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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

June 5, 2024 - 9:01 a.m.

DAY 2

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. (*Continuation of the hearing held on 01-17-24 regarding the LDAC filing concerning the Revenue Decoupling Adjustment Factor (RDAF) for the 2022 to 2023 RDAF year (Decoupling Year 5).*)

PRESENT:

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

Alexander Speidel, Esq./*PUC Legal Advisor*

Tracey Russo, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities:

Michael J. Sheehan, Esq.

Reptg. Residential Ratepayers:

Donald M. Kreis, Esq., *Consumer Advocate Office of the Consumer Advocate*

Reptg. New Hampshire Dept. of Energy:

Mary E. Schwarzer, Esq.
Paul B. Dexter, Esq., *Legal Director (Regulatory Support Division)*

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

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*Liberty's Tariff No. 11, Docket No. DG 20-105,
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*Direct Testimony of Gregg H. Therrien and
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Exhibit 27B, respectively, in Docket No. DG 17-048*

*Settlement Agreement on Permanent Rates (dated
June 29, 2021) Exhibit 49 in Docket No. DG 20-105
(inclusive of Tariff No. 11, marked separately
above for the convenience of the reader)*

*Direct Testimony of Matthew J. DeCoursey
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*Direct Testimony of Kenneth A. Sosnick
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*Docket No. DG 22-045, Exhibits 37 and 38
(Certain Company responses to DOE data requests)*

*Docket No. DG 22-045, Exhibit 39 (Company responses
to the Commission's Sept. 1, 2023, record requests)*

* * *

E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
22	Supplemental Technical Statement of Faisal Deen Arif & Ashraful Alam, with attachments (04-15-24)	<i>premarked</i>

P R O C E E D I N G

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

6 This is the final review hearing for
7 the Revenue Decoupling Adjustment Factor, or
8 RDAF, for the Liberty-Gas Company in the 2022 to
9 2023 RDAF year as noticed in this docket, DG
10 23-076, in the Commission's procedural order
11 issued on May 13th, 2024.

12 The Company seeks approximately 5.44
13 million through its RDAF for recovery in the 2022
14 to 2023 RDAF year, which is Decoupling Year 5,
15 which commenced on September 1st, 2022, and ended
16 on August 31st, 2023.

17 The DOE recommends in its technical
18 statement, presented by Dr. Arif and Mr. Alam,
19 that this amount be recovered by the Company
20 through its RDAF rates currently in place for the
21 February 1st, 2024, through January 31st, 2025,
22 RDAF rate period, as provisionally approved in
23 this docket, 23-076, for the LDAC component.

24 The DOE also presents a comprehensive

1 series of critiques and recommendations for
2 improvement of the Company's existing RDAF
3 mechanism. While the Commission will give some
4 scope to the DOE to provide oral testimony
5 regarding these recommendations, we have the hope
6 that, as this information has been provided
7 extensively in other related proceedings, we can
8 focus on the recommendations for the 2022 to 2023
9 RDAF rates, and conclude our hearing today at the
10 noon hour, or before.

11 We note that the Company's May 29th,
12 2024, filing of an assented-to Exhibit and
13 Hearing List, which indicates that the Company
14 will call Mr. Bonner and Mr. Culbertson to the
15 stand today, and the Department of Energy will
16 call Dr. Arif and Mr. Alam. The Commission will
17 call the Company and DOE witnesses in separate
18 panels, with a short break likely between the
19 panels.

20 There is also a proposed Exhibit 22,
21 the Supplemental Technical Statement of Dr. Arif
22 and Mr. Alam, filed in this docket on April 16th,
23 2024.

24 We also see a list of nine documents

1 filed in other Commission Liberty-Gas dockets
2 proposed for administrative notice today. We'll
3 ask the parties, when we take appearances, to
4 indicate whether there is any objection to our
5 taking administrative notice of these materials,
6 and to whether there are any objections to the
7 proposed Exhibit 22.

8 If confidential information, pursuant
9 to Puc 201.06(a) is discussed today, please
10 indicate this for the benefit of the Commission
11 and the court reporter.

12 As a matter of general interest, it is
13 the Commission's expectation that we'll be
14 issuing three outstanding Liberty-Gas RDAF
15 orders, in DG 22-041, DG 22-045, and in this
16 docket, DG 23-076, contemporaneously, at some
17 point, following the conclusion of today's
18 hearing. This would put the Company and the
19 parties in good stead for the upcoming new cost
20 of gas season this fall.

21 Okay. We'll now take appearances,
22 beginning with the Company, and if you could
23 address those two questions at the same time.

24 MR. SHEEHAN: Sure. Mike Sheehan, for

1 Liberty Utilities (EnergyNorth Natural Gas).

2 We do not object to the exhibit, and we
3 do not object to administrative notice of those
4 listed items.

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

7 MR. KREIS: Good morning, Mr. Chairman,
8 Commissioner's. I'm Donald Kreis, the Consumer
9 Advocate.

10 We, likewise, have no objection to the
11 proposed administrative notices or the proposed
12 exhibit.

13 CHAIRMAN GOLDNER: Okay. Thank you.
14 And, finally, the New Hampshire Department of
15 Energy?

16 MS. SCHWARZER: Good morning,
17 Commissioners. My name is Mary Schwarzer, here
18 for the Department of Energy. And with me is
19 Legal Director Paul Dexter.

20 We are glad with the admission of the
21 exhibits and the administrative notice.

22 Thank you.

23 CHAIRMAN GOLDNER: Okay. Thank you.

24 Having heard no objections, we'll now

1 take administrative notice of the materials
2 presented in the Company's proposed Exhibit List.

3 *[Administrative notice taken.]*

4 CHAIRMAN GOLDNER: If there are no
5 further preliminary matters, we invite the
6 Company's witnesses to take the stand.

7 MR. SHEEHAN: Sure. They're -- I
8 guess, as a preliminary matter, we weren't sure
9 if they needed to. But, if you want to hear from
10 them, of course.

11 Since the January hearing, we've not
12 filed anything, and there's nothing further to
13 adopt. But, if the Commission has questions,
14 we'll certainly put them up.

15 CHAIRMAN GOLDNER: Yes. We do have
16 some questions, yes.

17 MR. SHEEHAN: Okay.

18 MS. SCHWARZER: Mr. Chairman, out of an
19 abundance of caution, I note that you referenced
20 the April 16th filing date, and that was a
21 refiling. We had originally filed that on
22 April 15th, and there was an error in the docket
23 number with the cover letter. But,
24 substantively, the filing date was not met. And,

[WITNESS PANEL: Culbertson|Bonner]

1 so, if necessary to ask for a waiver, I would ask
2 for one now.

3 CHAIRMAN GOLDNER: Okay. What would
4 the waiver be for?

5 MS. SCHWARZER: It was a day late,
6 because you accepted it, it was refiled at the
7 Commission's request because of the error in the
8 letter, the cover letter docket number.

9 CHAIRMAN GOLDNER: Okay. Yes, it's
10 granted.

11 MS. SCHWARZER: Okay.

12 CHAIRMAN GOLDNER: Thank you.

13 Okay. If the witnesses get settled in,
14 Mr. Patnaude, if you could please swear them in.

15 *(Whereupon **TYLER J. CULBERTSON** and*
16 ***JAMES J. BONNER, JR.**, were duly sworn*
17 *by the Court Reporter.)*

18 CHAIRMAN GOLDNER: Attorney Sheehan.

19 MR. SHEEHAN: Thank you. Since this is
20 a continuation of hearings in this docket, I
21 won't ask for introductions, *et cetera*. But I'll
22 start with you, Mr. Culbertson.

23 **TYLER J. CULBERTSON, SWORN**

24 **JAMES J. BONNER, JR., SWORN**

[WITNESS PANEL: Culbertson|Bonner]

DIRECT EXAMINATION

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BY MR. SHEEHAN:

Q The Chairman accurately relayed the procedural history of this docket. But, to briefly recap, the Company had requested approximately \$5.4 million as the decoupling adjustment for this particular year, and that's what was provisionally approved in the January 31 Order 26,940, is that correct?

A (Culbertson) Yes, that is correct, with the addition of the 3.8 million that we had previously discussed.

Q And that was for the other year?

A (Culbertson) Yes, that's correct.

Q Okay. Since the January hearing and January order, has there been anything further from the Company that would indicate a change in the numbers that we're seeking approval of?

A (Culbertson) No.

Q And do you have anything further to add to your oral or written testimony from January and before?

A (Culbertson) I do not.

Q Thank you. And, Mr. Bonner, to clarify, you did

[WITNESS PANEL: Culbertson|Bonner]

1 not file testimony in this docket, but have made
2 yourself available as -- based on your knowledge
3 of the decoupling mechanism and the calculations
4 supporting our request, is that correct?

5 A (Bonner) Yes. That's correct.

6 Q And do you have anything further to add from
7 prior testimony from January of this year, and,
8 indeed, the testimony we heard in 22-045 just a
9 couple weeks ago?

10 A (Bonner) No, I do not.

11 MR. SHEEHAN: Okay. Thank you. I have
12 nothing further, Mr. Chairman.

13 CHAIRMAN GOLDNER: Okay. Thank you.
14 We'll turn now to the Department of Energy for
15 any questions?

16 MS. SCHWARZER: Thank you. Thank you,
17 Mr. Chairman. Just a question for the panel.

18 **CROSS-EXAMINATION**

19 BY MS. SCHWARZER:

20 Q I believe you identified a decoupling year amount
21 of "\$5,439,023" as the original request, is that
22 correct?

23 A (Culbertson) For Decoupling Year 5, yes.

24 Q For Decoupling Year 5, yes. And, because it's

[WITNESS PANEL: Culbertson|Bonner]

1 been provisionally collected, that total is no
2 longer due, correct?

3 A (Culbertson) Could you clarify what you mean by
4 "no longer due"?

5 Q Sure. I'm just trying to make the point that
6 some of the 5.4 million has been collected to
7 date in the standard docket, because it was
8 provisionally approved?

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

10 MS. SCHWARZER: And thank you. I have
11 no further questions.

12 CHAIRMAN GOLDNER: Okay. We'll turn
13 now to the Office of the Consumer Advocate for
14 any questions?

15 MR. KREIS: I have no questions for the
16 Company's witnesses.

17 CHAIRMAN GOLDNER: Thank you. We'll
18 turn now to Commissioner questions, beginning
19 with Commissioner Simpson.

20 CMSR. SIMPSON: Thank you, Mr.
21 Chairman.

22 Just one question for me. It probably
23 will be one you'd expect, SAP.

24 BY CMSR. SIMPSON:

[WITNESS PANEL: Culbertson|Bonner]

1 Q Any carryover from SAP conversion to Decoupling
2 Year 5, with respect to an adverse impact on RDAF
3 figures in this decoupling year?

4 A (Bonner) No, not that I'm aware of.

5 CMSR. SIMPSON: No further questions.
6 Thank you.

7 CHAIRMAN GOLDNER: We'll turn now to
8 Commissioner Chattopadhyay.

9 CMSR. CHATTOPADHYAY: I do not have any
10 questions.

11 CHAIRMAN GOLDNER: All right. I'll
12 follow up on Commissioner Simpson's question to
13 begin with.

14 BY CHAIRMAN GOLDNER:

15 Q Mr. Bonner, you said that you were not aware of
16 any SAP-related issues. Is anyone else aware of
17 any SAP-related issues in this particular
18 calculation?

19 You said "you were not aware".

20 A (Bonner) Yes. No.

21 Q But that implies others might be aware of --

22 A (Bonner) I understand the question.

23 Q Okay. You're not aware that anyone else is
24 aware --

[WITNESS PANEL: Culbertson|Bonner]

1 A (Bonner) That's correct.

2 Q -- of any problems with SAP? Okay.

3 A (Bonner) That would affect the calculation.

4 Q That would affect the calculation. Thank you.

5 Does Liberty have any objection to the proposed
6 course of action recommended by the Department of
7 Energy for this matter, as it pertains to the
8 rates for the current RDAF rate year of
9 February '24 through January '25?

