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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

January 17, 2024 - 9:04 a.m.
21 South Fruit Street
Suite 10
Concord, NH

RE: **DG 23-076**
LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP. d/b/a LIBERTY UTILITIES:
Winter 2023-2024 and Summer 2024 Cost
of Gas and LDAC Filing.
(Hearing regarding the LDAC filing)

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

Alexander Speidel, *Esq./PUC Legal Advisor*

Doreen Borden, *Clerk*

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

Reptg. Residential Ratepayers:
Donald M. Kreis, *Esq.*, Consumer Adv.
Office of Consumer Advocate

Reptg. New Hampshire Dept. of Energy:
Mary E. Schwarzer, *Esq.*
Faisal Deen Arif, *Director/Gas Group*
Ashraful Alam, *Gas Group*
(Regulatory Support Division)

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

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9	Updated Winter 2023-2024 and Summer 2024 Cost of Gas Filing (10-23-23) {CONFIDENTIAL VERSION}	<i>premarked</i>
10	Updated Winter 2023-2024 and Summer 2024 Cost of Gas Filing (10-23-23) [REDACTED - For PUBLIC Use]	<i>premarked</i>
11	DOE - Supplemental Technical Statement of Faisal Deen Arif and Ashraful Alam, with Attachments (10-26-23)	<i>premarked</i>
12	DOE - Technical Statement of Amanda O. Noonan re Fixed Price Option Program, with Attachments (10-26-23)	<i>premarked</i>
13	Technical Statement of Tyler Culbertson and Adam Yusuf, with attachments (01-12-24) {CONFIDENTIAL VERSION}	<i>premarked</i>
14	Technical Statement of Tyler Culbertson and Adam Yusuf, with attachments (01-12-24) [REDACTED - For PUBLIC Use]	<i>premarked</i>
15	Liberty's Responses to DOE DR Set 1 (LDAC) (with the exception of Access database zip folders) sent 09-08-23 (11-09-23)	<i>premarked</i>
16	Liberty's Responses to DOE DR Set 2 (LDAC) sent 10/30/23 (11-09-23)	<i>premarked</i>

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17	DOE - Faisal Deen Arif and Ashraful Alam Technical Statement with Attachment (LDAC tariff) (10-13-23)	<i>premarked</i>
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19	DOE Final Audit Report 2022-2023 Winter COG Adjustment Reconciliation	<i>premarked</i>
20	Direct Testimony of Tyler J. Culbertson and Adam R.M. Yusuf, with attachments and Direct Testimony of Luke W. Sanborn, with attachments (08-21-23) {CONFIDENTIAL VERSION}	<i>premarked</i>
21	Direct Testimony of Tyler J. Culbertson and Adam R.M. Yusuf, with attachments and Direct Testimony of Luke W. Sanborn, with attachments (08-21-23) <i>[REDACTED - For PUBLIC Use]</i>	<i>premarked</i>

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P R O C E E D I N G

CHAIRMAN GOLDNER: Okay. Good morning. This is the hearing for the Local Distribution Adjustment Charge, or LDAC, phase of the Liberty Cost of Gas proceeding in Docket Number DG 23-076, as noticed by the Commission's Notice of Adjudicative Proceeding Order issued on September 19th, 2023.

I'm Chairman Goldner. I'm joined today by Commissioner Simpson and Commissioner Chattopadhyay.

We would suggest, for today's hearing, that we forgo opening statements, and simply take appearances, and begin with the Company's case presentation on LDAC, as the Department of Energy does not intend to call any witnesses to the stand today.

Furthermore, if there's any confidential information discussed here today, we'll treat it according to the usual PUC rules, and indicate it for the benefit of the court reporter.

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

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

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

6 MR. KREIS: Good morning, Mr. Chairman,
7 Commissioners. I'm Donald Kreis, the Consumer
8 Advocate.

9 CHAIRMAN GOLDNER: And the New
10 Hampshire Department of Energy?

11 MS. SCHWARZER: Good morning, Mr.
12 Chairman and Commissioners. Mary Schwarzer, for
13 the Department of Energy.

14 And there has been a slight change in
15 what the Department would ask of the Commission
16 this morning. Because Liberty made an updated
17 filing on January 12th, which we do support, we
18 would like the opportunity, if the Company
19 doesn't answer the questions that we have, to put
20 witnesses on for testimony. It may very well be
21 unnecessary.

22 But, in the event that that is
23 something the Department would like to do, we
24 would appreciate permission to do that. I

1 believe Liberty is in assent.

2 CHAIRMAN GOLDNER: Okay. Excellent.

3 MS. SCHWARZER: Thank you.

4 CHAIRMAN GOLDNER: That would be --
5 that would be fine.

6 MS. SCHWARZER: And, moreover, the
7 Department would appreciate an opportunity to
8 address some initial things in an offer of proof
9 for the Commission's review.

10 CHAIRMAN GOLDNER: Okay. That actually
11 leads into my next topic. Which is, we had a
12 number of filings, with exhibits. And we would
13 like the Company to orient the Commission, in
14 terms of what we should be looking at today?

15 MR. SHEEHAN: Sure. And I apologize
16 for the confusion. This docket had a different
17 history than most, and it tripped me up, frankly.

18 So, what's on the Exhibit List begins
19 at "Exhibit 9", I realize that, if you recall in
20 the cost of gas hearing in October, there was an
21 issue discussed at hearing that caused a change
22 in the filing. So, we submitted a new filing a
23 few days later. That was never officially
24 introduced into the record. It remained as just

1 as a marked exhibit. So, we repeat that here,
2 and that is "Exhibit 9" and "10", confidential
3 and redacted, of the October '23 filing.

4 Now, again, you've already approved
5 rates based on that. And it's up to you whether
6 you want to officially enter it into the record
7 or not.

8 Exhibits 11 and 12 are DOE tech
9 statements.

10 Thirteen (13) and 14 are the
11 confidential and redacted version of the filing
12 we made last week. And the purpose of that
13 filing is simply to update some estimates from
14 prior filings to actuals. Now that it's
15 February, we have actual data for more months
16 into -- I forget when they actually end, but
17 September, October, November of last year. And,
18 so, we just updated the numbers, and the
19 witnesses will describe the modest change that
20 made.

21 So, it would be up to the Commission,
22 do you want to except that and approve, frankly,
23 more refined numbers, or approve what was
24 proposed in the filing last fall. And, so, that

1 was the purpose of that filing. And it was late,
2 because we -- because the actual numbers came in.
3 We were waiting for the most recent numbers to
4 put into the model.

5 Fifteen (15) and 16 are data responses
6 the DOE asked to introduce. Seventeen (17), 18
7 are tech statements from DOE. Nineteen (19) is
8 the Audit Report.

9 And the last is 20 and 21, which is the
10 confidential and redacted versions of the LDAC
11 filing made all the way back in August.

12 My oversight was, I assumed that all
13 the prior testimonies had been admitted at the
14 last hearing, and this one wasn't, because we
15 were just dealing with cost of gas. And the
16 opening filings were separate. There was an LDAC
17 filing, which is now 20 and 21, and then there
18 was the Cost of Gas filing, which was addressed
19 before.

20 So, that's the exhibit history.

21 CHAIRMAN GOLDNER: Okay. Thank you,
22 Attorney Sheehan.

23 Are there any concerns with those
24 exhibits from the other parties?

1 MS. SCHWARZER: No, Mr. Chairman. And
2 the Department may reference what has already
3 been marked "Exhibit 3" in this hearing, which
4 include tariff pages. Although, the parties
5 believe we've reached a better way to address
6 some of those issues.

7 CHAIRMAN GOLDNER: Okay. Thank you.
8 Attorney Kreis?

9 MR. KREIS: I have no objection to any
10 of the exhibits.

11 CHAIRMAN GOLDNER: Okay. Thank you.

12 There was one other outstanding issue,
13 I think, relative to the Department's exhibits.
14 So, the Exhibit 18, Technical Statement from
15 Mr. Alam and Dr. Arif, has a date of "12-05-23",
16 but it was not received by the PUC to be filed in
17 this docket.

18 Attorney Schwarzer, can you address
19 this Exhibit 18 question?

20 MS. SCHWARZER: Yes. Thank you for
21 that opportunity, Mr. Chairman.

22 The December 5th technical statement
23 was sent to all the parties on the service list,
24 with the unfortunate exception of the very first

1 name, which was inadvertently admitted [omitted?]
2 when our Staff filed it. That did not come to
3 our attention until much later in the docket,
4 because we had made, or expected that we had
5 made, three filings on December 5th, and it just
6 did not come to our attention that the filing had
7 not appeared in the docket.

8 So, we filed that, and, you know, I'm
9 not -- I don't remember the tab number, but it
10 now is in the docket. But, fairly recently, as
11 we were preparing for hearing. And we ask that
12 the Commission accept the December 5th tech
13 statement as if it had been filed on that date.

14 Other parties assented to our request.
15 And, so, we would renew that here.

16 CHAIRMAN GOLDNER: Okay. Thank you.
17 Yes. I show "Tab 41".

18 MS. SCHWARZER: Thank you.

19 CHAIRMAN GOLDNER: Okay. Very good.
20 All right. Are there any other issues,
21 before we start with the Company's witnesses?

22 MS. SCHWARZER: Mr. Chairman, the
23 Department would like to give an overview briefly
24 of the issues as an offer of proof, as a way to

1 avoid testimony, which was our initial intent.

