

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

February 18, 2025 -- 9:01 a.m.

21 South Fruit Street  
Suite 10  
Concord, NH

RE: DE 24-070

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A  
EVERSOURCE ENERGY:** Request for change in  
Distribution Rates (*Pre-Hearing Conference/Tech  
Session*)

**PRESENT:** Chairman Daniel C. Goldner, *Presiding*  
Commissioner Mark W. Dell'Orfano  
Commissioner Pradip K. Chattopadhyay

**APPEARANCES:** **Reptg. Public Service Company of New Hampshire  
d/b/a Eversource Energy:**

Jonathan Goldberg, Esq. (*Keegan Werlin*)  
Jessica Chiavara, Esq.

**Reptg. Rate LG Consumer Consortium:**

Benji Borowski, Esq. (*Preti, Flaherty...*)  
Eben Perkins

**Reptg. Community Power Coalition of New  
Hampshire:**

Amy Manzelli, Esq. (*BCM Environmental...*)

**Reptg. New Hampshire Dept. of Energy:**

Paul B. Dexter, Esq.  
Alexandra K. Ladwig, Esq.

**Reptg. Residential Ratepayers**

Matthew Fossum, Esq.  
Office of Consumer Advocate

Court Reporter: Nwamaka Dawson

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**P R O C E E D I N G S**

1  
2 CHAIRMAN GOLDNER: Okay. Good morning, I'm Chairman  
3 Dan Goldner here with Commissioner Pradip Chattopadhyay and  
4 Commissioner Mark Dell'Orfano. This is the hearing on various  
5 motions filed in this Eversource rate case docket, DE 24-070.  
6 Notice in the Commission's procedural order issued on February  
7 10th, to which, since that time, Eversource has filed an  
8 objection to the Department of Energy's motion for late-filed  
9 testimony. The DOE filed an amended motion for late-filed  
10 testimony both on February 10th, and on February -- Friday,  
11 February 14th, another filing from the DOE. This one, a  
12 motion for rehearing of the Commission's procedural order  
13 issued on January 17th, 2025.

14 Before we take appearances and commence oral  
15 arguments, we would like to pull the camera back and give an  
16 overview of some of these motions and what the likely  
17 implications for this proceeding might be. In the first  
18 instance, the DOE's motions, including the motion for  
19 rehearing, appear to ask for more time from the Commission,  
20 more time to file substantive testimony, more time to  
21 negotiate a potential settlement agreement, more time to  
22 resolve discovery disputes outstanding.

23 The Company's motion puts forward a rejection of the  
24 Department's late-filed testimony or alternatively, providing

1 a -- provide additional time to prepare rebuttal testimony to  
2 the late-filed DOE material and more time to engage in  
3 underlying discovery for that rebuttal testimony.

4           The Commission has a hard stop at noon today for  
5 this motions hearing. Three hours have been allotted for this  
6 proceeding. In the Commission's view the motions relating to  
7 the Community Power Coalition motion to compel, and the  
8 Company's opposition, and the Eversource motion to strike the  
9 Large Customer Consortium testimony relate to the proper  
10 evidentiary scope of this proceeding. The DOE Eversource  
11 motions relate to the scheduling of this proceeding.

12           We acknowledge that various parties have signed on  
13 to the various motions, but in our view, the first order of  
14 business is the DOE/Company dispute regarding the timing of  
15 the process in this docket. We hope to allow some oral  
16 argument regarding the Community Power Coalition motion to  
17 compel and the Eversource motion to strike today, time  
18 permitting. But we suspect that we would have to schedule a  
19 continued hearing for this week, which would be Thursday,  
20 February 20th, for those two motions, with a final order on  
21 those issued by February 28th. In any event, the first order  
22 of business is to clarify how the timing of this proceeding  
23 will unfold in the coming months.

24           Regarding the timing of this proceeding, the

1 Commission makes a legal ruling in conformity with the order  
2 of notice, order number 27,029, issued on June 28th, 2024,  
3 that the proposed tariffs in this case are suspended and under  
4 ordinary circumstances, this rate case must conclude no later  
5 than June 11th, 2025, 12 months after the date of filing of  
6 the rate case by Eversource pursuant to RSA 378:6 I(a). This  
7 is the interpretation of the law that the clock begins with  
8 the filing of a rate case by the utility that has been  
9 consistently applied by the Commission, at least in the 21st  
10 century. The current timing of the hearings in this matter,  
11 concluding in early April was designed to enable the  
12 Commission to render a well-reasoned and timely decision in  
13 advance of June 11th, 2025.

14 That said, we discern a desire by some parties,  
15 including the DOE and Eversource, to build more time into the  
16 schedule to address the issues raised by the late-filed DOE  
17 testimony, to accommodate the various discovery and  
18 evidentiary disputes, and to allow settlement negotiations to  
19 transpire. Due to the Commission schedule and commitments in  
20 the late spring and summer of this year, including long  
21 planned family vacations for Commissioners and staff and other  
22 Commission responsibilities, we would expect the best time for  
23 an extended hearing time frame for this matter would be in  
24 August, with the goal of having an effective date for

1 permanent rates November 1st.

2 To explore the possibility of this being  
3 accomplished, we would like to inquire of the Company today if  
4 it can grant a waiver of the 12-month deadline, which again,  
5 we ruled and do rule is June 11th, 2025. The grand scope for  
6 a revamped procedural schedule, with hearings on the merits to  
7 be held in August, with the hearings spaced over a three-week  
8 period. In our view, this would give the parties breathing  
9 space to have discovery and evidentiary disputes adjudicated,  
10 to have the DOE testimony subject to proper discovery, and to  
11 give the Company its due process amenity of having rebuttal  
12 testimony formulated.

13 The Commission will allow the parties to speak for  
14 themselves regarding these possibilities. The alternative  
15 would be to proceed with the current procedural schedule, with  
16 settlement due on February 25th and the hearings in March and  
17 April as scheduled. If the Commission were to modify the  
18 schedule to build in more time, we would ask that the Company  
19 file its waiver of the 12-month deadline by this Friday,  
20 February 21st, with an assented-to procedural schedule  
21 proposal for the three weeks of hearings in August, with the  
22 Commission ruling by October 15th to be filed no later than  
23 February 24th.

24 We'll give the parties a chance to weigh in on this

1 after we take simple appearances from the parties. And we'll  
2 take appearances now, beginning with the Company.

3 MS. CHIAVARA: Good morning, Commission. Jessica  
4 Chiavara, I'm appearing on behalf of Public Service Company of  
5 New Hampshire, doing business as Eversource Energy.

6 CHAIRMAN GOLDNER: Thank you. AARP?

7 *[No verbal response.]*

8 CHAIRMAN GOLDNER: Okay. Not here.

9 Aleksander Cook?

10 *[No verbal response.]*

11 CHAIRMAN GOLDNER: Not here.

12 Clean Energy New Hampshire?

13 *[No verbal response.]*

14 CHAIRMAN GOLDNER: Okay. Not here.

15 Community Power Coalition of New Hampshire?

16 MS. MANZELLI: Good morning, Amy Manzelli from BCM  
17 Law here for the Community Power Coalition of New Hampshire.

18 CHAIRMAN GOLDNER: Thank you.

19 The Conservation Law Foundation?

20 *[No verbal response.]*

21 CHAIRMAN GOLDNER: Not here.

22 Rate LG Customer Consortium?

23 MR. BOROWSKI: Good morning, Benji Borowski of Preti  
24 Flaherty here on behalf of the Consortium.

1           MR. PERKINS:    And Eben Perkins with Competitive  
2 Energy Services also on behalf of the Large Customer  
3 Consortium.

4           CHAIRMAN GOLDNER:  Thank you.

5           Mary Ellen O'Brien Kramer?

6           [No verbal response.]

7           CHAIRMAN GOLDNER:  Okay.  Not here.

8           New England Connectivity and Telecommunications  
9 Association?

10          [No verbal response.]

11          CHAIRMAN GOLDNER:  Okay.  Not here.

12          The New Hampshire Department of Energy?

13          MR. DEXTER:  Good morning, Mr. Chairman,  
14 Commissioners.  Paul Dexter, appearing on behalf of the  
15 Department of Energy, joined by cocounsel Alexandra Ladwig.

16          CHAIRMAN GOLDNER:  Thank you.

17          The Office of the Consumer Advocate?

18          MR. FOSSUM:  Good morning, Commissioners.  Matthew  
19 Fossum, I'm assistant consumer advocate here on behalf of the  
20 residential ratepayers of Eversource.

21          CHAIRMAN GOLDNER:  Thank you.

22          Standard Power of America?

23          [No verbal response.]

24          CHAIRMAN GOLDNER:  Okay, not here.



1           And Walmart, Incorporated?

2           [No verbal response.]

3           CHAIRMAN GOLDNER: Not here.

4           Are there any other persons or entities wishing to  
5 be acknowledged here today? Okay. Hearing none. The  
6 Commission believes that if we proceed with tackling the  
7 motions arguments immediately, it would make the most sense to  
8 proceed with bilateral oral arguments between the moving and  
9 opposing parties for first the Department of Energy motion to  
10 accept late-filed testimony, as amended on February 10th,  
11 followed by a round robin of brief position statements from  
12 the other parties, followed by second, the Eversource motion  
13 to amend the procedural schedule with the same format, as  
14 these two motions are intertwined.

15           The arguments surrounding the DOE motion for  
16 rehearing can be woven into these two series of oral  
17 arguments, as the motion for rehearing does not, in our  
18 initial review, appeared to offer many substantive arguments  
19 beyond those presented in the DOE motion for late-filed  
20 testimony as updated. We also recognize that there does not  
21 appear to be any direct opposition to the Company motion to  
22 amend the procedural schedule but given what has transpired in  
23 this docket recently, we won't assume anything.

24           The Community Power and Large Customer Consortium

1 matters will then be taken up afterwards, time permitting, or  
2 at the continued hearing later this week. If in advance of  
3 these oral arguments the parties would wish to take a brief  
4 15-minute recess at this time to consider the advisability of  
5 having a dissented-to modification of the forthcoming  
6 procedural schedule along the lines I addressed earlier, the  
7 Commission would be amenable to this approach.

8 Do Eversource, the DOE, or any other parties wish to  
9 take a break at this time?

10 MS. CHIAVARA: The Company is actually ready to  
11 respond to the Commission's suggestion about the modification  
12 of the procedural schedule. So I don't need a recess at this  
13 time. If other parties do, that's fine.

14 CHAIRMAN GOLDNER: Okay. I think we are starting  
15 with the late-filed testimony first though.

16 MS. CHIAVARA: Okay.

17 CHAIRMAN GOLDNER: Would you -- are you ready to  
18 move forward with the late-filed testimony argument?

19 MS. CHIAVARA: I am.

20 CHAIRMAN GOLDNER: Okay. Attorney Dexter, same?

21 MR. DEXTER: Yes.

22 CHAIRMAN GOLDNER: Okay. Okay. Just a moment,  
23 please.

24 Okay. Just one last check-in. Attorney Chiavara,

1 would you like to respond to the procedural suggestions prior  
2 to starting with the late-filed testimony from the DOE? Or  
3 would you prefer to do the launch with the DOE testimony?

4 MS. CHIAVARA: I'd actually like to speak to the  
5 procedural schedule, if that's all right.

6 CHAIRMAN GOLDNER: Sure.

7 MS. CHIAVARA: Okay. So I appreciate the Commission  
8 taking some thought into how we might accommodate. A lot has  
9 happened as far as motion practices in this case in the last  
10 few weeks. And I appreciate the Commission's consideration in  
11 that respect. However, the Company has given this a lot of  
12 thought. We've been doing a lot of calendar math. And we, no  
13 matter how the Commission decides the several motions in front  
14 of it, the Company is ready to proceed with hearings as  
15 scheduled and with the procedural schedule as it is, with the  
16 exception of the very minor modifications that the Company has  
17 proposed.

18 I believe we would be able to get rebuttal done. We  
19 don't believe an additional extension is required for the  
20 settlement agreement. The settlement negotiations are  
21 underway. I obviously can't say more about that, but we  
22 believe that settlement, if a settlement is going to be  
23 reached, it can be in the time allotted. And the Company can  
24 have rebuttal done in time for timely hearings as scheduled.

1           CHAIRMAN GOLDNER:  And what date would the rebuttal  
2 be?  And I assume you're talking about the February 25th date  
3 for the settlement?

4           MS. CHIAVARA:  February 25th date for the  
5 settlement.  Rebuttal is going to depend on whether the late-  
6 filed testimony the DOE has admitted or not.

7           CHAIRMAN GOLDNER:  Okay.  And do you have a -- is it  
8 a fork in the road?  Do you have -- are there two different  
9 options?

10          MS. CHIAVARA:  Yes, I believe so.  But looking at my  
11 notes, I believe rebuttal would be March 7th if either the  
12 Large Customer Consortium or the DOE testimony were to be  
13 allowed, that we would be asking for March 7th.  I believe if  
14 neither of those testimonies are allowed, February 28th would  
15 be our rebuttal date.

16          CHAIRMAN GOLDNER:  And then in in those cases, how  
17 would you -- how would you reach a settlement by the 25th if  
18 the rebuttal isn't completed until after that?

19          MS. CHIAVARA:  We are -- we contain multitudes.  
20 We're doing parallel tracks.  So there's a lot going on but  
21 we'd be -- we would just do them in parallel with one another.