10 A (Culbertson) No.

11 Q Okay. Thank you. Does Liberty have any response
12 or any comments it would offer relative to the
13 analytical critiques for the RDAF rate design
14 proposed in the DOE technical statements?

15 A (Culbertson) I do not. I do appreciate the work
16 that Dr. Arif put in, and the thoroughness he
17 did.

18 Q Okay. Okay, thank you. And, then, is -- I'm
19 trying to understand the relationship between the
20 request here, Year 5, RDAF Year 5, and the rate
21 case. Will this be -- do you expect this filing
22 now to be the last that the Commission will see
23 before the rate case is -- before the rate case
24 is resolved?

[WITNESS PANEL: Culbertson|Bonner]

1 Or, do you expect to filing an RDAF
2 filing next year?

3 A (Culbertson) I would love for this to be the last
4 RDAF filing before that is resolved. I don't
5 know that it will be. If we come back around to
6 the LDAC filing for EnergyNorth, and the rate
7 case has not been resolved, then there will be
8 another filing, and we'll come forward with the
9 revenue requirements that have been approved.

10 Q Okay. So, if -- because I think the current plan
11 of record is that it will be 2026 before the
12 Department's audit is completed in the rate case.
13 So, we would -- you would expect to see a
14 filing in -- so, we should expect, the
15 Commission, should expect to see a filing in both
16 2025, and potentially 2026, related to RDAF?

17 A (Culbertson) Yes. And another filing in 2024,
18 for effect in '25.

19 Q Yes.

20 A (Culbertson) Yes.

21 Q Thank you. Thank you for the clarification. And
22 does the Company expect to make any further step
23 filings, or have we seen the last step in the
24 current -- for the current rate case, the prior

[WITNESS PANEL: Culbertson|Bonner]

1 rate case, the one that's already been
2 adjudicated?

3 A (Culbertson) I do not believe there are any
4 additional approved step adjustments for the --

5 Q In the Settlement, yes.

6 A (Culbertson) It would -- it would simply be any
7 adjustments to the approved revenue requirement
8 that would impact RDAF.

9 CHAIRMAN GOLDNER: Okay. Okay, thank
10 you. Okay. I think we might want to reserve the
11 ability to recall the witnesses later, depending
12 on what we hear from the Department.

13 But I'll just check with my fellow
14 Commissioners to see if there's any follow-up
15 questions for the Liberty witnesses?

16 CMSR. SIMPSON: No thank you.

17 CMSR. CHATTOPADHYAY: No. Thank you.

18 CHAIRMAN GOLDNER: Okay. We'll move to
19 Liberty for redirect.

20 MR. SHEEHAN: I have none. Thank you.

21 CHAIRMAN GOLDNER: Thank you. Thank
22 you very much. The witnesses are excused for the
23 time being. And we'll move to the DOE witnesses.

24 Okay. When the witnesses get settled

[WITNESS PANEL: Arif|Alam]

1 in, Mr. Patnaude, please swear them in.

2 (Whereupon **FAISAL DEEN ARIF** and
3 **ASHRAFUL ALAM** were duly sworn by the
4 Court Reporter.)

5 CHAIRMAN GOLDNER: Thank you. And,
6 Attorney Schwarzer, you can begin.

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

9 **FAISAL DEEN ARIF, SWORN**

10 **ASHRAFUL ALAM, SWORN**

11 **DIRECT EXAMINATION**

12 BY MS. SCHWARZER:

13 Q If you would each briefly introduce yourselves,
14 you've been testifying here in prior hearings,
15 but just for the record? Thank you.

16 A (Alam) Hi. My name is Ashraful Alam. And I am a
17 Utility Analyst at the Department of Energy.

18 A (Arif) Good morning, Commissioners. Good morning
19 everybody else. My name is Faisal Deen Arif. I
20 am the Director of Gas Division at the Department
21 of Energy.

22 Q And have you filed a supplemental technical
23 statement in this docket?

24 A (Alam) I did.

[WITNESS PANEL: Arif|Alam]

1 A (Arif) We have.

2 Q And could you identify the exhibit by number
3 please?

4 A (Alam) It is Exhibit 22.

5 Q Mr. Alam, are there any corrections or changes
6 you'd like to make to this exhibit?

7 A (Alam) Yes, two small corrections. So, in Bates
8 Page 007, it has a docket number, which is
9 "DG 23-069". It should be "DG 23-067".

10 Q And, Mr. Alam, is that in the last paragraph on
11 Page 7, and if you were to count the lines, --

12 A (Alam) Yes.

13 Q -- would that be four lines from the top of that
14 paragraph?

15 A (Alam) Yes, it is.

16 Q Okay. Thank you.

17 A (Alam) And the second correction is in Bates 016.
18 Footnote 31, it says "Docket Number DG 22-045".
19 It should be "DG 23-067".

20 Q Are you referring to the "instant docket",
21 meaning the docket we are in right now?

22 A (Alam) Yes. Yes.

23 Q So, perhaps, I believe you may have misspoke.
24 Would you mean it should be "23-076"?

{DG 23-076} [RE: LDAC/RDAF - Day 2] {06-05-24}

[WITNESS PANEL: Arif|Alam]

1 A (Alam) Yes. I'm sorry.

2 Q Not at all. Thank you very much for that
3 clarification.

4 Are there any other changes or
5 corrections you wish to make?

6 A (Alam) No.

7 Q And, Dr. Arif, do you agree with those
8 corrections?

9 A (Arif) I do.

10 Q So, let me ask each of you separately, with those
11 changes, do you adopt the supplemental technical
12 statement, Exhibit 22, as your testimony today,
13 your sworn testimony?

14 A (Alam) I do.

15 A (Arif) We do.

16 Q Okay. Thank you. You have each testified in
17 22-045, and we have asked the Commission to take
18 administrative notice of that docket. There are
19 many similarities, in that this is Decoupling
20 Year 5, and the prior docket, 22-045, was
21 Decoupling Year 3 and 4. So, I'm just going to
22 ask you to reiterate the conclusion that you
23 reached, and then I'll turn it over to others for
24 cross and for questions.

[WITNESS PANEL: Arif|Alam]

1 So, Dr. Arif, with the proviso that the
 2 Department does not waive the right in a future
 3 docket to either argue that the RDAF formula in
 4 Tariff 11 is flawed or that it should be
 5 eliminated, and/or that the RDAF tariff clauses
 6 should be modified, does the Department recommend
 7 that the Commission approve Liberty's RDAF
 8 request for Decoupling Year 5 of \$5,439,023, to
 9 be recovered through the 2023-2024 LDAC?

10 A (Arif) Yes, the Department does.

11 Q Thank you. And, Mr. Alam, you agree with that?

12 A (Alam) I do.

13 MS. SCHWARZER: I have nothing further.
 14 Thank you.

15 CHAIRMAN GOLDNER: Okay. Thank you.
 16 We'll turn now to the Company for
 17 cross?

18 MR. SHEEHAN: Thank you. Just one
 19 question, feeding off what Ms. Schwarzer just
 20 asked you.

CROSS-EXAMINATION

22 BY MR. SHEEHAN:

23 Q The comment that "notwithstanding the tariff may
 24 be flawed or needs to be modified", my question

[WITNESS PANEL: Arif|Alam]

1 for you is, as the tariff is in place and
2 approved now, your testimony is that the
3 calculation was done properly?

4 A (Arif) Yes.

5 Q And you certainly have opinions of maybe how we
6 could change the tariff and decoupling, but that
7 does not affect the current calculation?

8 A (Arif) The short answer is "yes", which is why we
9 have recommended the collection.

10 Q Right.

11 A (Arif) But that does not obliterate the issues
12 that we have raised. I just wanted to, for the
13 record, I wanted to make it very clear.

14 MR. SHEEHAN: Understood. Thank you.
15 That's all I have.

16 CHAIRMAN GOLDNER: Thank you. We'll
17 turn now to the Office of the Consumer Advocate.

18 MR. KREIS: Thank you.

19 Mr. Chairman, you did me the favor of
20 raising an issue that is of concern to the OCA.
21 So, I'd like to ask the witnesses a couple of
22 more questions about that issue.

23 BY MR. KREIS:

24 Q First of all, let me just say to the witnesses,

[WITNESS PANEL: Arif|Alam]

1 thank you for your excellent work. I've read
2 Exhibit 22, it's thorough and robust, and
3 interesting. Your observation at Section 5.9 --
4 or, excuse me, 5.8 of that document, describes
5 what you characterize as "multiple
6 misalignments". And, you know, you offered a
7 very detailed explanation of what those
8 misalignments are.

9 But would it be fair to say that the
10 gist of what you're really saying, when you refer
11 to "multiple misalignments", is that the design
12 of the decoupling mechanism is flawed in a manner
13 that favors shareholders over customers?

14 Would that be a fair inference to draw
15 from your analysis about "multiple
16 misalignments"?

17 A (Arif) If I may seek a little bit of
18 clarification, what exactly did you mean by -- I
19 missed the word that you were referring to in
20 connection with the "shareholders" versus the
21 "ratepayers"?

22 Q Well, that my question was, is your diagnosis of
23 what you described as "multiple misalignments",
24 essentially a conclusion from you that the RDAF

[WITNESS PANEL: Arif|Alam]

1 mechanism is flawed in a way that favors
2 shareholders over customers?

3 A (Arif) Attorney Kreis, with all due respect, I
4 wouldn't characterize it that way. I think the
5 Company, in our testimony what we're observing is
6 by saying the "misalignment", is essentially
7 referring to the fact that the -- as it is
8 crafted and exhibited now, in terms of the
9 overall mechanism of RDAF, it only takes into
10 account of the revenue side of things, without
11 taking any account of the cost side of things,
12 which creates the misalignment.

13 Whether it is favoring one party or the
14 other, that would be a judgment. We are not --
15 we're not weighing on that judgment. We're,
16 basically, observing the facts as they are at
17 this point in time, and identifying the anomalies
18 that, in the view of the Department, needs to be
19 accounted going into the future.

20 Q And the facts as they are, are they not, is --
21 are that there is a massive transfer of wealth
22 occurring here from customers to shareholders?

23 A (Arif) I think that is true. And that's probably
24 also true between the sectors, Residential versus

[WITNESS PANEL: Arif|Alam]

1 C&I, as well.

2 Q Meaning, I want to clarify what you just said,
3 between the -- you mean there's a wealth transfer
4 from residential customers to C&I customers?

5 A (Arif) It could be. We have raised that concern,
6 but we have not substantively done any work to
7 ascertain that. But that is entirely a
8 possibility, given the current structure of the
9 RDAF as it sits now.

10 Q Right. And, so, therefore, to cut to the chase,
11 meaning the end of your document, your opinion is
12 that the -- you said "the Department reluctantly
13 recommends that the Commission approve the RDAF
14 request of about \$5.4 million to be recovered in
15 connection with Decoupling Year 5."

16 But you also said, if I'm understanding
17 your memorandum correctly, that the "RDAF
18 mechanism itself is not just and reasonable."
19 That's your opinion, is it not?

20 A (Arif) With all due respect, Attorney Kreis, I'm
21 not an attorney, I'm not trained as such. I do
22 not want to weigh onto the intent and meaning
23 and, substantively speaking, what is the legal
24 interpretation of "just and reasonable" in this

[WITNESS PANEL: Arif|Alam]

1 context.

2 We are doing analytical work. We have
3 done that. And we have informed the Commission
4 and everybody else, accordingly, on that.

5 So, whether it's "just and reasonable"
6 from the perspective of law, I have -- or, we
7 have no opinion on that.

8 Q Okay. Decoupling Year 5 runs through August of
9 2023, true?

10 A (Arif) August 31st, 2023, yes.

11 Q So, therefore, Decoupling Year 6, if it happens,
12 would run through August of 2024? I guess it's
13 not really an "if", but "when".

14 A (Arif) August 31st, 2024. That is my
15 understanding, yes.

16 Q And, given the schedule that we're contemplating
17 for the Gas rate case, there will likely be a
18 Decoupling Year 7, which would end at the end of
19 August of 2025, true?

