflict where must be done before 2:30 today.

So, between the two hearings, subject to any breaks that we may need to take, we have until 2:30. I just wanted the parties to understand the time we have to get through these two hearings. So, we can shorten or lengthen lunch accordingly.

Okay. Let's begin by taking

1 appearances, beginning with Liberty?

2 MR. SHEEHAN: Good morning,
3 Commissioners. Mike Sheehan, for Liberty
4 Utilities (EnergyNorth Natural Gas).

5 CHAIRMAN GOLDNER: All right. And the
6 New Hampshire Department of Energy?

7 MS. SCHWARZER: Good morning, Mr.
8 Chairman. Mary Schwarzer, Staff Attorney with
9 the Department of Energy. With me is Legal
10 Director, Paul Dexter; Gas Director, Dr. Faisal
11 Deen Arif; and Ashraful Alam, who is our new
12 Utility Analyst.

13 CHAIRMAN GOLDNER: Very good. Welcome.
14 And the Office of the Consumer Advocate?

15 MR. KREIS: Good morning, Mr. Chairman,
16 Commissioners. I'm Donald Kreis, the Consumer
17 Advocate, flying solo today.

18 CHAIRMAN GOLDNER: Very good.

19 I'll note that Liberty and the DOE
20 prefiled and premarked for identification
21 Exhibits 1 through 8, with the DOE's proposed
22 Exhibit 8 being submitted yesterday.

23 Are there any matters related to these
24 exhibits that any of the parties would like to

1 raise now?

2 MR. SHEEHAN: No sir.

3 CHAIRMAN GOLDNER: None?

4 MS. SCHWARZER: Just a minute. Mr.
5 Chairman, if I might?

6 The Department would like to ask the
7 Commission to take administrative notice for
8 monthly adjustments to cost of gas supply rates.
9 I have hard copies of it here. They are dated
10 January -- they are for effect January 2023,
11 March 2023, May 2023, and October 2023, and
12 they're from Docket Number 22-045.

13 CHAIRMAN GOLDNER: All right. Do you
14 have copies for the other parties?

15 MS. SCHWARZER: I do. I have ten
16 copies, and I would be happy to make them
17 available at this time.

18 CHAIRMAN GOLDNER: Okay. Please pass
19 them out, and then we can see if the parties have
20 any objections.

21 *[Atty. Schwarzer distributing*
22 *documents.]*

23 MS. SCHWARZER: These are available on
24 the virtual docket as well.

1 CHAIRMAN GOLDNER: Okay.

2 MS. SCHWARZER: Does anyone else need
3 one? I have two more sets.

4 *[Short pause for distribution of*
5 *documents by Atty. Schwarzer.]*

6 CHAIRMAN GOLDNER: After the parties
7 have had a chance to read the document, if you
8 could please let me know if you have any
9 objections.

10 MS. SCHWARZER: If anyone who I have
11 not handed a copy to would want one, could you
12 let me know?

13 MR. SHEEHAN: Mr. Chairman, as she's
14 handing them out, I can say I don't have
15 objections, we authored them. My only question
16 would be "why do we need to see them in this
17 hearing?"

18 But that's -- Ms. Schwarzer can address
19 that when she's done.

20 CHAIRMAN GOLDNER: Okay. Attorney
21 Kreis, any comments on the proposed
22 administrative notice?

23 MR. KREIS: I have none.

24 CHAIRMAN GOLDNER: Okay. Thank you.

1 Thank you.

2 Attorney Schwarzer, and I think
3 Attorney Sheehan had a question for you, when you
4 get settled back in.

5 MS. SCHWARZER: Absolutely.

6 *[Short pause.]*

7 MS. SCHWARZER: Mr. Chairman?

8 CHAIRMAN GOLDNER: Yes.

9 MS. SCHWARZER: The Department has
10 concerns about the sizable over-collection and
11 under-collection that Liberty has identified in
12 its filing. You can find those numbers in
13 Exhibit 4, in Liberty's response to DOE Data
14 Request 1-10. Liberty has identified an
15 over-collection for Winter '22-23 of
16 approximately \$9 million during a very volatile
17 timeframe, and has identified an
18 under-collection, at one point at least,
19 according to the Company, of \$18 million in the
20 beginning of the summer period, which, in the
21 Department's opinion, is excessive, particularly
22 given the trigger filings. Exhibit 4, DR
23 Response 1-14, indicates that some sizeable
24 adjustments were made due to, I believe, Company

1 error.

2 And I believe Mr. Shaheen should --
3 Attorney Sheehan should probably comment at this
4 point, about information that we received just
5 this morning.

6 MR. SHEEHAN: So, as to the trigger
7 filings, recalling the overriding concept here is
8 we charge customers only what we pay, and it's a
9 complicated in-and-out of dollars. And those
10 trigger filings were catching up to a -- "putting
11 the dollars in the wrong bucket" syndrome.
12 Winter dollars go into the winter cost of gas,
13 summer dollars in the summer, both ins and outs.

14 And the adjustment counsel referred to
15 was a booking of those dollars in the wrong
16 bucket, and we had to make the changes, and the
17 trigger filings weren't sufficient to catch up.
18 As we all know, the trigger filings are made, you
19 know, some weeks after, it's just a delay.

20 Also, I believe, last winter, the
21 market price of gas fell quickly, and the trigger
22 filings weren't catching up to that either, so it
23 was compounding. And, again, at the end of day,
24 the customers pay the right amount regardless, in

1 just maybe not quite the right sequence.

2 The new issue for this morning,
3 unfortunately, is a similar one. We discovered
4 last night that some revenues from last winter
5 were booked in the wrong bucket, and they were
6 put in summer, when they should have been, I
7 might get this backwards, Mr. King will explain
8 the exact, which one was which. But the net
9 result was \$6 million was put in the winter that
10 should have been put in the summer, or vice
11 versa. So, we caught it last night. So, it was,
12 obviously, not reflected in this morning's
13 filing.

14 Again, it's the same dollars. There's
15 no overall customer impact. It's just whether it
16 should be paid --it's a reconciling -- I'm sorry,
17 it's the beginning balance/ending balance
18 reconciliation piece.

19 So, Mr. King, on the back of the
20 envelope, estimated it's roughly a 15-cent rate
21 impact. That the winter rate would be roughly
22 that much higher, subject to actually putting it
23 in the model and double-checking. So, from
24 60-something cents, to 80-ish cents; so not

1 insignificant.

2 We've had -- that was the reason for
3 the delay, is "what do we do about it?"
4 Obviously, we can't ask the Commission to approve
5 a rate that we know is wrong.

6 So, there are a couple of approaches.
7 And the one that the parties quickly settled on,
8 and subject to them indicating I say this
9 correctly, thankfully, the Commission scheduled
10 this metering in the middle of the month, rather
11 than the last week, which is sometimes the
12 practice. So, we could update the model, and get
13 a filing in Monday as a deadline, but we'll try
14 to make it sooner, with the only change being
15 putting that money in the right bucket, from
16 summer to winter or winter to summer, whichever
17 way it goes, and with a cover letter indicating,
18 you know, a table with the rates we're asking you
19 to approve. And the model and all the pages
20 would have all the information in the filing.

21 And, then, the DOE and the OCA would
22 have a few days to take a look at it and file
23 something, whether they're okay with it or not.
24 If all is good, then you have all the parties

1 agreeing on a number that could be approved by
2 November 1.

3 If for some reason all is not good, the
4 process would be to approve the proposed rate
5 conditionally, and, if necessary, have a hearing
6 in November to make adjustments for December 1.
7 So, that's kind of how we've sketched out the fix
8 to that.

9 The witnesses are prepared to testify
10 to all the usual stuff with cost of gas.
11 Mr. King will walk through with more accuracy
12 that change that I just described.

13 So, apologies for making what was
14 hopefully going to be a quick, easy hearing to a
15 little bit more of a wrinkle.

16 CHAIRMAN GOLDNER: All right. Thank
17 you, Attorney Sheehan. Attorney Schwarzer.

18 MS. SCHWARZER: Thank you, Mr.
19 Chairman.

20 Liberty has correctly described the
21 proposal, that they file something Monday, or
22 sooner. We had agreed that the Department,
23 including the OCA, would have an opportunity
24 until October 26th, end of day. We hope to

1 comment, ideally, the adjustment will be clear
2 and appropriate, and then the rates -- we would
3 mutually support the rates, and ask that they be
4 put into effect for November 1.

5 But, if it turned out that there were
6 concerns as to the numbers or process, we would
7 ask that the rates be implemented, as corrected,
8 contingent for November 1. And, then, for a
9 mid-November hearing, and review and approval,
10 for rates effective December 1.

11 CHAIRMAN GOLDNER: Okay. Attorney
12 Kreis, any comments on the agreement, or I
13 hesitate to call it a "settlement"?

14 MR. KREIS: I support the agreement
15 that the Department and the utility have reached.

16 CHAIRMAN GOLDNER: Very good. Thank
17 you.

18 Okay. So, just to clean up things.
19 Attorney Sheehan, are you -- any objections to
20 taking administrative notice on the items that
21 Attorney Schwarzer handed out?

22 MR. SHEEHAN: No, sir.

23 CHAIRMAN GOLDNER: And, Attorney Kreis,
24 I think you were already okay with the taking

1 administrative notice?

2 MR. KREIS: Yes, sir.

3 CHAIRMAN GOLDNER: Thank you. Okay.

4 Very Good. I think we've cleared that up.

5 *[Administrative notice taken]*

6 CHAIRMAN GOLDNER: So, let's -- well,
7 first, let me ask, are there any other matters to
8 address, before we hear from the witnesses?

9 Attorney Schwarzer.

10 MS. SCHWARZER: If I could make a very
11 brief opening summary statement, I would
12 appreciate it?

13 CHAIRMAN GOLDNER: Sure. Please
14 proceed.

15 MS. SCHWARZER: Thank you very much.

16 The Department is prepared today to
17 address several issues, three of them are very
18 straightforward, and two of them are more
19 complex.

20 The first three that are fairly easy
21 have to do with the customer bill impact
22 statement. The Department has discovered that
23 Liberty used proposed LDAC rates to be effective
24 February 1st, but have not yet been reviewed, in

1 the customer bill impact statement that it
2 provided in its filing.

3 The Department believes it is more
4 simple and accurate to use the LDAC as currently
5 approved, so then the customer bill impact
6 statement reflects all the existing rates, but
7 not future rates that are subject to review and
8 approval. And the appropriate analysis to
9 provide that bill impact statement appears in
10 Exhibit 4, and responds to the Department's Data
11 Request 1-3.

12 We have discussed the Fixed Price
13 Option letters with the Company. In the past,
14 the DOE Consumer Division Director reviewed the
15 letters when they were filed, when the petition
16 was filed, and provided comments and input on the
17 final draft. The Company is amenable to
18 returning to that. The Department would prefer
19 that. And we would ask that that relief be
20 included in the "further ordered" clause of the
21 Commission, if acceptable and approved by the
22 Commission.

23 The last quick issue has to do with
24 RNG, renewable natural gas. That is addressed in

1 a data response that appears in Exhibit 5, Bates
2 Pages 024 to 026. The only purpose for raising
3 it here is that Liberty has indicated both that
4 it has no plans to serve RNG in the next twelve
5 months, but also that its prior answer, which is
6 attached to that data response, indicating that
7 it continues to negotiate with vendors to
8 implement -- to use RNG as a supply, also
9 continues to be accurate. And those supplies, as
10 described in the response, are complete and
11 available as of February and August of 2023. The
12 Department is under a legal obligation, pursuant
13 to RSA 362-I:2, V, to report to the Legislature
14 on significant analytical, and substantive
15 portions of any contract for RNG that is
16 implemented by any utility here in New Hampshire.
17 And, so, it's important to us to be aware of any
18 contract. So, it's our understanding that there
19 will be no RNG served in the next twelve months.

20 Those are the simple -- those are the
21 simple issues.

22 The more complex issues the Commission
23 won't be surprised to learn have to do with the
24 over/underestimated collections at issue here in

1 this docket, both for winter, which, as filed,
2 was 9 million -- approximately, a \$9 million
3 over-collection, and, for summer, was stated as
4 an 18 million under-collection to start. We note
5 that no audit has been done on the Summer 2023
6 period, because it hasn't even been completed and
7 Liberty hasn't filed it. And, then, for Winter
8 2022 to 2023, the audit work is pending.

9 So, we would ask that the Department's
10 position here be noted as "subject to audit", the
11 results of any audit for the winter and summer
12 reconciliation.

13 The last issue has to do with tariff
14 changes. The Commission directed the parties to
15 file tariff pages in 23-027, to effectively
16 separate the cost of gas and the LDAC procedures.
17 The Department believes that the language Liberty
18 filed in 22-045 is insufficient, and that is an
19 illustrative tariff page. The tariff pages filed
20 into this docket do not address, in any
21 substantive way, division of the cost of gas or
22 the LDAC, they only have to do with billing
23 rates, which is not to minimize their importance,
24 but they do not complete the work that we were

1 tasked to do in the opinion of the Department.

2 Our technical statement, filed by Dr.
3 Arif, includes proposed edits to tariff pages,
4 that clearly articulate both the 18-month period,
5 the initial period, from November 1, 2022,
6 through January 1 -- January 31st, 2024, and the
7 subsequent 12-month periods, where we anticipate
8 that the LDAC elements will run on a February 1
9 to January 31 calendar year.

10 We were hoping to get input from
11 Liberty. This morning, we were told that, in
12 Liberty's opinion, the changes are not necessary,
13 but they will not object. It's unclear to the
14 Department why Liberty believes they're
15 unnecessary. And, certainly, if we have time at
16 the end of the hearing, we can go through those
17 pages, and I will certainly ask witnesses during
18 cross.

19 That concludes my introductory remarks.
20 And I hope that that quick summary is useful to
21 the Commission.

22 CHAIRMAN GOLDNER: Thank you, Attorney
23 Schwarzer. Attorney Kreis, any comments on the
24 DOE's position?

1 And I would like to add one to it, as
2 if we don't have enough today. You had mentioned
3 previously that you would be interested in
4 further process on the Fixed Price Option. Is
5 that still the case? If you could add that to
6 your comments?

7 MR. KREIS: Let me start with that. I
8 do not think there should be a Fixed Price
9 Option. That has long been my opinion. Frankly,
10 Mr. Chairman, I thought of that as kind of a
11 battle that I had fought and lost.

12 If it's an issue that the Commission
13 would like to take up again, I would be all for
14 that.

15 CHAIRMAN GOLDNER: We are. We are.

16 MR. KREIS: I'm really pleased to hear
17 that. My guess is that it's too late to do
18 anything about that now.

19 CHAIRMAN GOLDNER: For this, for this
20 particular -- for this particular proceeding,
21 yes. But we're, I guess, offering further
22 process, so that the issue can be resolved over
23 time.