22          CHAIRMAN GOLDNER:  Okay.  And when would exhibits be  
23 available for hearing, for final hearing?

24          MS. CHIAVARA:  You know, I don't recall what the

1 procedural schedule says about filing exhibits. I know the  
2 new 200 rules requests 15 business days before a hearing. So  
3 doing reverse math, that's around the first week of March.

4 CHAIRMAN GOLDNER: I think so. In this case, we  
5 asked for more given the complexity of the of the docket. But  
6 yes, it defaults to 15 days. That's right, in a normal  
7 proceeding.

8 MS. CHIAVARA: That would be close, it seems. So we  
9 would endeavor for the first week of March. That might be  
10 difficult given certain party positions and whether there's  
11 settlement or not, if there's a settlement, obviously exhibits  
12 are going to be a much easier task.

13 CHAIRMAN GOLDNER: Okay. Okay. Thank you. Let's  
14 let -- the Commission will take a brief recess to discuss what  
15 we've learned so far, and we'll return at 9:30. Off the  
16 record.

17 (Recess at 9:16 a.m., recommencing at 9:31 a.m.)

18 CHAIRMAN GOLDNER: And I'll ask each of the parties,  
19 one by one, if they will assent before us that one, February  
20 25th is the settlement deadline. Two, do all parties assent  
21 to let in the DOE testimony, late-filed testimony. Number  
22 three, does everyone assent that March 7th is the deadline for  
23 rebuttal testimony, and if so then the motions, all motions  
24 before us are moot.

1           And I'll start with the Company.

2           MS. CHIAVARA: The Company does not assent to the  
3 inclusion of the DOE late-filed testimony. The suggestions of  
4 the procedural schedule were ours, so we do assent to those.  
5 I don't know if I'm missing a question.

6           CHAIRMAN GOLDNER: You didn't miss anything, but now  
7 I'm puzzled, because if you have all these things happening  
8 with rebuttal testimony and so forth, why would that matter if  
9 you don't accept the DOE's late-filed testimony?

10          MS. CHIAVARA: Oh, well, I mean, ideally, what we  
11 would like is for rebuttal testimony to be due on February  
12 28th and not have the DOE's late-filed testimony accepted for  
13 the record.

14          CHAIRMAN GOLDNER: Okay. Ideally, or is that the  
15 Company's final position?

16          MS. CHIAVARA: That is -- that is our final offer.  
17 Yes.

18          CHAIRMAN GOLDNER: Okay. All right. So it looks  
19 like then we need to move to the Department of Energy's motion  
20 for late-filed testimony as planned. And I'll -- we'll start  
21 with Attorney Dexter.

22          MR. DEXTER: Thank you. The Department filed a  
23 request -- motion to accept late-filed testimony for three  
24 reasons, and it's all laid out in the motion. Hopefully

1 everyone's read it and I won't spend a lot of time reiterating  
2 it here. But it really became clear to us when we were  
3 sitting at the February -- sorry, January 7th Commissioner-  
4 attended tech session when we heard of the 10 or 12 pieces of  
5 information that Eversource had promised to file to the  
6 Commission and to the Department. As I laid out in our letter  
7 of January 10th, I believe, of the -- of the significant  
8 amount of information that was going to be coming in.

9           At that point, we were facing writing testimony and  
10 submitting it on January 24th, 2025. And we did not have this  
11 information. We did not have the final audit report from the  
12 Department's audit division, which may sound strange to those  
13 who aren't familiar with the process. Why didn't we have our  
14 own audit report? I think this has to deal with the audits --  
15 understand the regulatory division of the Department of Energy  
16 does not see the audit report until it's finalized, which is  
17 actually several weeks after the Company sees it. The Company  
18 sees a draft version. The Company and the audit division work  
19 out a final report, and we see the audit report when it's  
20 final, and we try to incorporate that into our testimony.

21           Also facing us, I think this was back in early  
22 January when we first made the request, we were facing a  
23 shifting workload in other dockets. And I know it's, you  
24 know, probably not much interest to those in this docket about

1 what we're working on in other dockets, but it was sort of a  
2 perfect storm of events when we agreed to this schedule back  
3 in October. It went with the hearing dates having been set  
4 for us by the Commission. We did not expect at that time that  
5 we would be still involved in the Liberty Electric rate case,  
6 DE 23-039. We thought that would be long over. It's not. We  
7 were not expecting the net metering docket to be continuing  
8 into 2025. Docket 22-060, we believed would be finished.

9 We did not at the time expect -- we knew that we had  
10 a hearing in 24-041, Eversource's storm cost docket. We knew  
11 that that hearing was set for January 22nd, two days before  
12 the testimony date, but we did not expect to be making a \$30  
13 million disallowance and having that hearing be fully  
14 contested and carry on for much longer than the one day. I  
15 believe it went a day and a half or almost two days, and nor  
16 did we expect there to be a significant time devoted to  
17 Eversource's stranded costs, which are taking place in 24-112.

18 Facing all that, we wrote to the Department and  
19 requested a two-week extension for the testimony date.  
20 Understanding that we were sort of throwing a hand grenade  
21 into the schedule. And we didn't -- we didn't do it cause  
22 trouble. We did it because we needed that time to complete  
23 the testimony. And we were upfront with the Department,  
24 upfront with the Commission, upfront with the parties, or



1 right when it became clear to us that that was the situation  
2 we were facing. Regrettably, we did not receive assent from  
3 Eversource to our request. We received assent from many other  
4 parties. And regrettably, from our standpoint, our request  
5 was not granted by the Commission.

6 We proceeded to file the testimonies that were  
7 available on the due date, January 24th, and let the parties  
8 know at that time which testimonies were going to be finished,  
9 what areas they would address, noting that they would be  
10 finished by February 7th. And noting at that time that we  
11 would be filing a request to accept late-filed testimony at  
12 that point. And we did. It came in a little bit after hours,  
13 but it was essentially filed February 7th. If this was after  
14 hours under the new rules, that would be February 10th. But  
15 basically, the Department's case was made up by Monday,  
16 February 10th.

17 You can see from reading the testimony that it's  
18 comprehensive. It addresses virtually every area of the case.  
19 We believe it provides a significant value to the Commission's  
20 consideration in this docket, which is our statutory  
21 responsibility. It is our responsibility under RSA 12(e) to  
22 complete the record before -- in cases that come before the  
23 Commission. We believe we have a due process right to be  
24 heard. We understand that we need to comply with procedural

1 schedules and that the Commission controls the procedural  
2 schedules. But we also believe there has to be a reasonable  
3 balance to accommodate circumstances as they arise.

4           If, for example, this case had come in on June 15th,  
5 say, of 2024, and the Commission issued a procedural schedule  
6 that required the Department's testimony on July 1st. It's an  
7 absurd example, but I bring it up for demonstration. I think  
8 everybody would agree that the Department and the other  
9 parties were not given due process. There's no way we could  
10 have absorbed 21,000 pages of information and be ready to  
11 proceed on July 1st. And I think we would have a very good  
12 due process argument in that circumstance. On the other end  
13 of the spectrum, if our testimony had come in the day of the  
14 hearing or the day before the hearing, I think Eversource  
15 would have a very good due process argument that our testimony  
16 should be excluded because they had no time to  
17 (indiscernible).

18           Again, that's not what happened. It's a bit of an  
19 absurd example. And so what we have is a situation somewhere  
20 in between, where the testimony was not filed according to the  
21 schedule, but it was filed two weeks later. And what we asked  
22 the Commission to do is balance various due process rights of  
23 the party and come up with a way for the Commission to have  
24 the testimony accepted, while still giving everybody an

1 opportunity to review it. There is time in the schedule to do  
2 that. We (indiscernible). As I said in the motion, the two  
3 weeks is not at all fatal. There's a significant amount of  
4 time between when the testimony was submitted and when the  
5 hearing dates start. You know, (indiscernible) just a few  
6 days, the testimony could be accommodated.

7           We filed the -- I'm not sure you want to hear about  
8 the motion for rehearing on the original request. That is  
9 essentially the same arguments. We filed that to give the  
10 Commission an opportunity to come to a different conclusion  
11 and also as a prerequisite to appeal, if that original request  
12 to file late testimony became the controlling decision. We  
13 wanted to make sure we had a rehearing on that decision as  
14 well. So that's all I have to say. I'm happy to take any  
15 questions.

16           CHAIRMAN GOLDNER: Okay. I think we'll go around  
17 round robin first and give Eversource the opportunity to  
18 reply.

19           MS. CHIAVARA: Thank you, Chairman. I believe I'm  
20 not going to address things in the order in which Attorney  
21 Dexter did. So I'd like to start with the rehearing motion,  
22 since that was just filed late Friday afternoon. This motion  
23 isn't timely. It would essentially, I think, just rewrite  
24 history after all the actions that had a material impact have

1 already been taken. I think the time to file that motion  
2 would have been before the original testimony due date of  
3 January 24th, because that's when the Commission directed the  
4 DOE to file testimony, when it rejected the extension. And  
5 what the rehearing motion asks the Commission to reconsider  
6 now on February 18th, it's something that has already taken  
7 place.

8           The motion sort of adds to sort of the disarray that  
9 we kind of find ourselves in in this point in the -- this late  
10 point in this docket. It's sort of a -- sort of a critical  
11 mass that's amounting, at least on the Company's side. The  
12 central premise of the motion for rehearing is that the  
13 Commission failed to consider the due process of intervening  
14 parties to the docket, but the due process of those parties is  
15 not at issue. The intervening parties listed in the motion by  
16 the DOE simply assented to the DOE filing the motion for  
17 extension for -- the original motion for extension. Those  
18 parties themselves were not asking for an extension, and in  
19 fact all parties, with the exception of CPCNH, who filed  
20 testimony, filed testimony on time.

21           Their due process would not be infringed by the  
22 denial of the extension, or by the denial of the rehearing  
23 motion. The only party's interest who are involved are the  
24 DOE's. I think the appropriate -- the DOE has an appropriate

1 motion for relief. And that is the motion to accept late-  
2 filed testimony. It's timely made and it's procedurally  
3 sound. I mean, we do disagree with the substance of the  
4 motion, but it at least I think makes a certain amount of  
5 procedural sense. However, if the Commission wants to hear  
6 more about the motion for rehearing, I suppose I could opine  
7 on that a little bit more. But I did want to say that at the  
8 outset that I think that that motion should likely not --  
9 should just be denied outright.

10           Turning to the motion for late-filed testimony.  
11 I -- I'd like to start with an overarching comment that the  
12 Company appreciates the efforts that are required to  
13 participate meaningfully in adjudicatory proceedings. We  
14 acknowledge that the Department has a -- is a mandatory party  
15 to all adjudicated dockets, and is in a unique position in  
16 that respect. Reviewing petitions and testimony, engaging in  
17 the discovery process, and preparing arguments takes  
18 significant resources and concerted efforts. But the way  
19 parties determine how to allocate resources throughout the  
20 proceeding is through the negotiated and consensus-based  
21 procedural schedule that gets approved by the Commission,  
22 which provides the reasonable timelines for conducting  
23 discovery and developing testimony.

24           The procedural schedule is a measure to ensure

1 parties' due process rights are protected. The procedural  
2 schedule should not be altered without good cause and  
3 consideration of the harm proposed -- of the proposed changes  
4 on the other parties to the proceeding. An adjudication is  
5 not just the hearing on the merits. It -- as just discussed,  
6 it's the entire process, starting with the petition, including  
7 the order of notice, the pre-hearing conference, the  
8 establishment of the procedural schedule, and the execution of  
9 that schedule. All of those elements have the common purpose  
10 to put the parties, the public, the petitioner, and the  
11 regulators on notice and on the same page regarding the  
12 relevant issues to be examined in the matter.

13 All of this process is aimed not only at due  
14 process, but also protects against unfair surprise and sort of  
15 gotcha litigation, which is not how regulated industry is  
16 supposed to be administered. Acceptance of either late-filed  
17 testimony or allowing DOE to introduce the content of late-  
18 filed testimony at hearing is antithetical to the foundational  
19 principle of a uniformly applied, consensus-based procedural  
20 schedule. The DOE states that the Commission should allow its  
21 late filing to fulfill its regulatory obligation and due  
22 process; and of course, all parties must be afforded due  
23 process.

24 And the Company is not arguing otherwise. And the

1 Company is also acutely aware of the value of the Department's  
2 role in Commission dockets, especially with the split of the  
3 agencies, which is why the Company made all possible  
4 accommodations requested by the Department in the development  
5 of the procedural schedule. And the Company assumed the  
6 lion's share of any procedural hardships in the existing  
7 schedule.

8           Ultimately, both due process and the Department's  
9 regulatory obligation come down to the fact that a reasonable  
10 period must be afforded to each party to investigate the  
11 issues in this case, and that all parties agree to what that  
12 schedule would be. While it's not without its challenges,  
13 especially in this case, the procedural schedule afforded  
14 reasonable time for discovery and development of testimony to  
15 all parties, and all parties agreed upon the existing  
16 schedule, thereby providing due process.

17           I would like to take a moment to summarize the  
18 critical components of the existing procedural schedule. The  
19 schedule included a five-month period of discovery. It was a  
20 continuous rolling period of discovery, in fact, offered  
21 voluntarily by the Company, and this allowed the DOE to file  
22 over 260 data requests to which the Company provided fulsome  
23 responses. There were five scheduled technical sessions for  
24 the parties. This is not the Commission technical sessions;

1 this was just among the parties. And the Company volunteered  
2 two additional sessions for the sole benefit of the  
3 Department. One of the scheduled technical sessions was  
4 canceled and at least two ended hours earlier than scheduled  
5 because the parties, including the Department, had no further  
6 questions for the Company. This does not indicate that any  
7 party lacked process.