2 CHAIRMAN GOLDNER: Okay. Do the other
3 parties have any concerns with that approach?

4 MR. KREIS: None from us.

5 MR. SHEEHAN: No, sir.

6 CHAIRMAN GOLDNER: Thank you. Please
7 proceed, Attorney Schwarzer.

8 MS. SCHWARZER: Thank you very much.

9 Mr. Chairman and Commissioners, the
10 Department supports the LDAC rates as proposed in
11 Liberty's most recent filing, dated January 12th,
12 2024, subject to the Department's audit, which I
13 will speak further to in a moment, and subject to
14 the RDAF rates being made contingent, subject to
15 a future RDAF hearing in this docket.

16 It's important, because this is the
17 first year of a bifurcated LDAC and Cost of Gas,
18 that the data be actual. However, in the future,
19 we would prefer that those updates occur
20 further -- more recently than one business day
21 before the hearing. But we fully support the use
22 of accurate data, and we're happy to have been
23 able to review it promptly.

24 In this docket, you will notice that

1 there is no Department audit of an LDAC
2 reconciliation. The Department anticipated one
3 at the Cost of Gas hearing in the fall. And,
4 regrettably, due to the workload and rate case
5 burdens, the Department's Audit Division was not
6 able to do an LDAC audit.

7 The proposal is that an LDAC audit be
8 done associated with the next LDAC docket,
9 beginning from July of 2022, the last time the
10 audit of actual rates were done, through whatever
11 date Liberty files updated information next year.
12 We anticipate that that would be done in a timely
13 manner, and would be reviewable by the Commission
14 prior to next year's LDAC 2025 hearing.

15 However, because that exceeds a
16 twelve-month period, we ask that the Commission
17 note that the review is anticipated, and that the
18 LDAC data, while revised by our Regulatory
19 Division for accuracy, and a determination has
20 been made that it's reasonable, we have not had
21 an opportunity to verify LDAC information
22 relative to Liberty's books.

23 We also note there's a complication
24 with regard to the SAP Program, and we can't

1 anticipate whether that played a role in some of
2 the LDAC data.

3 Having asked that the rates be
4 contingent, and subject to audit, we note that
5 Liberty's RDAF proposal, which we, again,
6 support, appears to include RDAF figures for
7 Decoupling Year 4 and for a partial Decoupling
8 Year 3 of approximately 800,000, as has been
9 discussed in other hearings. We do support that,
10 subject to future review, even though Decoupling
11 Year 4 and 3 were carved out previously.

12 With regard to orders that impact our
13 support of this proposed rate, we note that, with
14 regard to the Energy Efficiency Charge, the
15 Commission approved that change reflected here in
16 Order Number 26,961, in an order *nisi*. We note
17 that the Environmental Surcharge was supported
18 inclusive of the gas holder rates in a recent
19 order, 26,934, issued on January 11th, which is
20 consistent with Liberty's proposed update. And,
21 finally, GAP Order 26,662, issued in August of
22 2022, did impose a one percent cap for GAP
23 expenses.

24 The Department has an obligation of

1 candor to the tribunal, notes that, in this
2 instance, Liberty's GAP rates are in excess of
3 the one percent threshold. However, the
4 Department continues to support them, because
5 Liberty's population of GAP-eligible customers is
6 significantly larger than that of other gas
7 utilities. And, for that reason, we support that
8 rate. We note that the calculation seems to have
9 been done correctly. But, just further note,
10 with respect to the Commission order, it is not
11 consistent with that threshold.

12 Finally, the Department is very pleased
13 to have a new analyst working with us, Alam --
14 Ashraful Alam is here at the table, seated next
15 to our Gas Director. In the event that the
16 Department chooses to put on testimony with
17 regard to Liberty's updated January 12th filing,
18 we would ask that his CV be marked. And we'll
19 take a very brief period time to introduce him to
20 the Commission.

21 Thank you very much.

22 CHAIRMAN GOLDNER: Thank you. I'll now
23 offer an opportunity for the Consumer Advocate,
24 and then Liberty, to comment, if any, on the

1 Company's statement -- or, on the Department's
2 statement rather.

3 MR. KREIS: Mr. Chairman, I have no
4 reason to disagree with anything that
5 Ms. Schwarzer just said. And I have no concerns
6 about any of the suggestions that she has made to
7 you about how to proceed today.

8 CHAIRMAN GOLDNER: Thank you. And,
9 Attorney Sheehan?

10 MR. SHEEHAN: Similarly, and I think
11 that's a fair -- well, it's their position, but I
12 think it's -- I have nothing further to add to
13 it. And we can dive into the witnesses.

14 CHAIRMAN GOLDNER: Okay. Very good.

15 Is there anything else that we need to
16 discuss, before we engage the Company's
17 witnesses?

18 *[No verbal response.]*

19 CHAIRMAN GOLDNER: Okay. Seeing none.
20 Attorney Sheehan, you may proceed. And,
21 Mr. Patnaude, if you could please swear in the
22 witnesses.

23 *(Whereupon* **TYLER J. CULBERTSON,**
24 **ADAM R. M. YUSUF,** *and* **LUKE W. SANBORN**

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 *were duly sworn by the Court Reporter.)*

2 MR. SHEEHAN: Good morning, gentlemen.
3 we'll start with introductions and adopt the
4 testimony.

5 **TYLER J. CULBERTSON, SWORN**

6 **ADAM R. M. YUSUF, SWORN**

7 **LUKE W. SANBORN, SWORN**

8 **DIRECT EXAMINATION**

9 BY MR. SHEEHAN:

10 Q Mr. Culbertson, please introduce yourself, your
11 title with the Company, and your role in this
12 docket?

13 A (Culbertson) I'm Tyler Culbertson, Director of
14 Rates and Regulatory Affairs, for Liberty
15 Utilities. And, in that capacity, I provide
16 rate-related oversight to EnergyNorth.

17 Q And, in this docket, you have authored or
18 participated in several testimonies and tech
19 statements that are now before the Commission.
20 I'll draw your attention first to Exhibit 9
21 and 10, which are, respectively, the confidential
22 and redacted versions of the updated schedules
23 the Company filed on October 23. Do you see
24 those?

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 A (Culbertson) Okay.

2 Q As I mentioned -- was it correct, when I
3 mentioned in the brief opening, that those were
4 the schedules filed after the October hearing,
5 which reflected changes that were discussed at
6 hearing, mostly the misallocation of numbers
7 between Winter and Summer Period?

8 A (Culbertson) Yes.

9 Q And is it your understanding those numbers, in
10 that Exhibit 9 and 10, are the figures on which
11 the Commission based its order approving the Cost
12 of Gas rates?

13 A (Culbertson) Yes.

14 Q Okay. Turning now to Exhibits 13 and 14, which
15 are the confidential and redacted versions of a
16 technical statement authored by you and Mr.
17 Yusuf.

18 The question is, can you describe for
19 us the reason that the Company choose to file
20 those documents just last week? And what was the
21 purpose of that filing, I guess is the better
22 question?

23 A (Culbertson) Yes. The purpose of that filing was
24 simply to update estimates with the actuals as

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 they came in. We had hoped to be able to include
2 the December actuals as well. However, with
3 accounting close and everything going on, we were
4 only able to pull in actuals through November.

5 Q And, so, it's the actuals replacing what had been
6 estimates in the filings made earlier in 2023?

7 A (Culbertson) That's correct.

8 Q Okay. Do you have any changes to that technical
9 statement that you'd like to bring to the
10 Commission this morning?

11 A (Culbertson) No.

12 Q Okay. And, last, I'll turn your attention to
13 what's been marked as "Exhibits 20" and "21",
14 which is the confidential and redacted version of
15 the initial LDAC filing made by the Company back
16 in August of 2023.

17 Did you participate in the drafting of
18 that testimony, with your portion of that
19 testimony, with Mr. Yusuf?

20 A (Culbertson) Yes.

21 Q Do you have any, aside from the updates that have
22 been made since then, do you have any changes or
23 corrections to that testimony to bring to the
24 Commission's attention this morning?

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 A (Culbertson) I do not.

2 Q And do you adopt that as your testimony today?

3 A (Culbertson) Yes.

4 Q And that testimony is the foundation document of
5 the various components that make up the LDAC rate
6 that we're seeking approval of today, is that
7 correct?

8 A (Culbertson) That's correct.

9 Q And, bringing it to a close, that's the
10 foundational document, it was updated, as
11 mentioned, around the time of the Cost of Gas
12 hearing, and further updated last week. It is
13 the -- it is the numbers filed last week that the
14 Company now seeks approval of, is that correct?

15 A (Culbertson) Yes.

16 Q And, going back to the various pieces that
17 counsel referenced that are in this filing, it is
18 correct that this LDAC rate includes the
19 so-called "gas holder" costs that have been in
20 rates all along, and the Commission approved by
21 order just a week or so ago, is that correct?

22 A (Culbertson) Yes.

23 Q There are a number of dockets of decoupling
24 adjustments that have been at issue here, and

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 just want to make sure we understand which ones
2 are in this proposed rates and which aren't.

3 The first two years of decoupling are
4 the subject of the 22-041 docket, the so-called
5 "\$4 million" piece, this dispute over which
6 centered on tariff language. Those numbers --
7 that number is not included in this rate, is that
8 correct?

9 Actually, let me introduce Mr. Yusuf.
10 So, he can chime in where appropriate, too. Mr.
11 Yusuf, please introduce yourself?

12 A (Yusuf) Hi. I'm Adam Yusuf.

13 *[Court reporter interruption regarding*
14 *the use of the microphone.]*

15 MR. SHEEHAN: Get it close.

16 WITNESS YUSUF: I'm sorry. First time.

17 **CONTINUED BY THE WITNESS:**

18 A (Yusuf) Hi. I'm Adam Yusuf. I'm an analyst for
19 Liberty.

20 BY MR. SHEEHAN:

21 Q And, Mr. Yusuf, did you participate in the
22 drafting of the original testimony that we are
23 just talking about, which has been marked as
24 "Exhibit 20" and "21"?