24 MR. KREIS: So, we should figure out

1 the right way to do that. Just thinking
2 on-the-fly here. I think, maybe the Commission
3 should consider opening a freestanding docket to
4 deal with that problem.

5 Now, you already know, I'm pretty sure,
6 what my problem with the Fixed Price Option is.
7 I, like every consumer anywhere, I'm fine with,
8 basically, trading risk with people who sell me
9 things, you know, like unregulated fuels, that's
10 the most common example.

11 The problem here is that the way this
12 Fixed Price Option is structured, it's really two
13 groups of ratepayers that are sort of trading
14 risk with each other, and I just don't think
15 that's good public policy.

16 Now, you, in the past, have mentioned
17 "Well, what about the analogous situation that
18 arises in default service?" And that's a valid
19 question, too. The Department has an open
20 investigation about the future of default
21 service. And, you know, we can think about
22 whether there's a different way of handling
23 default service that addresses the same issues in
24 an appropriate way as well.

1 So, I guess that's my recommendation.
2 I think the Commission should open a docket. I
3 make no secret of the fact that I will appear in
4 that docket and suggest that there no longer be a
5 Fixed Price Option. Our other gas utility
6 doesn't offer one, the customers there seem to be
7 fine with that.

8 Okay. As to all the issues in this
9 docket that are truly pending, I have to say I'm
10 frustrated, my head is spinning a little bit,
11 because there are so many moving parts here. I
12 wish there were a better way to unravel them.
13 The OCA doesn't have the bandwidth to track all
14 this stuff the way the Department of Energy does.
15 And, so, I'm not in a position to do anything
16 other than accede to the recommendations that the
17 Department is making to you all.

18 CHAIRMAN GOLDNER: Thank you, Attorney
19 Kreis. And I guess that's six topics to you,
20 Attorney Sheehan.

21 MR. SHEEHAN: Thank you.

22 Bill impacts, obviously, we can do bill
23 impacts 50 different ways. We did it the way we
24 usually do it. If the Commission would like

1 something else, that's fine, we'll do it. And,
2 as indicated, DOE suggested a different bill
3 impact analysis, and we provided it in the data
4 response.

5 Second, the FPO letter, we do have the
6 Consumer Affairs Division review those. And, if
7 the Commission wants to specifically include it
8 in the order, that's fine with us.

9 Third, RNG, --

10 CHAIRMAN GOLDNER: I'm sorry, Attorney
11 Sheehan. What was -- can you repeat your
12 position on the Fixed Price Option, I didn't
13 capture it?

14 MR. SHEEHAN: Yes. We're fine with the
15 specific inclusion of that in an order.

16 CHAIRMAN GOLDNER: Okay.

17 MR. SHEEHAN: We do it anyway. So, we
18 have no objection to that being added.

19 CHAIRMAN GOLDNER: Okay. Thank you.

20 MR. SHEEHAN: Regarding RNG, it is
21 correct to say that we don't have any contracts
22 in place for RNG. And, as of today, we don't see
23 RNG coming into our system in twelve months.

24 As I have told DOE repeatedly, should

1 anything go beyond conversations and a contract,
2 we will let them know. Some of those contracts
3 may inquire Commission approval, and we would go
4 through that process. So, we will keep DOE
5 informed on that status as appropriate.

6 The over/under issue I suspect will be
7 covered through the testimony. I had sort of
8 given a highlight of it earlier.

9 As far as the continued existence of
10 FPO, it is the Company's position that we do have
11 a significant number of customers who take
12 advantage of it every year. So, from that
13 regard, we do see a -- I guess "need" is not the
14 right word, but we do see a demand for it.

15 It's certainly the Commission's
16 prerogative to decide it's a bad idea, and we
17 shouldn't do it any further. Obviously, if
18 that's your conclusion, we'll follow it.

19 But, right now, we do have a number of
20 customers who sign up every year. So, they,
21 obviously, see some value in it.

22 CHAIRMAN GOLDNER: So, if this were
23 adjudicated, the Company's position would be to
24 keep it? Is that --

1 MR. SHEEHAN: As of today, yes. But I
2 don't have authority to give you a different
3 position today.

4 CHAIRMAN GOLDNER: Okay. Thank you.
5 And, Attorney Schwarzer, we'll just
6 wrap up, if the Department has any position on
7 this, on the Fixed Price Option?

8 MS. SCHWARZER: Thank you, Mr.
9 Chairman.

10 It was not my understanding that the
11 Commission [sic] had an opportunity to review
12 letters this year. That was my understanding
13 from the Consumer Division.

14 CHAIRMAN GOLDNER: It's more of a
15 long-term question. It won't be -- as Attorney
16 Kreis said, we're not suggesting that litigate it
17 for this upcoming cycle, but that it's something
18 that we resolve. It's been lingering out there
19 for a while, as Attorney Kreis mentioned. It's
20 something that we are thinking would be -- that
21 we could -- we would consider looking at it
22 again. So, --

23 MS. SCHWARZER: We would certainly
24 support and participate in a freestanding docket

[WITNESS PANEL: Gilbertson|King|Garcia]

1 to consider that question. In the past, the
2 Department has supported the Fixed Price Option
3 as in the tariff.

4 CHAIRMAN GOLDNER: Okay. Okay. Thank
5 you.

6 Okay. Is there anything else that we
7 should cover?

8 *[No verbal response.]*

9 CHAIRMAN GOLDNER: Okay. Seeing none.
10 Let's begin with the Company's witness panel.
11 Mr. Patnaude, if you could please swear in the
12 witnesses.

13 *(Whereupon **DEBORAH M. GILBERTSON,***
14 ***JAMES M. KING,** and **ROBERT GARCIA** were*
15 *duly sworn by the Court Reporter.)*

16 CHAIRMAN GOLDNER: Attorney Sheehan.

17 MR. SHEEHAN: Thank you.

18 **DEBORAH M. GILBERTSON, SWORN**

19 **JAMES M. KING, SWORN**

20 **ROBERT GARCIA, SWORN**

21 **DIRECT EXAMINATION**

22 BY MR. SHEEHAN:

23 Q We'll start with you, Ms. Gilbertson. Please
24 introduce yourself and your position with the

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Company?

2 A (Gilbertson) Yes. Hi. My name is Deborah
3 Gilbertson. I am a Senior Manager of Energy
4 Procurement for Liberty Utilities.

5 Q And, Ms. Gilbertson, did you participate in
6 the -- in drafting testimony that is contained
7 within Exhibit 1, the confidential version, and
8 Exhibit 2, the redacted version?

9 A (Gilbertson) Yes, I did.

10 Q And do you have any changes to your portion, your
11 testimony, to bring to the Commission's
12 attention?

13 A (Gilbertson) No.

14 Q And that begins, I was just looking for it, on
15 Bates Page 017 of Exhibits 1 and 2. For
16 EnergyNorth, I understand it's your
17 responsibility, essentially, to bring the gas to
18 customers, is that fair?

19 A (Gilbertson) Yes.

20 Q Have there been any significant changes on how
21 the Company brings the gas to its customers from
22 prior years?

23 A (Gilbertson) No, there hasn't been.

24 Q Have there been any items of note that happened

[WITNESS PANEL: Gilbertson|King|Garcia]

1 this year that the Commission should be aware of
2 as you prepare for this upcoming winter season?

3 A (Gilbertson) There's nothing special, no.

4 Q Okay. And do you today adopt your prefiled
5 testimony as your sworn testimony today?

6 A (Gilbertson) Yes, I do.

7 Q Thank you. And, Mr. King, please introduce
8 yourself?

9 A (King) Hi. Good morning. My name is James King.
10 I'm an Analyst with the Liberty Utilities' Rates
11 and Regulatory Affairs Division.

12 Q And, Mr. King, you participated in testimony,
13 drafting testimony, that appears at Page 1 of
14 Exhibits 1 and 2, is that correct?

15 A (King) That's correct.

16 Q And, aside from the issue that we've already
17 talked about today, the over-/under-calculation,
18 are there any other changes that need to be made
19 to your testimony or your calculations?

20 A (King) No, not at this time.

21 Q And is it fair to say that what we will talk
22 about in a minute does affect pretty much the
23 entire filing?

24 A (King) Yes.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q Okay. And, again, aside from that testimony, and
2 I think it's kind of weird for me to ask you to
3 adopt testimony that you know is not correct.
4 But, understanding it's not correct, and we'll
5 walk through it, the other pieces of your
6 testimony, are they correct?

7 A (King) Yes.

8 Q Thank you. And I'll return to you in just a
9 minute. Mr. Garcia, please introduce yourself?

10 A (Garcia) Good morning. My name is Robert
11 Garcia. I'm the --

12 *[Interruption regarding use of the*
13 *microphone.]*

14 WITNESS GARCIA: Whoops. Sorry.

15 **BY THE WITNESS:**

16 A (Garcia) Good morning. My name is Robert Garcia.
17 I'm the new Manager of Rates and Regulatory
18 Affairs at Liberty.

19 MR. SHEEHAN: Mr. Garcia, microphone
20 right in front of the mouth.

21 WITNESS GARCIA: Thank you.

22 MR. SHEEHAN: It helps everybody.

23 BY MR. SHEEHAN:

24 Q And, Mr. Garcia, when did you join Liberty?

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (Garcia) On September 5th.

2 Q And, although you are here to adopt Mr.
3 Culbertson's involvement in this testimony, is
4 that correct?

5 A (Garcia) That is correct. The panel testimony
6 with Mr. King.

7 Q The next hearing today, the Keene Cost of Gas,
8 you did author that testimony along with
9 Mr. King, is that correct?

10 A (Garcia) That's correct.

11 Q And your testimony, in that docket, has your full
12 background and education, is that correct?

13 A (Garcia) It does.

14 Q Could you briefly -- this is your first time
15 testifying here in New Hampshire, is that right?

16 A (Garcia) It does -- it is.

17 Q Could you give us a three-, four-sentence
18 description of your background, so the
19 Commissioners know who they're talking to?

20 A (Garcia) I have 30 years of utility/regulatory
21 experience, starting the Illinois Commerce
22 Commission for about nine years, both on the
23 staff, and as a Commissioner's Assistant for most
24 of the time.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 After that, I spent over 20 years in
2 the Regulatory Department at Commonwealth Edison,
3 in Chicago. Started out as an analyst, and moved
4 my way up to Director of Regulatory Strategies
5 and Services, and moved onto a temporary
6 position, Director of Innovation.

7 Q Could you explain why it is that, even though Mr.
8 Culbertson is sitting next to me, you are today
9 adopting his written testimony?

10 A (Garcia) Well, the scope of the responsibilities
11 and of preparing the filings now falls under my
12 purview, my more direct purview than Mr.
13 Culbertson. I report to Mr. Culbertson.

14 Q Have you familiarized yourself with the contents
15 of the testimony that's been marked as
16 "Exhibit 1" and "2"?

17 A (Garcia) Yes.

18 Q And are you comfortable that you can answer
19 questions concerning that filing, along with
20 Mr. King?

21 A (Garcia) Yes.

22 Q And, therefore, do you adopt the testimony,
23 Exhibits 1 and 2, as your sworn testimony this
24 morning?

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (Garcia) Yes.

2 Q Thank you. Okay, back to you, Mr. King. In the
3 comments before we started today, I indicated
4 that there was a recent discovery of a roughly \$6
5 million misallocation of dollars from one season
6 to the other. Could you be more specific about
7 what it is you discovered?

8 A (King) Yes. So, in March -- yes, March of '23.
9 The Accounting Department made a seasonal
10 correction for what at the time was recorded for
11 revenues that were booked to summer that should
12 have been winter. The correction that we
13 realized last night is that that \$6 million
14 correction should have been booked in the other
15 direction. It should have been a \$6 million
16 increase to the revenues for summer, and a
17 \$6 million decrease to the revenues of winter.

18 Q And what is it you will do to fix that?

19 A (King) So, with the correction to take place in
20 October, it will be a \$12 million adjustment to
21 the beginning balances. So, we're doing a \$6
22 million correction to get us back to zero, and
23 then an additional \$6 million to get to the
24 correct point of where both accounts should be

[WITNESS PANEL: Gilbertson|King|Garcia]

1 for both summer and winter.

2 Q The filing that's before the Commission now has a
3 under-collection for EnergyNorth, is that
4 correct?

5 A (King) That is correct.

6 Q And how will it, again, at a high level, what's
7 the dollar impact of the correction?

8 A (King) So, back-of-the-envelope calculation, so,
9 for the end of September, the winter deferral
10 account had a approximately \$5.1 million
11 over-collection. With this adjustment made in
12 October, the October ending balance would be a \$7
13 million under-collection.

14 Q And we all get confused with the over/unders,
15 you're being careful there. So, if we start the
16 winter period with a \$7 million under-collection,
17 rather than a \$5 million over-collection it's
18 going to cause the proposed rate to increase?

19 A (King) Yes. And, again, back-of-the-envelope
20 calculation, there are, obviously, a lot more
21 inputs in the model that need to be updated than
22 just one single number. But it was approximately
23 an 18- to 20-cent difference in terms of the
24 price increase.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q And what was the per therm rate proposed in this
2 filing?

3 A (King) The rates per therm, for a Residential
4 customer, was \$0.6175; for Commercial/Industrial
5 High Use, 0.6173; and the Commercial/Industrial
6 Low Winter Use, 0.6185.

7 Q And your estimate, sitting here today, is those
8 numbers will change to close to 0.8?

9 A (King) That's correct.

10 Q For the summer period, the dollars go the other
11 way, is that correct?

12 A (King) Yes. So, the calculation, that did focus
13 on winter, but likely a similar switch in the
14 other direction.

15 Q I said in the comments that "customers end up
16 paying the same amount", is that correct, over
17 the course of a year?

18 A (King) Can you say that again?

19 Q Meaning that, that whether these dollars are paid
20 in summer or winter, at the end of the day, the
21 customers don't pay any more or less?

22 A (King) That is correct.

23 Q At the end of the day, the customers pay the
24 costs that we incur that are reflected in these

[WITNESS PANEL: Gilbertson|King|Garcia]

1 numbers?

2 A (King) Yes.

3 Q You heard the lawyers make a proposal for how to
4 address this. And that was to update the filing
5 as soon as possible, to allow -- and make a
6 filing with the Commission, and give DOE and OCA
7 a chance to review, and a Commission order late
8 next week. Are you and your team able to update
9 the filing in short order?

10 A (King) Yes, I believe so.

11 Q Okay. Going to some of the -- one of the issues
12 that were addressed was the bill impacts. You
13 heard me say that "bill impacts could be done a
14 number of ways." And what we put in this filing
15 was the "normal", if you will, way to do bill
16 impacts, based on the changes in both cost of gas
17 and LDAC, is that correct?

18 A (King) That's correct.

19 Q And DOE indicated that maybe it would be better
20 to show the impact of only cost of gas, since the
21 LDAC rate won't change until February?