8           The Department had over seven months with the  
9 Company's filing to develop its testimony. It cannot  
10 reasonably be asserted that seven months is insufficient to  
11 develop a position on the Company proposal in this docket. I  
12 heard Attorney Dexter reference that this was an exceptional  
13 case, because the Company submitted just shy of 20,000 pages  
14 in its filing, but over 16,000 of those pages was comprised  
15 exclusively of project documentation. Another -- an  
16 additional 1,000-plus pages were standard filing requirements  
17 for a rate case and were not the substance of the Company's  
18 proposal. 640 pages of the filing consisted of Company  
19 testimony. But regardless, over seven months is more than  
20 sufficient time to digest, analyze, and respond to the  
21 positions taken therein.

22           This is evidenced by the fact that the Department  
23 filed plenty of timely testimony, about 230 pages, which  
24 included a comprehensive analysis of the Company's



1 performance-based ratemaking proposal plus substantial  
2 supporting materials. It's also worth noting that the OCA,  
3 the advocate of residential ratepayers, and several  
4 intervenors to this docket, all filed timely testimony as  
5 well. The DOE was well aware of how little room was left in  
6 the schedule after intervenor testimony deadline, and that the  
7 Company had a challenging schedule ahead of it without any  
8 complications.

9           Currently, the Department is free to enter any or  
10 all of the data requests, the 260 data requests, and the  
11 Company responses. Those can be admitted as exhibits at  
12 hearing. The DOE is able to cross-examine Company witnesses  
13 at hearing, and between that and the timely filed testimony of  
14 the DOE, those 230 pages and supporting materials, the Company  
15 believes that that is more than enough to provide a thorough  
16 analysis and vetting of the Company's proposals in this  
17 docket, which would fulfill the DOE's regulatory obligation  
18 and provide the Commission with a fulsome evidentiary record.

19           No party, not even the State, and arguably  
20 especially not the State, especially not the State, should be  
21 free to ignore the agreed-upon, Commission-approved procedural  
22 schedule and the Commission decision on whether to amend that  
23 schedule to which all other parties are abiding, and would  
24 inappropriately skew the docket to the advantage of one party,

1 and the marked disadvantage of the Petitioner seeking relief.  
2 The DOE dough was fully aware and had a primary role in  
3 developing the existing schedule, and it's also thoroughly  
4 familiar with the 12 months maximum duration of a rate case  
5 delineated in RSA 378:6.

6           Turning to January 7th, the January 7th, I believe,  
7 Commissioner technical session. I just want to note that in  
8 that session, the Company did take notes on numerous issues  
9 that the Commission and others expressed an interest in seeing  
10 additional information on. We're actively taking those issues  
11 into consideration in the process of developing our rebuttal  
12 testimony. But aside from that, as was done with previous  
13 Commission technical sessions, no record requests, no written  
14 requests of any kind were issued. And so the Company did not  
15 believe that any submissions were required. It should also be  
16 added that the DOE did not reach out to the Company to see if  
17 anything was forthcoming, and they could have done that at any  
18 time. There was open communication about all discovery  
19 throughout the five months of the discovery period.

20           And I also want to note that nothing discussed in  
21 the January 7th session, and none of the information that may  
22 or may not have been forthcoming would have had any material  
23 or even an ancillary impact or make any change whatsoever to  
24 the Company's proposals in this case. Not the request for

1 distribution rates and not the company's performance-based  
2 ratemaking proposal at issue in this docket. So to the extent  
3 that it would have had no material impact on the proposals at  
4 issue for consideration in this docket, I don't see how the  
5 January 7th session or anything stemming from that would have  
6 been prohibitive as far as the DOE being able to submit timely  
7 testimony.

8           Going back to the motion to admit the late-filed  
9 testimony. DOE's unauthorized supplementation of the record  
10 after the denial of its request for an extension of time, the  
11 Company believes is unfairly prejudicial to the Company and  
12 creates a nearly insurmountable burden given the process  
13 remaining in the docket and the time left in the statutory  
14 period for the company to receive a decision in this matter.  
15 And currently, the company is not willing to waive the  
16 statute.

17           The Department cites to RSA 541-A:33 II on page 5 of  
18 its motion. Noting that the statute states that, quote, "any  
19 part of the evidence may be received in written form if the  
20 interests of the parties will not thereby be prejudiced  
21 substantially." The Department goes on to say that it, quote,  
22 "believes that presenting this testimony in written form  
23 before hearing will not prejudice the interests of the  
24 parties. Indeed, giving the other parties an opportunity to

1 review the Department's testimony well before hearing, allows  
2 parties a greater opportunity to examine the evidence offered  
3 by the Department and protect their due process right to  
4 cross-examination".

5           This is in conjunction with the Department's  
6 assertion that it, quote, "has a right to present evidence at  
7 a hearing in this proceeding, whether or not the Department's  
8 pre-filed testimony is accepted, neither statute nor  
9 administrative rules of the Commission prohibit the Department  
10 from offering evidence contained in its pre-filed testimony at  
11 a hearing, and indeed, the Department has the due process  
12 right to do so". As I previously noted, the Company disagrees  
13 with the Department's conclusion that the interests of the  
14 parties will not be prejudiced substantially, and that  
15 accepting late-filed testimony would be in the best interests  
16 of the parties.

17           The Department bases this claim on the idea that  
18 acceptance of the testimony affords the parties greater  
19 preparation to examine it before the hearing, and avail  
20 themselves of cross-examination of the Department. But the  
21 proper way to have afforded the parties preparation for  
22 hearing would have been to abide by the procedural schedule,  
23 not by allowing late-filed testimony, which causes all parties  
24 to scramble to account for these new positions. And the

1 Company does not believe the Department's ability to present  
2 its various petitions at hearing is unfettered or unlimited.

3 Under PUC 204.11, quote, "The Commission shall limit  
4 the number of witnesses or the time for testimony or oral  
5 argument upon a particular issue as needed". It would be  
6 appropriate for the Commission to exercise PUC 204.11 in this  
7 case, so that not only should the Department's late-filed  
8 testimony be rejected, but the Department should also likewise  
9 be prevented from backing it into the docket at evidentiary  
10 hearings. For the Department to exploit the hearings to work  
11 in the testimony it could not timely provide in writing  
12 according to the procedural schedule, is just a second bite at  
13 the apple to circumvent the procedural schedule and the  
14 agreement of the parties and the approval of the Commission  
15 that the procedural schedule represents.

16 For reasons that I've previously stated, the  
17 Department already has at its disposal a thorough vetting and  
18 analysis in the form of the responses to data requests and  
19 timely filed testimony by the Department. When combined with  
20 cross-examination of the Company's witnesses at hearing, the  
21 Department will have ample due process and the Company will  
22 not be prejudiced in the process. The Company built into its  
23 plans for this case time to work with its 24 witnesses and  
24 consultants, to process and analyze intervenor testimony and

1 develop discovery and rebuttal testimony, according to the  
2 agreed-upon schedule.

3           By disregarding the Commission's decision on the  
4 deadline for testimony on other issues, DOE has upended the  
5 procedural schedule and created a certain element of chaos and  
6 uncertainty, which, among other things, has substantially  
7 increased the cost of this rate case. The New Hampshire  
8 Supreme Court has said that when weighing the interests of the  
9 customer and the utility, quote, "the Commission must exercise  
10 its judgment in balancing those interests when it determines  
11 the allowable extent of operating expenses, when it identifies  
12 the property whose prudently incurred costs is included in the  
13 rate base, and when it sets a reasonable rate of return on  
14 that rate base." Thus, a reasonable rate is the rate  
15 resulting from a process that must consider the interests of  
16 the investor and customer, and must determine the appropriate  
17 recognition that each deserves. It's from Appeal of  
18 Conservation Law Foundation of New England, 127 New Hampshire  
19 606 from 1986.

20           I don't believe there's any room in this  
21 consideration for these gotcha game style tactics of the  
22 Department. I believe it frustrates due process of the  
23 utility. I believe it's somewhat disrespectful of the earnest  
24 efforts made by the witnesses and the staff that represent the

1 Company, as well as the intervening parties to the docket.  
2 But perhaps most importantly, allowing DOE's late testimony to  
3 be considered in this docket would set a terrible precedent  
4 with the potential to wreak havoc for those who practice in  
5 front of the PUC. And it would be a severe detriment to the  
6 regulated community, as it will signal to the DOE that it need  
7 not heed the rules or process to which all other parties must  
8 adhere. And that is the extent of my comments. Thank you.

9 CHAIRMAN GOLDNER: Thank you. Before we move to the  
10 Office of the Consumer Advocate, Commissioner Dell'Orfano  
11 would like to ask a question.

12 MS. CHIAVARA: Sure.

13 COMMISSIONER DELL'ORFANO: Could you specifically  
14 explain to us how the Company will be prejudiced by the  
15 allowance of this pre-trial testimony? And specifically, I  
16 understand the time and the consultants and those sorts of  
17 things. But I, you know, I've made very similar arguments in  
18 Superior Court before and the judge asked me, well, how are  
19 you really prejudiced. And I think that that's what I'm  
20 really trying to understand here is that, firstly, you know,  
21 is there a prejudice that -- does this truly create a  
22 situation that the Company cannot respond to, or is this you  
23 prefer the testimony not in, and you know, just continue  
24 business as usual?

1 MS. CHIAVARA: Being totally candid, I would say  
2 that there are positions in the testimony filed on February  
3 10th that we don't necessarily -- the Company doesn't  
4 necessarily disagree with, but that's not the basis for what  
5 we are basing our prejudice on. The original testimony due  
6 date of January 24th was what we had built this entire  
7 procedural schedule around. The back end of this -- of -- of  
8 this procedural schedule was already incredibly tight. There  
9 were some very, very constrained deadlines that were placed on  
10 the Company. The Department had already filed -- and as I  
11 noted earlier, the Department had already filed 230 pages of  
12 testimony with quite a bit of supporting materials.

13 The additional 160 pages of testimony and 1,700  
14 pages of support that were filed two weeks later is in itself  
15 prejudice too. We were already supposed to be -- rebuttal was  
16 supposed to be due today. Settlement was supposed to be due  
17 today. It did create an impossible situation for the Company  
18 to properly process that information. And as far as -- I'm  
19 sorry, I lost my train of thought. But it's not that we just  
20 disagree with the Department's substantive position. It is  
21 the fact that they had ample time to get in testimony in a  
22 timely manner, and that was what we had counted on. We --  
23 again, we had 24 people that we had to coordinate to provide a  
24 comprehensive response in rebuttal to and not being able to do



1 that is a severe prejudice to the Company.

2 COMMISSIONER DELL'ORFANO: So is it such a severe  
3 prejudice that you can't respond to it by March 7th?

4 MS. CHIAVARA: We are going to do our best. It's  
5 not ideal, but we're not willing to waive the statute that  
6 entitles us to a decision within 12 months. We do want  
7 permanent rates to take effect by August 1st, so we're willing  
8 to take the hit to that extent. It's the best -- it's the  
9 best we can do.

10 COMMISSIONER DELL'ORFANO: Okay. Thank you. I have  
11 a follow-up.

12 CHAIRMAN GOLDNER: Commissioner Dell'Orfano has a  
13 follow-up.

14 COMMISSIONER DELL'ORFANO: So when you discussed  
15 during your oral argument the idea that Department shouldn't  
16 be allowed to put witnesses on to testify to essentially what  
17 they would be testifying to in pre-trial testimony. Can you  
18 explain your legal basis for that outside of an interpretation  
19 of a particular PUC rule? In other words, why should this  
20 Commission order that they cannot put live witnesses up to  
21 testify to what they've pre-filed?

22 MS. CHIAVARA: Well, we're arguing that they should  
23 not be allowed to pre-file the testimony. So if they were not  
24 allowed to submit that pre-filed testimony, that effectively,

1 we would not be on notice for that. There is a general  
2 principle that administrative law should not be subjected to  
3 unfair surprise. I did address that in my comments. And you  
4 know, we are all supposed to be put on notice.

5           And again, it goes back to the importance of the  
6 agreed-upon procedural schedule. All parties agree to that.  
7 There shouldn't be two standards. And arguably, the State  
8 that does wield a tremendous amount of influence shouldn't be  
9 disregarding that schedule either, because it puts the rest of  
10 the parties at a disadvantage. And it does not have to do  
11 with the substantive positions. It has to do with process.  
12 And the petitioners seeking relief would have a significantly  
13 steeper uphill climb to make their case if this was the way  
14 that things were, if there were essentially going to be two  
15 processes, one for the Department and one for everybody else.

16           COMMISSIONER DELL'ORFANO: Understood. I have one  
17 more follow-up for the Department.

18           CHAIRMAN GOLDNER: One more follow-up for  
19 Commissioner Dell'Orfano to the Department.

20           COMMISSIONER DELL'ORFANO: Attorney Dexter, how  
21 would the Department be prejudiced if we decided to disallow  
22 your late-filed -- the Department's late-filed testimony?

23           MR. DEXTER: I think, would be significantly  
24 prejudiced because we wouldn't be able to present the

1 information that we submitted on February 7th/February 10th.  
2 There's significant substantive testimony that we believe the  
3 Commission should have in deciding this case. Mostly  
4 concerning -- a lot of it concerning recommended plant  
5 disallowances that are contained in the testimony of Mr.  
6 Dudley and the Willoughby consultants. That information  
7 doesn't appear in anybody else's testimony.