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 A (Yusuf) Yes.

2 Q And did you participate in the update of that
3 schedules, as we talked about, in October of
4 2023, and in the technical statement filed last
5 week, in January of '24?

6 A (Yusuf) Yes.

7 Q Do you have any corrections or changes, other
8 than the updates reflected, to your testimony or
9 any of those numbers?

10 A (Yusuf) No.

11 Q Okay. Do you adopt your testimony, as in
12 Exhibits 20 and 21, as your sworn testimony
13 today?

14 A (Yusuf) I do.

15 Q Now, I can go back to the question of what's
16 included and what isn't, because I understand you
17 might have more of the granular information. The
18 \$4 million that comes out of the first two years
19 of decoupling, that is the subject of 22-041, is
20 not included in today's proposal, is that
21 correct?

22 A (Yusuf) Correct.

23 Q And that was before the Commission in a hearing
24 last summer, there was briefs, and we're awaiting

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 an order on that particular docket, is that
2 correct?

3 A (Yusuf) Correct.

4 Q Year 3 of decoupling had its own docket, was
5 approved, and is not -- has already been put into
6 rates since Year 3, is that correct?

7 A (Yusuf) Correct.

8 Q And, then, the last two years of decoupling, it's
9 Year 4, which is the subject of 22-045, and this
10 docket, Year 5, those two years are in this
11 proposal, is that correct?

12 A (Yusuf) Correct.

13 Q Okay. Going back to what's in and what's out,
14 the gas holder is in, the decoupling from the
15 last two years is in. And, otherwise, it's the
16 "normal" components of the LDAC: The low-income
17 program, GAP, the environmental costs, which Mr.
18 Sanborn is responsible for.

19 Anything else that is in this LDAC
20 proposal today?

21 A (Yusuf) And the rate case expenses, that's
22 typically filed with --

23 *[Court reporter interruption.]*

24 **CONTINUED BY THE WITNESS:**

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 A (Yusuf) And the rate case expenses that are
2 typically filed.

3 BY MR. SHEEHAN:

4 Q And those are coming out of the prior rate case
5 that ended in 2020, is that correct?

6 A (Yusuf) Correct.

7 Q The other piece of this whole filing is the
8 change of the effective date of this LDAC change,
9 from November 1 until February 1. And your
10 filing incorporates that change as well, is that
11 correct?

12 A (Yusuf) Correct. The Initial Filing, in August,
13 did not, because the order coming out too soon to
14 file it in that manner. So, that's why we did
15 the September filing, was to incorporate the
16 changes based on that order.

17 Q Okay. The order approving the move to February 1
18 came out only days before our August filing was
19 due, and that's what you were referring to?

20 A (Yusuf) Correct.

21 Q Okay. So, those numbers have been incorporated.
22 So, we collected the prior LDAC through
23 February 1, and the new LDAC will go into effect,
24 as proposed, on February 1. That's what we have

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 before the Commission today?

2 A (Yusuf) Correct.

3 Q Can you tell me, because of the fifteen-month
4 recovery of last year's LDAC, if you will, has
5 resulted in some over-collection, is that
6 correct, of some components?

7 A (Yusuf) Correct.

8 Q Which ones? I know the rate case expense is one,
9 is that correct?

10 A (Yusuf) Yes.

11 Q And that's because it was initially estimated to
12 be collected over one year, a rate was set.
13 We've collected that now for fifteen months. So,
14 we've collected too much. Is that correct?

15 A (Yusuf) Correct.

16 Q And that, of course, will be reconciled back to
17 customers as part of the calculation we have for
18 February 1?

19 A (Yusuf) Correct.

20 Q Okay. Can someone point the Commission to the
21 rate, the LDAC rate, the specific rate that we're
22 asking to be approved today? Where in the -- I
23 assume it's in the most recent technical
24 statement, that the Commission can find the

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 proposed numbers?

2 A (Yusuf) It would be Section B, towards the bottom
3 of Page 1.

4 Q And this would be Exhibit 13 or 14, the technical
5 statement from last week?

6 A (Yusuf) Correct. Yes.

7 Q And that reflects a rate of "0.1986" for
8 residential customers, and a "0.0874" for
9 commercial and industrial, is that correct?

10 A (Yusuf) Correct.

11 Q And, by comparison, you have what the existing
12 rates are, in the next sentence?

13 A (Yusuf) That was the proposed rates for the --

14 Q Okay.

15 A (Yusuf) -- updated filing on September 22nd.

16 Q And, so, that's reflecting the change that, by
17 bringing some estimates to actuals, you're
18 illustrating how has it changed?

19 A (Yusuf) Exactly.

20 Q Okay. Mr. Culbertson, the Company has filed
21 proposed tariff language changes to implement the
22 February 1 rate and associated matters. And,
23 before the hearing, we had a conversation with
24 counsel that there are a few more tweaks that

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 we'd like to make.

2 Is it the Company's position that we'll
3 work with DOE to adjust those final language
4 tweaks, and file the, hopefully, final version
5 with the compliance filing coming out of this
6 case?

7 A (Culbertson) Yes.

8 Q Last, Mr. Sanborn, we won't forget you back
9 there. Please introduce yourself and your
10 position with Liberty?

11 A (Sanborn) Good morning. My name is Luke Sanborn.
12 And I'm the Environmental Manager for Liberty
13 Utilities.

14 Q Mr. Sanborn, you drafted testimony that was
15 included in the initial filing back in August,
16 marked as "Exhibits 20" and "21". And your
17 section, I believe, begins on Bates 015 of those
18 documents, is that correct?

19 A (Sanborn) Correct.

20 Q And your testimony describes the various efforts,
21 environmental cleanup efforts, and other
22 associated matters, that the costs for which the
23 Company collects through the LDAC as well, is
24 that correct?

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 A (Sanborn) Yes.

2 Q Do you have any changes or corrections to your
3 testimony from back in August that you'd like to
4 bring to the Commission's attention?

5 A (Sanborn) I do not.

6 Q And do you adopt that testimony as your sworn
7 testimony this morning?

8 A (Sanborn) I do.

9 MR. SHEEHAN: I believe that's all I
10 have. Thank you.

11 CHAIRMAN GOLDNER: Thank you. Now,
12 we'll move to cross-examination, beginning with
13 the Department.

14 MS. SCHWARZER: Thank you, Mr.
15 Chairman.

16 **CROSS-EXAMINATION**

17 BY MS. SCHWARZER:

18 Q This is just to the panel generally. As compared
19 to the September 22nd filing, Liberty's
20 January 12, '24 filing increases the proposed
21 LDAC by 0.0065, is that correct?

22 A (Culbertson) Yes.

23 Q And can you briefly summarize the factors that
24 result in that increase?

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 A (Culbertson) As that update was simply the update
2 of estimates to actuals, the primary driver there
3 is the difference between what we had estimated
4 for collections and what we actually collected.
5 And, during -- when we updated, it was apparent
6 that our estimates had overestimated the
7 revenues, and, therefore, our actual collections
8 came in lower than we had expected.

9 Q And that resulted in the increase?

10 A (Culbertson) Yes.

11 Q Thank you. Any additional answers or is that --

12 A *[Witness Yusuf indicating in the negative.]*

13 Q Okay. I'd like to turn your attention to Bates
14 Page 030 of your updated exhibit submitted
15 January 12th, Exhibit 13. I'll be looking at the
16 confidential version, but I don't believe this is
17 going to require any mention of confidential
18 information.

19 I believe the panel recently testified
20 that the bulk of information that was updated for
21 the LDAC filing included actuals for September,
22 October, and November, is that correct?

23 A (Yusuf) Correct.

24 Q And the exception to that appears to be the RDAF

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 factor, which, again, we've agreed is contingent,
2 subject to a future hearing. But, if I look at
3 Bates Page 030, the headers across the top of
4 page suggests that May, June, July, and August
5 continue to be "estimates". Is that correct?

6 A (Yusuf) Correct.

7 Q Okay. So, just to confirm, the last month for
8 RDAF for which Liberty has actual data is March
9 of 2023?

10 A (Yusuf) Correct.

11 Q Thank you. Mr. Yusuf, you commented that, in
12 Liberty's opinion, the Decoupling Year 3
13 collections had been approved and were resolved.

14 You're aware that the Department
15 believes that Decoupling Year 3 is still open to
16 review? You may not agree, but are you aware
17 that the Department sees that differently?

18 A (Yusuf) So, could you explain that a little bit
19 more?

20 Q Sure. I'm just looking for a "yes" or a "no".
21 I understand, in the Company's opinion,
22 Decoupling Year 3 for RDAF has been approved by
23 the Commission. You are aware that, in the
24 Department's view, Decoupling Year 3 remains

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 subject to review, correct?

2 A (Yusuf) Correct. Sorry.

3 Q That's okay. And, in the Department's view,
4 approximately \$800,000 from Decoupling Year 3 had
5 yet to be collected when the RDAF was suspended,
6 is that correct?

7 A (Yusuf) I believe so.

8 Q And is that \$800,000 included in the January 12th
9 Exhibit 13 filing, showing recoupment -- excuse
10 me, not "recoupment", showing Decoupling
11 Year 4 -- let me just get the page number. Yes,
12 Bates Page 028. On Bates Page 028 of Exhibit 13,
13 there's Line 1, for residential, shows an
14 "Outstanding Residential Uncollected Revenue
15 Decoupling for Decoupling Year 2021 to 2022", of
16 "3,116,278". That includes the 800,000 for
17 Decoupling Year 3?