22 A (King) That's correct.

23 Q And that's what we did in that data response?

24 A (King) Yes. It's in Data Request 1-3, I believe

[WITNESS PANEL: Gilbertson|King|Garcia]

1 it was, we provided the bill impact with the
2 currently in effect LDAC. So, there's no change
3 in the LDAC from what we -- so, we originally
4 provided as if these dockets weren't bifurcated,
5 as we have in the past, with the updated LDAC
6 rates that were proposed, and along with the cost
7 of gas rates that were proposed.

8 So, in 1-3, we just have the cost of
9 gas rates that were proposed.

10 Q And the reason we didn't put all of that in the
11 filing is, at the time of the filing, the --
12 although we were headed towards the separate
13 dockets, it hadn't been approved, or I think
14 maybe it was approved a day or two before our
15 filing, is that correct?

16 A (King) That's correct, pretty much.

17 Q In the revised filing, is it fair to say you can
18 provide whatever bill impact analysis is desired?

19 A (King) Yes.

20 MR. SHEEHAN: Okay. That's all I have
21 for the witnesses.

22 CHAIRMAN GOLDNER: Thank you. We'll
23 move to the Department of Energy.

24 MS. SCHWARZER: Thank you, Mr.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Chairman.

2 I would like to briefly comment on Mr.
3 Garcia being here, in lieu of Mr. Culbertson.
4 Mr. Culbertson was listed on the Joint Exhibit
5 List, as filed. We were notified yesterday that
6 he was unavailable. And, so, when I saw him here
7 this morning, I expected he would be a witness.

8 To the extent that Mr. Garcia is able
9 to answer, the Department doesn't have any
10 specific objection. But we are concerned, just
11 procedurally, about the last-minute notice, and
12 then Mr. Culbertson being here. So, he ideally
13 could respond to any questions that was at issue.

14 And we aren't raising an objection at
15 this time, just noting it for the record.

16 CHAIRMAN GOLDNER: Okay. Attorney
17 Kreis, anything to add?

18 MR. KREIS: I think my position on that
19 problem is pretty identical to the one
20 Ms. Schwarzer just articulated.

21 I don't think that there is any
22 outcome-determinative problem with that kind of
23 witness substitution. But I am a little worried
24 that the practices around here have become a

[WITNESS PANEL: Gilbertson|King|Garcia]

1 little lax, with respect to the utilities sort of
2 tag-teaming their testimony.

3 In other words, what tends to happen
4 is, the utilities will file written prefiled
5 direct testimony, that identifies a particular
6 witness as the author of that document, and then
7 there's this sort of free-wheeling tendency to
8 just swap out that person for another person.
9 And, at some point, it will become inappropriate
10 in some case.

11 I don't think it's a problem here,
12 however. But it is worrisome. And I think the
13 Commission might be a little worried about it,
14 too.

15 CHAIRMAN GOLDNER: Thank you, Attorney
16 Kreis. Attorney Sheehan.

17 MR. SHEEHAN: First, the reason Mr.
18 Culbertson is here today is because of the
19 concerns raised, and we didn't want to be caught
20 without a witness, should this become a mountain
21 out of a molehill.

22 Mr. Garcia explained exactly why he's
23 here, and not Mr. Culbertson. Mr. Culbertson
24 planned to do other things today, and he's here

[WITNESS PANEL: Gilbertson|King|Garcia]

1 just as a security.

2 I disagree that this is an issue. The
3 Company's burden is to put a witness on the stand
4 who can defend what is being presented, and Mr.
5 Garcia can do that. And, in other occasions that
6 Mr. Kreis references, that can happen, that
7 happens similarly.

8 And I think the -- it's interesting
9 that DOE comments about "last-minute notice", and
10 we get exhibits filed the day before a hearing.
11 I mean, it's a two-way street. We do our best,
12 we try to notify folks as soon as we know.

13 And I don't think there's any prejudice
14 flowing from Mr. Garcia adopting Mr. Culbertson's
15 testimony today.

16 CHAIRMAN GOLDNER: Is this part of a
17 transition? So, Mr. Garcia will be the witness
18 in the future. So, you're just trying to
19 transition the witness testimony, and, in this
20 case, Mr. Culbertson gave it first, Mr. Garcia
21 will give it in the future. So, is that what's
22 happening here?

23 MR. SHEEHAN: Correct. I believe
24 Mr. Garcia had started days before this was

[WITNESS PANEL: Gilbertson|King|Garcia]

1 filed, and he picked up the Keene filing and was
2 able to sponsor that one.

3 CHAIRMAN GOLDNER: Okay. I think, in
4 this case, as all the parties have suggested, I
5 think we should proceed with Mr. Garcia. And
6 understanding that this is part of a transition
7 plan, and not part of a larger issue of having
8 new witnesses come in every time that we have
9 testimony.

10 So, please proceed, Attorney Schwarzer.

11 MS. SCHWARZER: Thank you, Mr.
12 Chairman. And, as stated, we didn't -- we don't
13 object.

14 CHAIRMAN GOLDNER: Thank you.

15 MS. SCHWARZER: Sure.

16 **CROSS-EXAMINATION**

17 BY MS. SCHWARZER:

18 Q I believe this question would just go to
19 Mr. King. And it has to do with talking about
20 the customer bill impact statement just briefly.
21 You identified your response, Exhibit 4, Response
22 1-3. And just as an aid to walking through that
23 attachment, if you could show me where, for
24 example, the indication is for what the winter

[WITNESS PANEL: Gilbertson|King|Garcia]

1 rate for Residential R3 class would be? I
2 believe it's instead of -- it's an impact of
3 \$166, and 14.83 percent increase, is that
4 correct?

5 A (King) That's correct.

6 Q And where does that appear in the exhibit?

7 A (King) That appears on Line 58, Column L -- or,
8 Column "(7)", as it's marked.

9 Q On Page 007, Bates 007?

10 A (King) Sorry, I'm looking at the Excel. If you
11 could give me a second, I can confirm on the
12 Bates page.

13 Q Sure.

14 A (King) Yes. That's correct.

15 Q And the same question for illustrative
16 Residential R3 class for the summer, I believe
17 the decrease would be 58.98, and a 16.25 percent
18 change, is that correct?

19 A (King) Would you mind repeating those numbers
20 again?

21 Q Sure. \$58.98 decrease for Summer 2024, which is
22 a drop of 16.25 percent?

23 A (King) Yes. That's correct.

24 Q And where do you see those figures in the

[WITNESS PANEL: Gilbertson|King|Garcia]

1 exhibit?

2 A (King) On Line 59, Column 14.

3 Q And which Bates Page is that?

4 A (King) 008.

5 Q Thank you. And, so, if we were to put that
6 together, the annual bill impact for an R3
7 customer would be a reduction of \$225.80, which
8 is a 15.18 percent decrease, is that correct?

9 A (King) That is correct. And, similarly, Line 59,
10 Column 15, on the same page you just referenced.

11 Q On Bates Page 008?

12 A (King) That's correct.

13 Q For the total impact?

14 A (King) Yes.

15 Q And, if we were to take the time, if we wished to do
16 that, we could do that for each of the rate
17 classes, correct?

18 A (King) Yes.

19 Q Okay. And, as you said, that shows -- that
20 leaves the existing LDAC in place, and excludes
21 the proposed unreviewed LDAC?

22 A (King) That's correct. This, the attachment to
23 the response to DOE 1-3, used the existing LDAC
24 rate for the purposes of this response.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q Thank you. And I'm not sure who to ask about the
2 FPO letters? Mr. Garcia, great. Thank you. So,
3 you're amenable to submitting those to the
4 Director of the Consumer Affairs Division when
5 the next cost of gas petition is filed?

6 A (Garcia) Yes.

7 Q Thank you.

8 A (Garcia) Yes.

9 Q And, in turns of RNG, it's my understanding that
10 the Company is not planning on serving RNG in the
11 next twelve months, with or without environmental
12 attributes, is that correct?

13 A (Gilbertson) That is correct.

14 Q Thank you. And, if you were to change -- if the
15 Company were to change its mind, the Company
16 would inform the Department of Energy?

17 A (Gilbertson) Yes, they would.

18 Q Thank you. I do want to turn now to the
19 over/under issue. And, first, broadly, just to
20 return to Mr. King's statement that "the
21 customers pay the same amount." You're speaking
22 collectively, right? All the customers, all of
23 the EnergyNorth customers, in a group, as a lot,
24 would pay the same amount?

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (King) Yes. So, I guess I was speaking to more
2 the point where, you know, this adjustment was --
3 is going to be the same for the summer and winter
4 over-collections, and, you know, in the inverse.
5 So, as customers might be paying more in the
6 winter, they're going to be paying less in the
7 summer, and -- or, vice versa, depending on the
8 instance.

9 Q But customer bills also have to do with the
10 volume, right, how much they consume?

11 A (King) That's correct.

12 Q And, so, in order to be equal, they have to
13 consume the same amount in summer and winter, on
14 a per customer basis?

15 A (King) No, it's a dollar amount per therm, based
16 on projected therm sales for that time period.

17 Q Correct. But, if I'm a customer that uses a lot
18 of gas in the winter, and less gas in the summer,
19 and you're correcting it equivalently, if it's,
20 like, 15 cents more in the winter, and 15 cents
21 less in the winter -- in the summer?

22 A (King) The rate is going to be based on the
23 projection for the summer. So, there is going to
24 be --

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q Okay.

2 A (King) There's going to be the amount of dollars
3 is going to be spread over less therms.

4 Q So, when your counsel asked you "if the chance
5 was the same", he meant the cumulative change,
6 but not the per therm, like, the suggested 15
7 cents per therm?

8 A (King) That's correct.

9 Q Okay. Thank you. And, with regard to carrying
10 charges, there would be a difference in the
11 payment of carrying charges for the winter
12 over-collection, and the correction now, is that
13 correct?

14 A (King) Yes. So, I mean, that would be a
15 calculation the Accounting Department would have
16 to do. So, I don't know the magnitude of how
17 that will affect these numbers. But, yes, that's
18 certainly something that would be considered.

19 Q So, before we turn specifically to the over- and
20 under-collection, I'd like to just draw your
21 attention to what's been called the "monthly
22 adjustment", and also called "trigger filings",
23 that we handed out -- that I handed out earlier
24 at the beginning, and the Commission took

[WITNESS PANEL: Gilbertson|King|Garcia]

1 administrative notice of.

2 If we go in chronological order,
3 looking at what's been dated -- what's dated
4 "December 22nd, 2022", to go into effect for
5 rates January 1, 2023, the Company has identified
6 an under-collection for the winter period of
7 approximately \$4.7 million, is that correct?

8 A (King) Yes. That's correct. And, if I just
9 might interject, at the time, I wasn't involved
10 with the EnergyNorth cost of gas filing. I have
11 since taken on those responsibilities. But, at
12 the time of this filing, I was not involved.

13 So, I will answer the questions to the
14 best of my ability. But, just as a preface, that
15 I wasn't involved at this time.

16 Q And I appreciate that clarification. Who was
17 involved? Would it have been Mr. Culbertson?

18 A (King) No. So, this was another analyst, Craig
19 Holden, who has since left Liberty.

20 Q Thank you.

21 A (King) And I have assumed his responsibilities on
22 the case after his departure.

23 Q Thank you. I appreciate that, Mr. King. When I
24 look at this tariff filing, the letter reflects a

[WITNESS PANEL: Gilbertson|King|Garcia]

1 change in the NYMEX rate, and then says "There
2 would be a resulting under-collection." Does
3 that mean that, had you not -- based on the
4 change in the NYMEX, the 4.7 million would result
5 were you not to change the rate, or is the 4.7
6 million a statement about the cumulative
7 under-collection to date?

8 A (King) It would be -- it would be both. The
9 under-collection -- sorry, would you mind
10 repeating your question?

11 Q Sure. If the under-collection that you identify
12 in this letter uniquely related to what would
13 result were the rate not adjusted?

14 A (King) Yes.

15 Q Or -- okay. So, it doesn't reflect a cumulative
16 under-collection for the entire winter period or
17 a projected under-collection, it's just the --

18 A (King) So, this, this \$4 million
19 under-collection, would be the projection if
20 rates weren't to change. So, with each trigger
21 filing, our aim is to get that figure as close to
22 zero as possible. So, that's why we'll change
23 the rates on the trigger. So, in this instance,
24 we're having a proximate under-collection, and

[WITNESS PANEL: Gilbertson|King|Garcia]

1 the rates increase to try to account for that
2 under-collection.

3 Q And I don't mean to press this point, but it's
4 just not clear to me. Is the 4.7 million the
5 Company's best estimate of the entire winter
6 under-collection as of December 22nd?

7 A (King) Yes.

8 Q Okay. Thank you.

9 A (King) Again, I would have to go back and look at
10 the specific trigger filing at that time. But my
11 understanding of what this number represents is
12 that would be the under-collection we are
13 projecting at that time.

14 Q And, January 1, 2023, which was what this first
15 letter addresses, rates effective January 1,
16 2023, that would leave approximately four more
17 months in the winter period, correct? January,
18 February, March and April?

19 A (King) Yes.

20 Q Thank you. So, turning to the monthly adjustment
21 dated "April 24th, 2023", these are for rates
22 effective May 1, which is the beginning of the
23 summer period. Oh, I think I skipped one. Yes,
24 I skipped 64. I'm sorry. Turning to February --

[WITNESS PANEL: Gilbertson|King|Garcia]

1 the letter dated February 21, 2023, for rates
2 effective March 1?

3 A (King) We did not receive that attachment from
4 you. I have -- in front of me, I have the rates
5 for January 1, the rates for May 1, and the rates
6 for October 1.

7 MS. SCHWARZER: Could I approach?

8 CHAIRMAN GOLDNER: Please.

9 *[Atty. Schwarzer distributing document*
10 *to the witness panel.]*

11 MS. SCHWARZER: Does the Commission
12 have those?

13 CHAIRMAN GOLDNER: We have it.

14 MS. SCHWARZER: Other parties?

15 MR. SHEEHAN: We have -- we're missing
16 the next one. We have that one.

17 WITNESS KING: Mike, while we're kind
18 of -- do you mind grabbing my charger? It's
19 behind you. It's on the desk.

20 Thank you.

21 BY MS. SCHWARZER:

22 Q So, we're looking at a letter dated "February 21,
23 2023", for rates effective -- I'm sorry,
24 Mr. King.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (King) Yes.

2 Q Looking at a letter dated February 21, 2023, for
3 rates effective March 1, 2023?

4 A (King) Uh-huh.

5 Q With two months left in the winter period, March
6 and April. And Liberty has identified an
7 over-collection of \$5 million, is that correct?

8 A (King) Yes.

9 Q And, so, you reduced the rates?

10 A (King) Yes, that is correct. And I will just
11 mention, in the interim, between these two
12 rates -- sorry, you can continue.

13 Q Okay. And, so, that reflects the Company's
14 understanding that, as of February 21, 2023, the
15 cumulative over-collection for the entire winter
16 period was \$5 million?