8           Our witness, Donna Mullinax, has calculated a  
9 recommended revenue requirement that takes into effect all the  
10 audit issues that we discussed, as well as a number of  
11 disallowances that she's recommending based on her experience.  
12 A lot of it concerning executive compensation, historical  
13 treatment of things like pre-payments, and (indiscernible)  
14 issues. None of that is covered by any other testimony. The  
15 testimony of Mr. Eckberg covers depreciation as well as the  
16 Department's position on some of the programs that the -- that  
17 Eversource has recommended. And the testimony of Ms. Nixon  
18 and Trottier gives her -- our complete position on  
19 performance-based ratemaking and decoupling.

20           None of that information is contained anywhere else.  
21 So the prejudice would lie in the Commission deciding this  
22 case without any of that input, all of which was developed  
23 based on the information that was discerned through the  
24 discovery period, through the technical sessions, through the

1 Commissioner-attended technical sessions.

2           Again, if we were coming to you the day before the  
3 hearing or the day before the decision, and wanting this  
4 information in, I think it'd be a legitimate claim that that  
5 would violate the due process rights of Eversource. Early in  
6 the process, we're (indiscernible) here in the 12, potentially  
7 14-month schedule. We understand it's a very tight schedule.  
8 We understand it's a very important two weeks. I think when  
9 balancing the interests of adjusting the schedule to allow  
10 this two-week situation versus completely excluding the  
11 information, I think the balance clearly tips in favor of  
12 allowing it.

13           With respect to doing this testimony live, I think  
14 that's something that the Administrative Procedure Act allows  
15 us to do. I think it would be unwieldy. Parties have all the  
16 information in writing now, so it wouldn't be a surprise to  
17 anybody. But it's not the typical way of doing things. But I  
18 believe we would be able to address these issues live if we  
19 had to.

20           Concerning the procedural schedule itself, we have  
21 to go back to the beginning of the development of the  
22 procedural schedule. And in fact, the Commission's procedural  
23 order of June 28th, where the Commission laid out hearing  
24 dates and subsequently adjusted those a little bit to allow

1 more time. The hearing dates in this case have been set  
2 really early in the process compared to other 12-month cases,  
3 for a very long time. So we did agree that the January 24th  
4 testimony date, we're not denying that. That testimony date  
5 was developed within the already compressed hearing date, not  
6 complex, but the mandated hearing dates in prior Commission  
7 orders. Had we had the opportunity to move those hearing  
8 dates back, we would have suggested a testimony date later,  
9 probably later than the February 10th (indiscernible) the  
10 Company filed.

11 CHAIRMAN GOLDNER: At this point, let's move to the  
12 Office of the Consumer Advocate, and we'll come back later  
13 with additional Commission questions after the rest of the  
14 parties have a chance to weigh in.

15 Attorney Fossum.

16 MR. FOSSUM: Thank you, and good morning. And just  
17 for clarity of the record again, Matthew Fossum, assistant  
18 consumer advocate here for the OCA this morning. It's not my  
19 intention to take much time. And so I'll try to be brief with  
20 just a couple of items. I'll note, sort of in passing at  
21 first, relative to the legal ruling that the Chairman spoke  
22 about regarding the 12-month period, it is -- I would ask that  
23 the Commission review that again. The suspension, as I  
24 understand it, didn't occur until at least the 26th of June.

1 And so if the suspension period is the important period, there  
2 may be some more time in the schedule than it seems. There  
3 may be for other reasons, but I won't belabor that point.

4 I'll move on to the substance of the motion that  
5 you're actually hearing, and I'll make two primary points.  
6 First, the concern of our office is that anything that upends  
7 the schedule, anything that pushes things out, may be  
8 better -- beneficial for due process purposes. It may be a  
9 more fulsome exploration of the case, and we are in favor of  
10 that. What we are not in favor of, however, is anything that  
11 creates additional expense to the customers of Eversource that  
12 we represent. That is our primary concern.

13 I'm not going to sit here this morning and advocate  
14 for the removal of the DOE's testimony from the docket. What  
15 I am primarily concerned about this morning is how the case is  
16 going to proceed from here. There was some discussion of it  
17 by attorneys for both the Company and the Department of  
18 Energy. And I'll lay out my perspective briefly, if the  
19 Commission is to reject the testimony of the Department of  
20 Energy, or at least that portion of it that came in after the  
21 24th of January, I do think it is appropriate and possible for  
22 the Department of Energy to enter that testimony by way of  
23 live examination. My read, as I sit here this morning, of PUC  
24 204.11, does not require the Commission to exclude that

1 testimony. So I don't see that as being a basis for rejecting  
2 the Department of Energy's testimony.

3           That said, my concern is that putting the  
4 Department's experts on the stand for live testimony and live  
5 cross-examination will take, at a minimum, days. Every single  
6 day that those consults would sit there costs customers money.  
7 Every single day that Eversource retains its own consultants  
8 to understand what is being said and to prepare its cross-  
9 examination costs customers money. And I don't think that  
10 that, at the end of the day, is going to result in a better  
11 outcome for customers or for the case in general. So from  
12 that perspective, that is the primary concern of our office,  
13 is making sure that the customers of Eversource are not harmed  
14 by this procedural issue.

15           That said, you know, we are concerned, as the  
16 Company is concerned, with where -- with the schedule having  
17 been set where it, was with adherence to the schedule, and  
18 with the ability to file testimony on time. I'm not going to  
19 sit here and pretend to understand the internal processes of  
20 the Department of Energy. You heard Attorney Dexter speak to  
21 those and how that worked. At the end of the day, the case is  
22 where it is this morning. And I guess I'll -- I could go on  
23 for a while, but I will choose not to, because I don't think  
24 it will add particular value. But I will just reiterate that

1 I think that the decision of the Commission should be what is  
2 the most efficient way to end the case with the information  
3 that the Commission needs to render a full decision in this  
4 matter.

5 CHAIRMAN GOLDNER: Before I move to Rate LG, does  
6 the Consumer Advocate have a recommendation for this --  
7 resolution of this dispute?

8 MR. FOSSUM: No, not at this time. We, as I said  
9 before, I'm not going to advocate for the rejection of the  
10 DOE's testimony. Our concern is with assuring an efficient  
11 process that gives the Commission the best information that it  
12 can and minimizing the harm to the consumers we represent.

13 CHAIRMAN GOLDNER: We'll have some additional  
14 questioning (indiscernible) in a moment. Let me go to Rate LG  
15 for any comments from that group.

16 MR. BOROWSKI: Good morning. Benjamin Borowski on  
17 behalf of the Consortium. The Consortium supports the  
18 inclusion of the DOE's late-filed testimony. Quite simply, we  
19 just think the stakes are too high and that more information  
20 is better at this point. As much information as you can  
21 glean. There -- we do not think there is any unfair  
22 prejudice; there might be minor scheduling prejudice, but I  
23 don't think it rises to the level of being an unfair  
24 prejudice. We would also note that we're in a somewhat



1 similar position to the Department in that our own testimony  
2 is in limbo. At this point, it's received little to no  
3 attention from Eversource. And I'd just like to point out  
4 that until we know whether or not it will be, we're de facto  
5 not part of any settlement discussions at this point, any  
6 settlement that might appear by the settlement date of  
7 February 25th. Thank you.

8 CHAIRMAN GOLDNER: Thank you. And finally, CPCNH.

9 MS. MANZELLI: Thank you, Mr. Chairman. Again, Amy  
10 Manzelli here for CPCNH. You know, just hearkening back to  
11 the very opening statements from the Chairman that if the one-  
12 year schedule were not adhered to, we might be looking at  
13 something like a hearing in August and rates in effect in  
14 November. Something like that is what would efficiently and  
15 comfortably allow the DOE's late-filed testimony to come in,  
16 which CPCNH supports. Of course, as the Commission can  
17 imagine sitting here hearing the discussion today, CPCNH is  
18 critically concerned that if the schedule were not changed, or  
19 even if it were changed in a very minor way, that would  
20 preclude granting the motion to compel that we have pending,  
21 the production of that information, the meaningful review of  
22 that information and providing testimony based on that  
23 information.

24 Harkening back to the comments that were just made,

1 CPCNH also has not been able to meaningfully participate in  
2 settlement negotiations because of lack of information that we  
3 believe that we are entitled to. There's no future in this  
4 docket where CPCNH will be able to meaningfully participate in  
5 those settlement negotiations by February 25th. I don't want  
6 to get into arguing our motion to compel now. I know that's  
7 not the time for that, but it's intertwined with the schedule.  
8 For that reason, we would heartily support allowing the time  
9 for DOE's testimony to come in. Thank you.

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

13 COMMISSIONER DELL'ORFANO: Mr. Assistant Consumer  
14 Advocate, I didn't hear in your argument whether or not you  
15 thought that your office and its clients would be prejudiced  
16 if the DOE's testimony were allowed in. Do you have a  
17 specific position on whether or not your case would be  
18 prejudiced if the Commission allowed?

19 MR. FOSSUM: I don't immediately see how our case  
20 would be prejudiced. I will say I wholeheartedly agree with  
21 Attorney Dexter that the testimony of the Department of Energy  
22 touches on many issues that no other party does, and some of  
23 that is the Department of Energy has resources and  
24 capabilities that other parties such as our office simply

1 don't have. So to some degree, we rely upon the work that  
2 they do.

3 That said, we did file our own testimony. We took  
4 positions on behalf of our office and our clients. So I don't  
5 see those specific issues being prejudiced. I see there being  
6 difficulty presenting a comprehensive case that takes into  
7 account all of the relevant issues without the DOE testimony.  
8 So -- and as to the issue of prejudice more generally, I'm  
9 sympathetic to Eversource's position. I do understand that  
10 they made a number of concessions along the way to accommodate  
11 the schedule, but at the same time, you know, they are the  
12 Petitioner in this case. They have vast resources that none  
13 of the other parties have. And so that is something that I  
14 would expect of them to some degree. So about the issue of  
15 prejudice, I guess that's where our office will stand.

16 COMMISSIONER DELL'ORFANO: Thank you very much.  
17 Large Customer Consortium, same question to you. I didn't  
18 hear anything about prejudice, per se. And I just want to  
19 ensure that your case wouldn't be prejudiced if the Department  
20 of Energy's late-filed testimony were admitted.

21 MR. BOROWSKI: No. No prejudice. We support  
22 inclusion of the late-filed testimony. I believe it is  
23 necessary for fulsome review of the issues.

24 COMMISSIONER DELL'ORFANO: Thank you. Attorney

1 Manzelli, same question. Just want to ensure that CPCNH's  
2 case wouldn't be prejudiced if the Commission did decide to  
3 admit the Department of Energy's late-filed testimony.

4 MS. MANZELLI: With the caveat that CPCNH would be  
5 concerned about the precedent that it would set in terms of  
6 overall due process implications, I don't think I can say that  
7 CPCNH would experience prejudice in its case if DOE's  
8 testimony did not come in.

9 COMMISSIONER DELL'ORFANO: You did mention a couple  
10 of things about the schedule that when you argue your motion,  
11 I may ask some questions about it as well as to the Large  
12 Customer Consortium as well, but we'll leave it here with  
13 those issues.

14 MS. MANZELLI: Thank you.

15 COMMISSIONER DELL'ORFANO: I don't have any further  
16 questions.

17 CHAIRMAN GOLDNER: Thank you.

18 Commissioner Chattopadhyay?

19 COMMISSIONER CHATTOPADHYAY: This is a question for  
20 the DOE. In the -- just a moment. In the objection filed by  
21 Eversource to the late-filed testimony by DOE on page 6, point  
22 10, the Company -- I'm going to read it. "The Company also  
23 further requests that the deadline for the Company rebuttal  
24 testimony be extended to March 7th, 2025 to provide the

1 Company an opportunity to analyze DOE's testimony and  
2 responses to the data request and incorporate into the  
3 Company's rebuttal testimony". Do you -- are you okay with  
4 that? Are you okay with -- sorry, March 7th).

5 MR. GOLDBERG: Yes, we are okay with that.

6 COMMISSIONER CHATTOPADHYAY: Thank you.

7 CHAIRMAN GOLDNER: The question for the Office of  
8 the Consumer Advocate, Attorney Fossum, you had mentioned  
9 earlier that the main concern of the OCA is expense. And I  
10 think by that you were referring to rate case expenses, so  
11 consultants and so forth, having to spend a couple of days  
12 dealing with the testimony live on the stand from the  
13 Department. Was that the concern, was really just around sort  
14 of rate case expenses?

15 MR. FOSSUM: That is a substantial concern. It's  
16 not the only concern. The rate case expenses in this docket  
17 are going to be significant regardless of how you slice it.  
18 Regardless of how today's hearing and the decisions of the  
19 Commission come out. I don't see any reason to expand those  
20 unnecessarily. That said, you know, to the extent that a --  
21 the lack of a complete and fulsome record makes a decision of  
22 the Commission tilt in one direction or another, there will be  
23 an impact upon the rates of the Company and therefore upon the  
24 customers that the Company serves.