18 A (Culbertson) We would have to go back and
19 double-check.

20 Q Okay. So, you're not sure?

21 A (Culbertson) Correct.

22 Q Okay. Thank you. Also, on Bates Page 028, just
23 to bring your attention to the footnote at the
24 bottom, as your counsel had discussed earlier,

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 there's a figure that says "4,024,830 in revenue
2 has been removed pursuant to Docket Number DG
3 22-045, Order 26,692." That's referring to what
4 we have informally called sort of "old RDAF" for
5 Decoupling Year 1 and Decoupling Year 2, correct?

6 A (Culbertson) Yes.

7 Q And, if I were to tell you that the Company's
8 Petition, as filed, in 22-041, identified that
9 number slightly differently, as "4,023,830". Is
10 there a reason for that, that small difference?

11 A (Culbertson) I do not know what that thousand
12 dollar difference would be.

13 Q Thank you. And, if we could discuss briefly the
14 change in the GAP rate for Schedule 7, at Bates
15 Page 037, of Exhibit 13.

16 Is it, in your opinion, fair to say
17 that Liberty's proposed GAP rate in September was
18 "0.0106 per therm", and that the newly proposed
19 rate is "0.0147 per therm"?

20 A (Yusuf) Correct.

21 Q And, so, that's an incremental increase of 0.0041
22 per therm?

23 A (Yusuf) Correct.

24 Q And, cumulatively, that's an increase of

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 approximately \$770,000 for this element?

2 A (Yusuf) I believe that's fair.

3 Q Okay. Thank you. In your opinion, is part of
4 the increase a result of temporary rates that
5 increased -- well, temporary rates, is the
6 question?

7 A (Culbertson) No. This is a function of the cost
8 of gas rate.

9 Q Does the GAP component include some cost of gas
10 elements and some base rate elements?

11 A (Culbertson) Yes. My mistake. It does include
12 the base rate customer charge in there as well.

13 Q And, so, some of the forecasted increase here
14 would be attributable to the 8.94 percent
15 increase for temp. rates, is that correct?

16 A (Culbertson) That is correct.

17 Q And, irrespective of this particular hearing,
18 there is an ongoing rate case, correct?

19 A (Culbertson) Yes.

20 Q And, at some point, permanent rates will either
21 be higher or lower than the rates currently in
22 effect right now?

23 A (Culbertson) Yes.

24 Q And, in your opinion, will the recoupment process

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 address any adjustment that's necessary?

2 A (Culbertson) Yes, as part of the reconciliation.

3 Q For recoupment?

4 A (Culbertson) Yes.

5 Q Just a final question to the panel on the tariff.
6 With regard to tariff changes that Liberty makes,
7 Liberty is making these independent of the
8 Department, correct? You are making them on your
9 own behalf, not collaboratively?

10 A (Culbertson) Yes. That's correct.

11 Q Sorry, one more question. Has the -- in
12 Liberty's -- strike it. In the opinion of the
13 panel, have you decided whether or not there will
14 be a February 1 increase for a trigger filing?

15 A (Culbertson) We have not made that final
16 determination. However, we do anticipate there
17 being a cost of gas trigger filing made effective
18 February 1st.

19 Q So, at the present time, has the Company
20 calculated what the increased LDAC will be, in
21 conjunction with the currently effective cost of
22 gas rates?

23 A (Culbertson) No.

24 Q You don't have a chart?

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 A (Culbertson) We don't know the -- oh, with the
2 current rate -- the current cost of gas?

3 Q Yes.

4 A (Culbertson) No. We did not include any other
5 rate components in the change analysis.

6 Q There's a question with regard to the rate case
7 expense element of the LDAC. I believe, let me
8 just turn to the schedule for you. Schedule 6,
9 on Page -- Page 2 of 3. Bates Page 035. Are you
10 there?

11 A (Culbertson) I am.

12 Q Thank you. It appears that interest on rate case
13 expenses was collected through June, and, after
14 that time, interest was no longer collected.
15 Could you please comment on that?

16 A (Culbertson) Yes. My understanding is, as part
17 of the Settlement Agreement in DG 20-105, the
18 Company was ordered to stop collecting interest
19 on the rate case expenses. And, therefore, we
20 have reflected that as a "0.00 percent" rate.

21 MS. SCHWARZER: Thank you.

22 *[Atty. Schwarzer and Dir. Arif*
23 *conferring.]*

24 MS. SCHWARZER: Mr. Chairman, no

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 further questions. Thank you.

2 CHAIRMAN GOLDNER: Thank you. We'll
3 turn now to the Office of the Consumer Advocate?

4 MR. KREIS: Mr. Chairman, I have no
5 questions for the Company's witnesses, other than
6 to thank them for their testimony.

7 CHAIRMAN GOLDNER: Thank you. We'll
8 turn now to Commissioner questions, beginning
9 with Commissioner Simpson.

10 CMSR. SIMPSON: Thank you.

11 I just wanted to receive some
12 clarification from Attorney Schwarzer on the
13 topic of the audit.

14 MS. SCHWARZER: Sure. Yes, Mr.
15 Commissioner.

16 CMSR. SIMPSON: So, would you be able
17 to just explain for me again the scope of that
18 audit, and, specifically, what decoupling years
19 you would be referring to?

20 MS. SCHWARZER: Yes. The LDAC audit,
21 there used to be an audit for each individual
22 LDAC component, and then it was all rolled into
23 one LDAC audit. There was an LDAC audit done and
24 filed in Docket Number 21-130, for EnergyNorth.

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 CMSR. SIMPSON: Uh-huh.

2 MS. SCHWARZER: The most recent LDAC
3 audit verified the accuracy of data as posted to
4 Liberty's books for June of 2022. Even though
5 Audit does make a statement with regard to any
6 LDAC reconciliation through what was then
7 November -- excuse me, October 31st of 2022, the
8 Audit Division only opines on the mathematical
9 accuracy of anything other than actual data.

10 So, what our Audit Division proposes to
11 do, for the next LDAC audit, would be to verify
12 information to Liberty's books starting in July
13 of 2022, through, to use this very first year as
14 an exemplar, November of 2024, which is longer
15 than the twelve-month period that is usually
16 subject to audit.

17 So, we wanted to highlight for the
18 Commission that the Department ask that there be
19 no conclusive finding about the verification of
20 the LDAC reconciliation to books, to allow the
21 Audit Division's audit to have full force and
22 effect, and subject to your then finding it
23 prudent at a future period.

24 We, because of the press of other

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 business, and rate cases that have a higher
2 priority and some complexity in rate case
3 filings, the Department was not able to provide
4 an LDAC audit for you. We have filed the Winter
5 Cost of Gas 2023 audit for your review as an
6 exhibit here.

7 Liberty's reconciliation for Summer of
8 2023 is generally not filed until February. So,
9 we're not able to address that here.

10 Have I answered your questions with
11 regard to the future LDAC audit?

12 CMSR. SIMPSON: Is the decoupling over
13 the -- since the last rate case, are the
14 decoupling years going to be within that audit,
15 or is that a separate process within the Audit
16 team?

17 MS. SCHWARZER: To my knowledge, there
18 is no separate RDAF audit. So, for the period
19 beginning July of 2022, I believe, and I'll check
20 with my team, but I believe '22-23 is part of
21 RDAF Decoupling Year 4.

22 CMSR. SIMPSON: Okay. So, they try to
23 align them as closely as possible, even though
24 the timelines don't exactly align, they do the

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 decoupling year at the same time?

2 MS. SCHWARZER: They would only do --
3 the LDAC audit would reflect the periodicity for
4 each rate.

5 CMSR. SIMPSON: Uh-huh.

6 MS. SCHWARZER: And part of what the
7 Department filed as "Exhibit 3", with attachment
8 of tariff pages, includes a table that the
9 Company endorses and adopted, and actually
10 created, we borrowed it from them in a data
11 response, that shows the periodicity for each
12 individual LDAC component, which is different
13 from the then November 1 to October 31st, but now
14 February 1 through January 31st LDAC year.

15 And, with reference to that, the
16 Department's audit of the LDAC would just be for
17 the period of the LDAC itself. So, there is now
18 an eighteen-month period, roughly, eighteen
19 months, a little more, because, in addition to
20 the -- what is now the eighteen-month period of
21 November 1, 2022, through July 31st of 2024,
22 there will also be a precursor period, if you
23 will, for the now actual data that was not
24 available between July 2022 and October 31st,

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 2022, the last time the LDAC audit was done.

2 CMSR. SIMPSON: Thank you. That
3 clarifies the question for me. Appreciate that,
4 Attorney Schwarzer.

5 BY CMSR. SIMPSON:

6 Q So, then, turning to Mr. Yusuf and Mr.
7 Culbertson, on the decoupling years, and Attorney
8 Schwarzer asked you which costs for certain
9 decoupling years were reflected in front of us.
10 And I just wanted to get a confirmation from you.

11 So, which decoupling years are
12 reflected herein today.

13 A (Culbertson) Decoupling Years 3 and 4 are
14 reflected in here.

15 Q Thank you. So, I think Attorney Sheehan
16 addressed some of this. But, in Exhibit 18,
17 Bates Page 003, I'll give you a moment to get
18 there. This was from the Department. And there
19 are corresponding schedules. For the Gas Holder
20 costs, those were already in rates, I believe you
21 testified to, correct?

22 A (Culbertson) They were in the calculated rates.

23 Q Uh-huh.

24 A (Culbertson) Yes. We are not currently --

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 Q Not billing rates yet. They were already in what
2 you presented here?

3 A (Culbertson) Yes.

4 Q Okay. And same for Energy Efficiency?

5 A (Culbertson) Yes.

6 Q So, there's no update for those topics. You had
7 already reflected those costs in your Petition
8 filing?

9 A (Culbertson) We had updated the Energy Efficiency
10 slightly, as what we had estimated came in just
11 slightly different in the final order.