17 A (King) Yes. So, what I was trying to look at
18 right before you asked the question on timing of
19 a certain -- certain adjustments, at the time the
20 December trigger filing was submitted, there was
21 a \$10 million adjustment for gas purchased in the
22 summer, for use in the winter, that was made in
23 the -- made in December.

24 So, as you can see, the rates -- the

[WITNESS PANEL: Gilbertson|King|Garcia]

1 rates from effect January 1, to what would be
2 March 1, they're in the -- in the January filing
3 for February included that \$10 million
4 adjustment. So, that's why we see a large jump
5 between the under-collection and over-collection
6 between these two filings.

7 Q So, I'd just like to make sure I understand. You
8 returned briefly to the first monthly adjustment
9 that we discussed for effect January 1, 2023,
10 noting that the under-collection of approximately
11 4.7 million did not include a subsequent 10.2
12 million adjustment that the Company made in the
13 month of December?

14 A (King) Yes. So, it would have been reflected at
15 month-close for December. So, at the time of
16 filing this, it was not recorded.

17 Q Were you aware of that adjustment at that time?

18 A (King) I'm not sure, I know it was late in the
19 month, and it might have been -- I'm not positive
20 on timing. I know the correction was made late
21 in the month, not sure on the exact day that it
22 was realized. But I know it was late in the
23 month, more towards, you know, the holidays, or
24 even after the holidays, potentially.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q Okay. And, then, we talked about the
2 February 21st letter, and that is inclusive of
3 the adjustment that you just -- the 10.2 million
4 adjustment, showing now an over-collection of
5 \$5 million?

6 A (King) That is correct.

7 Q And, then, turning to -- and that's the end of
8 the monthly adjustments for the winter period
9 that I've asked the Commission to take notice of.

10 The next two letters have to do with
11 the summer period. And the first one, dated
12 "April 24th, 2023", for effect May 1, shows an
13 under-collection of approximately \$6.3 million,
14 correct?

15 A (King) Yes. The letter -- the letter states
16 that, correct. I'm just getting up to the
17 deferral accounts that I have.

18 Q And, if the 10.2 million came out of the summer,
19 that would be reflected here?

20 A (King) Yes. So, at the time, the same correction
21 that was made to the winter account was made to
22 the summer account in December of '22.

23 Q And summer rates weren't in effect at that time,
24 obviously?

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (King) Yes.

2 Q And, then, the last monthly adjustment letter is
3 dated "September 22nd", for rates effective
4 October 1. And it shows a projected summer
5 under-collection of approximately 4.5 million, is
6 that correct?

7 A (King) Yes. That is correct.

8 Q Okay. And, then, that's the Company's best
9 estimate of the cumulative summer
10 under-collection as of that date?

11 A (King) As of that date, yes.

12 Q Okay. And just going briefly back to the winter
13 letters, with the rates effective in February and
14 the -- excuse me, for March 31st, the rates
15 didn't go any lower than 2.44, and you could have
16 lowered them more to deal with the 5 million
17 over-collection, correct?

18 A (King) So, lowering it to 2.44 was aimed to get
19 us as close to zero as possible.

20 Q It was aimed to get you as close to zero as
21 possible, and you started with a \$9 million
22 over-collection for winter?

23 A (King) So, it looks like winter was a -- as of
24 October 31st, going into the winter season, the

[WITNESS PANEL: Gilbertson|King|Garcia]

1 deferral account, we had a over-collection of
2 \$3.2 million.

3 Q Could you repeat that? I'm sorry.

4 A (King) As of October 31st, 2022, we had a
5 \$3.2 million --

6 Q Mr. King, --

7 A (King) -- under-collection, I'm sorry.

8 Q A 3.2 million, I'm sorry, the winter, as of
9 10-31-22, or 20 --

10 A (King) '22. Sorry, I may have said "'23".

11 Q Okay. No, no. Okay. Okay, and I think we
12 talked about the rates for October 1,
13 under-collection of 4.5 million, right?

14 A (King) I'm sorry, could you say that again?

15 Q We discussed that the monthly adjustment made in
16 September, for rates effective October 1, was
17 based upon a projected under-collection of 4.5
18 million, October 1, 2023?

19 A (King) Yes.

20 Q If you could turn briefly to Exhibit 4, Bates
21 Page 40? I'm going to read the question, and
22 then ask you to read the answer. And, then, I'm
23 going to ask you to go through the schedules, and
24 discuss the adjustment that came up this morning,

[WITNESS PANEL: Gilbertson|King|Garcia]

1 as well as the adjustments described here.

2 So, the Department's question was:

3 "Liberty seems to have identified a Winter Period
4 2023-2024 "Deferred Gas Cost Prior Period
5 Over-Collection", " so that would be the prior
6 period being 2022-2023, "of \$8,577,690"; this
7 appears to be a reported over-collection. Please
8 provide a narrative describing the components
9 that resulted in this figure. Similarly, Liberty
10 seems to have identified a Summer 2024 "Prior
11 Period (Over-)Under-Collection", " which would be
12 Summer 2023, "of \$9,879,800," which appears to be
13 a reported under-collection of \$9,879,800.
14 Please provide a narrative describing the
15 components that resulted in this figure. Please
16 also confirm that the Winter and Summer periods
17 are wholly independent of each other. See
18 Culbertson and King Testimony at Bates 06 and
19 Bates 015."

20 And your response?

21 A (King) Our response states: "The Winter and
22 Summer periods are wholly independent of each
23 other, each with its own set of deferral
24 accounts. The winter period 2023 and 2024

[WITNESS PANEL: Gilbertson|King|Garcia]

1 deferred gas cost prior period over-collection of
2 8.5 million is the result of several factors. As
3 described in the testimony, the over-collection
4 was driven by the lag in the timing of monthly
5 cost of gas rate adjustments as compared to the
6 changes in the underlying costs. That is, gas
7 costs dropped much faster than the Company could
8 adjust the COG rates through the monthly
9 adjustments, resulting in an over-collection.
10 Another factor contributing to the
11 over-collection was two seasonal adjustments made
12 during the winter period. In December of 2022,
13 the Company made an approximate" -- "made an
14 approximately \$10.2 million adjustment for gas
15 supply costs originally booked to summer which
16 should have been booked to winter. The second
17 seasonal adjustment, in March 2023, was for
18 approximately 6 million for revenue that was
19 initially booked to the winter period which" --
20 sorry, excuse me. "The second seasonal
21 adjustment, in March 2023, was for
22 approximately \$6 million for revenues that were
23 initially booked to the winter period which were
24 booked [sic] to the summer period. The Summer

[WITNESS PANEL: Gilbertson|King|Garcia]

1 2023 period began with an under-collection amount
2 of approximately 18 million, and since the
3 beginning of that period, the Company has lowered
4 the under-collection balance by approximately 9.5
5 million. The Company expects that by the start
6 of the 2024 summer period, that balance will
7 further drop."

8 Q So, just briefly, in terms of the "gas costs
9 dropping faster than the Company could adjust its
10 cost of gas rates", you have the opportunity to
11 make an adjustment at the beginning of each month
12 of the winter period, correct?

13 A (King) Yes. But the adjustments that we make for
14 a coming month are based on actuals from the
15 previous -- from two months prior. So, in
16 December, when we make our trigger filing for
17 rates effective January 1, that will be based --
18 well, it will be based on actuals that we have
19 from November.

20 Q Do you take into account a trend or a cumulative
21 balance?

22 A (King) The over -- it's based on the over/under
23 balance as of November 30th. So, we'll close the
24 books for November, and that's what will have the

[WITNESS PANEL: Gilbertson|King|Garcia]

1 information for us to set the January rate.

2 Q Does 8.5 million in over-collected funds seem
3 high to you, for the winter was over-collected?

4 A (King) I mean, I guess I wouldn't compare it
5 to -- high, compared to zero over-collection,
6 yes. There have been times where the amounts
7 have been higher in either direction, whether
8 it's a large under-collection or over-collection.

9 Q Well, if I suggested that two years ago
10 over-collection/under-collection range was closer
11 to 800,000 to 1.2 million, would that surprise
12 you?

13 A (King) Yes. Comparatively, this is higher, yes.

14 Q Okay. And, so, Mr. King, could we turn to the
15 Company's filing? I have Exhibit 1. I'll be
16 following the confidential version. Obviously, I
17 don't know if there's anyone here, or anything
18 confidential in the record. Obviously, if you
19 come to a page where something is confidential,
20 we can handle it as necessary.

21 A (King) Uh-huh.

22 Q Could you walk us through please the schedules
23 that show the under-collections that have been --
24 the under- and over-collections that have been

[WITNESS PANEL: Gilbertson|King|Garcia]

1 used as the basis for the rates in this docket?

2 A (King) Can you be more specific what you're
3 looking for?

4 Q Well, with reference to the question we were just
5 looking at, 1-14, the Company filed a petition
6 for cost of gas supply rates with an 8.5 million
7 over-collection. Can you show us in the schedule
8 where that appears?

9 A (King) Yes. So, that appears on Bates Page 032.
10 It is -- Bates Page 032, and that's the "Peak
11 Summary" page.

12 Q And would that be Line 27, on Exhibit 1, Bates
13 Page 032?

14 A (King) Yes. That's correct. Line 27.

15 Q And, if we look at Line 23, just above that,
16 that's an 8.5 million over-collection relative to
17 a total unadjusted cost of gas of 67 million,
18 approximately?

19 A (King) Yes.

20 Q And, so, based upon what Liberty discussed this
21 morning, this 8.5 million over-collection is
22 going to be -- you're going to add 12 million to
23 that figure, and it will become roughly -- it's
24 going to add roughly 12 million to that figure?

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (King) Yes. So, that will go from a net
2 over-recovery to a net under-recovery. And I
3 don't have the exact figures calculated yet, but,
4 yes, you're --

5 Q Roughly, a 3.5 million under-recovery, just
6 roughly?

7 A (King) Yes. So, the 8.5 is the balance as of the
8 end of the winter period. So, that adjustment
9 would include anything that occurred in the
10 winter deferral accounts, between that period and
11 today. So, with the \$12 million adjustment,
12 there are also other adjustments for the time
13 period between that would be included.

14 Q What other adjustments?

15 A (King) So, there will be gas costs, revenues,
16 interest. You know, specifically, revenues and
17 gas costs that are still -- that occurred after
18 the winter period ended. And, so, despite the
19 winter period ending, we're still recovering
20 revenues from customers for gas costs that -- or,
21 for gas sales that occurred in the winter period.

22 Q And the Company intends to charge customers
23 interest based on its error?

24 A (King) I couldn't speak to that. I would have to

[WITNESS PANEL: Gilbertson|King|Garcia]

1 discuss with Accounting, and the directors
2 managers closer to understand the full magnitude
3 of what the adjustments will be.

4 Q Going back to the response to 1-14, there was a
5 reference -- excuse me, Exhibit 4, Bates Page 40,
6 there was a described adjustment of "\$6 million
7 for revenues". Could you say more about what the
8 initial \$6 million adjustment was for?

9 A (King) Yes. So, let me -- so, the initial
10 \$6 million adjustment was made for -- at the
11 time, the adjustment was made for revenues that
12 were booked -- booked into summer, that should
13 have been winter. That's how Accounting had
14 treated it. So, winter was receiving an
15 additional \$6 million of revenue that Accounting
16 had said was booked to summer.

17 The correction, with the correction
18 being made, and what actually happened is there
19 was \$6 million in revenue that should have been
20 booked to summer. So, the summer account was not
21 receiving the \$6 million.

22 Q I'm sorry, because the numbers are the same, is
23 it the Company's position that the correction for
24 the \$6 million described in response to 1-14 was

[WITNESS PANEL: Gilbertson|King|Garcia]

1 incorrect, and it shouldn't have been made?

2 A (King) No, not that the number is not correct, it
3 is simply the direction of the accounting
4 adjustment. So, it was a credit in one account,
5 and a debit in the other, and it should have been
6 reversed.

7 Q I understand. But it looks like here, when it
8 says "The second seasonal adjustment, in March of
9 2023, was for approximately 6 million for
10 revenues that were initially booked to the winter
11 period [and they] were rebooked to the summer
12 period", it sounds like what happened yesterday
13 is that someone decided that that correction
14 should not have occurred?

15 A (King) No, the correction should have occurred.
16 It's just the inverse of what was booked should
17 have happened.

18 Q Looking at this answer, in March of 2023, before
19 the correction was made, there were \$6 million in
20 revenues for winter, before the first correction
21 was made?

22 A (King) Before the first correction was made,
23 there was \$6 million -- there was \$6 million
24 getting recorded into winter, which should have

[WITNESS PANEL: Gilbertson|King|Garcia]

1 been summer. So, that was the -- I'm getting the
2 corrections confused.

3 Q And it sounds to me as if you just reversed it,
4 that's my question? Is it just a reversal of
5 this first correction -- this March correction?

6 A (King) The correction is a reversal, yes.

7 Q Is it the same error? Is it the same money?
8 Or --

9 A (King) It's the same dollar amount, just
10 reversing the direction on the account.

11 Q I understand it's the same dollar amount. But is
12 it the same exact money and account at issue? Is
13 it an additional \$6 million error?

14 A (King) No.

15 Q Okay. So, is it fair to say that --

16 A (King) The same pool of money that was booked
17 incorrectly is the pool of money that's being
18 corrected. There's no -- there's not a second
19 group of money that was found.

20 Q Could you maybe be a little more specific about
21 the error? Because it sounds to me as if,
22 initially, it was in the correctly -- the
23 \$6 million in revenues was correctly in the
24 winter period, unless there are multiple types of

[WITNESS PANEL: Gilbertson|King|Garcia]

1 accounting errors.

2 A (King) So, I think -- I think the crux of our,
3 not "disagreement", but where we're not seeing,
4 so, the money was correctly in the winter account
5 to begin with. It was taken out of the winter
6 account, when it shouldn't have been. So, this
7 is to correct where the money should have been
8 allocated.

9 Q Okay. And can you say a bit more about that
10 error, how it was that it happened?

11 A (King) Okay. And, so, with the conversion to
12 SAP, the full dollar amount, my understanding,
13 was -- maybe not the full dollar amount, but an
14 amount of the revenues coming in, they weren't
15 being split correctly to winter and summer
16 account, and they were just going into one of the
17 accounts.

18 In February, after we had a little time
19 to get up to speed on SAP, and we were able to
20 split out the correct amounts, and which should
21 be allocated to winter and summer correctly. So,
22 in February, for the March adjustment, that's
23 where we were able to correctly allocate where
24 the dollars should be going.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q But, as it turned out, you seemed to have found
2 out yesterday that it was an incorrect
3 correction?

4 A (King) Yes.

5 Q And is the 10.2 million adjustment, that's
6 referenced on Exhibit 4, Bates Page 040, also
7 related to an SAP conversion matter?