20 A (Arif) That is correct.

21 Q And we're likely to see a Decoupling Year 8,
22 which would run through August of 2026, correct?

23 A (Arif) If it continues, yes.

24 Q Are you content with seeing such a flawed revenue

[WITNESS PANEL: Arif|Alam]

1 decoupling mechanism continue for another three
2 decoupling years? As an analyst, not a lawyer?

3 A (Arif) As an analyst, or if we surmise the
4 substantive arguments placed into our technical
5 statement, it would be suffice to say that we
6 will not be content.

7 MR. KREIS: Thank you. Those are all
8 the questions I have. Thank you, Mr. Arif.

9 WITNESS ARIF: Thank you.

10 CHAIRMAN GOLDNER: Thank you. We'll
11 turn now to Commissioner questions, beginning
12 with Commissioner Simpson.

13 CMSR. SIMPSON: Thank you, Mr.
14 Chairman.

15 Thank you both for your technical
16 statement. I found it thorough, and very
17 interesting and informative as well.

18 BY CMSR. SIMPSON:

19 Q I want to start with your recommendation -- or,
20 pardon me, I'll correct that, your observation in
21 Section 5, 5.5. You describe the revenue impact
22 of the decoupling structure on revenues above
23 authorized level. Could you talk me through this
24 observation please?

[WITNESS PANEL: Arif|Alam]

1 A (Arif) In that section -- thank you for the
2 question, Commissioner Simpson. In that section,
3 what we were trying to do is to give a comparison
4 between what the level of revenue that was
5 approved in the Company's last rate case, in DG
6 20-105, and in light of all other factors, like
7 customer growth, and the fall in the Usage Per
8 Customer, UPC, and all other factors that may
9 have contributed to the increasing decoupling
10 revenue ask year-over-year.

11 We were trying to analyze that, and
12 then juxtapose that with the rest of the
13 scenario, in terms of the overall revenue for the
14 Company year-over-year, and how -- how much of a
15 difference we can observe year-over-year from
16 what was originally approved in DG 20-105.

17 I would like to emphasize on the fact
18 that the point that we were trying to get across
19 is the fact that, in the current design of the
20 Revenue Per Customer structure, that *de facto*
21 does not put any limit into the earning -- or,
22 the revenue that the Company can earn
23 year-over-year.

24 If the Commission intended or that was

[WITNESS PANEL: Arif|Alam]

1 the intention of the RDAF design or not, I have
2 no knowledge of that. Hence, we have just made a
3 comparison to bring it over to the attention of
4 the Commission and everyone else.

5 Q Okay. Thank you for that clarification. And, if
6 we continue into Observation 5.8, you have
7 several subsections there. In the first section,
8 in Section (a), you say that "Simply put, the RPC
9 is the revenue requirement divided by the number
10 of customers in existence since 2019. As such,
11 all utility costs inclusive of planned
12 redundancies are inherently included in the
13 approved revenue requirements. The use of RPC
14 beyond the test year, therefore, assumes that all
15 of those costs are instantly incurred with the
16 addition of a marginal customer."

17 Could you further explain that for us
18 please?

19 A (Arif) Sure. So, this is our understanding that,
20 when a rate case ensues, that takes into account
21 of the current or, at the time of, the financial
22 health of the company, the investments it has had
23 thus far, how much of that went into the rate
24 base, how much needs to be included, so that a

[WITNESS PANEL: Arif|Alam]

1 fair return in the judgment of the PUC, whatever
2 PUC approves, is being accorded to be earned by
3 the shareholders and all of that.

4 Which inherently takes into account of
5 all things, both from the revenue side and the
6 cost side of things, put together, and identify
7 one specific number, which is the revenue
8 requirement.

9 So, that, by construction, takes into
10 account of the investments that has been made by
11 the Company up to that point in time, so long as
12 an order is issued recognizing all of those
13 facts, that essentially gives approval and
14 legitimacy from the point of view of law, to a
15 fair return in the judgment of the PUC to the
16 Company. So, when we take that number, and any
17 follow-up mechanism like step adjustments, we
18 have given an authorization for the Company, and
19 recognition thereof of the cost side of things as
20 well.

21 Now, what is interesting is to look
22 into the overall cost, and what makes up that
23 cost structure, which took us, essentially, to
24 the Marginal Cost Study, as we have also tried to

[WITNESS PANEL: Arif|Alam]

1 capture in our technical statement. Wherein we
2 have identified that, or we observed that 53
3 percent, "52.8 percent", of the cost is related
4 to customer, and the remaining is related to
5 capacity. These were lifted directly from the
6 Company's last Marginal Cost Study as submitted
7 in DG 20-105.

8 Which basically tells us that going
9 forward, beyond that point of recognition and
10 approval in the rate case, if the Company finds
11 one additional customer, or "the marginal
12 customer", then the customer-related cost could
13 be argued to be instantaneous, meaning that they
14 need to incur more cost to serve that additional
15 customer.

16 But capacity-related costs, which
17 constitutes roughly about 47 percent here, that
18 capacity-related cost should have already been
19 taken into account by the fact that planned
20 redundancy or excess capacity or design-day
21 capacity, whichever way we want to say, I'm using
22 them synonymously, has some planned redundancies,
23 and that is exhibited in the "lumpiness", as we
24 called it, of the utility business model. It is

[WITNESS PANEL: Arif|Alam]

1 lumpy because I'm just now not referring to any
2 numbers here, I'm just constructing a number,
3 let's say we have ten customers, up to ten
4 customers, there is no need for any additional
5 investment to be made to serve up to that tenth
6 customer.

7 But the whole point of that lumpiness
8 is that, as soon as the eleventh customer comes
9 into play, then there is another lump of
10 investment is needed to serve those additional
11 customers, maybe up to the next, let's say,
12 twenty. So, this "lumpiness" of the utility
13 investment, in addition to the -- in addition to
14 the planned redundancies, makes it difficult to
15 ascertain whether the additional customer,
16 whether it's the eleventh or the seventh
17 customer, to what degree there was capacity
18 related additional expenses that was incurred by
19 the Company to serve that marginal customer.

20 That is why we kept on saying that we
21 have no mechanism currently in place to get the
22 cost side of information into account, to
23 basically put the costs and the revenue
24 side-by-side to ascertain whether the ask is

[WITNESS PANEL: Arif|Alam]

1 reasonable or not, and whether the ask is fairly
2 or unfairly compensating either the ratepayers or
3 the Company. We just made that observation based
4 on that overall structure I just explained to
5 you, if that's helpful?

6 Q Yes, it is. And do you have any sense of the
7 magnitude of that potential variation of
8 improperly compensating either the customers or
9 the Company? Do you have any sense of what order
10 of magnitude that represents?

11 A (Arif) At this point in time, the short answer
12 would be "no." And, if I may expand, if you
13 allow me?

14 Q Please.

15 A (Arif) I think that that "no" is what we have
16 experienced. We have experienced some
17 limitations by the very structure of the RDAF
18 design, as well as as it is enshrined in
19 different pieces of rules or law.

20 Because we did not have any scope, so
21 we felt, in terms of asking the Company to
22 provide cost-related information, and therefore
23 we could not make that determination.

24 Q Okay. And, then, the final question I'd like to

[WITNESS PANEL: Arif|Alam]

1 inquire about is, in relation to Bates Page 016,
2 Section (e), and you mentioned this in your
3 testimony a few moments ago, about the shift
4 cross-subsidization between sectors, namely
5 Residential versus C&I.

6 Can you further elaborate on how price
7 responsiveness is the main criterion that you
8 describe here, with respect to
9 cross-subsidization between those two customer
10 types?

11 A (Arif) Sure. When it comes to the price
12 responsiveness, that is particularly troubling.
13 And I say "troubling" in the sense of one needs
14 to validate a number of things, in terms of
15 whether -- which sector the customer is residing
16 in, what's the nature of that sector, what has
17 been, frankly speaking, other macroeconomic
18 influence to that extent.

19 If I may, I may be allowed to refer to
20 Commissioner Chattopadhyay in another proceeding,
21 earlier on he has made an observation, and,
22 Commissioner Chattopadhyay, please correct me if
23 I misspeak, he has correctly identified that we
24 should have or could have taken the real impact

[WITNESS PANEL: Arif|Alam]

1 of prices, as opposed to the nominal impact of
2 prices, taken that into account and accepting
3 that observation.

4 Going back to the price responsiveness,
5 what we were trying to ascertain here, without
6 much success, that the nature of the C&I sector
7 is such that the price responsiveness would be
8 lower, relative to the Residential sector. In
9 other words, what we're saying, if the prices are
10 going up, in real terms, we have not done that,
11 it's nominal terms that we have observed here, if
12 the prices, in real terms, are going up, the
13 residential customers would be responding to by
14 proportionally decreasing their usage of that
15 product faster than the C&I sector would.

16 Q Hmm.

17 A (Arif) So, we, because C&I sector is driven by
18 other business phenomenon, which does not
19 necessarily allow them to adjust quickly or
20 relatively in a quicker manner. That, what we
21 were trying to understand, and what could
22 potentially be the impact, not just as a whole
23 for the Company, with both sectors taken
24 together, but the variation between the two, and

[WITNESS PANEL: Arif|Alam]

1 trying to understand the responsiveness of that,
2 vis-a-vis the request that has been put in by the
3 Company for each of those individual sectors.

4 Is there any potential
5 cross-subsidization that is occurring? Could be.
6 But we could not take the quality and the
7 quantity of the data and the scope of asking
8 those information beyond what we have presented
9 over here.

10 CMSR. SIMPSON: Thank you for that,
11 Dr. Arif. I appreciate that explanation.

12 Probably, this is about as good a time
13 as any to transition over to Commissioner
14 Chattopadhyay, because I'm sure he will have a
15 question or two.

16 I'm all set at this time, Mr. Chairman.
17 Thank you.

18 CHAIRMAN GOLDNER: Commissioner
19 Chattopadhyay.

20 CMSR. CHATTOPADHYAY: Yes.

21 BY CMSR. CHATTOPADHYAY:

22 Q First, respectfully, I would point out that I
23 don't consider the -- at least the price
24 responsive piece to be done thoroughly. So, I

[WITNESS PANEL: Arif|Alam]

1 will -- I don't think the analysis was done
2 thoroughly enough. So, I have already pointed
3 out, like you said, the point about nominal
4 versus real prices.

5 There's also the fact that the total
6 therms were not normalized weather -- were not
7 weather-normalized. They were whatever they
8 were, and you used that. So, it's very important
9 to use the heating degree days on the right-hand
10 side. And I'm going technical here, but I cannot
11 avoid it, like, the analysis isn't good enough,
12 as far as the price responsiveness piece is
13 concerned. You can see that from the attachments
14 itself, the model 3.1, 3.2, 3.3, you got, at
15 least this time around, for 076, you did get two
16 price elasticities that were negative, and one
17 was positive. But all of them were -- they had T
18 statistics that were not good.

19 *[Court reporter interruption.]*

20 BY CMSR. CHATTOPADHYAY:

21 Q All of them had T statistics that were not
22 good.

23 Having said that, I think it's really
24 about conducting that analysis more thoroughly

[WITNESS PANEL: Arif|Alam]

1 going forward. But it doesn't -- so, what I'm
2 pointing out, respectfully, is, that I do not
3 give a lot of weight to that. But, eventually,
4 the recommendation that you have still holds.
5 So, I'm all set with that.

6 I will like to probe a little bit on
7 the issue of "capacity redundancy". What do you
8 really mean by "capacity redundancy"?

9 A (Arif) So, when the utility system is designed,
10 it is designed keeping the design-day capacity in
11 mind, because in -- in utility's own
12 understanding of the demand-side of things, they
13 would like to, that is our understanding, they
14 would like to respond to the highest level of
15 capacity they can envision at a given point in
16 time to be able to reliably serve the customers.
17 That's what we meant.

18 Q So, that is part of the planning? So, capacity
19 redundancy is part of the planning?

20 A (Arif) That is true.

21 Q Do you agree that, if there are additional
22 customers coming in, that the design-day
23 requirement will change?

24 A (Arif) To some degree, yes.

[WITNESS PANEL: Arif|Alam]

1 Q What do you mean by "to some degree"?

2 A (Arif) That has to take into account of the
3 lumpiness of the investment decisions and design
4 as well. So, what I'm saying is that it is not
5 smooth, it is not continuous. It can -- it can
6 be made continuous. But reality is that this is
7 lumpy in nature.