12 Q Okay. I mean, do you know what was different
13 about that or what drove that update?

14 A (Yusuf) Yes. So, we were given what the
15 projected costs were. Then, December 1st, or
16 November 30th, we received the order that the
17 Energy Efficiency rates were finalized. Our
18 commercial rates that were projected were
19 correct. And, then, the residential increased by
20 0.0001. So, we had "0.0699", and it ended up
21 being "0.0700". But we made that compliance
22 filing for a January 1st effective date.

23 Q Okay. Thank you, Mr. Yusuf. In the Audit
24 Report, which is Exhibit 19, Bates Page 019, with

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 respect to Audit Issue Number 2, "Transportation
2 Revenue and Gas Cost Schedule Variance", do you
3 see that page?

4 A (Culbertson) Yes. I'm on the page.

5 Q There was a recommendation from the Audit team,
6 on the next page, Audit, 20, for "within 30 days
7 of the Final Audit Report, the Company would
8 adjust November and December '22 transportation
9 entries." Do you see that?

10 A (Culbertson) Yes.

11 Q Are you aware of whether the Company provided an
12 update with respect to those two items?

13 A (Culbertson) I am not aware on that one.

14 Q Okay. Maybe you might check on that after the
15 hearing today?

16 A (Culbertson) Certainly.

17 Q Thank you. And, then, I know we've talked a lot
18 about SAP, so, I'll just bring it up here. You
19 both have confidence in the figures that are in
20 front of us today that the schedules and proposed
21 rates are accurate and reflective of the
22 Company's books and records?

23 A (Culbertson) Yes.

24 CMSR. SIMPSON: Okay. Thank you. I

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 don't have any further questions for these
2 witnesses. Thank you.

3 CHAIRMAN GOLDNER: Thank you. We'll
4 turn now to Commissioner Chattopadhyay.

5 CMSR. CHATTOPADHYAY: Good morning.

6 BY CMSR. CHATTOPADHYAY:

7 Q I'm going to go back to the discussion about,
8 excuse me, DY 3, 4, 5. I notice that, in the
9 December 5th technical statement by DOE, it says
10 "Given that the Department requested to carve out
11 the requested \$5.4 million for greater review and
12 analysis, but supports the collection of the same
13 amount by the Company on an interim basis, this
14 technical statement does not comment on Liberty's
15 RDAF ask for DY5."

16 So, what I want to make sure is the DY5
17 RDAF number included in the rates or not
18 currently, as you -- the rates that you have
19 shared with us in Exhibit 13?

20 MR. SHEEHAN: If I may jump in? I
21 think what Mr. Culbertson answered a minute ago
22 was "3 and 4". So, the question is "Is that
23 correct?" And you may have mixed up "3 and 4"
24 and "4 and 5". So, I think that's where there

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 might be a disconnect.

2 **BY THE WITNESS:**

3 A (Culbertson) Yes. So, to make sure I'm on the
4 same page, Decoupling Year 5 is the 2022 to 2023.

5 BY CMSR. CHATTOPADHYAY:

6 Q Yes.

7 A (Culbertson) Okay. Then, what we have included
8 in RDAF is Decoupling Year 4 and Decoupling
9 Year 5.

10 Q So, you're confirming that that \$5.4 million,
11 which is associated with DY5, is in the rates?

12 A (Culbertson) Yes.

13 Q Okay. With respect to DY3 and DY4, are there
14 anything that still remains interim?

15 A (Culbertson) DY4 has not yet been approved. We
16 do have that in the LDAC filing.

17 Q To me, and when you say "LDAC filing", I'm
18 separating RDAF from LDAC. So, I just want to
19 make sure. Are you saying that those -- the
20 dollar amounts are part of the rates that you are
21 requesting be approved, based on your testimony,
22 based on Exhibit 13?

23 A (Culbertson) So, --

24 Q So, it's really just trying to make sure I'm

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 following what you're saying. So, DY4 and DY5,
2 those are part of the rates?

3 A (Culbertson) Yes. That's correct.

4 CMSR. CHATTOPADHYAY: Okay. Does the
5 DOE have any response or comment?

6 I just want to make sure whether my
7 understanding is correct. And, if not, please
8 clarify?

9 MS. SCHWARZER: Thank you, Mr.
10 Commissioner. I'm a bit confused myself.
11 Because I believe Mr. Culbertson answered, when I
12 asked if \$800,000 for Decoupling Year 3 that had
13 been carved out of past rates was included, at
14 Bates Page 028, of Exhibit 13, I believe the
15 panel's collective answer was that they "did not
16 know." And, so, I believe they still don't know.

17 There is a difference of opinion
18 between the Company and the Department, as to
19 whether Decoupling Year 3 was approved or not.

20 And I would like to point out to the
21 Commission that, on December 5th, the Department
22 filed an assented -- filed a motion signaling
23 that we ask that the RDAF be carved out for
24 further review. But that Decoupling Year 4 and

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 5 -- at least Decoupling Year 5 be included in
2 the rates, subject to review.

3 I hope that clarifies our concern. And
4 perhaps the Company might provide more of an
5 answer with regard to the \$800,000.

6 CMSR. CHATTOPADHYAY: So, I understand,
7 and I'll have a follow-up on Bates Page 028,
8 Exhibit 13, later, but, based on what you just
9 responded or added, are you saying that DY --
10 you're only requesting DY5 be included for -- as
11 an interim, you know, inclusion? And what about
12 DY4? You're okay with that?

13 MS. SCHWARZER: The Department's
14 position, after review of the January 12th
15 filing, is that we are fine with Decoupling
16 Year 4 being included, subject to the contingent
17 review of the whole RDAF structure. That is
18 something that has not been finalized.

19 But we no longer support carving it out
20 entirely. We feel that it's acceptable to follow
21 what the Company has requested to include it for
22 collection, but keeping it contingent, subject to
23 further review of the RDAFs question separately.
24 And that is why the decoupling year \$800,000 is

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 of interest to me, because it seems -- because I
2 don't know if the Line 1, on Bates Page 028,
3 includes the 800,000 that was initially suspended
4 and not collected for Decoupling Year 3 or not.

5 CMSR. CHATTOPADHYAY: So, what is
6 confusing me is this: You're going to go back
7 and look at the RDAF issue, really, and you are
8 saying that DY5 is interim. But, for DY4, you
9 seem to have a greater degree of confidence. And
10 yet, you're saying "We still need to keep that
11 part of the overall understanding of what's going
12 on with RDAF." And that concern also is related
13 to how DY3 has been considered.

14 So, to me, it's, you know, what's --
15 you aren't really saying that, for sure, what's
16 being part of DY4 included in the rates, that is
17 a settled matter, that's not what you're saying?

18 MS. SCHWARZER: Mr. Commissioner, it is
19 the Department's opinion that the \$800,000 from
20 Decoupling Year 3 is included in what's listed as
21 "outstanding residential uncollected revenue", on
22 Line 1 of Bates Page 028.

23 With regard to carving it out and
24 removing it, or leaving it in and keeping it

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 contingent, with regard to another gas utility,
2 and its RDAF, the Department chose to allow the
3 RDAF values to remain in place, subject to future
4 review.

5 And we felt it appropriate, under the
6 circumstances, to extend the same procedural
7 framework to Liberty at this time.

8 CMSR. CHATTOPADHYAY: When will that
9 future review happen? Do you want it to be part
10 of this docket? Or, how are you contemplating
11 getting to that future review?

12 MS. SCHWARZER: We have asked that it
13 be part of this docket. And I believe we
14 addressed that in the October 5th New Hampshire
15 Department of Energy request to carve for
16 adjudication, and to deem RDAF Decoupling Year 5
17 an interim rate, subject to discovery and
18 hearing, after January 17th, 2024.

19 CMSR. CHATTOPADHYAY: And I'm asking,
20 with respect to DY4 and DY3 as well?

21 MS. SCHWARZER: Yes. So, let me make
22 an oral motion to include DY4 and DY3 in that
23 request at this time.

24 Thank you, Mr. Commissioner.

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 BY CMSR. CHATTOPADHYAY:

2 Q To the witnesses of the Company, and I think
3 whoever is closer to the issue, the matter of GAP
4 that DOE raised, the GAP rates, how will you
5 ensure that, if there is an issue with the rate
6 case, how are you going to ensure that you will
7 make sure that anything that has been collected
8 through the rates here, if they are impacted,
9 that would be addressed? And do you -- I just
10 want to get a sense as to how you're going to
11 make sure that's going to happen. So, can you
12 clarify or put some, you know, ideas?

13 A (Culbertson) The way I see it, whether we --
14 regardless of the actual rate that we set for
15 this component of LDAC, we will be collecting
16 that revenue. And, then, next year, we'll come
17 back in with our actual costs, and, whether we
18 over-collected or under-collected, would wash out
19 in that calculation.

20 And, in this case, if the permanent
21 rates came back lower, and, therefore, we would
22 be collecting more over the course of the year,
23 come next year we would end up refunding that
24 back to customers.

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 Q Okay. I wanted that to be in the record, because
2 that's important.

3 To the best of your knowledge, are
4 there SAP issues that may impact what's going on
5 with your recommendations in Exhibit 13?

6 A (Culbertson) Not that I'm aware.

7 CMSR. CHATTOPADHYAY: Okay. Thank you.
8 That's all I have.

9 CHAIRMAN GOLDNER: Okay.

10 BY CHAIRMAN GOLDNER:

11 Q I'll just return to the Audit for a moment. What
12 is the Company's plan to address all four of the
13 audit issues highlighted by the Department? We
14 addressed, I think, Audit Issue 2 earlier. But
15 is there collaboration with the Department? You
16 know, how do these audit issues actually get
17 resolved?