8 A (King) That is not related to an SAP conversion
9 matter. That was for gas supply costs. They
10 were -- so, it was for gas that was purchased in
11 the summer months, and recorded in the summer
12 months, but it was for gas for use in the winter.
13 So, it should have been reflected on the winter
14 deferral accounts.

15 Q So, it's winter hedging for the supplies,
16 basically?

17 A (Gilbertson) Say that again?

18 Q When you describe "gas purchased in the summer
19 for use in the winter", I assume it's part of
20 what Liberty stores as a hedge?

21 A (Gilbertson) No. I don't think they have
22 anything to do with each other. We purchase for
23 different seasons.

24 Q Okay.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (Gilbertson) Yes.

2 Q Did Liberty have a similar issue last year with
3 rebooking?

4 A (King) Not to my knowledge. I think this was a
5 first correction of that type of magnitude.

6 Q Is Liberty confident that there are processes in
7 place to prevent this in the future?

8 A (King) Yes. I know Accounting is very aware of,
9 you know, that correction, and what needs to be
10 allocated to what period.

11 Q Can we go to the filing, and you can show me
12 where the summer over-collection appears?

13 I believe it's Page 115.

14 CMSR. SIMPSON: Ms. Schwarzer, can you
15 restate the exhibit that you're referencing
16 please?

17 MS. SCHWARZER: Yes. It's Company's
18 confidential Exhibit 1, Bates Page 115.

19 CMSR. SIMPSON: Thank you.

20 **BY THE WITNESS:**

21 A (King) Yes. And that is the "Off Peak Summary",
22 "Page 1 of 1", and Line 27.

23 BY MS. SCHWARZER:

24 Q So, Line 27 shows an under-recovery of

[WITNESS PANEL: Gilbertson|King|Garcia]

1 approximately \$9.9 million?

2 A (King) That is correct.

3 Q And that's in relation to a total unadjusted cost
4 of gas on Line 23 of \$6.1 million?

5 A (King) That is correct.

6 Q So, the under-recovery exceeds the total price of
7 gas?

8 A (King) For that time period, yes.

9 Q And how will the correction that you noticed,
10 that came to Liberty's attention yesterday,
11 affect this?

12 A (King) So, taking into account, if the adjustment
13 were to be made in October, there would be a
14 approximately \$3.6 million under-collection.

15 Q And, going back to Exhibit 4, Response 1-14,
16 Page 40, the Company referenced an initial
17 "under-collection for the summer period \$18
18 million"?

19 A (King) That's correct. At the beginning of the
20 winter period, the amount was an under-collection
21 of 18 million.

22 Q Is there anything in the filing that would
23 reflect that?

24 A (King) It wouldn't reflect the beginning balance.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 What we're reflecting here is where we're
2 anticipating to be starting at the beginning of
3 the summer period for next year, not the ending
4 balance of the previous -- or, the ending balance
5 of the previous winter.

6 Q Could you say a bit more about how you computed
7 the under-collection of approximately 18 million
8 at the start of Summer 2023? Was that rolled
9 over from the prior summer period?

10 A (King) Yes. So, at the end of the previous
11 summer period, we had a over-collection -- excuse
12 me.

13 CMSR. SIMPSON: If you could, Mr. King,
14 provide a Bates Page and a line where your
15 response from, that would be helpful.

16 WITNESS KING: So, this isn't part of
17 the filing. I'm looking at the Company's gas
18 deferral files, of where the beginning and ending
19 balances are for each month.

20 **BY THE WITNESS:**

21 A (King) So, at the end of the summer period last
22 year, October 2022, there was an ending balance
23 of \$14.3 million.

24 BY MS. SCHWARZER:

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q 14.3 million under-collected?

2 A (King) Yes.

3 Q If you would turn to Exhibit 8, Bates Page 002?

4 A (King) Yes, I am there.

5 Q You're there? The Exhibit 8 is the Department of
6 Energy's Final Audit Report for the 2022 Summer
7 Period Cost of Gas Adjustment, is that correct?

8 A (King) That is correct.

9 Q And that reviews Liberty's reconciliation for the
10 Summer of 2022?

11 A (King) Yes. Uh-huh.

12 Q And, on Page 2 of that report, the total
13 under-collection for summer, under-collection, is
14 identified as approximately \$5 million?

15 A (King) Yes. So, if you look three lines above
16 that, the 1.3 -- or, excuse me, \$4.13 million,
17 so, the reconciliation, although at the time
18 summer was completed, the \$10 million adjustment
19 wasn't made yet on the books. The reconciliation
20 included that adjustment, because it was for
21 costs that were incurred in the summer, but
22 should have been allocated to winter.

23 Q I'm sorry, I'm not completely following. You
24 said there's a 10.2 million adjustment that was

[WITNESS PANEL: Gilbertson|King|Garcia]

1 not made in the Summer of 2022 reconciliation,
2 that supports the figure you quoted to me for
3 October 2022 as "14.3 under-collected"?

4 A (King) Yes. So, the net of 14, with the \$10
5 million adjustment, is where we have that \$4.1
6 million. So that it hadn't -- it hadn't been
7 recorded yet, but was reflected in the
8 reconciliation.

9 Q Well, I'm sorry, I'm not seeing it here in the
10 reconciliation. I thought you were telling me it
11 was reflected in the 14.3 million
12 under-collection you just quoted, but not
13 reflected here in the audit?

14 A (King) Vice versa. It was -- it wasn't reflected
15 in the 14 million that I stated, it is reflected
16 in this 4.1 million.

17 Q When did you make the 10.2 million adjustment?

18 A (King) In December of 2022. So, it was -- we
19 filed the reconciliation in, I believe, in
20 January. So, at that time, we had known that
21 the -- there was a \$10 million amount that should
22 not have been attributed to the summer accounts.

23 Q So, for some reason, and perhaps you can tell me
24 why, your response from September 8th, 2023,

[WITNESS PANEL: Gilbertson|King|Garcia]

1 identifying an under-collection of 18 million for
2 the summer, it should -- somehow doesn't match
3 the audited amount that you already reconciled?

4 A (King) So, the amounts were included in December,
5 after the close of the summer period. So, the
6 ending balance in October isn't going to be the
7 beginning balance come May.

8 Q We may be having an issue around the years
9 involved. Exhibit 8 is looking at figures
10 reported by Liberty as of January 31st, 2023.
11 And, so, if you tell me that "the 10.2 million
12 adjustment was made in December of 2022", I can
13 follow that. But your answer to the data request
14 was in September of 2023. So, it's not clear to
15 me why the Summer of 2023 period is described as
16 "beginning with an under-collection of 18
17 million"?

18 A (King) I mean, I'd have to dig into it a little
19 bit more. I think, if we could maybe take a
20 record request on that, I could dig into it a
21 little bit more. So, I'm not misspeaking on the
22 amounts that --

23 Q Sure. Or, maybe, if you find that you need to
24 correct your data request -- your data responses,

[WITNESS PANEL: Gilbertson|King|Garcia]

1 you could do that, and we could certainly file
2 that with the Commission.

3 A (King) Yes.

4 Q I just want to turn -- it's about 10:30. I
5 wanted to turn to the tariff pages, if I could.

6 So, if the witness panel would turn to
7 Exhibit 3? Bates Page 004 includes some bulleted
8 summary points about the tariff pages at issue.
9 Bates Page 005 and 006 gives a more extensive
10 summary about the background here, with regard to
11 a Commission order, in Docket Number 23-027 --

12 MR. SHEEHAN: I'm sorry, what are you
13 looking at? I missed it.

14 MS. SCHWARZER: Oh, that's okay.

15 Exhibit 3.

16 BY MS. SCHWARZER:

17 Q So, Bates Page 005 and 006 discusses a bit more
18 of the procedural background with regard to
19 filing tariff pages that divide the cost of gas
20 and the LDAC. I'm not sure who I -- would I
21 address those questions to Mr. Garcia? Thank
22 you.

23 Mr. Garcia, have you reviewed the
24 tariff pages filed in Docket Number 22-045 on

[WITNESS PANEL: Gilbertson|King|Garcia]

1 August 30th?

2 A (Garcia) Yes.

3 Q And my understanding this morning, based upon
4 input from Liberty, was that Liberty has reviewed
5 the changes that the Department proposed for
6 Liberty's consideration here, and finds them
7 unnecessary?

8 A (Garcia) Well, I believe he said we were willing,
9 with a few exceptions, to accept those changes,
10 in the interest of narrowing the issues in this
11 case.

12 Q It's great that you're willing to accept them.
13 And I guess my concern would be, the Department
14 is not in the business of writing tariff language
15 for the contractual relationship between the
16 Company and its customers. And, to the extent --
17 and nor does the Department wish to be put in
18 that position.

19 Particularly, going through the
20 changes, would you agree with me that they're
21 intended to make clear both the separation of
22 cost of gas and the LDAC for the initial 18-month
23 period, which is to say the period between
24 November 1, 2022, and January 31st, 2024. And,

[WITNESS PANEL: Gilbertson|King|Garcia]

1 then, again, to include language sufficient to
2 address subsequent annual periods of February 1
3 to January 31?

4 A (Garcia) Yes, that's probably the majority of the
5 edits I saw. There also seemed to be some
6 editing of the language in general that kind of
7 goes beyond that, moving some language around.
8 And, I guess, in an effort to improve the
9 tariffs, beyond the issue of the LDAC and the COG
10 separation.

11 Q Well, we could, for example, look at Bates
12 Page 009. And I agree, this was filed with the
13 hope that Liberty could comment, and the parties
14 could reach agreement before hearing, but,
15 unfortunately, time did not allow Liberty's
16 response, I guess.

17 So, Bates Page 009, I think that first
18 paragraph is language that, in an August 22nd
19 discussion, the parties agreed upon. Were you
20 part of that discussion, I don't recall?

21 A (Garcia) No. No, I was not. I was apprised of
22 the discussions that occurred in August. But I
23 can't speak with any specificity to where those
24 discussions actually landed. I believe it's our

[WITNESS PANEL: Gilbertson|King|Garcia]

1 impression that we thought there was resolution
2 reached before this was filed. That's my
3 understanding.

4 I'm not saying I know it firsthand.

5 Q Okay.

6 A (Garcia) I'm just saying that's my understanding,
7 that we thought everything was okay. And we're
8 -- yes.

9 Q So, you -- so, you weren't aware of any
10 conversations among counsel to the contrary?

11 A (Garcia) From August?

12 Q Even recently?

13 A (Garcia) No, not that I'm aware of.

14 Q And, certainly, the sentence on Page -- Tariff
15 Page 34, Bates Page 009, that says "DOE notes
16 final sentence moved from Tariff 42", that's a
17 sentence that Liberty moved, and we're fine with
18 it. We just -- we're noting that that's where it
19 came from.

20 Tariff -- is it the Company's position
21 that the tariff pages in the table are from
22 Tariff Number 11, the Company's Tariff Number 11?

23 A (Garcia) I'm sorry?

24 Q The table that appears on Page 9 is largely what

[WITNESS PANEL: Gilbertson|King|Garcia]

1 the Company filed into Docket Number 22-045.

2 A (Garcia) Uh-huh.

3 Q But the tariff pages did not identify which
4 version of the tariff was being identified. So,
5 I'm just wondering if the Company agrees that
6 it's Tariff Number 11?

7 A (Garcia) I believe that's correct.

8 Q And you would agree that it's important that the
9 tariff be clear, that there's different dates
10 that's reflected in the table for the initial
11 18-month period, as opposed to the subsequent
12 annual period, February 1 to January 31st?

13 A (Garcia) In general, yes. I would agree with
14 that.

15 Q And you understand that the Department does not
16 wish to be the author of the Company's tariff?

17 A (Garcia) I've been so informed, yes.

18 Q So, if the Company accepts these changes, will
19 they be filed into this docket, so they can be
20 effective, ideally, before November 1st, when the
21 separation must have occurred already?

22 A (Garcia) I'd have to defer to counsel. But I'm
23 seeing a head-nod.

24 MR. SHEEHAN: Yes. That's the intent,

[WITNESS PANEL: Gilbertson|King|Garcia]

1 is to have this language in effect November 1,
2 because, otherwise, we'd be out of compliance.

3 WITNESS GARCIA: Yes.

4 MS. SCHWARZER: So, if I could take a
5 brief break, because I understand you can't
6 answer this question. If the Company plans to
7 file the tariff language, including the
8 comments -- or, accepting the comments that the
9 Department offered as an effort to more
10 thoroughly divide the cost of gas and LDAC, we
11 perhaps can rest the testimony here?

12 MR. SHEEHAN: I think I indicated at
13 the outset, we'd prefer our language, we don't
14 object to theirs. I'm happy, if there are a
15 couple of typos we can work through with DOE's
16 language. The problem was, we got this Friday,
17 and just haven't had time to wade through it.
18 And we'll accept it.

19 MS. SCHWARZER: Well, I just, for the
20 record, we suspended discussions in August, and
21 expected to hear more from Liberty. But we won't
22 turn this into a debate for the Commission.

23 I'd just like then, if the Company is
24 going to continue to say that they "prefer their

[WITNESS PANEL: Gilbertson|King|Garcia]

1 own language", I would like to illustrate why the
2 Department believes it's important to --

3 MR. SHEEHAN: I will withdraw that
4 request. We will adopt their language.

5 MS. SCHWARZER: Excellent.

6 CHAIRMAN GOLDNER: Thank you, Attorney
7 Sheehan.

8 Anything else from the Department?

9 MS. SCHWARZER: No thank you, Mr.
10 Chairman.

11 CHAIRMAN GOLDNER: All right. Thank
12 you. We'll move to the Office of the Consumer
13 Advocate, and Attorney Kreis.

14 MR. KREIS: Thank you, Mr. Chairman. I
15 think, in the interest of time, I'm going to
16 forgo asking any questions of the witnesses, and
17 rather make any points I have to make in a brief
18 closing comment.

19 CHAIRMAN GOLDNER: Very good. Thank
20 you, Attorney Kreis. We'll move to Commissioner
21 Simpson.

22 CMSR. SIMPSON: Thank you. Not really
23 sure where to begin.

24 BY CMSR. SIMPSON:

[WITNESS PANEL: Gilbertson|King|Garcia]

1 Q It's clear to me that the rates that are in front
2 of us are not correct, and that we can anticipate
3 a correction to be forthcoming from the Company,
4 is that fair?

5 A (King) That is correct. Yes.

6 CMSR. SIMPSON: I guess I'll just
7 express my concern that there's a deeper
8 management problem, in terms of reconciling
9 different rate elements. We have various
10 proceedings open that are targeting that issue.
11 I say that with the sincere hope that the Company
12 can take a deep look at your processes and avoid
13 this in the future, because the problems are
14 significant. I mean, the dollar amounts are
15 unclear to me, and the customer impacts are
16 unclear.

17 And, at the end of the day, I think we
18 all want to see that the rates that customers are
19 charged are just and reasonable, and are
20 accurate. So, I urge you all to take a deep look
21 at your Company processes and rectify the gaps
22 that exist.