8 Q You were talking about marginal cost, the cost of
9 service study, which is based on marginal costs.
10 Have you checked whether the redundancy issue,
11 meaning when there are more customers, the
12 design-day requirement changes, and therefore
13 might need more capacity? Have you probed that
14 fully?

15 A (Arif) We felt restricted not to have --
16 *[Court reporter interruption.]*
17 WITNESS ARIF: Sorry.

18 **BY THE WITNESS:**

19 A (Arif) We felt restricted not to have the scope
20 within the current structure and design and
21 context from both legal perspective, as well as
22 the way it is captured now, to have those
23 information available to us.

24 BY CMSR. CHATTOPADHYAY:

[WITNESS PANEL: Arif|Alam]

1 Q Is it possible that, when you add a customer, the
2 modeling that was done would also tell you that
3 there is a need for extra capacity redundancy?

4 A (Arif) That is entirely possible.

5 Q But what you are confirming is that you don't
6 know for sure how that played out, if at all?

7 A (Arif) You are correct, Commissioner
8 Chattopadhyay, because we did not have, frankly
9 speaking, the cost side of things. These are all
10 cost side of the equation, and we had almost next
11 to none information on that.

12 Q So, this is just a comment. Really, when folks
13 do rate design, and the lever or the effort is to
14 use marginal cost to conduct that analysis, there
15 is a possibility that you may even have a measure
16 of a marginal cost associated with additional
17 capacity redundancy.

18 And though we are not sure whether that
19 was properly reflected, subject to your point
20 about lumpiness, that is -- that is a model we
21 can perhaps pick that up, correct, if it was done
22 correctly?

23 A (Arif) With appropriate information and available
24 information, absolutely.

[WITNESS PANEL: Arif|Alam]

1 Q Okay. So, I just -- so, I just wanted to make
2 that point. So, it's like, when you start
3 dividing 53, 47, you know, there is -- still that
4 is subject to a lot of other things not having
5 been examined?

6 A (Arif) That is correct.

7 CMSR. CHATTOPADHYAY: Okay. I think I
8 have covered my concerns about the price
9 responsive analysis already in my initial setting
10 up of my questions.

11 So, that is all I have for now. Thank
12 you.

13 WITNESS ARIF: Commissioner
14 Chattopadhyay, on the price responsiveness, if --
15 I have one more thought, if you allow me to?

16 CMSR. CHATTOPADHYAY: Sure. Please.

17 WITNESS ARIF: You mentioned about the
18 "heating degree days". We understand that that
19 plays a role. Hence, the information is
20 independently available, in terms of the heating
21 degree days, what it means and whatnot.

22 The point that we also observed is that
23 the heating degree days impact, in terms of the
24 normalization process, is significant. Not in

[WITNESS PANEL: Arif|Alam]

1 the sense of statistical significance, but in the
2 sense of the role it plays and the importance
3 thereof.

4 We also observed that, with other
5 factors, like improvement in building codes, the
6 requirement of 65 degrees being fixed, and the
7 average 30-year temperature, with all other
8 trends, both from the climate perspective or the
9 other improvements, such as building codes and
10 whatnot, does play a role, and that cannot be
11 ignored, and should not be ignored. Those come
12 into play perhaps in the context of a newer rate
13 case and whatnot. I'm just making those
14 observations because you made some comments about
15 that.

16 And the nature of the data being
17 weather-normalized or not, on that particular
18 one, we did probe with the Company whether the
19 data is weather-normalized or not. As you have
20 correctly identified, that is the response we
21 got.

22 It is our understanding that the
23 Company either does not have the capacity to
24 normalize all of those information and provide it

[WITNESS PANEL: Arif|Alam]

1 to us, or we simply did not have it in the
2 primary and raw data, both. And I distinguish
3 between raw data versus the primary data, the
4 distinction being the raw data is what the
5 Company uses to generate its data, and what we
6 receive is often the primary data that the
7 Company has generated and provided to us.

8 So, when we had access to both, and to
9 certain degrees here, and we observed that the
10 information that we ended up using, not by
11 choosing that that was not weather-normalized,
12 that was just as it was presented to us.

13 CMSR. CHATTOPADHYAY: And since you
14 went where you just went, I think that is -- my
15 point is that heating degree days is an important
16 variable, you need to capture it when you're
17 talking about total therms that is not
18 normalized -- that is not weather-normalized.
19 So, that should be part of the reconciled
20 variable. So, I'm observing as, you know, given
21 my technical knowledge.

22 The important point is this: When the
23 weather changes, and it's really cold, it's not
24 like people are going to be saying "You know

[WITNESS PANEL: Arif|Alam]

1 what, I still need to only worry about prices."
2 You have to think about, ultimately, you're using
3 gas for something else, as heating. And heating,
4 that is a product that -- that is what you're
5 really targeting as a customer. And, when it's
6 extremely cold, you view the purchase of gas very
7 differently than you would otherwise, and therein
8 it's important to use -- or, recognize that
9 heating degree days is a useful control variable
10 when you are trying to figure out what the price
11 responsiveness is.

12 Generally, I would expect, in the U.S.,
13 I mean, I've done some analysis in other places,
14 the responsiveness is pretty inelastic, okay.
15 And you were getting the numbers here, but,
16 obviously, given that you were getting positive
17 numbers, it didn't provide me any assurance that
18 you've done it correctly.

19 So -- but that was the point I was
20 trying to make. I think I would stop here.
21 Thank you.

22 WITNESS ARIF: Thank you, Commissioner
23 Chattopadhyay. My only response is we are
24 limited by the data and information that we have.

[WITNESS PANEL: Arif|Alam]

1 We understood the necessity of everything, and I
2 completely agree with what you are saying. We
3 were -- we felt nonetheless restricted by the
4 available information that we have -- that we
5 had.

6 Thank you.

7 CHAIRMAN GOLDNER: Okay.

8 BY CHAIRMAN GOLDNER:

9 Q If you can turn to Exhibit 22, Page 14, Bates 014
10 please.

11 A (Arif) Chairman Goldner, I'm there.

12 Q Thank you. And, in the table, you summarize that
13 DY5 has a 93.1 million in approved revenue, is
14 that right?

15 A (Arif) That is correct.

16 Q And, then, the total revenue in DY5 is actually
17 101.5, including the 5.4 million RDAF request,
18 for a total of 8.3 million in revenues above the
19 approved revenue requirement, is that right?

20 A (Arif) That is correct.

21 Q So, if we turn to Page 17 of Exhibit 22?

22 A (Arif) I'm there, Chairman Goldner.

23 Q Thank you. The Department says, and I'm
24 reading -- I'll just read into the record what

[WITNESS PANEL: Arif|Alam]

1 5.9 says. It says: "Based on the above and in
2 the absence of demonstration of additional (and
3 verifiable) costs incurred by Liberty to serve
4 new customers, any amounts [above] the approved
5 revenue requirement would not be just, reasonable
6 and in the public interest."

7 So, what I'm looking for is, can you
8 square the fact that total revenues, including
9 the 5.4 million RDAF recovery, are 8.3 million
10 above the approved revenue, while you state that
11 any amount above the approved revenue would not
12 be just and reasonable and in the public
13 interest, but still recommend 5.4 million RDAF
14 for approval? So, I'm not following.

15 A (Arif) Thank you, Chairman Goldner, for that
16 question. That was the perhaps most difficult
17 aspect that we, as Department of Energy, was
18 trying to reconcile with. You have absolutely
19 correctly put the -- read it out. Our emphasis
20 was actually put on the sentence right at the
21 top, "in the absence of demonstration of
22 additional (and verifiable)", within brackets,
23 "costs incurred by Liberty". We were putting
24 emphasis on that, and rest of the sentence is in

[WITNESS PANEL: Arif|Alam]

1 relation to that, which goes back to what I
2 originally, at the beginning of this testimony,
3 said, that we had no cost information. If we do
4 not have that information, we, based on that
5 observation, we decided to stick to the fact, and
6 put it within that context of that fact.

7 If we are to say that it is "just,
8 reasonable and in the public interest", we need
9 to have all of those facts in order for us to get
10 to that assertion. We simply could not.

11 And that's -- but going back to your
12 second question, why the Department, and I'm just
13 paraphrasing, recommended nonetheless this
14 collection, is because that is the current status
15 of the law. We followed the law. The law says,
16 in a very prescriptive way in the tariff, which
17 has, in my understanding, and, again, I may be
18 misspeaking, I'm not a lawyer, but tariff has the
19 weight of the law. And the tariff says the
20 Company is supposed to be calculating a certain
21 way, the tariff only focuses on the revenue side
22 of things, does not put any attention, at least
23 in our reading of the tariff as it stands now, on
24 the cost side of things. And we felt restricted

[WITNESS PANEL: Arif|Alam]

1 that that's what we have to follow, and we
2 followed that. If that answers your question?

3 Q Yes. So, the calculation that was put in place
4 in the Settlement yielded a number, 5.4 million
5 in this case. What if it would have calculated
6 to 50 million, or 500 million, or 5 billion? At
7 what point would the Department say "No, it's not
8 reasonable"?

9 A (Arif) Chairman Goldner, the magnitude of your
10 example, be it hypothetical, is very varied.
11 So, in recognition of that, I think there would
12 come to a point for everybody to probably put
13 their minds together at that point in time,
14 whatever that magnitude, if it is 5 billion, or
15 5 million, or 50. There would come a point where
16 everybody would put enough attention and try to
17 see why things are as they are, and why the
18 Department is recommending.

19 But, taking that into account, what we
20 ended up doing in this particular docket is
21 following the law, which gives, in Department's
22 view, the right to the Company, based on the
23 tariff, to collect what they have, they are set
24 out to do. And, in our view, the Company has

[WITNESS PANEL: Arif|Alam]

1 correctly calculated all of those, which is why
2 we recommended the collection -- or, ongoing
3 collection, I should say.

4 Q Yes. It's almost like, I mean, I'm going to go
5 back to 5.9, which says: "Based on the above, in
6 absence", as you pointed out, "of demonstration
7 of additional (and verifiable) costs", it's like
8 the Department is saying that "We're going to
9 take", I'll just make it a linear equation, " $x +$
10 $y = z$, but we don't know what y is, but please
11 trust us that z is correct."

12 But I don't know how to get
13 comfortable, when we talk about "the absence of
14 demonstration of additional (and verifiable)
15 costs", that the calculation is then correct?

16 A (Arif) You are, I have to say, you are correct,
17 Chairman Goldner, in your assessment and your
18 assertion.

19 I would, respectfully, also bring the
20 flip-side of that understanding into this
21 picture. It could be that, if we had all of
22 those information, the Company is allowed to
23 collect 15 million, and should that come to pass,
24 would it be unreasonable to recommend that a

[WITNESS PANEL: Arif|Alam]

1 noncollection on the part of the Company, knowing
2 fully that it probably would be hurting the
3 Company, the Department, in its obligation, has
4 an obligation to balance the -- balance multiple
5 factors, including the wellbeing of the company,
6 as for the ratepayers, and all other parties
7 involved. And we simply -- the recommendation
8 that you see before us is a simple reflection of
9 that balancing act in the judgment of the
10 Department.

11 Q Okay. And you may have explained this earlier,
12 and I just didn't understand. But, when you talk
13 about "the absence of demonstration of additional
14 (and verifiable) costs", is that something that
15 you asked the Company for and they didn't
16 provide? Is that something that doesn't exist in
17 reality? What is it -- what is it that's
18 missing?

19 A (Arif) I think a combination thereof, I would
20 say, in a loose term. And, if I have to qualify,
21 I would say that what you see before us is months
22 of very active and diligent work. We started off
23 from conceptually understanding the whole
24 equation or whole setup, the Revenue Per Customer

[WITNESS PANEL: Arif|Alam]

1 structure of RPC, what it means for the Company,
2 what it means for the ratepayers. Then, develop
3 a framework to capture all relevant factors into
4 one, to observe analytically what could be
5 working well, where could be the missing
6 information and whatnot, where, and we are -- and
7 I have to, for the record, respectfully
8 acknowledge the lengthy time period that's been
9 provided, maybe that's the work of the proceeding
10 overall, but that certainly helped. It helped to
11 engage with the Company. The Company was
12 forthcoming.