18 A (Culbertson) I can't speak with specificity to
19 each of these audit issues, as I haven't been as
20 close with these.

21 However, with any of the audit issues,
22 I think it is a high priority of ours to ensure
23 that we are addressing them, not only in the
24 current case, but on a go-forward basis, so that

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 we don't have recurring issues.

2 I feel that we have been creating that
3 relationship with the Department, in order to
4 work through any of the audit issues, to ensure
5 that we are addressing them in a manner that's
6 satisfactory to all parties.

7 CHAIRMAN GOLDNER: Okay. Thank you.

8 Does the Department have any comments
9 relative to closing the loop on the Audit? I
10 notice that there's comments in here about
11 "completing filings within a couple of months of
12 the filing of the Audit", so that should have
13 already been done by now.

14 So, I would like to get the
15 Department's thoughts on how it's going, relative
16 to closing the loop on the audit issues?

17 MS. SCHWARZER: Mr. Chairman, my
18 understanding, and the way the practice of the
19 Department, is to let Audit handle its follow-up
20 and review process at their request. They try to
21 keep a relationship with the Company that is
22 distinguishable from an adjudicatory one.

23 That said, the Audit Department would
24 follow up in subsequent audits to make sure that

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 the prior steps had been taken or corrected.

2 That's my understanding about how that

3 relationship works.

4 Going forward, certainly, I'll remember
5 that the Commission is likely to be interested in
6 follow-up for any audit comments. And I hope to
7 have an update, if the Commission would like an
8 update, as a record request, we'd be happy to
9 accommodate that.

10 CHAIRMAN GOLDNER: Thank you. I'm
11 just -- I'm trying to understand, you mentioned
12 in your opening statement that -- that some of
13 the factors would be contingent on audit. But,
14 then, when we get the audit here, there's sort of
15 no closing of the loop.

16 So, I'm trying to understand what the
17 Department is requesting of the Commission,
18 relative to the audits?

19 MS. SCHWARZER: Certainly. The overall
20 audit purpose is to verify that the figures,
21 particularly over/under figures, match the
22 Company's books. And, so, if we were to see an
23 audit issue, as has occurred in the recent past,
24 that our Audit Division is unable to match a

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 filing to the books, that would be an enormous
2 concern for us. There are, not to diminish their
3 importance, but smaller issues that may not
4 significantly impact the verification of figures,
5 of over/under figures, for the process itself
6 that, while important to us, can sometimes,
7 unfortunately, take a backseat to other dockets
8 or other matters in this docket.

9 So, to the extent that we're asking the
10 Commission to make findings here subject to the
11 next LDAC audit, and to carve it out, because
12 it's a longer -- a period of longer than twelve
13 months, "carve out" may be the wrong word, but to
14 note that it's not final, from our perspective,
15 and to seek the Commission's permission for that
16 to be the case. We can't tell what we're going
17 to see in a future audit.

18 So, I don't know if the next time the
19 LDAC audit is done there will be a statement that
20 says "the verification to the books is seriously
21 at risk", or if it's going to be a more general
22 statement, as is the case where there are some
23 less serious issues, but some issues to follow up
24 on.

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 That said, we can try to make it a more
2 predictable part of a presentation to the
3 Commission, so that we could have a summary for
4 you with regard to audit issues when we file them
5 as exhibits. And we'll be happy to do that.

6 CHAIRMAN GOLDNER: And I'm also -- I'm
7 struggling with the timing piece of it. So, if
8 we're in a docket, as we are today, and
9 there's -- the audit won't be completed for some
10 months, wouldn't then, in every Commission order,
11 wouldn't the Department then request that every
12 Commission order be provisional, because we don't
13 have the results of the audit yet when we issue
14 the order?

15 So, I'm trying to understand what the
16 Department's position is on that.

17 MS. SCHWARZER: Certainly. To go back
18 to what people often call the "good old days",
19 you know, retrospectively, when things were
20 perhaps less -- there were fewer rate cases,
21 where the process was clearer. In general, there
22 was one cost of gas audit that included both the
23 cost of gas and the LDAC, and it was done in the
24 fall, prior to the hearing. So, the classic

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 presentation, if you will, is that our Audit
2 Division has sufficient time, that exchanges of
3 information with the company occur promptly, that
4 the company files when the Audit Division expects
5 them to file, and that the presentation to the
6 Commission includes an audit report for the
7 present forecasted period, verifying the
8 over/under, and evidences a resolution of audit
9 issues, or presents them to Commission for
10 review.

11 That is not what has happened here.
12 And it may, in part, be because of the change in
13 the separation of the cost of gas and LDAC
14 creates an additional audit and additional
15 unusual time period. And I'm not trying to dodge
16 responsibility. It was certainly our goal to get
17 that done. But there have been complexities in
18 rate cases for this Company that have taxed our
19 Audit Division's time. And we, like other state
20 agencies, can only deal with the resources
21 available to us.

22 CHAIRMAN GOLDNER: Would you
23 anticipate, for the next filing, in one year's
24 time, that the issue would be resolved, and that

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 the audit would be in front of the hearing?

2 MS. SCHWARZER: I had a conversation
3 with our Audit Division about that, that matter.
4 And the expectation is that, if the
5 reconciliation report is filed on time, and
6 exchange is prompt, that would indeed be our goal
7 to have -- goal and expectation to have an LDAC
8 audit presented for the Commission's review as
9 part of the standard course of evidence.

10 CHAIRMAN GOLDNER: Okay. Does the
11 Company have any concerns with sort of returning
12 to the -- let's call it the "old process" or the
13 "prior process", that is the audit coming in
14 front of this hearing?

15 MR. SHEEHAN: No. No. The sequence of
16 audits to dockets has never been firm. You know,
17 Audit works on its own schedule, trying to get
18 audits done that dovetail with dockets, but not
19 always, and that's fine. And this is an example.
20 Sometimes the audit's in place in advance of a
21 hearing, sometimes not. And, as a few people
22 have mentioned, you pick it up in the next case.
23 You know, "have you done X?" or "have you
24 resolved Y?"

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 So, if the Commission would prefer a
2 audit deadline prior to a hearing, you know, we
3 will certainly work with that schedule.

4 CHAIRMAN GOLDNER: Thank you. Attorney
5 Schwarzer.

6 MS. SCHWARZER: Thank you. Mr.
7 Chairman, you asked me about timing. I know
8 we've had discussions in the cost of gas, and I
9 believe you're mindful of them, it's impossible
10 to get the spring reconciliation done in time for
11 the fall cost of gas docket. And I believe -- I
12 don't want to rehash that here.

13 But, certainly, with regard to LDAC, it
14 would be our expectation. And a deadline would
15 be challenging. We're happy to work with the
16 Company, but we can't predict what other matters
17 might require attention. Sometimes the
18 Commission orders an audit, sometimes other
19 courts order different reviews. And, so, we
20 would do our best, but prefer not to have a hard
21 deadline.

22 CHAIRMAN GOLDNER: Okay. Thank you.

23 Okay. Addressing the witnesses now.

24 BY CHAIRMAN GOLDNER:

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 Q Does the Company agree with the DOE comment that
2 was made at opening, that GAP, the Gas Assistance
3 Program, exceeds with one percent cap?

4 A (Yusuf) For most, for some months, it does exceed
5 that one percent, correct.

6 Q And is the Commission order relative to sort of
7 an annual number or is it a month-by-month
8 number?

9 What is -- my question is really
10 around, is the Commission -- or, is the Company
11 following the Commission order?

12 A (Culbertson) We aren't aware off the top of our
13 head if that's annual or monthly.

14 Q Okay. So, I think -- I think what I'm hearing
15 is, the Company is not sure if an annual one
16 percent is being exceeded? In some months, it is
17 exceeded. But you're not sure, on an annual
18 basis, or it's less than the one percent on an
19 annual basis?

20 A (Culbertson) On an annual, it is more. I was
21 referring to the order, and whether that stated
22 if that one percent was on a monthly basis or
23 annual, or what the frequency was.

24 CHAIRMAN GOLDNER: Yes. My assumption,

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 I don't know if anyone in the room has the answer
2 to that, my assumption is it would be an annual
3 number. And that, in this filing, the LDAC
4 filing, that the Company would be executing to
5 the Commission order, is the reason I asked the
6 question. As opposed to -- as opposed to
7 recovering money above what the Commission order
8 allowed.

9 Attorney Sheehan, do you have any
10 comments on this topic?

11 MR. SHEEHAN: You know, frankly, I
12 don't know. You know, as we come to a hearing,
13 there's 47 things to think of, and this, frankly,
14 wasn't on the list, and shame on me for that.

15 But I will certainly follow up and take
16 appropriate steps.

17 CHAIRMAN GOLDNER: Do you have any
18 recommendations on how to move forward? I know
19 you're looking for approval of the LDAC by
20 February 1st. And there's this question relative
21 to the GAP. How would you recommend resolving
22 it?

23 MR. SHEEHAN: Well, with the following
24 assumptions, that it is over one percent, and

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 that means we are collecting more than -- our
2 customers are using more of that benefit than the
3 one percent, we would have to adjust the GAP rate
4 down, and thus the benefit down, to get back to
5 the one percent.

6 It, frankly, seems like a big lift for
7 a short time. The benefits are, you know, the
8 structure is all part of the tariff, *et cetera*.
9 Can it be done? I assume we could do some math
10 and *pro rata*, you know, reduce the benefit amount
11 from X percent to Y percent to get us under. But
12 that's the --

13 CHAIRMAN GOLDNER: Maybe the -- I'm
14 just thinking, but maybe the simplest path
15 forward is to approve the rates, as filed,
16 provisionally. And, then, if there are any
17 questions, whether it's the \$5.4 million issue or
18 whether it's this GAP issue, we notice that and
19 have a follow-on hearing on the topic.