1           So having a full and complete record of is the best  
2 way to assure that the outcome is just and reasonable from --  
3 to the to the greatest extent possible. Not to say that we  
4 would, you know, necessarily love the outcome, but we want to  
5 be sure that there's fair and appropriate outcome. And so we  
6 want to be sure that things don't get extended and that  
7 there's not a basis for rehearings, appeals, and things that  
8 just extend the case unnecessarily because all of that  
9 eventually adds up, not just rate case expense, but in terms  
10 of the actual rates that get charged. There's carrying  
11 charges on any deferred things that might be rolled in. All  
12 sorts of things.

13           CHAIRMAN GOLDNER: Okay. Thank you, Attorney  
14 Fossum. So the Commission will take 20 minutes at this point.  
15 Go ahead, Attorney (sic) Dell'Orfano, I think had --

16           COMMISSIONER DELL'ORFANO: (Indiscernible).

17           CHAIRMAN GOLDNER: Attorney Dell'Orfano -- or  
18 Commissioner Dell'Orfano has an additional question before we  
19 take a break.

20           COMMISSIONER DELL'ORFANO: I apologize for this.  
21 Attorney Dexter, if the Commission did decide to admit the  
22 Department's late-filed testimony, which is something that I'm  
23 not 100 percent thrilled about, that is the decision this  
24 Commission makes. But I think what we want to make sure of is

1 that the Department could still work within the current 12-  
2 month schedule. We'll take a look at the date issue that the  
3 assistant consumer advocate brought up, but we want to make  
4 sure though that that you can actually -- not you, but the  
5 Department itself, can, you know, prosecute the case within  
6 the current schedule.

7 MR. DEXTER: Yeah. Well, I think the short answer  
8 is yes. There would have to be some adjustments made to this  
9 very tight time frame that we're talking about; the two weeks  
10 that we filed late would sort of have to be made up. Assuming  
11 the Commission does not want to push the hearing dates back, I  
12 think we could probably operate within the hearing date still  
13 starting March 25th. If they were to be pushed back, that  
14 would certainly allow everybody to have an opportunity to  
15 review the Department's testimony that came in on February  
16 10th.

17 With respect to the 12 months, I guess I've heard  
18 three dates. We've heard June 16th, I think it is 12 months  
19 from the date of the Company's filing. June 28th, 12 months  
20 from the date of the suspension. Or August 1st, which would  
21 12 months from the effective date of the tariffs that were  
22 filed. And that's the one that the Department thinks is the  
23 appropriate date. In other words, Eversource filed this case  
24 around June 14th with tariffs with effective dates on August

1 1st. The suspension -- the statute allows the Commission to  
2 suspend the effectiveness of those tariffs for 12 months. So  
3 12 months from August 1st, 2024 through to August 1st, 2025.  
4 That's the date that Eversource has been indicating that they  
5 (indiscernible) also.

6 COMMISSIONER DELL'ORFANO: Does the Company want to  
7 respond to that?

8 MS. CHIAVARA: I have a response, and I don't know  
9 if it's directly to the logistical concerns of completing this  
10 docket on time. I appreciate the Commission's comprehensive  
11 approach to polling the parties to see if any of the parties  
12 feel that they would be unduly prejudiced. But I do want to  
13 reiterate that it's -- the Company is the Petitioner here.  
14 The Company is seeking relief from the Commission. And the  
15 reason why I continue to bring up the procedural schedule is  
16 because seven months was sufficient time. I don't believe the  
17 January 7th Commissioner session derailed anything. If all  
18 parties had unlimited time to develop their positions,  
19 certainly we would take more time than March 7th to develop  
20 rebuttal. We would take a lot more time, but we are  
21 constrained, as all parties are constrained in this docket by  
22 the statute that bars the amount of time that this case can  
23 take.

24 To depart from the procedural schedule, which



1 what -- which is what the DOE has done, despite the fact that  
2 the Commission said, do not depart from the procedural  
3 schedule, they went ahead and did that. And I don't believe  
4 they have shown good cause. And I believe good cause must be  
5 shown otherwise it does unduly prejudice the Petitioner. And  
6 that essentially what the Department has said is this  
7 testimony is important because of what we said in it. If it  
8 was that important, they should have utilized those seven  
9 months to get that testimony into the record on time as the  
10 Commission directed them to do.

11 Now, the Company is going to be put in the position  
12 of absolutely scrambling and will likely not come up with the  
13 case that we would ideally want to come up with because we  
14 will be heavily constrained. We were already going to be  
15 constrained with the schedule as it was. We are going to make  
16 additional sacrifices so that we can maintain our statutory  
17 right to relief. But this is not ideal and we do not feel  
18 that it is reasonable or just. And I already said that we  
19 would, you know, make the existing procedural schedule work  
20 with adjustments, but I do not believe that it is justified.  
21 Thank you.

22 CHAIRMAN GOLDNER: Just one last question before we  
23 take a break. So leaving aside if it's lawful or not, if the  
24 Commission were to issue a ruling on August 1st, would the --

1 as recommended by the DOE, would the company have any problem  
2 implementing those rates for an August 1st effective date?

3 MS. CHIAVARA: If the order came out on August 1st?  
4 That would be tough. We would need at least a few days of  
5 lead time.

6 CHAIRMAN GOLDNER: Okay. Just a few days though?

7 MS. CHIAVARA: Yes. I believe in some filings some  
8 months ago, we said somewhere around July 20th, I think, just  
9 to give us some lead time, but --

10 CHAIRMAN GOLDNER: We can have --

11 MS. CHIAVARA: -- we have scrambled before, we have  
12 gotten it done in a few days. So you know, again, not ideal,  
13 but we could do it.

14 CHAIRMAN GOLDNER: Okay. You need some time to  
15 implement the rates?

16 MS. CHIAVARA: Yeah.

17 CHAIRMAN GOLDNER: I suppose it depends on the  
18 difference in what you were expecting and what actually  
19 happens to the rate? If there were a lot of changes, that  
20 would be harder than if there were no changes.

21 MS. CHIAVARA: Sure. Yeah. And then a lot of it  
22 comes down to, you know, IT testing and making sure bills  
23 don't break and things like that. Yeah.

24 CHAIRMAN GOLDNER: Okay. It seems important.

1 Commissioner Chattopadhyay?

2 COMMISSIONER CHATTOPADHYAY: Very quick question.  
3 Do you in your objection filing, you have as the date March  
4 7th, for the rebuttal testimony.

5 MS. CHIAVARA: Yes.

6 COMMISSIONER CHATTOPADHYAY: And you sort of  
7 mentioned, you know, what would be ideal. And I'm not saying  
8 anybody knows exactly what is ideal. But in the context of  
9 what's going on, what would have been ideal instead of March  
10 7th, you know, would be better? So I just want to get a sense  
11 when you're okay with March 7th. But beyond that, is there a  
12 date where it will be a lot more sort of confident that you  
13 have everything, what you need?

14 MS. CHIAVARA: I think what would make us most  
15 confident is to be able to process all timely testimony that  
16 was filed on January 24th, prepare our rebuttal based on that  
17 testimony alone, and proceed to make our case from there.

18 COMMISSIONER CHATTOPADHYAY: Originally, what was  
19 the rebuttal testimony date?

20 MS. CHIAVARA: Today.

21 COMMISSIONER CHATTOPADHYAY: Today. But they have  
22 been two weeks late?

23 MS. CHIAVARA: Yes.

24 COMMISSIONER CHATTOPADHYAY: Okay. Thank you.

1           CHAIRMAN GOLDNER: Commissioner Dell'Orfano has a  
2 follow-up.

3           COMMISSIONER DELL'ORFANO: Just to make sure I  
4 understood the Company's response to the Chair. Are you  
5 assenting to the 8/1 date that seems that the Department of  
6 Energy is asserting is the appropriate date, based on the way  
7 that the Company has prepared its case and moved forward? Or  
8 do you believe it's the 6/16 date?

9           MS. CHIAVARA: We filed tariffs with an 8/1  
10 effective date, 8/1/2025 effective date. So that is the date  
11 that the Company intends to have rates become effective. An  
12 order on August 1st would not allow us to have that effective  
13 date.

14           COMMISSIONER DELL'ORFANO: Okay. But you're not  
15 expecting one on the 16th; on June 16th?

16           MS. CHIAVARA: We --

17           COMMISSIONER DELL'ORFANO: Just want to make sure  
18 that I'm understanding what was communicated to the Chair.

19           MS. CHIAVARA: We don't believe an order is  
20 necessary on June 16th for an August 1st effective date.

21           COMMISSIONER DELL'ORFANO: Very good. Thank you  
22 very much.

23           CHAIRMAN GOLDNER: Thank you. We'll take a break  
24 and return at a quarter of. Off the record.

1 (Recess at 10:30 a.m., recommencing at 11:03 a.m.)

2 CHAIRMAN GOLDNER: Okay. Back on the record.

3 Okay. So the PUC will -- is issuing a bench ruling.  
4 We are going to let in the DOE testimony. And we are going to  
5 require the rebuttal by March 7th. So with that, we will --  
6 and we'll issue a written ruling with the reasonings and so  
7 forth. And that will come -- come very shortly. But we  
8 wanted to give the parties a heads up that that was the --  
9 that was the ruling of the Commission. At this point, we'll  
10 move over to the CPCNH motion and move to that topic right  
11 now.

12 So please -- CPCNH, please proceed.

13 MS. MANZELLI: Thank you, Mr. Chairman. Again, for  
14 the record, my name is Amy Manzelli from BCM Law here  
15 representing CPCNH. As I'm sure everybody in the room knows,  
16 there are utility-pertinent legislative activities happening  
17 over at the State House, which is why nobody else from CPCNH  
18 is here with me today, but they are definitely here in spirit.

19 Again, here for Community Power Coalition of New  
20 Hampshire, as detailed with lots of information in our motion  
21 to intervene and subsequent pleadings. But I do want to just  
22 give a quick summary. CPCNH is a governmental instrumentality  
23 with its many members comprised of New Hampshire  
24 municipalities and counties. Now, CPCNH is organized pursuant

1 to a joint powers agreement pursuant primarily to two  
2 statutes, RSA 53-A and 53-E:3 II(b). On April 2023, CPCNH  
3 began operating as a functioning joint power supply agency,  
4 procuring and supplying electricity and related services to  
5 its member communities and counties. Power programs to those  
6 members, and it is currently providing alternative default  
7 power supply to many, many municipalities statewide.

8 CHAIRMAN GOLDNER: Attorney Manzelli, I'll just jump  
9 in. We are well familiar with CPCNH, so we can --

10 MS. MANZELLI: That concludes my introduction. So  
11 right on the same page.

12 CHAIRMAN GOLDNER: (Indiscernible). Thank you.

13 MS. MANZELLI: Thank you. So with that  
14 introduction, please, Commissioners, make no mistake about  
15 their interest in this topic and their requests. Those for  
16 whom CPCNH provides alternative default power supply and are  
17 in Eversource's territory will be subject to whatever  
18 distribution rates are approved in this docket. And as a  
19 result, CPCNH has a right, perhaps even a fiduciary duty, to  
20 its members to, through the discovery process, make sure that  
21 the processes that go into arriving at the proposed rate  
22 increase are appropriate.

23 And to put that into language from the notice in  
24 this docket, to determine whether the ratemaking methodologies

1 are accurate and consistent with all relevant law,  
2 regulations, and Commission orders. They have a right to  
3 examine that with information from Eversource.

4           So let me get into a little bit of the law here and  
5 the party's positions. So first of all, I want to point out  
6 that in its objection, Eversource cites no discovery law.  
7 None. And the words that they use in their argument mostly  
8 use the wrong legal standard. The words are, CPCNH's request  
9 are not germane. These are Eversource objections. CPCNH  
10 hasn't signed an NDA to receive confidential information.  
11 CPCNH requests are outside of the scope of the proceeding.  
12 Now, where they come close to using the appropriate legal  
13 standard is where they say that CPCNH's requests are not  
14 relevant to the proposal, they're irrelevant to this  
15 proceeding, and they're irrelevant to the issues in this  
16 proceeding.

17           Now, the actual legal standard -- I'm sure as the  
18 Commission knows, but doing my job here today, I'm going to  
19 break it down and say it all out loud. It's that the  
20 information sought is either relevant to this proceeding,  
21 or -- and the "or" part is much broader -- reasonably  
22 calculated to lead to the discovery of admissible evidence.  
23 And we've briefed this in our papers. This is from your  
24 Commission's orders. New Hampshire law, as adopted by this

1 Commission's orders, favors broad liberal discovery. And  
2 Eversource hasn't provided any objection addressing the latter  
3 part of the applicable standard, leading to the discovery of  
4 admissible basis. Excuse me. Admissible information. The  
5 last part of the legal standard is sort of the flip side of  
6 the coin. Denial is only appropriate -- denial of a motion to  
7 compel is only appropriate where there is no circumstance,  
8 just absolutely no circumstance where the information sought  
9 could lead to the discovery of admissible evidence.

10           Now, before I get into some -- lining up some of the  
11 facts of what we're looking for with this legal standard, I  
12 want to say one more thing about the Eversource's argument.  
13 Eversource's argument about CPCNH's intervention is just  
14 totally immaterial. First of all, on a procedural basis,  
15 CPCNH petitioned for intervention on 7/12/24. On 7/18/24,  
16 Eversource moved to limit CPCNH's intervention. I'm not going  
17 to go through all the back and forth. Suffice to say, there  
18 was a lot of motion practice involving Eversource, CPCNH, and  
19 some other parties sharing their positions on the issue.