13 And, then, we continually weighed the
14 scope of what the current law allows us to do.
15 And we, frankly, found that there was no scope
16 for asking these additional information.

17 When we are saying this, we are also
18 recognizing that the Company was forthcoming in
19 providing the information, for what we have asked
20 for. And we appreciate that on the part of the
21 Company.

22 But that does not take away the fact
23 that this additional cost-related information
24 that I'm referring to, particularly the

[WITNESS PANEL: Arif|Alam]

1 capacity-related cost, it may sound simple, but
2 those are significant amount of information that
3 would need perhaps, this is our understanding,
4 without any basis, but you can ask the Company
5 and they would be providing that to you, I'm
6 pretty sure, that that would be also some
7 significant undertaking on the part of the
8 Company.

9 Whether it is significant or not,
10 whether we end up having it or not, we simply
11 recognize that there was no scope. And, in the
12 absence of not having that information, what we
13 tried to do in our technical statement is to
14 bring that, that understanding, into -- to the
15 fore, to bring it to the Commission, in order for
16 us to do a thorough and more comprehensive work
17 around revenue decoupling structure in general.

18 CHAIRMAN GOLDNER: Thank you. Thank
19 you.

20 So, I would ask, from each of the legal
21 teams, the three parties, would be, in closing,
22 to talk about how you see this RDAF issue moving
23 forward. That is, future years, we talked about
24 there being three, or perhaps even more years,

[WITNESS PANEL: Arif|Alam]

1 that are potentially in play here. And, in light
2 of what we've seen, which is a divergence from
3 the approved authorized revenue, that is a
4 concern, I think, that was shared today, this
5 perhaps cross-subsidization between residential
6 and C&I customers that we talked about today.
7 So, future proceedings are somewhat puzzling,
8 given that we have a decoupling formula that
9 appears to be, that the Department represents, is
10 not working as intended.

11 So, I'd like to understand what the
12 parties believe we should be doing in future
13 dockets in handling this RDAF, in closing please.

14 BY CHAIRMAN GOLDNER:

15 Q So, I'd still like to go over one more topic that
16 was -- that I'd like to get the Department's
17 comment on. So, does the Department have
18 complete confidence that the RDAF Decoupling
19 Year 5 calculations presented by the Company are
20 not adversely affected by the SAP conversion
21 process, which is believed to have been impacted,
22 based on the Department's testimony in other
23 dockets, billing determinants, receivables data,
24 and other aspects, that could be of relevance in

[WITNESS PANEL: Arif|Alam]

1 the RDAF calculations, starting with the live
2 October date of SAP in 2022, that overlaps with
3 this decoupling year, that went from September
4 '22 to August '23?

5 So, I, for one, am puzzled as to how
6 SAP, which the Department has represented is
7 causing problems in the rate case, relative to
8 billing determinants, *et cetera*, does not affect
9 the data we're looking at here today?

10 A (Arif) Thank you, Chairman Goldner, again, for
11 that excellent question.

12 If I may respectfully go over to the
13 Bates Page 007 of Exhibit 22. And I'm looking at
14 the very last paragraph on that page.

15 Q I'm there.

16 A (Arif) And I'm reading the third sentence on that
17 paragraph, which starts with "While comparing
18 between Decoupling Year 5 class-level information
19 with that of Decoupling Year 3 and 4 data, the
20 Department observed some anomalies but could not
21 determine if those were generated due to any
22 methodological shifts pertaining to the SAP
23 implementation. It was intriguing, however, to
24 observe that while the year-over-year decline

[WITNESS PANEL: Arif|Alam]

1 since Test Year 2019 in the Usage Per Customer
2 value up to Decoupling Year 4 was 3.5 percent,
3 the inclusion of the Decoupling Year 5 data
4 augments this decline to 4.4 percent", within
5 parentheses, "(that is a full 1.1 percent
6 **year-over-year**", emphasis added, "decline due to
7 inclusion of the Decoupling Year 5 data)."

8 We wanted to be specific, in terms of
9 bringing the issue that you have raised, Chairman
10 Goldner, to the attention of the Commission. We
11 had no way of ascertaining whether the -- some
12 changes at the class level, there was some data
13 aggregation that we have observed, whether those
14 data aggregation were done appropriately or those
15 data aggregation were done differently, what is
16 the methodological reason for it, the shift
17 behind it, none of those were available to us.

18 What we could do is to observe that
19 there were more disaggregated data that we
20 observed in Decoupling Year 3 and 4, and less in
21 Decoupling Year 5. If that's a work of a
22 conscious methodological shift or not, we had no
23 way of ascertaining that.

24 What we did, though, we looked at

[WITNESS PANEL: Arif|Alam]

1 those, put them together under the same
2 microscope and same analytical framework, and see
3 what could possibly be the impact of that, that
4 shift, for Decoupling Year 5, which is what you
5 are observing right in that sentence. Prior to,
6 it's 3.5. After the inclusion of one single
7 year, not only did it impact that year, it
8 impacted all other years because of the average.
9 Is that justified? We have no way of
10 understanding.

11 So, we thought that the sheer magnitude
12 of that, 1.1 percent, is anomalous. And we
13 decided to bring it to your attention and leave
14 it at that.

15 I hope that that sort of answers your
16 question. But I'm just basically saying that we
17 only work with the information that is provided
18 to us. In an analytical world, as you probably
19 already know, they say "garbage in, garbage out".
20 So, whether it was absolutely done without any
21 flaw, or it was done otherwise, we had no way of
22 ascertaining it, we just simply worked with the
23 information that was provided to us.

24 CHAIRMAN GOLDNER: Okay. Said

[WITNESS PANEL: Arif|Alam]

1 differently, I think, we talked about "x + y"
2 before, and now we have $x + y + z = a$, and we
3 don't know y or z, and -- but the Commission is
4 left with the determination on a, the 5.4
5 million. There's a lot of missing pieces to this
6 puzzle.

7 But I appreciate the work that the
8 Department did. It's a very thorough analysis.
9 You brought out the key issue. So, that's
10 appreciated. It's, to use a word that Attorney
11 Dexter and I have used lately, it's "vexing",
12 this particular problem.

13 Okay. So, I think, from my
14 perspective, that's all I had. Do the
15 Commissioners have any follow-up?

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

18 CHAIRMAN GOLDNER: Okay. So, we'll go
19 to -- we'll go to redirect. And, then, we'll
20 take a quick break, and then come back and wrap
21 up.

22 MS. SCHWARZER: Mr. Chairman, might I
23 ask that we take the break before the redirect?

24 CHAIRMAN GOLDNER: Of course.

[WITNESS PANEL: Arif|Alam]

1 MS. SCHWARZER: If we could have a half
2 hour or so, that would be much appreciated?

3 CHAIRMAN GOLDNER: A half hour? Do you
4 need that long?

5 MS. SCHWARZER: If you could indulge
6 us, I would greatly appreciate it.

7 CHAIRMAN GOLDNER: Okay. All right.
8 That seems like a lot. Is everyone okay with a
9 half hour? I was going to do fifteen or twenty
10 minutes, --

11 MS. SCHWARZER: Twenty minutes would be
12 fine.

13 CHAIRMAN GOLDNER: That would be
14 better?

15 MS. SCHWARZER: Thank you.

16 MR. SHEEHAN: And, Mr. Chairman, I can
17 throw out as an offer. Mr. Bonner did not answer
18 the questions that you've just raised with
19 Dr. Arif, for obvious reasons, they weren't up
20 yet. Our focus in this docket was application of
21 the tariff. We certainly read Mr. -- Dr. Arif's
22 testimony with interest. We did not engage on
23 that, thinking that's the next docket, the next
24 whatever proceeding the decoupling would be

[WITNESS PANEL: Arif|Alam]

1 examined.

2 However, your questions have some very
3 black-and-white -- you raised some very
4 black-and-white questions that I don't think you
5 got good answers to, I think Mr. Bonner can help
6 with some of that, just to hopefully dispel what
7 I hear to be your concern over over what's in
8 front of you.

9 So, we would offer to put him up to, at
10 a high level, maybe answer some of those.

11 CHAIRMAN GOLDNER: Thank you. Yes. I
12 think I would like to hear from Mr. Bonner on
13 that when we return.

14 So, if twenty minutes is acceptable to
15 everyone, we'll take a twenty-minute break,
16 returning at 10:35. We can finish, Attorney
17 Schwarzer, with redirect. We can hear from Mr.
18 Bonner. And, then, of course, the Department
19 will have an opportunity to reply.

20 All right. Off the record.

21 *(Recess taken at 10:13 a.m., and the*
22 *hearing reconvened at 10:46 a.m.)*

23 CHAIRMAN GOLDNER: Okay. I think we're
24 going to pick back up with DOE redirect.

[WITNESS PANEL: Arif|Alam]

1 MS. SCHWARZER: Thank you, Mr.
2 Chairman. No redirect from the Department.

3 CHAIRMAN GOLDNER: Okay. Very good.
4 And, so, let's do this. I'll excuse the
5 witnesses. Thank you for your time today.

6 And we'll recall Mr. Bonner to the
7 stand, Attorney Sheehan.

8 MR. SHEEHAN: Sure. And Mr. Culbertson
9 is going to join, because there's some overlap.

10 CHAIRMAN GOLDNER: Great. Thank you.
11 *(Whereupon **TYLER J. CULBERTSON** and*
12 ***JAMES J. BONNER, JR.**, were recalled to*
13 *the stand, having been previously sworn*
14 *by the Court Reporter.)*

15 CHAIRMAN GOLDNER: All right. Attorney
16 Sheehan, please proceed when you're ready.

17 MR. SHEEHAN: Thank you.

18 **TYLER J. CULBERTSON, Previously Sworn**

19 **JAMES J. BONNER, JR., Previously Sworn**

20 **DIRECT EXAMINATION (Resumed)**

21 BY MR. SHEEHAN:

22 Q And just to set the table for a moment, from the
23 Company's perspective, Mr. Culbertson, is it
24 correct to say that this, the filing in this

[WITNESS PANEL: Culbertson|Bonner]

1 docket, was to basically perform a calculation, a
2 compliance filing, if you will, did we perform a
3 calculation according to the Commission-approved
4 tariff?

5 A (Culbertson) That's correct.

6 Q And, as we've heard, DOE checked that
7 calculation, and agrees that we did that
8 properly, according to the tariff language that
9 was approved in the last rate case?

10 A (Culbertson) Yes.

11 Q Second, DOE, as we've heard, spent a lot of time
12 in their technical statement discussing --
13 analyzing the mechanism itself, and identifying
14 things that either should be approved or
15 addressed whenever we reexamine the decoupling
16 mechanism, is that fair?

17 A (Culbertson) Yes.

18 Q And is it the case that Liberty chose not to
19 engage on that in this docket, as, you know, the
20 purpose of the docket was to simply do the
21 reconciliation that started it all?

22 A (Culbertson) That's correct.

23 Q Obviously, we have no problems re-engaging on
24 decoupling, but that wasn't the focus, and is why

[WITNESS PANEL: Culbertson|Bonner]

1 we didn't substantively reply to the technical
2 statement to the extent it went beyond the tariff
3 calculation?

4 A (Culbertson) Yes.

5 Q Okay. However, just an hour ago we started
6 looking at the table on Page 14 of the technical
7 statement, and the Commission had some concerns
8 over what those numbers seem to show. So, let's
9 walk through those.

10 First, the table suggests that, in
11 Decoupling Years 3, 4, and 5, the Company had
12 revenues substantially above "authorized" level.
13 If that were the case, would the Company be
14 overearning?