20 Would that be a sensible approach?

21 MR. SHEEHAN: That's fine. And I was
22 going to address this in closing. But the LDAC,
23 in whole, is a reconciling mechanism, that,
24 frankly, is always subject to future refinement,

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 based on corrections, *et cetera*. And I've often
2 pointed to some orders in past years where the
3 Commission did a ten-year look-back over, on a
4 particular item, and ordered changes based on
5 that.

6 So, yes. You approve what we have in
7 front of us today. If further inquiry shows
8 changes, we'll make the changes. That's the
9 nature of a reconciling mechanism.

10 CHAIRMAN GOLDNER: Does the Department
11 or the Consumer Advocate have any comments on the
12 topic?

13 Attorney Schwarzer.

14 MS. SCHWARZER: Yes. Thank you, Mr.
15 Chairman.

16 I don't wish to change the focus of
17 this hearing drastically. I know we've addressed
18 this in Docket Number 22-041. In the
19 Department's opinion, even reconciling mechanisms
20 have a twelve-month period, unless a prior
21 request to keep information older than that
22 twelve-month period has been made, as we are
23 doing here in this docket, and as was done in a
24 Concord Gas case, I think from 1983, that we

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 cited in our briefing to the Division *[sic]*.

2 That's because it can't be that
3 reconciling goes back forever, unless otherwise
4 agreed. And there are instances where agreement
5 has been reached, and an issue has been flagged,
6 and I believe Liberty's cases cited fit into the
7 exceptions. And we've argued that in the brief
8 in that docket as well.

9 So, thank you for the opportunity to
10 make the Department's position clear on the
11 record.

12 CHAIRMAN GOLDNER: Thank you. Attorney
13 Kreis?

14 MR. KREIS: I agree heartily with the
15 position that Ms. Schwarzer just took. I realize
16 that reconciling mechanisms are not considered to
17 be an example of retroactive ratemaking. That's
18 pretty well established.

19 But there have to be limits, because,
20 at some point, they really do become retroactive
21 ratemaking. And, when you start reaching back
22 beyond a year, you run that risk.

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

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 I believe that's all the questions I
2 have for the witnesses. I'll -- Commissioner
3 Chattopadhyay, you have a follow-up?

4 CMSR. CHATTOPADHYAY: Yes. I have a
5 couple of follow-ups.

6 First, with respect to that "one
7 percent cap" issue, maybe it would be helpful to
8 go back and check whether that is a cap, in the
9 sense that you can't recover more than that, or
10 is it a cap which, when breached, the Company is
11 required to come back in and inform us that it's
12 been breached?

13 So, I'm just going back with -- so,
14 that is a clarification-oriented question. So, I
15 would like to --

16 MR. SHEEHAN: Understood.

17 CMSR. CHATTOPADHYAY: Okay.

18 And the other point, I'm going back to
19 now DOE, and I think it's the December 5th
20 technical statement. So, in it, on Bates
21 Page 005, and I think it's Exhibit 18, Table 6.
22 I'll let you first go there.

23 So, for all practical purposes, the
24 rates that are going to go into effect is more or

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 less what Table 6 is capturing, right?

2 And I want to confirm, of course, those
3 are not exactly what the rates would be, given
4 what the Company has, you know, done, in terms of
5 updating the numbers. So, I understand that
6 issue.

7 But, overarchingly, in terms of the
8 impact on rates, Table 6 sort of gives a sense of
9 what's going to happen. And, you know, can you
10 confirm that?

11 And, so, I understand the point about,
12 you know, that the DY5 is interim, and all of
13 that.

14 MS. SCHWARZER: Thank you for the
15 question. I will give you my initial answer, and
16 I will check with our Gas Director as well.

17 This filing, as you'll note in the
18 heading, is without the RDAF. And, so, we
19 anticipate, consistent with the motion we filed
20 that day, that the rates will go into effect, as
21 updated by January 12th, as you mentioned, but
22 with the RDAF. We are no longer seeking to
23 suspend payment of Decoupling Year 3, 4, and 5
24 for RDAF, subject to future review.

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 So, we're not saying they should be
2 found prudent. We wish to continue to conduct
3 discovery and to opine in a future proceeding in
4 this docket.

5 So, this table is not perhaps as
6 accurate with regard to what the proposed figure
7 will be, because it excludes RDAF.

8 Let me check with our Gas Director.

9 CMSR. CHATTOPADHYAY: Well, it actually
10 includes RDAF, Table 6. So, --

11 MS. SCHWARZER: Yes. The second
12 column, correct.

13 CMSR. CHATTOPADHYAY: So, --
14 *[Atty. Schwarzer and Dir. Arif*
15 *conferring .]*

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

18 Yes. The second column that shows the
19 LDAC amount, with the RDAF, if updated with the
20 January 12th filing, is the position the
21 Department supports.

22 CMSR. CHATTOPADHYAY: Okay. So, what
23 follows then is, if you can, can you explain why,
24 for the Residential class, the number is, you

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 know, if I use the numbers that are depicted
2 here, "75.6 percent" higher? The rest of them
3 are still negative. Is there something going on
4 that will help me to reconcile with what's being
5 provided here? So, just give us a -- give me a
6 sense of why so?

7 MS. SCHWARZER: Commissioner, might I
8 ask our Gas Director, Deen Arif, to answer?

9 CMSR. CHATTOPADHYAY: Yes.

10 MS. SCHWARZER: Thank you.

11 DIR. ARIF: Good morning,
12 Commissioners. Thank you for the opportunity to
13 speak.

14 The short answer is "yes." There has
15 been a significant impact on the residential
16 customers. That is what one of our objective of
17 analysis.

18 I respectfully apologize that this has
19 been dragging on, as we all know, for a long
20 time. And the analytics are what we are trying
21 to focus on to determine, in the context of the
22 structure of the revenue decoupling adjustment
23 mechanism that is in place, how it is turning out
24 to be over the years. And which sector is taking

[WITNESS PANEL: Culbertson|Yusuf|Sanborn]

1 the impact, to what extent and what degree, over
2 the years, how things are being changed or
3 changing, is what we're trying to determine.
4 Which is the reason why we have been diligently
5 asking to give us that opportunity to do the
6 analysis and bring it over to the Commission.

7 I believe we can say that we are
8 getting closer to that analysis. Oh, and the
9 analysis is taking into account of the decoupling
10 years, as like the different decoupling years as
11 we are talking about, 3, 4, and now 5.

12 CMSR. CHATTOPADHYAY: Thank you.

13 CHAIRMAN GOLDNER: Anything else from
14 the Commissioners?

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

17 CHAIRMAN GOLDNER: No? Okay. We'll
18 move to Liberty redirect.

19 MR. SHEEHAN: I think we've covered
20 them all. Thank you.

21 CHAIRMAN GOLDNER: Okay. Thank you to
22 the Liberty witnesses. The witnesses are now
23 excused.

24 Are there any objections to the

1 proposed Hearing Exhibits 9 through 21?

2 [No verbal response.]

3 CHAIRMAN GOLDNER: Okay. Hearing none.
4 We'll strike identification and enter them into
5 evidence.

6 I will now invite the parties to make
7 closing statements, beginning with the Department
8 of Energy.

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

11 I'm just mindful that Liberty's counsel
12 informed the Commission that there would be an
13 update to tariff pages. And I wonder if the
14 Commission would like to provide a date at which
15 time you would like to see that or how you would
16 like us to handle that?

17 Could that be the next exhibit?

18 CHAIRMAN GOLDNER: As soon as possible.
19 How does 11:00 a.m. sound? Too soon?

20 MS. SCHWARZER: I have a hearing
21 tomorrow. So, if the Commission might give us
22 for permission of sometime early next week?

23 CHAIRMAN GOLDNER: Okay. Me, too.

24 MS. SCHWARZER: Monday or Tuesday?

1 CHAIRMAN GOLDNER: Let's go with the
2 22nd, close of business on the 22nd, which is
3 Monday.

4 MS. SCHWARZER: Thank you very much.

5 The Department wishes to thank Liberty
6 for its participation and exchange of
7 information. We appreciate the extent that they
8 worked with us.

9 In the opinion of the Department, as
10 you heard through our offers of proof, the
11 proposed LDAC of 0.1986 for the Residential class
12 and 0.0874 for the Commercial/Industrial class is
13 just and reasonable, and in the public interest.

14 We make that statement, subject to an
15 ongoing RDAF review, so that Decoupling Years 3,
16 4, and 5, to the extent included, are contingent.

17 And we ask that the Commission approve
18 those rates subject to next year's LDAC 2025 DOE
19 audit, which will encompass a period from July of
20 2022 through, presumably, to November of 2024
21 with actual data.

22 With regard to our motion filed on
23 December 5th, asking for a contingent status for
24 Decoupling Year 3 [5?], we make an oral motion to

1 extend that to Decoupling Year 3 and 4.

2 And we thank the Commission for its
3 time and attention. Thank you.

4 CHAIRMAN GOLDNER: Thank you. We'll
5 move now to the Office of the Consumer Advocate.

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

7 Like the Department, I believe that the
8 appropriate course of action for the Commission
9 is to issue an order approving the Company's
10 proposed Local Distribution Adjustment Charge, or
11 LDAC.

12 Every time I hear the word
13 "contingent", I get itchy. Not because I don't
14 appreciate the extreme vigilance that the
15 Department has been exercising in previewing the
16 filings and schedules provided by the Company,
17 it's just that the need to keep these
18 reconciliations on the books as "contingent"
19 forms of cost recovery suggest that something
20 needs to be fixed here.