23 You also mentioned that there were some
24 issues with the SAP conversion. That raises a

[WITNESS PANEL: Gilbertson|King|Garcia]

1 whole new suite of concerns that I don't want to
2 step into here.

3 But I just look to Attorney Sheehan. I
4 see the president's name on the tariff. He might
5 want to come and present himself to us at some
6 point. We would probably be interested in
7 hearing from him.

8 But I'm grateful that you identified
9 the error, and you were forthcoming with us
10 today. I look forward to seeing the adjustments
11 that you file in a subsequent filing, and further
12 conversation about how to avoid this kind of
13 problem in the future.

14 That's all I have to say. Thank you.

15 WITNESS KING: And I wholeheartedly
16 agree with you. And I think we can make steps to
17 make those corrections, and make sure that we get
18 you correct rates, so that the customers are
19 fairly being priced.

20 WITNESS GARCIA: And, Commissioner,
21 your comments will be carried back, --

22 CMSR. SIMPSON: I'm sure.

23 WITNESS GARCIA: -- and delivered.

24 CMSR. SIMPSON: Thank you.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 CHAIRMAN GOLDNER: All right.

2 Commissioner Chattopadhyay.

3 CMSR. CHATTOPADHYAY: I'm going to echo
4 the same sentiment that Commissioner Simpson has
5 shared. But I won't be absolutely sure at least
6 I understand a little bit more than what I was.

7 BY CMSR. CHATTOPADHYAY:

8 Q First, this error that you're talking about, when
9 did you first realize it? Yesterday?

10 A (King) Last night, on -- so, the Department of
11 Energy submitted the summer audit from last year.
12 I was just getting all my ducks in a line for the
13 hearing this morning. I was questioning, going
14 back and forth with a member of the Accounting
15 team, and brought it to her attention that it
16 might be incorrect, at 4:45 last night, and she
17 confirmed with me at, you know, 5:00, 5:30, that
18 that was indeed an issue.

19 Q With respect to the language that comes into
20 effect here, with the changes suggested by DOE,
21 do you agree that the tariff also includes the
22 rates?

23 A (King) The Tariff Number 11 includes the rates,
24 yes.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 CMSR. CHATTOPADHYAY: So, and, clearly,
2 you don't have -- you've not shared with us what
3 the rates are going to be, the correct rates.

4 So, I find all of the back-and-forth,
5 though it's very helpful, in terms of DOE showing
6 me where the issues might be, and you have tried
7 your best to answer the questions. But, at this
8 point, I just -- I don't have any confidence in
9 what we need to decide, you know, for this
10 hearing.

11 What tends to happen, as a
12 Commissioner, I look at the filing, I go through
13 the numbers. And I hope that you understand
14 that, when you come to the hearings, it's -- much
15 of the stuff that you're sharing with us has
16 proper grounding.

17 And, so, given that that's not the case
18 here, I just -- I think it's way better if you
19 guys go back and work with the DOE and figure out
20 what the right numbers are. That's the time that
21 I'm able to participate in this properly, and
22 give you -- you know, ask the right questions.

23 Anyway, two more things that I will
24 point out.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 BY CMSR. CHATTOPADHYAY:

2 Q First, the Fixed Price Option, that will be also
3 affected by the rate changes, right?

4 A (King) That's correct.

5 Q So, have you sent out any letters like that yet?
6 You don't, right?

7 A (King) They have been sent out, by Mr. Garcia.

8 Q They have been sent out. And the rates there
9 would be, obviously, wrong, compared to what it
10 should be, right?

11 A (Garcia) Well, they're -- I guess they're
12 inherently wrong, in that the timing of when
13 they're prepared and sent out is before there is
14 actual approved rates, before we've gone through
15 the litigation process. So that they put them
16 out with the caveat that "these are what was
17 filed, but not officially approved."

18 Q So, the ratepayers will eventually see another
19 Fixed Price Option or Fixed Price rate, or will
20 it be the ones that you've sent out?

21 The letters that you just said that's
22 gone out, the rates there for the Fixed Price
23 Option, are those the rates that the ratepayers
24 are going to be --

[WITNESS PANEL: Gilbertson|King|Garcia]

1 A (Garcia) No, it will be the rates that you
2 approve, sir. That the Commission approves.

3 Q And how are you going to do that going forward?
4 Like, you know, once we have the right rates,
5 what is the process? Just tell me that.

6 A (Garcia) I'm sorry, I'm not following. Are
7 you -- applying it to the bill, the rates that
8 you --

9 Q No. How will you let the customers know that
10 "you know what, the price was" -- you've already
11 sent the letters out, right? So, that price was
12 not right. What -- "the right price is this",
13 how would do that? I'm just trying to understand
14 that.

15 A (Garcia) It will be on the first bill, for the
16 November billing period, the correct rates that
17 were approved by the Commission.

18 Q When customers commit to the Fixed Price Option,
19 do they base it on the letter or do they base it
20 on what shows up in the bills?

21 A (Garcia) Well, that's, I think, maybe part of the
22 issue with the Fixed Price Option, is that
23 you're, part of a Midwestern term, you're "buying
24 a pig in a poke." We're trying to introduce a

[WITNESS PANEL: Gilbertson|King|Garcia]

1 product, you know, with a fixed, stable price,
2 but it's not -- it's not carved in stone at the
3 time that we're issuing the letter to give them
4 notice that they need to sign up before
5 November 1st. So, that's, I think, part of the
6 issue that I've seen.

7 MR. SHEEHAN: Mr. Commissioner, we've
8 addressed this in the past, a difference between
9 filing and approval in FPOs. And I can certainly
10 offer some suggestions in closing.

11 CMSR. CHATTOPADHYAY: I mean, I'm
12 really concerned that you'll have a fixed price,
13 that's went out through the letter, which is
14 going to be, if I've captured it correctly, will
15 be way lower than what it should be. And that is
16 a -- you know, if I get it, and I decide "Okay,
17 based on that, I'm going to go ahead and choose
18 that option", in this environment, which is not
19 driven by economic changes or, you know, major
20 volatility in prices or anything, it's a error
21 that the Company has committed, I really -- I
22 don't think I agree that this is one of the
23 things that we have to talk about, it's going to
24 be part of the FPA -- sorry, FPO discussion.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 So, I'm just sharing my comment on
2 that.

3 BY CMSR. CHATTOPADHYAY:

4 Q Can you -- you said that this error, to the best
5 of your recollection, is the first time you've
6 seen anything like this, the summer/winter issue?

7 A (King) Yes.

8 Q Are you sure about that?

9 A (King) I'm not positive. I only joined the
10 Company in September of last year. So, with
11 these corrections being caught in January, or
12 December and March, to the best of my knowledge,
13 those were.

14 Q Are you willing to go back and check whether this
15 is the first time that has happened, or maybe
16 there was other instances?

17 I just want to be sure that this is not
18 a continuing pattern that, you know, should not
19 be there. So, --

20 A (King) Yes. I can go back through.

21 CMSR. CHATTOPADHYAY: Okay. That's all
22 I have for now.

23 CHAIRMAN GOLDNER: Okay. Thank you,
24 Commissioner Chattopadhyay.

[WITNESS PANEL: Gilbertson|King|Garcia]

1 I'll just, I think, summarize and wrap
2 up, from a Commission perspective, by sharing
3 that I think what you've heard, and now as all
4 three Commissioners have significant concerns.
5 These are wild swings in the numbers, massive
6 amounts of dollars, the Fixed Price Option issue,
7 ongoing tariff issues. I would -- I would use
8 the word "unsettling" to have a hearing like
9 this, in terms of these kinds of numbers being
10 thrown around. So, I just want to communicate
11 that the three Commissioners have very similar
12 concerns.

13 With that, I'll ask if my fellow
14 Commissioners have anything further to add?

15 *[Cmsr. Simpson and Cmsr. Chattopadhyay*
16 *indicating in the negative.]*

17 CHAIRMAN GOLDNER: Okay. Then, we'll
18 go to redirect, and the Company.

19 MR. SHEEHAN: The only redirect
20 question I noted is mechanical.

21 **REDIRECT EXAMINATION**

22 BY MR. SHEEHAN:

23 Q There were a lot of questions about the trigger
24 filings, what you look at, what you consider how

[WITNESS PANEL: Gilbertson|King|Garcia]

1 you calculate it.

2 Mr. King, have you been -- in your
3 understanding, is the process the Company uses to
4 calculate whether to change a rate or not, and
5 how much, been the same for a long time?

6 A (King) To my understanding, yes.

7 Q So, it is to look at a projected over- or
8 under-balance, based on current rates, and based
9 on projected usage for the rest of the period?

10 A (King) That's correct. And what needs to change
11 in between that projection.

12 Q And the current rates are obvious, because that's
13 the current rates. The projected usage is based
14 on the Company's standard demand forecast, is
15 that right?

16 A (King) That is correct.

17 Q So, you calculate "we're going to use X amount
18 more gas, and we project an over-collection of X,
19 we have to adjust the rates to try to get to
20 zero"?

21 A (King) That's correct.

22 Q And every month you take that same snapshot?

23 A (King) That's correct.

24 Q And, if rates -- market rates had changing fast,

[WITNESS PANEL: Gilbertson|King|Garcia]

1 it's hard to catch up, if you will, to the over
2 or under?

3 A (King) Yes. Like I was discussing with Attorney
4 Schwarzer, there's about a two-month lag between
5 when rates go into effect and what we've actually
6 recorded in that time.

7 Q And that's just built into the process?

8 A (King) Yes.

9 MR. SHEEHAN: Okay. Those were all I
10 had. Thank you.

11 CHAIRMAN GOLDNER: Thank you, Attorney
12 Sheehan. The witnesses are released. Thank you.
13 You may return to your seats.

14 And we'll invite up Dr. Arif --

15 MS. SCHWARZER: Mr. Chairman, could we
16 take a brief recess?

17 CHAIRMAN GOLDNER: We could. It needs
18 to be very brief, because we have six minutes
19 left.

20 MS. SCHWARZER: Yes.

21 CHAIRMAN GOLDNER: So, can I ask much
22 time you expect to -- or, you need for a break,
23 and how much time do you think you would need for
24 Dr. Arif?

1 MS. SCHWARZER: Yes. Two or three
2 minutes, to discuss whether Dr. Arif's testimony
3 is necessary.

4 CHAIRMAN GOLDNER: I see. Well, that
5 can simplify things.

6 Would you like us to stay here and you
7 could step outside, or would you prefer that we
8 all step away?

9 MS. SCHWARZER: We're happy to step
10 outside.

11 CHAIRMAN GOLDNER: Okay. Thank you.
12 That might be faster, while the folks get
13 resettled. Thank you.

14 (Recess taken at 10:55 a.m., and the
15 hearing resumed at 11:00 a.m.)

16 *[Brief off-the-record discussion*
17 *ensued.]*

18 CHAIRMAN GOLDNER: Back on the record.

19 MS. SCHWARZER: Mr. Chairman, the
20 Department has a few questions.

21 CHAIRMAN GOLDNER: Okay.

22 MS. SCHWARZER: Just a few.

23 CHAIRMAN GOLDNER: Thank you.

24 MR. ARIF: Good morning.

[WITNESS: Arif]

1 CHAIRMAN GOLDNER: All right.

2 Mr. Patnaude, if you could please swear in the
3 witness.

4 *[Whereupon **FAISAL DEEN ARIF** was duly*
5 *sworn by the Court Reporter.]*

6 CHAIRMAN GOLDNER: Attorney Schwarzer.

7 MS. SCHWARZER: Thank you.

8 **FAISAL DEEN ARIF, SWORN**

9 **DIRECT EXAMINATION**

10 BY MS. SCHWARZER:

11 Q Dr. Arif, would you just briefly identify
12 yourself for the record?

13 A I am Faisal Deen Arif. I am the Director for the
14 Gas Division in the New Hampshire Department of
15 Energy.

16 Q Thank you. And you filed Exhibit 3 in this
17 docket?

18 A I did.

19 Q And is there a correction that you'd like to make
20 on Bates Page 003, at the bottom, there's a
21 statement that quotes a figure approximately \$58
22 million?

23 A I do. Although, in light of things that has
24 transpired this morning, I don't think that

[WITNESS: Arif]

1 matters anymore, but I do.

2 Q Well, just to correct it as consistent with the
3 Petition that's filed before the changes made
4 this morning, should the number that is now
5 "58,300" -- excuse me -- "\$58,394,850",
6 describing the supply cost of gas for the summer
7 period, be instead "\$15,506,433" reflected in the
8 table?

9 A That is correct.

10 Q Thank you. Dr. Arif, do you have concerns about
11 summer rates being approved in advance of the
12 audit being completed before the summer period is
13 even done?

14 A I significantly do.

15 Q And could you describe -- could you describe your
16 concerns please?

17 A With all due respect to everybody in attendance,
18 if my memory serves well, there was an issue that
19 was raised last -- last cost of gas proceeding,
20 where Department submitted a technical note
21 identifying why there are inherent problems in
22 the processes, and what are the -- what could
23 potentially be done.

24 I think that it is fair to summarize

[WITNESS: Arif]

1 for me this morning, in light of what has
2 transpired, is to identify that that is indeed
3 what we all have been, for a lack of a better
4 term, suffering from, particularly the
5 Department.

6 What is transpiring today here is that
7 the Department will have two days to review a
8 cost of gas submission. We already do follow a
9 process which is significantly expedited, and now
10 we are being put in a position where we have to
11 opine. That completely does not take into
12 account of a lot of human factors that can
13 happen, but we just simply do not have rooms for
14 maneuvering. So, that's one significant
15 operational problem that we may encounter,
16 because of things like this.

17 The other thing is, that I just wanted
18 to be fair on the Company. Mr. King has tried
19 significantly, and I absolutely want to
20 acknowledge the very best effort that he has put
21 up here.

22 Having said so, we all heard that there
23 is a two-month process, like, lag that is
24 inherent into this process. Meaning that no

[WITNESS: Arif]

1 numbers are really, really finalized until a
2 two-month period has passed. Recognizing that,
3 recognizing the fact that we are, for whatever
4 reason, is now faced with a process where we have
5 to not only approve the winter rates, but also
6 approve the summer rates six months in advance,
7 where errors, after errors, after errors are
8 happening only in terms of the booking of where
9 the summer figures would be or the winter figures
10 would be.

11 And I think it might not be an
12 overstatement for me as to say that more than 50
13 percent of our time is actually dedicated to
14 identify the errors, then question the Company,
15 and then come up with possible plausible answers.
16 That happens when we can actually trace the
17 numbers.

18 But there is also a significant
19 procedural issue here, in terms of when the audit
20 is available. With the structure that we have
21 now in place, audits cannot be available ever for
22 the summer period, because simply summer is not
23 done, and it will never be. What we try to
24 reconcile, though, is the summer audit with the

[WITNESS: Arif]

1 last period, and then try to work out the
2 numbers, so that the rates that are being
3 presented before the Commission seems, at least
4 in Department's view, just and reasonable, and
5 defendable.