15 A (Culbertson) That would be the assumption.

16 Q And, in fact, has the Company been overearning
17 during the years of Decoupling Years 3, 4, and 5?

18 A (Culbertson) No, it has not.

19 Q And, of course, we file quarterly reports with
20 the Commission showing what our actual return is,
21 and they have been, for several years now, below
22 the authorized level, is that correct?

23 A (Culbertson) Yes.

24 Q In fact, that was the support for the rate case

[WITNESS PANEL: Culbertson|Bonner]

1 we filed was that we were underearning?

2 A (Culbertson) Correct.

3 Q Okay. If you could start with the top row (A),
4 titled "Approved/Authorized Revenues", and
5 explain what you -- what your understanding of
6 what those numbers are?

7 A (Culbertson) So, Line (A), I feel that is
8 actually the approved and authorized revenue
9 requirement that we filed to get approval for.
10 We then take that number and calculate the
11 Revenue Per Customer, and use that to determine
12 what the Company is actually approved to recover,
13 as far as revenue.

14 Q So, there's a distinction between a "revenue
15 requirement", in quotes, and a "approved
16 revenue", in quotes, is that fair?

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

18 Q And the revenue requirement, the first one
19 number, the 91 million, was the number approved
20 in the last rate case?

21 A (Culbertson) Yes.

22 Q And is it fair to say that that number is the
23 result of a detailed look at the costs the
24 Company must incur to run the business, and other

[WITNESS PANEL: Culbertson|Bonner]

1 things?

2 A (Culbertson) Yes. That number correlates to
3 those costs and those billing determinants at the
4 time, yes.

5 Q Okay. So, why would, and let's just jump to
6 Decoupling Year 5, which is where we are now,
7 that number changed over the -- over Row (A).
8 What's your understanding of the changes from the
9 91 million to the 93 million?

10 A (Culbertson) Those would reflect step
11 adjustments. So, specific pieces of investments,
12 and the revenue requirements calculated
13 associated with those investments.

14 CMSR. CHATTOPADHYAY: Can you please
15 get closer to the mike?

16 BY MR. SHEEHAN:

17 Q So, that's a change in the revenue requirement
18 approved, starting with the rate case, and
19 adjusted through two Settlement -- two step
20 adjustments, and, as the asterisk notes,
21 recoupment of rate case goes in and comes out of
22 the distribution rates, which may explain some of
23 the variation there, is that fair?

24 A (Culbertson) Yes.

[WITNESS PANEL: Culbertson|Bonner]

1 Q And do you accept, for discussion today, that the
2 "Actual Revenue", Line (B), is accurate?

3 A (Culbertson) I can accept that.

4 Q Okay. And can you explain why the actual
5 revenue -- well, walk us through, instead of me
6 trying to explain it to you, why don't you walk
7 us through your understanding of what this table
8 does show and what it doesn't show?

9 Clearly, the Chairman's questions
10 centered on the fact "how can we approve a
11 decoupling adjustment that seems to be giving
12 Liberty \$8 million it shouldn't get?"

13 A (Culbertson) Yes. So, I believe the -- that
14 difference, that 8 million, 8.3, I can just jump
15 right to the bottom, is going to be essentially
16 the difference between what the Company actually
17 collected from its customers and what the Company
18 is authorized. The difference between what the
19 Company actually collected from customers and
20 this approved revenue requirement amount.

21 Q So, going back to what I -- we discussed a second
22 ago, we have a revenue requirement amount is
23 different than an approved revenue level, is that
24 true?

[WITNESS PANEL: Culbertson|Bonner]

1 A (Culbertson) That's correct. And the amount that
2 we are asking recovery for, the 5.44 million
3 approximately in this case, is the difference
4 between what we actually collected from customers
5 and the approved Revenue Per Customer total
6 amount.

7 Q And that is calculated, again, you start with the
8 revenue requirement, and then calculate a Revenue
9 Per Customer, and then determine, when you add
10 that up, it comes to a different number than the
11 revenue requirement?

12 A (Culbertson) Yes, because it takes into account
13 the additional customers or a loss of customers.

14 Q So, if we have a thousand more customers this
15 year than last, the approved revenue is going to
16 be whatever amount, a thousand times that Revenue
17 Per Customer is?

18 A (Culbertson) Yes.

19 Q And, so, what this is really showing is not that
20 we are earning too much, it's showing that there
21 have been customer changes that would increase
22 the allowed revenue?

23 A *[Witness Culbertson indicating in the positive].*

24 Q And, Mr. Bonner, would there be other factors

[WITNESS PANEL: Culbertson|Bonner]

1 that could cause the delta between a revenue
2 requirement approved, which is the 93 million,
3 and then an approved revenue amount, which is
4 101 million?

5 A (Bonner) You've captured at least one of them,
6 customer growth would be one. A change in their
7 average use per customer of their properties, and
8 that is another variation. And, if there is a
9 difference in the -- in which classes are growing
10 and which ones are not.

11 Q Because, obviously, there are different Revenue
12 Per Customer levels for each class?

13 A (Bonner) That's correct. So, it's the
14 interaction of all those factors that contribute
15 to the difference. So, the approved -- the
16 approved revenue requirements are numbers at
17 points in time that are used to perform
18 calculations to come up with essentially two
19 different sets of rates; the ones that you apply
20 to the customers, that's reflected in the "Actual
21 Revenue" line, and the ones you use for the
22 decoupling calculations, which are the RPC. And
23 the difference between those two is what
24 constitutes the Revenue Decoupling Adjustment

[WITNESS PANEL: Culbertson|Bonner]

1 Factor.

2 Q So, when the Commission wants to look to see
3 whether we've collected more than authorized or
4 less than authorized, we compare those numbers
5 you just mentioned, the Revenue Per Customer
6 times customers equals \$100, the customers times
7 the actual billing determinants equals \$110, that
8 \$10 delta is what's addressed in this RDAF
9 proceeding?

10 A (Bonner) Yes.

11 Q Okay. Do you have any concerns with -- does this
12 chart in front of you, you know, raise any
13 concerns with the underlying calculation that
14 we've asked the Commission to approve in this
15 docket?

16 A (Bonner) No, it does not. It seems to be
17 extremely consistent with it. What we're looking
18 at is the difference in the -- basically, what
19 two different "rate designs", you know, use those
20 terms in quotes, produces, one based on RPC and
21 one based on, basically, a fixed and volumetric
22 component, which is how the base rate is applied
23 to customers.

24 Q Play that out some more. So, you're saying --

[WITNESS PANEL: Culbertson|Bonner]

1 what does this table show?

2 A (Bonner) What the table shows is just simply the
3 difference. So, we would say that the rates
4 themselves produce Line (B). So, the revenue
5 decoupling request, which is the 5.4 million, is
6 what the difference between the actual revenues,
7 Line (B), and the numbers that are produced by
8 the revenue decoupling calculation itself. And,
9 so, the revenue decoupling was the \$101 million.

10 Q So, again, to -- we keep saying the same thing, I
11 think, that the rates produce a number, that's
12 not the approved revenue. It's the RPC that --

13 A (Bonner) They're both the approved revenue, but
14 they're two different numbers. The revenue
15 requirement is used in order to set rates. What
16 comes out of a rate case isn't an approved
17 revenue level, unless you actually have a
18 mechanism that brings you back to it. What's
19 approved out of a rate case is actually a set of
20 rates, whose actual revenue -- the actual amounts
21 of money it will return depends on future events.
22 So, the Company will either get more or less than
23 the revenue requirement, and they will almost
24 never match. And whether that is improper or not

[WITNESS PANEL: Culbertson|Bonner]

1 is gaged by other criteria.

2 Mr. Culbertson was referring to the
3 earnings reports. That's actually the measure of
4 performance, because the Company's costs also
5 change.

6 When a revenue requirement is set up,
7 it's a snapshot in time. But what really
8 happens, of course, is the picture changes the
9 moment after the rates are approved. In fact, by
10 the time the rates are approved, actually the
11 data on which the rates were set is actually
12 fairly old. It takes about a year to fully
13 adjudicate a rate case.

14 Q Is there a rate design that would look at a
15 yearly revenue requirement number and compare
16 actual revenues and adjust that way?

17 For example, if -- let's assume 93
18 million was the approved revenue requirement for
19 that year, and we collected 96, that there would
20 be that \$3 million adjustment?

21 A (Bonner) Yes. Actually, there is. So, the next
22 extension, beyond just pure revenue decoupling,
23 is what's known as a "rate adjustment mechanism",
24 which now brings in not only the changes in the

[WITNESS PANEL: Culbertson|Bonner]

1 revenues, in fact, you don't need revenue
2 decoupling anymore if you do it this way, but is
3 actually now tracking the difference between the
4 costs and the revenues, and now reestablishes the
5 rates in a pattern that now gets to a closer
6 approximation, so that the Company has a better
7 opportunity of earning that allowed rate of
8 return.

9 Q And that's a mechanism that exists in other
10 places, obviously not here in this case?

11 A (Bonner) Liberty has two, one in Georgia and the
12 other one in New Brunswick.

13 Q Okay. And, again, it's just a different way to
14 do things, but it's --

15 A (Bonner) And it is just a different way of doing
16 things. It's kind of the next level of
17 complexity up. So, you have, essentially, almost
18 like mini rate cases.

19 Q Okay.

20 A (Bonner) It's more of a formulaic rate.

21 MR. SHEEHAN: Well, I'll stop. And I
22 think it's the Commissioners that had the
23 questions. So, to the extent we haven't hit
24 them, I have no further questions.

[WITNESS PANEL: Culbertson|Bonner]

1 CHAIRMAN GOLDNER: Okay. Thank you.

2 I'll give the Department and the Consumer
3 Advocate an opportunity to ask additional
4 questions of the witnesses, if they wish?

5 MS. SCHWARZER: Thank you. If I could
6 have just a moment?

7 CHAIRMAN GOLDNER: Sure.

8 *[Short pause.]*

9 MS. SCHWARZER: No questions. Thank
10 you.

11 CHAIRMAN GOLDNER: Thank you. Consumer
12 Advocate?

13 MR. KREIS: None from the Consumer
14 Advocate either.

15 CHAIRMAN GOLDNER: All right. Thank
16 you.

17 Commissioner Simpson?

18 CMSR. SIMPSON: Thank you.

19 BY CMSR. SIMPSON:

20 Q So, I think you noted that Line (A) for revenue,
21 that includes both the rates set during the rate
22 case, as well as subsequent step adjustments that
23 the Company collected, correct?

24 A (Bonner) Yes.

[WITNESS PANEL: Culbertson|Bonner]

1 Q Okay. I'm aware of a motion that the Company
2 filed in 22-035 with respect to a step
3 adjustment. Are either of you aware of that
4 motion, filed on May 29th?

5 A (Culbertson) Yes, I am aware.

6 Q For the adjustment sought with respect to the
7 22-035 step adjustment, would that petition
8 change the rates that are presented in Table 6,
9 on Bates Page 014?

10 A (Culbertson) That filing was with respect to
11 Granite State.

12 Q Oh, I'm sorry. Okay. Very good. Thank you. At
13 the highest level, for the five and a half
14 million sought here, what did the Company lose in
15 that decoupling year that this makes up for? And
16 we're talking just at the highest level for the
17 decoupling mechanism.

18 Why does this help you ensure that your
19 revenues are appropriate in each year? What have
20 you lost in that period?

21 A (Bonner) Actually, your question goes to the
22 issue of how well rates track costs. Rates are a
23 fairly crude mechanism that don't track costs
24 very well, as the DOE has pointed out.

[WITNESS PANEL: Culbertson|Bonner]

1 Essentially, the costs of running a utility
2 business are dominated by fixed costs, which,
3 once incurred, now simply have to be paid.

4 So, if there are changes in the
5 volumetric component of the rates, that is the
6 average use per customer begins to decline, then
7 the fixed cost recovery supported by the previous
8 volumes times their prices is lost. That's one
9 of the features behind the decoupling mechanism
10 is that any changes that result in the customer
11 using less gas, the revenues will not drop as
12 fast as they otherwise would have under an
13 ordinary rate design, thereby essentially
14 supporting the Company's returns and delaying the
15 next rate case.