20           Ultimately, as you know, but just to remind us all,  
21 the Commission granted CPCNH's intervention without limitation  
22 on September 5th, 2024. And the legal significance of that  
23 intervention order is that CPCNH had -- was found to have  
24 rights, duties, privileges, and immunities or other



1 substantial interests that may be affected in this docket.  
2 And that's why we're here participating. No one sought  
3 rehearing of that order granting CPCNH unlimited intervention.  
4 No one sought any other appeal of that order, and no one has  
5 sought to limit CPCNH's intervention.

6 Now, Eversource, when you read its objection to  
7 CPCNH's motion to compel, Eversource certainly suggests that  
8 CPCNH's intervention should be limited, but Eversource has not  
9 taken the required step to file a motion to formally put CPCNH  
10 on notice that it is requesting CPCNH's intervention to be  
11 limited. If it chooses to take that step, obviously, CPCNH  
12 has the right to file an objection to that motion, which we  
13 likely would, but that has not occurred yet. No party has  
14 moved to limit CPCNH's intervention. So intervention is not  
15 on the table today. That's just immaterial. This is a  
16 discovery dispute of full parties.

17 And then I just want to make one more quick note,  
18 because Eversource is saying, essentially, we can't have full  
19 intervention because we're disrupting the docket. There  
20 doesn't have to be a disruption of the docket on this issue.  
21 Eversource was due to respond to CPCNH's valid discovery  
22 requests on November 25th, 2024. And had they done so, we  
23 wouldn't be here today arguing over this issue.

24 All right. So to bring this to a close, applying

1 the very broad discovery standards to the facts and what's  
2 going on in this docket. Again, we've laid this out in our  
3 motion so I'm just going to take this in summary fashion.  
4 This docket is about Eversource requesting a number of things,  
5 but certain cost recovery. Eversource bases this cost  
6 recovery, at least in part, on load estimates. Eversource has  
7 a continuing obligation as a utility to ensure that those that  
8 load estimation and settlement result in fair, accurate  
9 allocations to suppliers of wholesale costs incurred on behalf  
10 of the specific customers served by those suppliers.

11 The utility's obligation includes, among other  
12 things, accurately tracking and allocating DER impacts on  
13 hourly energy and daily capacity settlements on the customer  
14 and load asset specific basis. So if the utility didn't do  
15 that, it would undermine -- it could undermine load settlement  
16 generally and increasingly, to an extent, that could erode the  
17 basis for retail market competition. And that free  
18 competition, of course, is one of the substantial interests of  
19 CPCNH. So in plain terms, it's fair game for CPCNH to ask for  
20 the information that it's asking for is because it could lead  
21 to the discovery of admissible information in this docket.

22 Essentially, what we are asking for is for  
23 Eversource to show the map on how it's getting to the rates  
24 that it is asking this Commission to approve. We believe this

1 is directly relevant, the first part of the admissibility --  
2 the discovery standard, but at a minimum, it is definitely  
3 reasonably calculated to lead to the discovery of admissible  
4 evidence. So our request is that we respectfully request an  
5 order from this Commission compelling Eversource to respond by  
6 a date certain.

7           And I just have a little procedural housekeeping  
8 item. We understand from Eversource's objection here and the  
9 course of conduct between the parties over the several months,  
10 Eversource believes some of what we are asking for is  
11 confidential. We are asking for an order for Eversource to  
12 respond by a date certain, but we think it would be helpful  
13 for the Commission to dialogue with Eversource today about  
14 setting in a time period within which we would enter into an  
15 NDA with Eversource to cover the receipt of the confidential  
16 information. We don't know how long Eversource believes that  
17 would take, but we should build that into the schedule. I  
18 have nothing further, but I welcome the Commission's  
19 questions. Thank you.

20           CHAIRMAN GOLDNER: Thank you. We'll go round robin  
21 and then come back to Commissioner questions. Attorney  
22 Chiavara, would you like to go next or last?

23           MS. CHIAVARA: I'm ready to go now. Thank you.

24           CHAIRMAN GOLDNER: Please proceed.

1 MS. CHIAVARA: Okay. So first I do have some  
2 statements about the motion to compel, but first I would like  
3 to address some of Attorney Manzelli's comments. I don't know  
4 that I exactly agree or necessarily follow the test that was  
5 laid out for admissibility of evidence or the discovery  
6 standard, but I will lay out my own. CPCNH's customers, to  
7 the extent that CPCNH is here representing their customers in  
8 this case, to the extent that some of those members are  
9 Eversource customers, the rights of those customers as  
10 Eversource customers do not automatically transfer to CPCNH.  
11 They do not share the same rights. CPCNH provides electric  
12 supply to those customers, and that is the nature in which  
13 they represent those customers in this docket. So  
14 distribution rates do not necessarily affect CPCNH and all  
15 their non-Eversource customer.

16 So to address a couple of other things, PSNH did  
17 move to limit CPCNH's intervention. We did so on July 18th.  
18 We -- our concern was that they would bring in irrelevant  
19 discovery and irrelevant topics that were not germane to the  
20 scope of this docket, which it looks like we are dealing with  
21 right now. This is pretty much what we had in mind. When the  
22 Commission ruled on intervention, and I don't have the date of  
23 this order, but I will read from this order. It does say  
24 that, "Having reviewed CPCNH's petition to intervene,

1 Eversource's objection, and the follow-up briefs, the  
2 Commission grants CPCNH's petition to intervene on the basis  
3 that CPCNH's intervention is in the interest of justice and  
4 their participation may assist in the investigation of the  
5 noticed issues. In granting the intervention request the  
6 Commission is not unsympathetic to the concerns expressed by  
7 Eversource. However, comparable to the position of DOE and  
8 the OCA, the Commission finds limitation of CPCNH's  
9 intervention status at the inception of this proceeding to be  
10 premature. Should CPCNH's participation in this docket, or  
11 any other intervenor's participation become irrelevant and  
12 unnecessary, RSA 541-A:32 III provides a remedy to the  
13 Company."

14 I also want to address a point made in the motion to  
15 compel, which was reiterated by Attorney Manzelli today. That  
16 is a fundamental misunderstanding of how we recover costs and  
17 distribution rates. Eversource does not base cost recovery of  
18 distribution rates on wholesale load estimates or wholesale  
19 load settlement in any way. They are not related to one  
20 another. We settle load with ISO New England. That is a --  
21 ISO New England is a FERC-regulated entity. If it was a Venn  
22 diagram it would be two separate circles. So CPCNH is  
23 conflating the two and somehow building into -- load  
24 settlement into distribution rates. But it has no business

1 there.

2 I would like to go back to my statements about the  
3 CPCNH motion. So this docket was noticed as a distribution  
4 rate case. If the CPCNH motion to compel were granted, load  
5 settlement would be an unnoticed issue. The Commission would  
6 be obligated to, under PUC 203.07(a)(5) (sic) issue a  
7 supplemental order of notice that allows the parties and any  
8 potential intervenors time to file supplemental testimony,  
9 petitions to intervene, or comments on the new or  
10 unanticipated issues. This in itself would effectively create  
11 a new scope of the docket, not an expansion of the scope. As  
12 the manner in which the Company settles wholesale electric  
13 load with ISO New England is squarely outside of the scope of  
14 the consideration of settling -- of setting distribution rates  
15 and the company's performance-based ratemaking proposal.

16 The addition of this scope would fatally compromise  
17 the Company's statutory right to a timely decision in this  
18 docket. And as we had mentioned earlier, the Company does not  
19 waive that statutory right at this time. Logistically, CPCNH  
20 could have avoided this sort of last-minute stalemate that we  
21 find ourselves in. It could have more proactively managed the  
22 procedural schedule. CPCNH waited until the last day of the  
23 five-month discovery period to issue -- to first issue its  
24 questions, which I suppose it was -- it was entitled to do.

1 The Company first objected to the questions on December 6th,  
2 CPCNH tried to repeat the questions the Company objected to at  
3 a party technical session, at which point the Company said  
4 that tech sessions were fact-based inquiries and legal  
5 arguments weren't really appropriate at that time.

6 CPCNH simply repeated its questions as technical  
7 session data requests. At all stages, the Coalition waited  
8 until the last possible moment at each stage to take any  
9 action on anything. The motion to compel discovery could have  
10 been decided months ago, had CPCNH taken a more proactive  
11 decision on when to ask its questions and pursue answers to  
12 those questions. It ran out the clock, and running out the  
13 clock should not adversely impact the Company's case,  
14 especially considering the irrelevant nature of their data  
15 requests. The questions that the Coalition is asking has  
16 nothing to do with cost recovery of distribution assets that  
17 happen to settle out with ISO New England. Their concern is  
18 with how the company settles load with ISO New England. And  
19 that's an ISO New England process that does not hit  
20 distribution rates.

21 It is also not an Eversource-only process. Load  
22 settlement is a process that is done uniformly across the  
23 State by all electric utilities. It's also pretty much done  
24 uniformly across New England. So this is not -- it's

1 absolutely not an Eversource distribution rate issue. So I  
2 would like to address CPCNH's request to extend to file  
3 testimony, which they filed with their motion to compel  
4 discovery, which was filed four days before testimony was due.  
5 Again, I would say that they probably should have proactively  
6 managed the procedural schedule a bit better.

7           The Commission didn't grant an extension for  
8 testimony for CPCNH. Yet, CPCNH decided not to file testimony  
9 on January 24th. Without an extension granted, I would say  
10 the window has closed for CPCNH to file testimony. Even if  
11 the Commission were to grant the motion to compel, I would say  
12 the window has closed for CPCNH to file testimony. Filing  
13 testimony at this late date, brand new testimony on unnoticed  
14 issues between the actions the Commission would have to take  
15 to renote the docket, and then for the Company to bring in  
16 brand new witnesses, because we don't have the appropriate  
17 witnesses to address load settlement involved in this docket  
18 at the moment. It would effectively create a mini -- a brand  
19 new mini-docket within an almost completed docket.

20           So I don't think that the Coalition should have  
21 assumed it was sufficient to request an extension and then  
22 just not have to file testimony. I can't emphasize enough how  
23 irrelevant these questions are. There is absolutely no  
24 consideration that needs to be taken in rendering a



1 determination on either distribution rates or the Company's  
2 performance-based ratemaking proposal that would require the  
3 consideration of the process of load settlement. So I would  
4 respectfully request that the Commission deny the motion to  
5 compel and deny CPCNH an opportunity to file any late  
6 testimony in this docket.

7 CHAIRMAN GOLDNER: Okay. Thank you, Attorney  
8 Chiavara.

9 We'll turn now to the Department of Energy.

10 MR. DEXTER: And the Department has no comments on  
11 this motion.

12 CHAIRMAN GOLDNER: Okay. Thank you.  
13 Attorney Fossum?

14 MR. FOSSUM: Thank you. And similarly, the Consumer  
15 Advocate has no comment on this motion.

16 CHAIRMAN GOLDNER: All right. Any comment from Rate  
17 LG?

18 MR. BOROWSKI: We have no comment. Thank you.

19 CHAIRMAN GOLDNER: Okay. Thank you. We'll turn now  
20 to any Commissioner questions beginning with Commissioner  
21 Dell'Orfano.

22 COMMISSIONER DELL'ORFANO: Attorney Manzelli, how is  
23 loan settlement a noticed issue in this case?

24 MS. MANZELLI: Thank you, Commissioner. We believe

1 that it fits squarely within the methodologies used to arrive  
2 at the proposed rates.

3 COMMISSIONER DELL'ORFANO: The proposed distribution  
4 rates?

5 MS. MANZELLI: Yes.

6 COMMISSIONER DELL'ORFANO: Attorney Chiavara, do you  
7 have any comment on that?

8 MS. CHIAVARA: It does not.

9 COMMISSIONER DELL'ORFANO: Thank you.  
10 Attorney Manzelli, how are Eversource's

11 interconnection agreements in Connecticut relevant to this  
12 current case?

13 MS. MANZELLI: We believe that the information to be  
14 gleaned from those requests -- which of course, we do not  
15 have -- will help elucidate the methodology relationship  
16 between the distribution rates and the load settlement.

17 COMMISSIONER DELL'ORFANO: How so?

18 MS. MANZELLI: I can't answer that without the  
19 requested information.

20 COMMISSIONER DELL'ORFANO: Company's position on  
21 that?

22 MS. CHIAVARA: Yes. They are asking questions about  
23 software that we deployed in Connecticut called Piclo. I can  
24 say that they're asking for a contract that was not executed

1 by this Company, PSNH. It was an Eversource Connecticut  
2 affiliate. So we're not -- we don't have privity of contract.  
3 We arguably don't have the authority to disclose that contract  
4 in this case. We would have to bring witnesses up from  
5 Connecticut to speak to that. I have no -- I cannot imagine  
6 how that might have any bearing on the distribution rates for  
7 PSNH.

8 COMMISSIONER DELL'ORFANO: Is Piclo -- is there any  
9 plan to implement Piclo here in New Hampshire?

10 MS. CHIAVARA: There are no concrete plans to  
11 implement Piclo in New Hampshire. No.

12 COMMISSIONER DELL'ORFANO: Could you tell us which  
13 Eversource affiliate entered that agreement just to make sure  
14 it doesn't source the mothership company?

15 MS. CHIAVARA: It is not the mothership. I believe  
16 it is CLNP.

17 COMMISSIONER DELL'ORFANO: Okay. Thank you.

18 Attorney Manzelli, what is Public Service of New  
19 Hampshire's obligation to accurately track and allocate  
20 distributed energy resource impacts on capacity settlement?