6 I think that we all had a demonstration
7 this morning where, having full respect of the
8 processes that are in place, it sort of very
9 clearly indicates that the processes are not
10 working well, if I may put it this way. And we
11 really need to relook at the whole process.

12 I would conclude my statement by saying
13 that I think it is highly recommended that summer
14 rates should be approved either separately, or
15 with an absolutely updated filing prior to
16 summer, as it is done in winter. Thank you.

17 Q And my last question, Dr. Arif, thank you, has to
18 do with whether you have any concerns about the
19 Company's forecasted "94 million therm" estimate?

20 A I do. There were questions that were put out to
21 the Company. I don't have concerns about the "94
22 million therms" projection. As a part of our
23 process, we do actually try to see how the
24 projections were -- what projections were made

[WITNESS: Arif]

1 last year, and what is being projected this year,
2 considering all sorts of other factors, because,
3 as we all know, weather-normalization is a big,
4 significant element into the gas regulation in
5 general.

6 It is not a concern about the specific
7 number. It's a concern about, we have two
8 regulated utilities. If we find ourselves in a
9 situation where one regulated gas utility is
10 projecting it upwards, and the other is
11 projecting it downwards, that begs a question as
12 to how the projections are done. And we are, in
13 general, talking about the same weather. It's
14 not going to be two separate weather patterns for
15 two separate utilities. It is going to be the
16 same locality, it is New Hampshire we are talking
17 about, then why would there would be a wild
18 difference?

19 Having said so, though, I can fully
20 appreciate, analytically speaking, that that can
21 happen. But it does not obliterate the fact that
22 we need to look into it more closely. Thank you.

23 MS. SCHWARZER: No further questions.
24 Thank you, Mr. Chairman.

[WITNESS: Arif]

1 CHAIRMAN GOLDNER: Okay. We'll move to
2 the Consumer Advocate, and Attorney Kreis.

3 MR. KREIS: Just one quick question for
4 Mr. Arif.

5 **CROSS-EXAMINATION**

6 BY MR. KREIS:

7 Q Do you happen to remember how it is that we came
8 to do one big docket to cover both the winter and
9 the summer rates?

10 A I do not. That may have -- that, probably,
11 that's why I couched my responses in saying that
12 there may be very valid reasons for doing it, but
13 I think processes are made, followed, and
14 evaluated to make further improvements.

15 What we just noticed today was pointing
16 towards that statement about "improvement", if I
17 may put it this way.

18 Q Indeed, or, as Commissioner Bruce Ellsworth used
19 to say, "I reserve the right to get smarter as I
20 get older."

21 Would it surprise you to know, or to be
22 told, that this idea of doing one cost of gas
23 docket per year was actually originated with the
24 what was then the Staff of the PUC?

[WITNESS: Arif]

1 A It would not surprise me. And I'm going to be
2 very, like, I was not involved. So, that's all I
3 want to put in the record.

4 MR. KREIS: Understood. Those are the
5 only questions I have for this witness.

6 CHAIRMAN GOLDNER: All right. We'll
7 move to Liberty, and Attorney Sheehan.

8 MR. SHEEHAN: Thank you.

9 BY MR. SHEEHAN:

10 Q Regarding the demand forecast, you understand
11 that the Company follows the forecast as approved
12 by the Commission?

13 A I -- I'm hearing from you, and I would accept
14 that, yes.

15 Q Okay. The forecast used to be part of an IRP,
16 which don't exist anymore. But, in the Tennessee
17 contract case, there was an agreement reached
18 between the parties of how to do the demand
19 forecasts going forward. I think we changed from
20 a 20 to a 30-year, or a 30 to a 20-year, or
21 something like that. Are you generally aware of
22 that?

23 A I'm hearing, again, from you, and I can
24 appreciate that. Yes.

[WITNESS: Arif]

1 Q And is it fair to say, you're not indicating our
2 demand forecast is wrong, you're just saying
3 there's some anomalies that should be
4 investigated?

5 A Absolutely correct. Yes.

6 Q Appreciating the box we have put you in, and the
7 timeframe to review the updated filing, you did
8 hear that the proposal for the Commission is that
9 there is an out for further review, should that
10 be necessary. That being, the Commission
11 approves rates for November 1. And, if there are
12 questions, we'll be back in a hearing during
13 November to address those. You understand that?

14 A Yes, I do.

15 Q Okay. And last, taking out the issue that we
16 brought in, that came to our attention last
17 night, so, if we didn't have that today, your
18 statement -- your position filed Friday was that
19 the Commission approve the rates as filed,
20 correct?

21 A That is correct.

22 Q And, so, despite all the questions, DOE was
23 comfortable with the Company's filing as it was
24 otherwise presented, and requesting the rates

[WITNESS: Arif]

1 that we filed?

2 A That is correct. I wanted to qualify that
3 assertion with one thing, though, which I just
4 stated this morning, a little while ago, and I
5 wanted to reiterate.

6 That is correct, subject to all the
7 audits. And audits is never done and can never
8 be done in the current process.

9 MR. SHEEHAN: Thank you.

10 WITNESS ARIF: Thank you.

11 CHAIRMAN GOLDNER: Thank you. We'll
12 move to Commissioner questions, beginning with
13 Commissioner Simpson.

14 CMSR. SIMPSON: Thank you. And thank
15 you, Mr. Arif. And I agree that Mr. King did a
16 nice job today. He had the hardest job in the
17 room. And appreciate you coming to the hearing
18 and offering full transparency.

19 What would be helpful for me, and it
20 doesn't have to be in this docket, I'm not making
21 it a record request, but I would just say, from
22 the Department's perspective, if, in some
23 relatively soon time period, you could work with
24 the Company, and regardless of your respective

[WITNESS: Arif]

1 positions on any one issue, I identify the list
2 of rate disputes that exist.

3 I know that we have some revenue
4 decoupling issues. If -- there's been some
5 questions about the reconciliation process
6 between winter and summer, the trigger filing
7 process. It just seems like there may be
8 differences of opinion. And, if there could be a
9 summary offered to us, that would be incredibly
10 helpful, so that we can disposition some of these
11 issues. They seem to be piling up. And I'm
12 motivated to resolve these as soon as possible.

13 MR. SHEEHAN: If I may?

14 CMSR. SIMPSON: Please.

15 MR. SHEEHAN: Are you talking about the
16 pending requests for various rate changes?

17 CMSR. SIMPSON: Yes.

18 MR. SHEEHAN: As opposed to the
19 structure of all those?

20 CMSR. SIMPSON: Correct. I don't
21 want -- I'm not asking for briefing on respective
22 positions of those, just identification of them.

23 MR. SHEEHAN: Okay. Decoupling Year 3,
24 Decoupling Year 5?

[WITNESS: Arif]

1 CMSR. SIMPSON: Exactly.

2 MR. SHEEHAN: Got it.

3 CMSR. SIMPSON: And I know that there's
4 been ongoing tariff questions, too. We need to
5 all come to terms with an agreement to resolve
6 these as soon as possible. Because the process
7 continues to go on, but it seems like there are
8 disagreements on how those should be resolved.
9 And I think we would all benefit by
10 dispositioning them as soon as we can.

11 Ms. Schwarzer.

12 MS. SCHWARZER: Thank, you
13 Commissioner.

14 CMSR. SIMPSON: Attorney Schwarzer,
15 pardon me.

16 MS. SCHWARZER: No, not at all. I'm
17 not familiar with the phrase "dispositioning".
18 So, presumably, you mean "you'd like it
19 resolved"?

20 CMSR. SIMPSON: Yes.

21 MS. SCHWARZER: And, then, in terms of
22 Decoupling Year 3 and Year 4, I've expected that
23 that would be addressed in Day 2 of the hearing
24 in the RDAF docket.

[WITNESS: Arif]

1 CMSR. SIMPSON: Correct. I'm not
2 suggesting that that issue enters this morning.
3 And that's why I said, I asked that -- I'm not
4 suggesting a particular forum. But the
5 Department is intimately involved in the
6 discussions with the Company, with different
7 proceedings, rate -- rates that are in place.

8 So, if there was an opportunity for the
9 Department to offer a summary, working with the
10 Company, it would be really helpful if we had
11 something that we could all lean on as a central
12 document, if you will, to narrow our focus on
13 some of these issues.

14 Your direct -- or, your cross, excuse
15 me, on some of the questions about the trigger
16 filings, and the reconciliations that occur
17 within a period, I feel that we could spend days
18 on that topic. But the way that it was
19 articulated, I think, was helpful. And it seems
20 as if, if we could summarize these concerns that
21 the Department has, concerns that the Company
22 has, irrespective of the respective positions, I
23 think that would be very helpful for me. So, I
24 respectfully request that.

{DG 23-076} {10-19-23}

[WITNESS: Arif]

1 WITNESS ARIF: May I seek a quick
2 clarification, Commissioner?

3 CMSR. SIMPSON: Of course.

4 WITNESS ARIF: So, you were suggesting
5 that we just identify the issues?

6 CMSR. SIMPSON: Yes. Not positions.
7 Thank you.

8 WITNESS ARIF: Thank you.

9 BY CMSR. SIMPSON:

10 Q And, in the course of this cost of gas
11 proceeding, you mentioned that from time to time
12 "the Department identifies errors" in your
13 review, did I understand that correctly?

14 You were discussing that the time
15 burden of reviewing these cost of gas filings is
16 significant, particularly given the expedited
17 nature of the proceedings. And that you mention
18 that you from time to time "identify errors", if
19 I understood that correctly?

20 A So, if I may --

21 Q Please.

22 A And thank you for the question. If I may
23 clarify? If we use the proverbial "dartboard",
24 and us having some darts to throw at it, if the

[WITNESS: Arif]

1 board keeps shifting, --

2 Q Uh-huh.

3 A -- then it becomes incredibly hard. And that's
4 what we tend to experience. Sometimes, and it
5 is, I wanted to say, unequivocally, that it's
6 laudable, the Company identified, and was
7 forthcoming, and brought it to the fore this
8 morning. But it ought -- that does not take away
9 the fact that, when the initial submission is
10 submitted, it should, at least the expectation is
11 such, that it should go through several level of
12 vetting with almost it being error-free. So,
13 errors should not be occurring frequently. It
14 should be -- it can happen, but that should be as
15 minimum as possible.

16 If I may want to push it, and maybe
17 this is wishful thinking, maybe one error, two or
18 three, or a set of five, six in a three years'
19 time; should not be happening every year, should
20 not be happening almost in every one of their
21 filing.

22 So, this -- I think that there were
23 comments from the Bench, if I heard it correctly,
24 about "process improvement". I would

[WITNESS: Arif]

1 wholeheartedly agree with that comment.

2 Q Okay. And, granted, everybody is human. So, we
3 all make mistakes.

4 Are you seeing the same mistake
5 repeated? Or are you just seeing different
6 mistakes from time to time?

7 A So, I -- the short answer would be "both." And,
8 just to put the case in point, if we have Exhibit
9 8 today, with the numbers that we were looking
10 at, in terms of the initial over-/under-recovery,
11 or collection, it is fair to say that there is
12 significant amount of time that passes in
13 between. It is also fair to say that a number of
14 things can change and needs updating in between.

15 But, given the fact that we do
16 winter-to-winter reconciliation and
17 summer-to-summer reconciliation, I don't think
18 that things -- there are plenty of opportunities
19 for things to be reconciled in many different
20 ways. However, that is not immune from the fact
21 that it is the same dollars that customers pay.
22 And I say that in the context of
23 cross-subsidization and temporal subsidization
24 that can potentially occur.

[WITNESS: Arif]

1 And I probably will be fair to say that
2 that does occur in the context of these kinds of
3 errors. So, the errors have significance. And
4 there were -- that the audit report would
5 identify, in Exhibit 8, that that was the second
6 year multi-million dollar seasonal adjustments
7 were done by the Company.

8 Given the size of the Company, that can
9 potentially happen in the bounds of a couple of
10 million dollars. But, if it is at the 8 million,
11 6 million, or 10 million, the figures that we've
12 seen in this today, that begs the question as to
13 what really is happening, and why that they keep
14 on happening.

15 Q Okay. So, then, aside from the issue that was
16 raised this morning, the filing that's in front
17 of us, which we understand is not accurate and
18 we're going to get a correction, did you or your
19 team identify concerns that were rectified prior
20 to this submission being filed?

21 A We did. And the data responses and some of the
22 exhibits that you -- that has been submitted in
23 the docket would speak for that.

24 CMSR. SIMPSON: Okay. Okay. And I'll

[WITNESS: Arif]

1 just say, for myself, we want to be helpful. If
2 there are process issues, and, again, nobody is
3 perfect, but, if there are process issues that we
4 can resolve, please let us know. We want to
5 improve this process, and ensure that there's a
6 healthy utility, there's a healthy public
7 process, in terms of review, that the Department,
8 the Consumer Advocate have the resources that
9 they need, let us know. We're not always able to
10 communicate, I think, as has happened in the
11 past. So, let us know.

12 Thank you. That's all I have.

13 CHAIRMAN GOLDNER: Okay. Commissioner
14 Chattopadhyay.

15 CMSR. CHATTOPADHYAY: I just want to
16 make sure it's understood that I'm very human. I
17 make a lot of mistakes before my wife, but,
18 otherwise, maybe not.

19 *[Laughter.]*

20 BY CMSR. CHATTOPADHYAY:

21 Q So, the first question I have is with respect to
22 the impact on ratepayers of such errors. And
23 there was a discussion here about how
24 cumulatively it doesn't matter, it's going to be

[WITNESS: Arif]

1 the same.

2 But will you agree that, if I was not
3 that average residential customer, and I had a
4 different behavioral pattern, so -- and there's
5 distinct differences between summer and winter,
6 then this kind of error can impact my
7 calculations and impact me quite a bit, right?

8 A Generally saying "yes", I would agree with that
9 statement.

10 Q Okay. So, the second question I have is, you
11 have mentioned how the audit, and there was like
12 the process doesn't work with summer, if I
13 understood you. Think outside the box, and can
14 you just share some ideas as to how that can be
15 improved, so that we have, you know, you have
16 more -- greater ability to look at numbers and be
17 sure about them, because audits are going to be
18 taken care of at the right time?

19 And, when I say "think outside the
20 box", don't hesitate to think about even having
21 maybe separate dockets for the winter and summer
22 as well.

23 A Thank you for the question, Commissioner
24 Chattopadhyay. This is quite a bit. Because I'm

[WITNESS: Arif]

1 trying to think in my mind, you have given me the
2 liberty to think out of the box, but the box
3 entails more than me, in terms of providing an
4 opinion.

5 Having said so, should the Commission
6 want to -- for the Department to take it in, and
7 then submit something in writing, if that may be
8 useful, we can, potentially.