16 We're now coming up for the rate case
17 now. It has been -- the last one was adjudicated
18 in 2020. Looking at these numbers, and their
19 magnitude, had we not been receiving the support
20 from the Revenue Decoupling Adjustment Factor
21 mechanism, I would have to believe that the
22 Company would have filed a year or even two years
23 earlier. Because the revenue stream is dropping
24 faster than our costs were, and, therefore, the

[WITNESS PANEL: Culbertson|Bonner]

1 returns were going south pretty rapidly.

2 Q And, okay, that's very helpful. With respect to
3 temporary rates now being implemented today, how
4 does that impact the decoupling mechanism for
5 future years, if this mechanism continues out
6 past Decoupling Year 5, 6? As you change those
7 rates, how do you anticipate the RDAF revenue
8 requests in the future changing?

9 A (Bonner) Well, that's --

10 Q I'm asking you to speculate.

11 A (Bonner) That's actually been the whole question.
12 What we've seen is a great deal of volatility.

13 Q Uh-huh.

14 A (Bonner) In the very earliest years, which are
15 not incorporated here, Decoupling Years 1 and 2,
16 these numbers went exactly in the other
17 direction.

18 Q Right.

19 A (Bonner) We were returning money back to
20 customers, and large amounts. The very first
21 request I believe was \$7 million to the benefit
22 of customers, the second one was -- it was
23 somewhat less, I'm depending on my memory, it was
24 something like 5 million.

[WITNESS PANEL: Culbertson|Bonner]

1 Q Uh-huh.

2 A (Bonner) And, then, in recent years, the post
3 COVID years, it seems that, and that's what I
4 believe the DOE's analysis was trying to hint and
5 demonstrate, is that there's now been a change in
6 the basic characteristics. What was true back in
7 the teens, so to speak, and what is true in the
8 2020s is no longer the same.

9 I am hoping that things are leveling
10 off. But I'd be purely speculating that
11 continuing the mechanism would not necessarily, I
12 see no bias in the calculation that would tell me
13 that it is going to go in one direction or
14 another. I think it really depends on the -- on
15 how customers behave, --

16 Q Uh-huh.

17 A (Bonner) -- and the reasons why they behave the
18 way they do, how that gets reflected -- their
19 actions are reflected in whatever the revenues
20 return from the rates themselves, compared to the
21 alternative calculation, which is the revenue
22 decoupling one.

23 CMSR. SIMPSON: Thank you for that.

24 I'm all set at this time.

[WITNESS PANEL: Culbertson|Bonner]

1 CHAIRMAN GOLDNER: Commissioner

2 Chattopadhyay?

3 BY CMSR. CHATTOPADHYAY:

4 Q So, I think you already responded to a question
5 that I had. So, the first two years, the numbers
6 that you gave me, you know, which went the other
7 way around, you're really talking about (B) minus
8 (A), the equivalent to (B) minus (A)?

9 A (Bonner) Yes.

10 Q Okay. And, so, if I remember correctly what you
11 said, it was -- was it 8, 8 million, and then 5
12 million?

13 A (Bonner) I think it was 7 and 5.

14 Q Seven and five, okay.

15 A (Bonner) Those were the numbers that I gave.

16 Q So, 12 million, okay. And, so, on average, over
17 the five years, the adjustments would be pretty
18 close to --

19 A (Bonner) Zero.

20 Q To zero.

21 A (Bonner) Yes.

22 Q Okay. Just getting that sense. And, as it turns
23 out, if you look at Line (B), the "Actual
24 Revenue", it is dependent a lot on weather as

[WITNESS PANEL: Culbertson|Bonner]

1 well?

2 A (Bonner) Yes.

3 Q So, if it's really cold, really, really cold, you
4 have two weeks of winter snap, then you would
5 expect that you will be recovering a lot more,
6 and then there's a chance that the numbers will
7 reverse?

8 A (Bonner) Yes. Although, one --

9 Q Everything else, --

10 A (Bonner) Yes.

11 Q -- as an economist, *ceteris paribus*?

12 A (Bonner) Yes. Yes, all else being equal. I just
13 want to be clear on one thing, because there were
14 two parts of the Revenue Decoupling Mechanism
15 that were instituted, and we've been focusing
16 only on one.

17 In addition to doing the Decoupling
18 Mechanism on the RPC, we also instituted a
19 weather-normalization adjustment on the retailing
20 billing. So, in fact, for the revenues shown
21 here, what you're picking up is changes in
22 customer properties. The money amounts are
23 adjusted for the weather.

24 So, in the event that we have a very

[WITNESS PANEL: Culbertson|Bonner]

1 cold period of time, say it was more than the
2 normal period, we -- actually, the
3 weather-normalization adjustment works to
4 decrease the revenue. And, conversely, when it's
5 warmer, it goes the other way. Now, the trend
6 has been that it has been warmer than the 30-year
7 average in recent memory.

8 So, there is a weather effect, but it's
9 a little more subtle than just being completely
10 unmanaged.

11 Q Understood. So, you are -- you're updating the
12 normalization of weather information, that is
13 part of the --

14 A (Bonner) On a per customer basis, yes, each bill.

15 Q And you're doing that, and that is embedded in
16 the analysis?

17 A (Bonner) It's embedded in those actual revenue
18 numbers. So, you could divide actual revenues
19 into --

20 Q Yes.

21 A (Bonner) -- sort of base revenues, plus
22 normalization adjustment.

23 Q Uh-huh. Okay.

24 A (Bonner) And just to give you a sense of

[WITNESS PANEL: Culbertson|Bonner]

1 magnitude, during this period of time the
2 normalization --

3 *[Court reporter interruption.]*

4 WITNESS BONNER: I'm sorry.

5 **CONTINUED BY THE WITNESS:**

6 A (Bonner) The normalization adjustment is about
7 approximately \$2 million per year, in recent
8 years.

9 BY CMSR. CHATTOPADHYAY:

10 Q I had asked this question in, you know, a prior
11 docket, I'm going to ask the same question here.

12 Do you have any opinion on the price
13 responsiveness discussion?

14 I know you told me that you're an
15 engineer and you will look at it. But did you go
16 back and see whether you can talk to somebody
17 else and --

18 A (Bonner) I do intend to do the second part, is to
19 talk to somebody else, because we do want to
20 understand in detail, because you brought up
21 some, I think, some very interesting points,
22 Commissioner, as to what we should look at. We
23 do have people on staff or people that we do
24 employ in other parts of the Company who have

[WITNESS PANEL: Culbertson|Bonner]

1 training in this area, where I do not. But we
2 haven't done that yet.

3 CMSR. CHATTOPADHYAY: Okay. Thank you.
4 That's all I have.

5 BY CHAIRMAN GOLDNER:

6 Q So, using that same table on Bates 014, what
7 would the Company have recovered if there were no
8 decoupling? No decoupling, so conventional
9 ratemaking. What would the Company have
10 recovered in DY5?

11 A (Bonner) I would -- it would be somewhere in the
12 neighborhood of about \$94 million.

13 Q And walk me through the math. That's neither 93,
14 96, nor 101.

15 A (Bonner) The only difference between 96 and the
16 94 was the weather-normalization adjustment,
17 which I'm presuming that, if we went back to the
18 regime that was in effect prior to Docket
19 20-105, --

20 Q Okay.

21 A (Bonner) -- that was the basis of your question.

22 Q Okay. Thank you. So, the Company would have
23 recovered 94, using conventional ratemaking, but,
24 with decoupling, the Company is recovering 101.5,

[WITNESS PANEL: Culbertson|Bonner]

1 is that correct?

2 A (Bonner) Yes.

3 Q Okay. And, so, walk me through please why that's
4 sensible or reasonable?

5 So, I'm thinking, for a hundred years
6 folks have used conventional ratemaking, may be
7 longer, may be shorter, I don't know. Now, this
8 new model with decoupling yields a much higher
9 number, a lot higher recovery, at least in DY5.
10 To your point, it doesn't always. But, at least
11 addressing DY5, why is conventional ratemaking
12 not a rational or reasonable model?

13 A (Bonner) Well, I never contended that it wasn't.
14 So, it still can be, and we could go back to the
15 old days. The real thing, I think, gets down to
16 a question of perhaps satisfactory regulation
17 from both the customer and the company point of
18 view. If the revenues were substantially lower,
19 we already know that the rate of return, at about
20 the time we filed the rate case, was somewhere in
21 the neighborhood of about 5 percent. If we were
22 to have subtracted another 8 or \$9 million, that
23 probably would have brought that number perhaps
24 somewhere down around zero. It would just simply

[WITNESS PANEL: Culbertson|Bonner]

1 indicate there would be more frequent base rate
2 cases, which are large, elaborate, and expensive
3 propositions in order to conduct and adjudicate.

4 So, we can do it, it can be done that
5 way, and it has traditionally been. Some of
6 these other mechanisms are designed to get around
7 the need for having cases on so frequent a level.
8 Things like alternative ratemaking schemes, that
9 are more prevalent in the electric side, like
10 performance-based ratemaking as an example,
11 things like that. A variety of long-term
12 settlements in many jurisdictions is another
13 mechanism by way of getting to that by having
14 periodic adjustments built in. And independent
15 mechanisms designed to identify specific volatile
16 costs are another way of doing it.

17 Decoupling was one. It just so
18 happens, in this particular period of time,
19 historical accident, it's working very much in
20 favor of the Company. But, as we indicated, in
21 the past, it hasn't always done so. Unless the
22 calculations is, in fact, bias, that is, it's
23 designed to unjustly reward one side or the
24 other. That, all things considered, assuming one

[WITNESS PANEL: Culbertson|Bonner]

1 can live with the volatility that the numbers
2 are, and the impacts, ultimately, on customers,
3 and that's really where the rubber hits the road.

4 Then, it's -- so, it's a good way to
5 proceed. But there's no reason why you can't
6 return to the old way.

7 Q So, in conventional ratemaking, there would have
8 been a pretty steady revenue recovery from the
9 Company, that's what it looks like. And there's,
10 I think what you're saying, I don't want to put
11 words in your mouth, but there are multiple
12 solutions for the problem to make sure that the
13 Company has an appropriate rate of return, --

14 A (Bonner) Yes.

15 Q -- including a different weighted average cost of
16 capital that would come to perhaps the same
17 result, but perhaps in a more simple -- in a more
18 simple way. Is that -- I don't want to put words
19 in your mouth, but is that a fair summary?

20 A (Bonner) No, that is a fair summary. There are
21 multiple ways to address these various issues.

22 CHAIRMAN GOLDNER: Okay. Okay, thank
23 you.

24 Okay. That's all I have.

[WITNESS PANEL: Culbertson|Bonner]

1 Commissioners, anything else?

2 [Cmsr. Simpson indicating in the
3 negative.]

4 CMSR. CHATTOPADHYAY: No, I don't.

5 CHAIRMAN GOLDNER: Okay. Any -- we're
6 a little out of order today. So, I'll try to
7 keep us on track. Any redirect, Attorney
8 Sheehan?

9 MR. SHEEHAN: Redirect direct. No,
10 sir. Thank you.

11 CHAIRMAN GOLDNER: Okay. Thank you.

12 And would the Department would like any
13 sort of rebuttal with their witnesses, or are you
14 satisfied that we can move forward to closing?

15 MS. SCHWARZER: Thank you, Mr.
16 Chairman. I think we're satisfied that we can
17 move forward to closing.

18 CHAIRMAN GOLDNER: Okay. Attorney
19 Kreis, anything you would like to suggest at this
20 point?

21 MR. KREIS: I'm sure there are lots of
22 things I'd like to suggest.

23 CHAIRMAN GOLDNER: Relative to the
24 witnesses. Thank you.

[WITNESS PANEL: Culbertson|Bonner]

1 MR. KREIS: I thank the witnesses for
2 their thoughtful testimony. Overall, I think the
3 explanations that we've heard from both the
4 Department and the Company are helpful.

5 CHAIRMAN GOLDNER: Thank you. Thank
6 you, Attorney Kreis.

7 Okay. Thank you. The witnesses are
8 excused. You're welcome to stay where you are or
9 return to your other chairs, if you wish.