21 And I guess the place to do that is
22 maybe in the Company's rate case. But we got to
23 get this -- we got to get this situation under
24 control, and we're not there yet. And all I can

1 say is, we'll do what we can to get us to the
2 place we need to be.

3 Thank you.

4 CHAIRMAN GOLDNER: Thank you. We'll
5 turn now to the Company.

6 MR. SHEEHAN: Thank you. A few
7 housekeeping matters.

8 With regard to tariff pages, we should
9 have no problem meeting the deadline, if not
10 sooner. We filed the tariff pages in the docket
11 that approved the change, 23-027, and then
12 refiled the exact same document in this docket
13 just last week. My understanding is, any further
14 changes in that are very minor, a few
15 non-material, but important -- not material, but
16 necessary changes.

17 Second, and I flagged this for counsel
18 at the beginning of the hearing, Exhibit 15
19 contains data responses, and one of the data
20 responses that we provided did not redact some
21 customer names. So, I am going to be providing
22 counsel with a redacted version, and we will
23 replace that with Exhibit 15. The names are not
24 material to the data response. And I apologies

1 for that.

2 Third, I think, at one of the hearings
3 last fall, there was a request for us to sort of
4 illustrate what's open with regard to decoupling.
5 And I think we've hinted at it today, but just to
6 make the list. There are three dockets open now
7 that pertain directly to decoupling: 22-041 is
8 the Years 1 and 2, mostly the tariff language
9 issue, that's -- my understanding that's done,
10 except for an order, and I completely understand
11 why the Commission is waiting to maybe wrap these
12 all up together; 22-045, we have a hearing in two
13 weeks, and that's Decoupling Year 4; and then
14 this docket, 076, which is Decoupling Year 5.

15 Decoupling Year 3, the order in that
16 case did specifically approve the RDAF amount in
17 that case. Again, I acknowledge it's always
18 subject to fixes. That was approved prior to the
19 new regime at the Department of Energy. And they
20 have dived in to get themselves up to speed on
21 this mechanism. And it's been a thorough
22 process. And, if what comes out of that process
23 is an adjustment to any of these numbers, again,
24 in my view, reconciling mechanisms are just that.

1 I don't accept the twelve-month limit. And I
2 suspect, if there's a situation where we
3 over-collected, let's say, eighteen months ago,
4 there would be a hot and strong push for us to
5 give that back. But, again, that's not for
6 today.

7 I'd like to -- I completely appreciate
8 the Department's dive into this decoupling
9 mechanism, but just to illustrate what has
10 happened. In the 22-045 case, which was filed
11 approximately eighteen months ago, that's when we
12 first carved off decoupling to its own track.
13 And, in those eighteen months, there has been a
14 huge amount of discovery. Tens of hours of tech
15 sessions and reports, and Mr. Bonner has gotten
16 even more gray hair with all the work he's been
17 doing on this. And I don't mean to say this in a
18 critical way, but there's been a ton of work
19 done. And, as I describe it, because I don't
20 understand it very well, is that the first step
21 is DOE went down a level, to figure out, to
22 understand it. "Okay, now we're good." "Let's
23 go a level deeper", and "a level deeper". And
24 have been going step-by-step, very

1 systematically.

2 And I believe, as I think Dr. Arif just
3 hinted, we're close to the end. We're almost
4 there, if you will. And, so, the hope is that
5 DOE will be able to come to the table and say
6 "we're good", or "not, for this reason".

7 But what I'd like to highlight for
8 today is, to date, there's been -- the process we
9 are following is applying the tariff language,
10 which has a formula. We apply the formula, out
11 comes a number. Those are the numbers that have
12 been in our RDAF filings that the parties are
13 willing to put into rates today, and we
14 appreciate that.

15 A lot of the conversation we've been
16 having behind-the-scenes, in discovery, is "is
17 this the right decoupling mechanism?" Which is a
18 different question. And, if there's an issue
19 with it that it has some built-in bias, one way
20 or the other, that needs to be tweaked, that's a
21 rate case issue. And, again, we're happy to have
22 a conversation, but they may end up with a new
23 adjustment, a change to the mechanism itself to
24 address whatever issues come up.

1 So, and as indicated in some of the --
2 the Commission has been monitoring the discovery
3 responses, and we have been slow on those, and,
4 in part, because those are huge lifts on our end.
5 And, again, I point to Mr. Bonner sitting behind
6 me, some of these new analyzes will take him a
7 week of cranking numbers, so -- and then to fit
8 in with everything else. That's -- it's not been
9 dilatory, it's just been a big lift. And,
10 similarly, for DOE to keep up with it all.

11 So, and last is a -- is sort of a
12 checklist on the audit issues. I think the
13 Commission is aware that, prior to DOE, Audit was
14 seen as an arm of the Commission. And Audit
15 would do their work, would give it to the
16 Commissioners, and it rarely entered the docket.
17 And, so, the Commissioners would read it. And,
18 if it was good, fold it up, put it aside. If
19 there were issues, they might be subject to
20 questions at hearing.

21 But there's a different way now, that
22 the only way that you can see them is for them to
23 be entered into the record. And it has changed
24 the conversation, because it had always been a

1 fairly informal process between the Company and
2 Audit. The auditor would just call up someone
3 like Adam, and work out an issue, and that would
4 be it. And the follow-up would be the same.

5 "Okay. We've got an audit report. Issues 2, 4,
6 and 5, I've asked the Company to do something."
7 There would be a conversation.

8 That still happens. It's partly with
9 regulatory folks, partly with our accounting
10 team. Which is why there's some hesitancy of
11 what might have happened on a particular issue.

12 What I'm hearing, and it's fair, is
13 that that might have to be formalized a bit,
14 to -- so the Commission knows, if Audit said "X",
15 we have done "X". And I appreciate that we --
16 that everyone in the room may need to close those
17 loops more transparently.

18 All of that has nothing to do with what
19 we're asking you to do today. And I think the
20 approach outlined by DOE is acceptable to us,
21 that the Commission approve the rates that we
22 propose, understanding there will be whatever
23 further process the Commission and DOE thinks is
24 appropriate.

1 There is a hearing in two weeks. I
2 don't know how much more ground DOE will make in
3 analyzing our last round of information we
4 provided them a week or two ago. We can take
5 further steps to people saying "we're coming to a
6 final position or not", I guess we'll cross that
7 bridge at the February hearing. If we're not
8 done, that's probably where we'll talk about
9 whatever the next process will be to get to a
10 resolution.

11 So, I appreciate the parties' work on
12 this. Thank you.

13 MS. SCHWARZER: Mr. Chairman?

14 CHAIRMAN GOLDNER: Uh-huh.

15 MS. SCHWARZER: If I might just briefly
16 comment, the Company's closing remarks strayed
17 beyond sort of the subject of this hearing. And,
18 so, while I respect their position, the
19 Department would wish to put on the record that
20 the work we've done on the RDAF is not focused on
21 how to improve it for the purposes of this
22 docket. Certainly, that's a collateral, perhaps,
23 learning opportunity.

24 But we are very much focused on whether

1 the tariff language, as written, including the
2 many business assumptions that cannot be stated
3 in detail, but which the Company chose, are
4 appropriate and consistent with the last
5 settlement agreement.

6 So, I just wish to put that on the
7 record. And thank you for your indulgence.

8 CHAIRMAN GOLDNER: Well, there's
9 probably two things going on. There's the
10 existing RDAF, and then there's the rate case.

11 So, Mr. Sheehan, perhaps you'd like to
12 clarify. But I assume what we're talking about
13 is, in the current rate case that we're operating
14 under, or the settlement that's already been
15 agreed to, we're just -- you're just trying to
16 execute to that existing settlement. And, in the
17 new rate case, there's, of course, discussions
18 going on about how to do things better. Is that
19 what you meant?

20 MR. SHEEHAN: Yes. That a lot of the
21 work that has been done in the framework of these
22 RDAF dockets could lead to a suggestion of how to
23 change the RDAF going forward.

24 But, today, we're applying the RDAF

1 that has been approved, and is in the tariff, and
2 has been there for a couple years now.

3 CHAIRMAN GOLDNER: Thank you. Just a
4 moment.

5 *[Chairman Goldner and Atty. Speidel*
6 *conferring.]*

7 CHAIRMAN GOLDNER: Attorney Speidel is
8 pointing out to me that we're not aware of a
9 hearing in two weeks?

10 MR. SHEEHAN: I caught that, and my
11 bad. It's the electric RDAF that's on for the
12 1st. And it is correct that the 045 docket had
13 hearing dates that have been suspended and have
14 not been rescheduled. So, my apologies.

15 CHAIRMAN GOLDNER: Okay. Does the --
16 while we're all here today, does the Department
17 have any thoughts on how to resolve 22-045, in
18 terms of timing? Do you have a suggestion to the
19 Commission on scheduling a hearing date or
20 anything like that?

21 MS. SCHWARZER: Certainly, if the
22 Commission is interested in the parties filing a
23 proposed schedule, I can touch base with my team
24 with regard to the review of what Liberty has

1 filed, and give you a better, I think, and work
2 with the other parties, to propose something to
3 the Commission.

4 CHAIRMAN GOLDNER: Thank you. Thank
5 you. We are motivated to the OCA's point of
6 taking care of these "hanging chads", to the
7 greatest extent possible, and making things
8 clean.

9 So, okay. Is there anything else that
10 we need to cover today?

11 *[No verbal response.]*

12 CHAIRMAN GOLDNER: All right. Well,
13 I'll thank everybody for their time, and
14 especially the witnesses.

15 We'll take the matter under advisement,
16 and issue an order in advance of the effective
17 date of February 1st. The hearing is adjourned.
18 Thank you.

19 ***(Whereupon the hearing was adjourned***
20 ***at 10:43 a.m.)***