9 But just out of on-the-fly, I would say
10 that I was not going that far to suggest
11 "separate dockets", although that would be
12 certainly useful, and that can potentially
13 provide, at the least, numbers that are more
14 current, and the decision, therefore, would be
15 more timely reflective of the current numbers, as
16 opposed to predicted numbers. Something that
17 iterated in the past as well.

18 At the least, there should be an
19 updated filing for the summer approval. That is,
20 again, I'm careful in choosing my words, is at
21 the least that's what should happen. That would
22 probably improve the process.

23 When it comes to audit, unfortunately,
24 I think that, unless it can be done, the summer

[WITNESS: Arif]

1 audit is done in time for the summer, could that
2 be done? That is subject to me and the
3 Department of Energy having a discussion with the
4 Audit team. But we can certainly let you know.

5 CMSR. CHATTOPADHYAY: Thank you.
6 That's all I have.

7 CHAIRMAN GOLDNER: Okay. Thank you,
8 Commissioner Chattopadhyay. I have nothing
9 further.

10 We'll move to redirect, and Attorney
11 Schwarzer.

12 MS. SCHWARZER: Thank you, Mr.
13 Chairman. I have no redirect.

14 CHAIRMAN GOLDNER: All right. Thank
15 you.

16 Okay. Dr. Arif, you're released.
17 Thank you.

18 WITNESS ARIF: Thank you.

19 CHAIRMAN GOLDNER: You may return to
20 your chair.

21 After Dr. Arif gets settled in, we'll
22 move to closing.

23 *[Short pause.]*

24 CHAIRMAN GOLDNER: Okay. Without

1 objection, Exhibits 1 through 8 are admitted into
2 the record.

3 And we'll start with closing from the
4 Department of Energy.

5 MS. SCHWARZER: Thank you, Mr.
6 Chairman.

7 The Department wishes to note, as has
8 everyone else in the room, that we greatly
9 appreciate Liberty's coming in to identify
10 something it recently identified, as transparency
11 is important, and we do applaud that.

12 We look for the Commission's direction
13 with regard to the customer bill impact
14 statement.

15 The Fixed Price Option letters are
16 certainly significant. And, for the Commission's
17 convenience, I would note that, in Exhibit 5 and
18 6, the current letters are available at Bates
19 Page 018, 019, 020, and 021, if that's helpful to
20 the Commission.

21 Obviously, the over/under matter is
22 going to be addressed. We will look forward to
23 doing that as expeditiously as possible. We
24 appreciate the Commission entertaining the

1 request from the parties.

2 And I believe the tariff change issues
3 here have been addressed.

4 So, the Commission [sic] is grateful
5 for everyone's time and attention this morning.

6 Thank you.

7 CHAIRMAN GOLDNER: Thank you. We'll
8 move to the Office of the Consumer Advocate, and
9 Attorney Kreis.

10 MR. KREIS: Thank you, Mr. Chairman.
11 In light of the hour, I will try to be as brief
12 as I possibly could be.

13 I'd like to start by saying "thank
14 you", echoing some of what we've already heard.
15 I have the honor of working with almost everybody
16 who is here in the room. And I know, because I
17 work with all these folks, that they're all good
18 people, who come to work every day, to do hard
19 work, striving to do the right thing.

20 And, you know, there are a lot of
21 thorny issues that we're wrestling with here.
22 And, as we wrestle with those, I think we can all
23 acknowledge our mutual humanity, and understand
24 that nobody is casting any personal aspersions at

1 anybody.

2 You know, it's already been well
3 established that the folks from Liberty Utilities
4 are doing their best. And I think you should
5 also be proud of what the Department of Energy's
6 team is doing.

7 I say that, because -- in particular,
8 because the Office of Director of Rates and
9 Markets Policy at the Office of the Consumer
10 Advocate has been vacant for over a year. And,
11 even when I fill that position, I'm not going to
12 be able to hire somebody who's a CPA or a super
13 great expert on tearing apart the utility
14 spreadsheets the way the Department can.

15 So, I acknowledge, on behalf of the
16 residential customer class, that we are the
17 beneficiaries of a lot of good work that a lot of
18 other people are doing.

19 I'm really glad that I forwent any
20 cross-examination or peroration earlier in the
21 hearing, because I listened carefully to what the
22 three of you said from the Bench. And you all
23 collectively said better than I could about how
24 this really impacts residential ratepayers.

1 The very last observations that
2 Commissioner Chattopadhyay made I think are very
3 important. These reconciliations that move
4 massive amounts of money into different temporal
5 periods are not inconsequential to residential
6 ratepayers. People die, they move away, people
7 graduate from college, people start school, they
8 get new jobs, and consumption varies with the
9 time of year.

10 So, when you take money that should
11 have been paid by customers during one six-month
12 period, and move it to a different six-month
13 period, even an adjacent one, there are real
14 impacts, that really come down to people paying
15 for service that they did not actually get. And
16 we really owe each other the hard work that we
17 need to do to try to make that happen as
18 infrequently as possible.

19 There was a brief reference at one
20 point to the question of the Company charging
21 ratepayers interest for monies that ratepayers
22 end up owing the Company because of these
23 reconciliations. Particularly, if it arises out
24 of a error that the Company has made, it isn't

1 fair to charge ratepayers interest for money that
2 they inadvertently borrowed, I guess, from the
3 Company, and the PUC should not allow that.

4 As I listed to Commissioner
5 Chattopadhyay talking about the FPO letters that
6 went out, I found myself thinking that I really
7 miss the days before it was "Commissioner
8 Chattopadhyay", and when it was "Assistant
9 Consumer Advocate Chattopadhyay", because his
10 observations about the letters are really
11 important.

12 I mean, basically, what he established
13 is, that the Company is sending customers
14 letters, offering them the Fixed Price Option,
15 based on numbers that are not correct. That is
16 not okay.

17 And I think the Commission should
18 consider deciding right now that there really
19 isn't going to be a Fixed Price Option, and that
20 nobody gets to go on that option even this year.
21 I started by saying that "it's too late". And,
22 now, based on what Commissioner Chattopadhyay was
23 able to establish, I wonder if maybe it's
24 actually too late to have a Fixed Price Option

1 this year.

2 Finally, you know, there are clearly
3 management and operational issues at this utility
4 that everybody here needs to confront
5 forthrightly and figure out a solution to.
6 Without -- without castigating or criticizing
7 Mr. King, at one point, when asked about "what
8 really caused that \$6 million error?", his
9 answer -- he gave his answer in the passive
10 voice. He said "With the conversion to SAP",
11 their new billing system, "the full dollar amount
12 wasn't being split correctly." That's a
13 statement in the passive voice.

14 And I was an English major, and I know
15 that, when people use the passive voice, they are
16 avoiding assigning responsibility for something.
17 And somebody has to take responsibility for these
18 problems, particularly because they are
19 recurring.

20 I think it was Commissioner Simpson who
21 pointed out that it's "the president of the
22 Company whose name appears on the bottom of the
23 tariff pages." I know the president of Liberty
24 Utilities here in New Hampshire, and he, too, is

1 a good fellow, who deserves to be treated with
2 courtesy and kindness. But the fact is, the buck
3 has to stop somewhere. And it probably would be
4 a good idea for the Commission to have him come
5 into this hearing room and explain to you, and to
6 all of us, why things seem to be going so badly.

7 There are any number of vehicles that
8 the Commission has at its disposal for conducting
9 that kind of inquiry. This Company is in here
10 for a rate case. Mr. Proudman happens to be one
11 of the witnesses in the rate case. That might be
12 an occasion for doing this.

13 I'm newly reacquainted with the
14 language of Section 19 of RSA 365, which gives
15 the Commission the authority to conduct broad
16 investigations, and then lay the facts before a
17 hearing, and then make determinations based on
18 those facts. That's an option. And, then,
19 there's also the possibility of conducting a more
20 generic inquiry.

21 I really think we have to do something,
22 because we can't go on like this. And I say
23 that, again, without casting any personal
24 aspersions on any of the fine, but fallible,

1 human beings who are present in the room here
2 today.

3 Thank you.

4 CHAIRMAN GOLDNER: Thank you, Attorney
5 Kreis. And we'll move to the Company, and
6 Attorney Sheehan.

7 MR. SHEEHAN: One of those fine, but
8 fallible, people.

9 I have four, I've got four items to
10 cover.

11 First, I'll start with the elephant in
12 the room, and that's the critiques of us, and the
13 recognition of fallibility. I can say, at a very
14 high level, a lot of the issues you're seeing
15 come from two sources. And this is, again, a
16 really high overgeneralization.

17 One is the Regulatory Department has
18 completely turned over in the last year. What
19 you see in front of you now is all but two of the
20 analysts, with a lot of experience. And this
21 isn't fun to come in here and do what we did this
22 morning. We kind of feel like they're going to
23 the principal's office. And Tyler and Bob and
24 his team are smart people, with a lot of

1 experience. And, you know, message received.
2 This transcript is going to be circulated
3 internally.

4 The other source of the problem is the
5 SAP conversion. And the system is working fine
6 now, and has been for quite some time. But, yes,
7 the hiccups, if you will, with the conversion,
8 everyone knows they're coming, it happens every
9 time there's a conversion like this. And, at a
10 very simple level, the problem has been that all
11 of the data in the SAP system didn't talk quite
12 right with the existing data. So, if we had
13 Account Number 7 for something in the old system,
14 it couldn't find the equivalent Account Number 7
15 in SAP. And that's how numbers get in wrong
16 buckets. And, obviously, it's a thousand times
17 more complicated than that.

18 But, through the process, into early
19 2023, those have been ironed out one-by-one. And
20 this, I suspect, I don't know, that what came
21 here today was one of those. As we triaged the
22 problems, this one lingered for another month,
23 and here we are.

24 So, a long way of saying there's been a

1 turbulent year here. But the team's in place,
2 the system is now working fine, and we're working
3 through all the bugs that are still, you know,
4 bubbling up from the past. So, that.

5 Two, the FPO. So, where we are today
6 is, the FPO letters had a rate that will be lower
7 than what we propose later today or tomorrow.
8 Two years ago we addressed the exact same issue.
9 In that case, it was a ramp -- the market price
10 was going up fast from filing to order. And what
11 the Commission ordered then was "Send another
12 letter, with a new rate, two cents higher than
13 the approved rate. Giving the customers an
14 option to stay in or get out." And that would be
15 the most logical solution here with a changed
16 rate. And there are, obviously, other options,
17 as Mr. Kreis mentioned, too.

18 I guess that was it. Then, the last is
19 to recognize that the -- what you will see in the
20 new filing will change just the number we talked
21 about, although that filters all the way through.
22 DOE was okay with the filing without that change.
23 And, certainly, they will take a close look when
24 we do make this change. But the expectation is,

1 we will make that \$6 million adjustment as it's
2 supposed to be made. It will flow through, and
3 out will come a new rate. We're guesstimating 15
4 cents higher.

5 So, our request is, as stated at the
6 beginning, that, obviously, nothing to approve
7 yet. You'll get a filing Monday at the latest,
8 and approve those numbers for November 1. And
9 give us guidance on the FPO; whatever you order,
10 of course, we'll do.

11 As for bill comparisons, if you have a
12 comment now, fine. Otherwise, we will -- we'll
13 do both. We'll do what was in the original
14 filing, and we'll do what was in the data
15 response, so you can see this. So, it's a change
16 from proposed to current and proposed to the LDAC
17 that would be approved in January or February.

18 Thank you very much.

19 CHAIRMAN GOLDNER: Thank you. I'm
20 just -- I'm thinking about how popular the last
21 letter was that Liberty sent out. And I'm
22 recalling a few angry customers from that
23 technique. So, I think we have some challenges
24 in this regard, due to this ongoing Fixed Price

1 Option issue.

2 Let me quickly hit the procedural
3 schedule. I think we're all on the same page.
4 So, the Company will file by 10/23, ideally
5 before, but by close of business 10/23. The
6 replies will be due 10/26. And, obviously, if
7 there's agreement, then the Commission would be
8 able to issue an order. And, if there's not
9 agreement, then the rates would be provisional.
10 We would have another hearing in November, at
11 some point, to sort the rest of this out. Is
12 that everyone's understanding?

13 MR. SHEEHAN: Yes.

14 MS. SCHWARZER: Yes.

15 CHAIRMAN GOLDNER: Okay. Thank you.

16 I'll just allow the Department of
17 Energy, if there's any comments on this Fixed
18 Price Option as proposed by Mr. Kreis, and also
19 Attorney Sheehan's comments, if the Department
20 would like to make any final comments on the
21 Fixed Price Option for this cycle?

22 MS. SCHWARZER: Thank you, Mr.

23 Chairman.

24 I don't have any particular comments.

1 Certainly, we can consult with the Consumer
2 Division Director, and perhaps incorporate her
3 response in our 10/26 filing.

4 CHAIRMAN GOLDNER: So, I think the two
5 options on the table, are they not, are
6 elimination of the Fixed Price Option in this
7 cycle, as Attorney Kreis, I think, has proposed,
8 or issue an additional letter, with a significant
9 cost increase to the original letter, which I'm
10 sure the Consumer Division will get some calls
11 on?

12 MS. SCHWARZER: Certainly, I'll get
13 comments on that from the Director. At the same
14 time, I guess I would note that any costs
15 associated with that, sounds like costs
16 associated with Liberty error, and perhaps that
17 not to be borne by the general customer base.

18 CHAIRMAN GOLDNER: Yes. Not to belabor
19 the point, because I know it's getting late in
20 the day, but I don't think we have a choice,
21 right? We either have to charge the right, for
22 the Fixed Price Option, with the additional two
23 cents, as the rest of the ratepayers or not,
24 right? There's no other option that I can see.

1 MS. SCHWARZER: Mr. Chairman, I wasn't
2 clear. I meant the actual cost of the additional
3 letters and mailing, --

4 CHAIRMAN GOLDNER: Oh, I see.

5 MS. SCHWARZER: -- which sometimes that
6 can be significant.

7 CHAIRMAN GOLDNER: Okay. I see your
8 point. Thank you.

9 Okay. All right. Any other thoughts
10 or comments before we break?

11 And I'll just add in the same breath
12 that I'd -- we can start to, like, 12:15 or
13 12:30, work better for the parties to get
14 everything in by 2:30?

15 MR. DEXTER: Yes, Mr. Chairman.
16 Attorney Dexter, I'm going to be at the next
17 hearing as well. Can we go off the record for a
18 second to discuss the next hearing?

19 CHAIRMAN GOLDNER: Sure. Off the
20 record.

21 *[Brief off-the-record discussion*
22 *ensued.]*

23 CHAIRMAN GOLDNER: We'll go back on the
24 record, Mr. Patnaude.

1 And I'll just ask if there are any
2 additional issues in this docket?

3 MR. SHEEHAN: No, sir.

4 CHAIRMAN GOLDNER: Thank you. Seeing
5 none. We'll resume at 12:15, and take this
6 matter under advisement. And we are adjourned.
7 Thank you.

8 ***(Whereupon the hearing was adjourned***
9 ***at 11:42 a.m.)***

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