10 Okay. So, I'll strike ID on Hearing
11 Exhibit 22 and enter it into evidence.

12 And I'll just ask if there's anything
13 else we need to cover today? Certainly, if
14 anyone would like to make a closing, that would
15 be fine. But we -- I'll offer the opportunity,
16 but I'll leave it at the discretion of the
17 parties?

18 MR. SHEEHAN: Well, that was an
19 invitation by saying you don't really need it,
20 so, --

21 CHAIRMAN GOLDNER: That's right.

22 MR. SHEEHAN: -- our request is simply
23 to remove the word "provisional" from the prior
24 order, and that would be terrific.

1 Thank you.

2 CHAIRMAN GOLDNER: Okay. Thank you.
3 Attorney Schwarzer, anything you'd like to say
4 before we break today?

5 MS. SCHWARZER: Thank you. Yes.

6 Consistent with our supplemental
7 technical statement, the Department recommends
8 that the recovery of the \$5,439,023 for
9 Decoupling Year 5 be approved.

10 CHAIRMAN GOLDNER: Thank you. Attorney
11 Kreis?

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

13 I concur with the recommendation of the
14 Department.

15 And would just further observe that we
16 should have a very short Decoupling Year 6,
17 ending on, what is it? I believe it's
18 October 31st of this year, because after that the
19 temporary rates went into effect. And then, it
20 is time to revisit all of the questions that have
21 been so thoughtfully hashed out here by --
22 especially by Mr. Arif and Mr. Bonner, whose
23 testimony was very thoughtful and helpful.

24 CHAIRMAN GOLDNER: And I mentioned this

1 before, but had forgot to remind anyone as we
2 started to go through this partial closing
3 exercise. Does the Department, or the Company,
4 or Attorney Kreis wish to add to his previous
5 statement, any comments that you would -- could
6 help the Commission with, in terms of how we
7 handle this moving forward, I'm talking about
8 RDAF in Years 6, 7, and potentially 8?

9 And, yes, would you care to comment on
10 any of that? Maybe we'll start with whoever
11 wants to start?

12 MR. KREIS: I'll just finish by saying,
13 in case it wasn't obvious, I think it should be a
14 very short Decoupling Year 6. No Decoupling
15 Year 7, 8, 9, or anything after that. And the
16 question of the future of revenue decoupling is a
17 subject for resolution in the pending electric
18 rate case.

19 CHAIRMAN GOLDNER: And, Attorney Kreis,
20 if I could follow up on your comment.

21 Can you help the Commission understand
22 your perspective on a "short Year 6, and no 7
23 and 8", relative to the Settlement, and the legal
24 requirements and so forth? Could you comment on

1 that?

2 MR. KREIS: Well, basically, whatever
3 permanent rates end up arising out of the rate
4 case are reconciled back to the effective date of
5 the temporary rates. And, pursuant to Order
6 Number 26,899, issued I believe on October 31st
7 of 2023, the new -- the temporary rates were
8 effective on November 1st, and that is the rate
9 reconciliation date. So, that's when you
10 basically set the -- reset the slate. And, if
11 there is going to be any kind of a rate
12 adjustment mechanism, including revenue
13 decoupling, then it would move forward from
14 there.

15 CHAIRMAN GOLDNER: And I might not just
16 be following the math very well. But, assuming
17 that the rate case is resolved during 2026 at
18 some point, that what you just described, in
19 terms of the reconciliation, in your mind, the
20 math still works out?

21 MR. KREIS: Well, there might be a
22 whopping, big reconciliation. That's a big
23 problem. That's a problem that we confront in
24 the rate case.

1 CHAIRMAN GOLDNER: Okay. Thank you.
2 Attorney Schwarzer?

3 MS. SCHWARZER: Thank you.

4 And the Department anticipates further
5 development of either the RDAF or an alternative
6 mechanism in the pending rate case. If the
7 pending rate case is to continue through 2026,
8 and if the RDAF decoupling request continues to
9 put the Company in a position of seeming
10 overearning, DOE may need to suggest action be
11 taken within the rate case itself.

12 CHAIRMAN GOLDNER: Okay. And do you
13 anticipate, as Attorney Kreis suggested, that the
14 proceeding next time would be a short DY6, and
15 then nothing moving forward? Is that what you
16 would anticipate?

17 MS. SCHWARZER: I don't think the
18 Department has considered whether Decoupling
19 Year 6 would or would not be affected. And, so,
20 I would not want to comment at this time.

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

23 MR. SHEEHAN: Seven thoughts going
24 around at once.

1 First, Decoupling Year 6, we're in it
2 now. The twelve months ends on August 31 of
3 2024. So, it will be a regular comparison of
4 actual revenues to RPC revenues and whatever the
5 change is. So, I don't know why it would be
6 short. It would be just like this one.

7 Going forward, revenue decoupling stays
8 in place until changed. I disagree -- well, I
9 shouldn't say "I disagree", I haven't thought
10 through Mr. Kreis's argument that somehow the
11 temp. rate reconciliation would be a replacement
12 for. It has some surface level appeal, but I --
13 it seems too easy to me, there must be a
14 complicator in there somewhere. But, if
15 decoupling ends, something else has to replace
16 it. And it would be at whatever the new rate
17 design is. Decoupling is a rate design. So,
18 it's not just simply a matter of just ending it,
19 because then we have to have something new.
20 Typically, that would be in the rate case.

21 And we have no problems whatsoever with
22 revisiting decoupling. You know, this has been
23 complicated for us, too, obviously, and up and
24 down. So, if there's a better way to do it,

1 we're happy to engage in those conversations.

2 So, I guess that's where I am on that
3 one.

4 CHAIRMAN GOLDNER: Okay. Thank you.

5 I'll just check in to see if there's
6 anything else anyone would like to add before we
7 adjourn today?

8 MR. KREIS: I don't think what I said
9 is incorrect. Decoupling Year 4 should -- or,
10 excuse me, Decoupling Year 6, when it's
11 ultimately reconciled, should cover the brief
12 period that ends with the end of Decoupling
13 Year 5, through the last day of October of 2020
14 -- so, the temporary rates were effective on
15 October 1st, 2023. So, Decoupling Year 6 really
16 should just cover those three months, until the
17 effective date of the temporary rates in 2023.
18 So, we've already seen those three months go by.
19 You can do that reconciliation now, and anything
20 that happens after that should be dealt with in
21 the rate case.

22 This decoupling mechanism, which the
23 Department has submitted evidence telling you is
24 not just and reasonable, shouldn't be allowed to

1 go forward beyond that, because it wouldn't be
2 just and reasonable.

3 CHAIRMAN GOLDNER: Attorney Schwarzer,
4 any comments? And, Attorney Sheehan, I'll afford
5 an opportunity as well.

6 MS. SCHWARZER: I think that's a
7 broader question than we're prepared to address
8 today. Certainly, it's helpful to hear Attorney
9 Kreis's concerns.

10 I think I'll just stand by the comment
11 that, certainly, we anticipate addressing this
12 within the rate case. And, to the extent the
13 rate case is going to continue through January
14 2026, the Department may take action or seek to
15 take action within that rate case regarding RDAF.

16 CHAIRMAN GOLDNER: Attorney Sheehan?

17 MR. SHEEHAN: Sure. There's zero
18 evidence we're overearning. Period.

19 Second, the temporary rates, the
20 approval of the temporary rates was incorporated
21 into revised Revenue Per Customers.

22 *[Mr. Culbertson indicating in the*
23 *affirmative.]*

24 MR. SHEEHAN: Getting Mr. Culbertson to

1 nod.

2 So, it is simply a continuation of the
3 existing model. We now have, to make up numbers,
4 our approved revenue -- our Revenue Per Customer
5 times billing determinants should be \$100.
6 Whether the temp. rates include -- to the extent
7 that temporary rate change is included in that,
8 at the end of that year, we'll compare the \$100
9 to what we actually collected and go through the
10 reconciliation.

11 So, there's no end to decoupling
12 because temporary rates are in effect. Now, this
13 will affect the recoupment, presumably lower it,
14 if we are now collecting -- allowed to keep
15 revenues that include the temporary rates in the
16 calculation, come recoupment time, there may not
17 be as much, rather than -- so, it's -- I guess,
18 analytically, nothing changes until the end of
19 the rate case, and there is a replacement for
20 what we now have. And the temp. rate change
21 would be factored into it, and the reconciliation
22 would be all calculated, comparing what we
23 actually collected to what the new rates are.

24 CHAIRMAN GOLDNER: Let me see if I can

1 repeat that back.

2 So, I think what you're saying is, that
3 the Company's position is you would continue to
4 do the RDAF calculation, until the rate case --
5 the pending rate case is complete, and
6 reconciliations and so forth would happen at the
7 appropriate time?

8 MR. SHEEHAN: Right.

9 CHAIRMAN GOLDNER: And, Attorney Kreis,
10 I know -- I'll try to summarize what you're
11 saying, but maybe that's dangerous.

12 I think what you're saying is that the
13 RDAF should only be done and calculated until
14 temporary rates went into effect, and at that
15 point, effectively, it's the new rate case, and
16 that there's no reconciliation required. Did I
17 understand that?

18 MR. KREIS: That's correct. And, so,
19 therefore, I'm disagreeing with the Company,
20 which is, as I understand it, is saying "Well, we
21 adjust the Revenue Per Customer calculation to
22 reflect the temporary rates, but the mechanism
23 itself just continues in perpetuity until you say
24 "no"."

1 I think it's time for you to say "no",
2 and deal with the question in the rate case.

3 CHAIRMAN GOLDNER: Attorney Schwarzer,
4 we have a live debate between two parties.
5 You're welcome to join in.

6 MS. SCHWARZER: Well, thank you. Thank
7 you, Mr. Chairman.

8 I think we don't need to assume there's
9 an immediate end or that we must wait until 2026,
10 as the Department suggested. If there is going
11 to be an extended -- a rate case of extended
12 duration, it may be appropriate to perhaps
13 bifurcate an issue within the rate case itself
14 and seek to address the matter sooner. But we
15 have not reflected fully on that question.

16 CHAIRMAN GOLDNER: And I saw Attorney
17 Dexter grab the microphone. I just wanted to
18 afford the opportunity, in case you wanted to
19 speak?

20 MR. DEXTER: Yes. I guess I don't have
21 anything else to say, other than what Attorney
22 Schwarzer just said. Maybe I'll just say it
23 again.

24 We understood that, under the

1 regulatory paradigm, that the opportunity to
2 adjust the revenue decoupling mechanism was the
3 next rate case. And we got the next rate case in
4 2023. We did not anticipate that the next rate
5 case might take three years to finish. So, we're
6 faced with unusual circumstances here.

7 So, I think what Attorney Schwarzer
8 just said, which I completely agree with, is, if
9 we get to a situation where we're in this
10 three-year period, and we're getting RDAF
11 requests from the Company that seem to be, you
12 know, extraordinarily large or out-of-line, or
13 any of the scenarios that you talked about, I
14 think it will be perfectly appropriate to pick
15 that question up about RDAF maybe before the
16 three-year rate case is over, in some sort of
17 interim, bifurcated, early look at the RDAF. I
18 think that would be completely consistent with
19 the Settlement.

20 CHAIRMAN GOLDNER: Okay. Thank you.
21 Just a moment.

22 *[Chairman Goldner and Atty. Speidel*
23 *conferring.]*

24 CHAIRMAN GOLDNER: Okay. I just --

1 just to close out on the issue, I think the idea
2 is to move forward with this docket and deal with
3 this particular request. But come back perhaps
4 in the early or mid fall with some sort of a
5 follow-up, a status conference, something like
6 that, perhaps in the rate case, to sort this
7 particular issue out. So, we'll continue to keep
8 it on the burner, but not to bog down this
9 hearing with that issue.

10 So, I'll just check one more time to
11 see if there's anything else we need to cover
12 today?

13 *[Mr. Sheehan indicating in the*
14 *negative.]*

15 CHAIRMAN GOLDNER: All right. Thank
16 you, everyone, for your time. Thank you to the
17 witnesses today. And we are adjourned.

18 ***(Whereupon the hearing was adjourned***
19 ***at 11:30 a.m.)***