21 MS. MANZELLI: Do you mean with respect to load  
22 settlement?

23 COMMISSIONER DELL'ORFANO: With regards to load  
24 settlement, yes.

1 MS. MANZELLI: Yeah. Okay. It relates to the  
2 underlying methodology that factors into the ultimate question  
3 to be answered in this docket, which is, is it just and  
4 reasonable?

5 COMMISSIONER DELL'ORFANO: Is what just and  
6 reasonable?

7 MS. MANZELLI: The distribution rate proposed.

8 COMMISSIONER DELL'ORFANO: Okay.

9 MS. MANZELLI: So it's foundational.

10 COMMISSIONER DELL'ORFANO: It's foundational.  
11 Understood.

12 MS. CHIAVARA: Sorry. If I may, however we do -- or  
13 by we, I mean, however PSNH does or does not factor in  
14 distributed energy resources into the calculation of load  
15 settlement, load settlement is over here. It is a -- it's how  
16 we distribute wholesale load obligations for electric  
17 suppliers. And the supply rate is separate from the  
18 distribution rate. It shows up separately on your bill. They  
19 don't intersect.

20 COMMISSIONER DELL'ORFANO: And you had mentioned  
21 that this is a settlement that happens with ISO New England;  
22 is that right?

23 MS. CHIAVARA: Correct.

24 COMMISSIONER DELL'ORFANO: And is there a tariff

1 that governs that?

2 MS. CHIAVARA: The ISO New England tariff. Yes.

3 COMMISSIONER DELL'ORFANO: Which one, do you know?

4 Open market access, maybe?

5 MS. CHIAVARA: You know, I'm not terribly sure where  
6 load settlement falls in the tariff.

7 COMMISSIONER DELL'ORFANO: Is that regulated by  
8 FERC?

9 MS. CHIAVARA: It is.

10 COMMISSIONER DELL'ORFANO: Thank you. I have no  
11 further questions.

12 CHAIRMAN GOLDNER: Commissioner Chattopadhyay?

13 COMMISSIONER CHATTOPADHYAY: I don't have any  
14 questions.

15 CHAIRMAN GOLDNER: All right. And the Chair has no  
16 questions. So I think we have everything we need on --

17 MS. MANZELLI: Well, I'd like an opportunity for  
18 rebuttal. Thank you.

19 CHAIRMAN GOLDNER: You may. Just a moment. So  
20 after Attorney Manzelli's rebuttal, we'll move to the next  
21 topic, which is Rate LG -- PSNH, who is the moving party,  
22 Attorney Chiavara, so you'll go first.

23 But before we do that, Attorney Manzelli?

24 MS. MANZELLI: Thank you. I just want to make sure

1 that in the Commission's consideration of this topic, that it  
2 would be fundamentally unfair to penalize a party for, at all  
3 times, timely participating in discovery. You know, CPCNH  
4 never missed any deadlines with respect to data requests,  
5 follow-up technical session, data requests, filing the motion  
6 to compel. And I'm sure the Attorney Chiavara will  
7 acknowledge some of the time, not all, some of the time in  
8 between these procedural milestones was spent by the parties  
9 exploring whether they could resolve discovery disputes  
10 informally without motion practice.

11 And I did just want to acknowledge here that while  
12 some of the parties to this docket, like Eversource, are in  
13 multitude, some others, like CPCNH, are not, and they do their  
14 best to meet deadlines in a timely fashion. But being  
15 proactive and doing things many days before the deadline is  
16 not within reach. And I just want to reiterate our position  
17 that New Hampshire law has broad discovery. And for a party  
18 to be able to just categorically say, I'm not going to provide  
19 this because I feel it's not going to lead to discovery -- to  
20 the discovery of admissible information that is not how  
21 discovery works in New Hampshire, and it's not been the  
22 precedent of this Commission. Thank you.

23 CHAIRMAN GOLDNER: Okay. Attorney Manzelli, we'll  
24 turn now to the next topic.

1           And Attorney Chiavara?

2           MS. CHIAVARA: Thank you. So regarding the  
3 company's motion to strike the LCC testimony, much like the  
4 CPCNH motion to compel, if the LCC testimony is admitted,  
5 which is pretty much dedicated solely to the proposal of a  
6 transmission rate, these would also be unnoticed issues, and  
7 it would trigger the same Commission rule PUC 203.07(a)(5)  
8 (sic). Which again, I'm just going to repeat, would require  
9 the issuance of a supplemental order of notice that allows the  
10 parties and any potential intervenors time to file  
11 supplemental testimony, petitions to intervene, which I  
12 imagine would then have to be ruled upon, or comments or -- on  
13 the new or -- and unanticipated issues.

14           Again, we'd be effectively creating a new scope of  
15 the docket, not an expansion of the scope. This was noticed  
16 as a change to distribution rates, not a change to  
17 distribution and transmission rates. Again, this would be a  
18 fatal compromise of the Company's statutory right to timely  
19 decision in this docket, statutory rights that the Company  
20 does not waive at this time. It should also be noted that the  
21 Company's transmission rate cannot just be changed for one  
22 customer or one customer class. The transmission rate design  
23 and transmission cost allocation as a whole would need to be  
24 reexamined because changing the allocation for any one class

1 of customers necessarily impacts all other classes of  
2 customers. So the whole thing would have to be reexamined.

3           The LCC objection speaks to the Commission's plenary  
4 ratemaking authority. No one is disputing the Commission's  
5 plenary ratemaking authority. It's just not at issue here.  
6 The sole relevant issue on which the inclusion of the LCC  
7 testimony hinges is the limited and defined scope of issues in  
8 this docket, none of which is the Company's transmission rate.  
9 LCC argues that if it were required to file its proposal as a  
10 petition for consideration in a separate docket, it would  
11 constitute single issue rate-making. But this assertion is in  
12 error as it fundamentally misinterprets what single issue  
13 ratemaking is.

14           Single issue ratemaking is when one particular  
15 aspect of a utility's revenue requirement for base rates is  
16 considered and decided on in isolation and out of context,  
17 with all other costs and revenues to be included in base rates  
18 here, distribution rates. Changing the transmission rate is  
19 not a single issue ratemaking. It's a single rate, which is  
20 absolutely appropriate to be considered in a docket of its  
21 own. And in fact, that is how the Company's transmission rate  
22 is currently addressed in the annual transmission cost  
23 adjustment mechanism; the TCAM docket, it's an annual docket.  
24 The distribution rate in this docket is also a single rate,



1 not a single issue. But changes to the transmission rate is  
2 not necessary or relevant to render a decision on distribution  
3 rates. It's simply beyond the limits of what's appropriate to  
4 be considered in this docket.

5           The LCC objection makes erroneous statements that I  
6 would like to take a moment to correct. LCC claims changing  
7 the transmission rate is the single issue listed in LCC's  
8 petition to intervene which put PSNH on notice and that PSNH  
9 had no objection. Both of these claims are false, and  
10 actually the opposite is true. LCC's petition provided no  
11 notice of its intent with regard to transmission rates, and  
12 when the Company did learn of its intention, it objected  
13 outright. LCC states the following on page 3 of its  
14 objection, quote, "In its brief regarding limiting  
15 intervention dated August 2nd, 2024, PSNH did not oppose the  
16 LCC's petition to intervene, nor did PSNH seek to formally  
17 limit the scope or nature of LCC's participation. In fact,  
18 PSA expressed its anticipation that LCC would focus on the  
19 issues that LCC had identified in its petition to intervene,  
20 including a rate design alternative." End quote.

21           In response, first, nowhere in LCC's petition is the  
22 word "transmission". What it does say is, quote, "The  
23 Consortium's members' substantial interest as time of use  
24 customers will be impacted by the rate design proposal

1 described in the testimony of Ms. Amparo Nieto, and that the  
2 Consortium intends to present evidence and argument on a rate  
3 design alternative to PSNH's for Rate LG customers that is  
4 superior in terms of efficiency and equity".

5 Ms. Nieto's testimony has no proposals pertaining to  
6 transmission rates, and PSNH has only proposed distribution  
7 rates in this docket. So the only reasonable conclusion to  
8 draw regarding LCC's intended rate design alternative was that  
9 it would be a distribution rate proposal. There's no way the  
10 Company could have been on notice regarding LCC's intention to  
11 propose a transmission rate, based off its petition to  
12 intervene because the petition implied something else  
13 entirely.

14 Secondly, PSNH did absolutely oppose LCC's  
15 intervention to the extent it may pertain to transmission  
16 rates because LCC made a statement at the pre-hearing  
17 conference that seemed to indicate it was interested in  
18 transmission rates. Specifically, the Company stated the  
19 following, and I'm going to quote from the Company's August  
20 brief on the petitions for intervention. This is on pages 6  
21 and 7 of the company's brief. "Relatedly, during the July  
22 22nd, 2024 pre-hearing conference, the Rate LG Customer  
23 Consortium indicated they intend to propose an alternative  
24 transmission rate proposal. The Rate LG Customer Consortium

1 did not reference or specifically identify such a proposal in  
2 its petition to intervene, but has nonetheless now stated  
3 grounds for intervention. To the extent the transmission rate  
4 proposal is about how transmission costs are allocated among  
5 rate classes or pertains to transmission cost adjustment  
6 mechanism, this proposal will be outside the scope of this  
7 distribution rate case proceeding. The Company has not  
8 proposed any changes to transmission cost allocation in this  
9 proceeding, and the TCAM has a separate dedicated annual  
10 docket process.

11 "However, in their petition, the Rate LG Customer  
12 Consortium states that they intend to propose alternative LG  
13 rate designs that differ from the designs proposed by the  
14 Company. Assuming the LG Customer Consortium is referring to  
15 distribution rates proposed, which does seem to be the case,  
16 these issues are within the scope of the proceeding and  
17 clearly of particular interest to the Rate LG Customer  
18 Consortium. However, to the extent the LG Customer Consortium  
19 put forth a proposal pertaining to how transmission costs are  
20 allocated and the resulting rates determined, the Company  
21 would object to the inclusion of such a proposal in this  
22 docket, as the appropriate forum for such a proposal would be  
23 in a dedicated docket of its own, opened at the request of a  
24 proper petition brought by the LG Customer Consortium". And

1 that's the end of the quote on the brief.

2 But between LCC's baseless objection and  
3 misstatements and the wholly irrelevant nature of their  
4 testimony, I don't see any basis or support for allowing LCC's  
5 testimony into this docket for consideration and the Company's  
6 motion to strike the testimony and omit it entirely from the  
7 docket should be granted. That is not to say that it's not  
8 valid consideration whatsoever. As previously noted, it's a  
9 valid topic of consideration, just for a separate docket.  
10 It's just improper for inclusion in this docket, and it cannot  
11 be included without forwarding the Company's statutory right  
12 to a timely decision in this matter. Thank you.

13 CHAIRMAN GOLDNER: Thank you. Would Rate LG prefer  
14 to go next or last? Your choice.

15 MR. BOROWSKI: Oh.

16 CHAIRMAN GOLDNER: Okay. Thank you. You can  
17 proceed now if you like.

18 MR. BOROWSKI: Thank you. Benjamin Borowski on  
19 behalf of the Large Customer Consortium, which is made up of  
20 Hancock Lumber Company, Monadnock Paper Mills --

21 THE COURT REPORTER: I'm sorry to interrupt. Sir,  
22 will you repeat yourself and speak up just a bit? Your name  
23 and then continue. Thank you.

24 MR. BOROWSKI: Benjamin Borowski, on behalf of the

1 Consortium, which is made up of Hancock Lumber, Monadnock  
2 Paper Mills Industries, and the University System of New  
3 Hampshire.

4           Suffice it to say, we disagree with most of what  
5 PSNH just asserted. We are not seeking to file a new  
6 transmission rate or to change transmission cost allocation.  
7 And we -- the rate design, transmission rate design, which is  
8 part of delivery rates that we see that we propose would be a  
9 intraclassical. I'd like to outline a few of our arguments  
10 first, and then I'll get into them substantively.

11           The first is that we believe we are entirely within  
12 our -- the scope of our intervention in this proceeding and  
13 the initial procedural order issued by the Commission.  
14 Addressing transmission rate design for large customers in  
15 this proceeding is the administratively efficient thing to do.  
16 And it is appropriate, given what -- given the PSNH proposals.  
17 Single issue ratemaking is against Commission policy, is  
18 ineffective and inefficient. And finally, I'll discuss why  
19 the transmission cost adjustment mechanism is inappropriate to  
20 address rate design.

21           Our petition clearly stated that we sought to  
22 propose a transmission rate design superior to PSNH's, and one  
23 that actually supported PSNH's stated goals of efficiency and  
24 equity, and optimizing grid usage and expansion through price

1 signals. I can see maybe we're in a hole with the words, and  
2 the word "transmission" did not appear, but we were referring  
3 to large customers and expressly referenced Rate LG.

4 No one opposed our intervention. PSNH did include  
5 in its opposition or its filing on the intervention petitions  
6 some argument about ours, but hasn't -- up front in the same  
7 motion, they initially said we do not oppose granting any of  
8 the petitions. Ultimately, the Commission granted our  
9 petition without material restriction, and we've acted in  
10 reliance on that ever since, including expending time and  
11 resources, issuing data requests, attending technical  
12 conferences, and ultimately filing testimony. To the extent  
13 anyone is prejudiced here, I believe it would be the  
14 Consortium wasting its time and resources in this proceeding  
15 if from the outset it was going to be considered out of scope.  
16 That is not what we thought and that is not what we relied on.

17 Second, addressing transmission rate design for  
18 large customers in this proceeding is an administratively  
19 efficient. And it's appropriate, given what PSNH has  
20 proposed. And I'll specifically get into that. First, the  
21 initial premise that the Commission absolutely has the  
22 authority to investigate and impose a transmission rate design  
23 in this case, it has an obligation to ensure an overall rate  
24 scheme that is just and reasonable. And I'd like to point out

1 that under restructuring, the Commission has additional  
2 authority to ensure that the restructuring policy principles  
3 are implemented, including the ones we care most about, price  
4 transparency and competition.

5 All the parties are here right now. PSNH, obviously  
6 we are, the Department, the Consumer Advocate. It is most  
7 efficient to address this issue in this proceeding right now.  
8 At stake are other fundamental issues of rate design. For  
9 example, PSNH has proposed moving somewhat from an allocated  
10 cost model to a marginal cost model. That is a fundamental  
11 change. More importantly, PSNH has proposed a advanced band  
12 response metric as part of its EDR. In the testimony of the  
13 coats panel on PDR metrics at 29 and 30, PSNH describes how  
14 important it is for customers to reduce their peak  
15 contributions. The problem is that PSNH hopes to achieve that  
16 through what is essentially ratepayer funded program. They  
17 will pay people to do a demand response. What we're saying  
18 is, with a simple tweak in rate design, customers can do that  
19 on their own. They can be given the appropriate price signals  
20 to do things like demand response on their own, which will  
21 benefit all customers by reducing PSNH's share of the ISO New  
22 England payment.

23 Finally, or third. Excuse me. The Commission has a  
24 longstanding policy against single issue ratemaking, and for

1 good reason. We believe this is perfectly analogous to single  
2 issue ratemaking. What we're dealing with here, to use a  
3 crude analogy, is a balloon. And Eversource -- or excuse me,  
4 PSNH is squeezing the balloon in many areas and it  
5 affirmatively decided not to address transmission rate design.  
6 But that is a bulge in the balloon that you now need to  
7 consider as part of the overall justice and reasonableness of  
8 the rates. It would be inefficient for us to file a complaint  
9 next month. I don't think anyone would want to see us back  
10 here on this single issue of transmission rate design for  
11 large customers; it would be ineffective to do so. It risks  
12 upsetting the overall just and reasonable balance that you  
13 need to ensure based on the outcome of this case.

14           And finally, the transmission cost adjustment  
15 mechanism is simply not the right place for rate design, and I  
16 don't think that can be disputed. The timing absolutely makes  
17 no sense. Those proceedings are expedited. Looking at just  
18 the last two years from initial filing to Commission order  
19 it's been about two months. Sometimes they're shorter.  
20 That's not a proceeding where you can delve into substantial  
21 rate design issues.

22           And the scope makes no sense either. TCAM  
23 proceedings are expedited for a reason. You're dealing with  
24 FERC approved numbers, and what you're doing is you're



1 tinkering with the inputs and you're maybe debating some of  
2 the computation, but you don't mess with the formula in those  
3 proceedings. And that's why you can get them done in two  
4 months.

5           So I'd just like to reiterate I don't think anyone  
6 can dispute that PSNH does not want to address our rate design  
7 issue, transmission rate design issue here in this case. But  
8 I don't think that's the question. I think the question is  
9 whether the Commission thinks it should investigate and  
10 consider our proposal to ensure the overall rates that PSNH is  
11 proposing is just and reasonable. Thank you.

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

14           MR. FOSSUM: Similar to the prior motion, the OCA  
15 has no comments on this motion.

16           CHAIRMAN GOLDNER: And the Department of Energy?

17           MR. DEXTER: Has a couple of observations. One is  
18 that we agree with the Consortium that a fundamental change to  
19 the allocation formula for transmission charges would not be  
20 appropriate in a TCAM. Our understanding is that mechanisms  
21 like the TCAM and the quick dockets are to implement already  
22 approved formula and allocation methods. And we've had  
23 this -- we've had this issue come up with respect to  
24 decoupling, where a decoupling mechanism would be established

1 in a rate case, and then the collection of the decoupling  
2 would take place in a periodic short docket. And any  
3 suggestion of not adhering to the established formula is  
4 generally met with pretty strict opposition, because it's  
5 understood that the formula was set in the rate case, and  
6 therefore has to be changed in a rate case.

7           We had a similar case about four years ago, and I'm  
8 sorry I didn't get a chance to get the docket number, where  
9 the Department of Energy wanted to change the working capital  
10 that was allocated to transmission charges for Unitil Energy  
11 Services. And predictably, we were told that Unitil, the  
12 working capital formula was set in the rate case 10 or 15  
13 years ago, and we needed to wait till the next rate case in  
14 order to do that. And that's exactly how that issue played  
15 out. So the TCAM is not the appropriate docket. So then that  
16 leads to the question, what is the appropriate docket?

17           We the Department do not believe that this is an  
18 inappropriate place to review transmission rate design change  
19 because, as I said, typically underlying formula and  
20 structural rate changes are considered in general rate cases.  
21 Now, Eversource has stated that this is a distribution rate  
22 case, not a transmission rate charge. This case was filed  
23 under RSA 378:28. And that statute was passed well before all  
24 these different charges. Back in 1951 there was one rate, and

1 the 12-month suspension period is expansive to allow  
2 consideration of utility rates.

3 Now, over the course of restructuring and unbundling  
4 what used to be collected through a distribution rate has been  
5 broken out into many, many different parts, transmission  
6 charge being one of them. But as I said, the TCAM, the docket  
7 that addresses the TCAM would not be appropriate for us to  
8 review this rate design proposal. So I guess in sum what I'm  
9 saying is the Department doesn't see that this docket is an  
10 inappropriate place to consider the large customer group's  
11 rates.

12 CHAIRMAN GOLDNER: Thank you. Does the CPCNH have  
13 any comment?

14 MS. MANZELLI: No, thank you.

15 CHAIRMAN GOLDNER: Okay. We'll turn now to  
16 Commissioner questions beginning with Commissioner  
17 Dell'Orfano.

18 COMMISSIONER DELL'ORFANO: So having come to this  
19 case a little bit late, I'm a little bit confused. So let  
20 me -- let me see if I can clarify my understanding. Are the  
21 Large Customer Consortium, is -- does that group propose to  
22 change the interstate transmission tariff that is then passed  
23 through to its customers, or what are you really trying to get  
24 out of this in terms of transmission rate design?

1 MR. BOROWSKI: Can I let my expert speak?

2 COMMISSIONER DELL'ORFANO: Please.

3 MR. PERKINS: Eden Perkins on behalf of the  
4 Consortium. We are not proposing any change in the FERC-  
5 approved methodology for allocating costs to PSNH or how the  
6 TCAM fundamentally works. We are proposing specific tariff  
7 language changes to both rate LP and rate feed in terms of  
8 how, on the intraclass basis, those transmission costs are  
9 finally assessed to customers. So to summarize, we are  
10 changing specific components of the rate fee and rate LG  
11 tariff under the Company's service tariff.

12 COMMISSIONER DELL'ORFANO: So let me try and -- let  
13 me try and tell you what I heard. What I heard is that you  
14 want to take the numbers that are essentially established  
15 through the FERC process and allocate them perhaps differently  
16 around rate classes. So LG would have maybe a more equitable  
17 one, or is it something different?

18 MR. PERKINS: It's something different than that.  
19 You know, in terms of a final transmission cost allocation  
20 that goes towards Rate LG customers, we are proposing  
21 different billing units and a measurement of what that bill  
22 demand is -- is captured for PSNH to bill one of these  
23 customers that may participate in this optional tariff we  
24 proposed. Not proposing any change at the interclass

1 allocation of transmission costs to cover.

2 COMMISSIONER DELL'ORFANO: So it would be  
3 essentially just confined to the large -- the large customer  
4 group. And what we're really talking about here is an  
5 optional program to try among that, among the members of that  
6 group to allocate based on a different sort of billing  
7 category or billing purpose. Can you explain why somebody --  
8 why the Commission would want to consider that?

9 MR. PERKINS: It's back to the point of effective  
10 price signals. We fully agree with PSNH's testimony in a  
11 number of places, Ms. Nieto's testimony, and the PVR metrics  
12 testimony. There's consensus that having customers reduce  
13 their demand during periods of peak demand, meaning coincident  
14 peak demand, measuring at the symptom level, that benefits  
15 everybody by basically using the efficient -- system more  
16 efficiently and putting off potential capital investments that  
17 are driven by peak demand. By sending customers appropriate  
18 price signals to try to incentivize that type of demand  
19 reduction, we think that is necessary. And as we laid out in  
20 our testimony, that is not accomplished today, especially in  
21 the Rate LG tariff, with how on peak hours are set with how  
22 billing demand is set. There are a myriad of issues that  
23 essentially haven't been touched for 32 years. I think it's  
24 the appropriate time to address, and we think this would

1 benefit all customers.

2 COMMISSIONER DELL'ORFANO: From a practical  
3 standpoint, how would you address that in terms of, let's say,  
4 demand response?

5 MR. PERKINS: There are somewhat two separate  
6 issues. This is based on a model that Eversource has already  
7 implemented in Massachusetts. In western Mass, it went into  
8 effect in 2012. In eastern Mass, it went into effect in 2022.  
9 It's also a model that has been implemented in Maine by  
10 Central Power Company, but the utility has also agreed to  
11 include this as part of their settlement agreement in their  
12 rate case. Essentially, what you do is you look at a  
13 customer's contribution to grid demand during a single hour  
14 each month on PSNH's monthly system peak load curves, and  
15 that's measured across PSNH's entire New Hampshire system. So  
16 you're still using a kilowatt demand reading. It's just a  
17 different time period than what is used today by the Company  
18 to build transmission demand each month for large customers.

19 COMMISSIONER DELL'ORFANO: Okay. So this is -- and  
20 I'm familiar with the eastern and western Massachusetts system  
21 for this. Are you proposing that for LG in New Hampshire  
22 without any changes from the way those systems work?

23 MR. PERKINS: Can you repeat the question?

24 COMMISSIONER DELL'ORFANO: Sure. So I'm familiar

1 with the way that that the process works in eastern Mass  
2 territory and western Mass territory. Are you proposing a  
3 similar process for Public Service customers here in New  
4 Hampshire, or is it like one of those processes but with a  
5 with a different flavor to it?

6 MR. PERKINS: I think it's very similar to the  
7 eastern Massachusetts model. There are some differences in  
8 the weeds, having been in them, that'd be helpful. But  
9 essentially this is available on a voluntary, opt-in basis.  
10 This is being pushed by the large customer. If they enroll,  
11 then there is a monthly billing process where PSNH examines  
12 when their monthly peak load hour happen. And they look at  
13 that 60-minute average KW reading of one participating  
14 customer, what they took off the grid during that hour. So  
15 it's essentially identical to what is in place in  
16 Massachusetts. There are some nuances between Massachusetts  
17 and Maine that I'm happy to get into, but for all intents and  
18 purposes, it's same structure.

19 COMMISSIONER DELL'ORFANO: I'm not familiar with the  
20 Maine one, so that might be lost on me. And so from the  
21 Company's perspective, the Company doesn't object per se to  
22 discussion on this, just not in this docket. If that's the  
23 case, then in what docket should this be addressed?

24 MS. CHIAVARA: That is a fair question,

1 Commissioner. Thank you. I want to back out for a moment and  
2 use an example. In PSNH's, one of the previous rate cases,  
3 docket DE 03-200, that's where we unbundled transmission from  
4 distribution rates. It was noticed right at the outset, that  
5 was part of the Company's proposal. And that's where -- I  
6 believe that might have been where the TCAM was born. I would  
7 agree with the Department of Energy and with LCC that the TCAM  
8 docket itself is not the appropriate place to discuss  
9 reformulating the TCAM or reallocating or any of that. I  
10 believe -- but what we said in our brief on petitions to  
11 intervene was that the LCC group should file its own petition  
12 to open its own docket.

13           As far as the claims that this would be the most  
14 efficient way, I strongly disagree about that. Because by the  
15 Commission's own rules, transmission rates were not noticed.  
16 I know that LCC keeps referencing the LG rate, but that is a  
17 distribution rate. I mean, to the extent that each rate class  
18 on its bill has all rates listed, transmission is still  
19 separate from distribution. They aren't the same.

20           So transmission rates were not noticed in this  
21 docket. To notice them in this docket, we would have to --  
22 the Commission would have to issue a supplemental order of  
23 notice. It would bring the docket to a halt. We're at  
24 February 18th, settlement's due February 25th. Now rebuttal's



1 due 3/7, and then we've got hearings on the 25th of March. I  
2 don't know that we have time to stop the docket and start a  
3 mini-docket within it. That doesn't seem like the most  
4 efficient use of time. It seems like the -- given the fact  
5 that LCC's has developed testimony, all they would have to do  
6 is draft a petition and start another docket. And that seems  
7 like it would be a much smoother process. I don't think it  
8 has to be in the context of a rate case. If it's a PSNH rate,  
9 I believe we would probably be made a mandatory party to that  
10 docket, and that would be an appropriate place to have that  
11 out without the procedural constraints that are already upon  
12 us in this docket.

13 COMMISSIONER DELL'ORFANO: So if I could turn back  
14 to the Department of Energy for a moment then. So we have the  
15 LG Group saying that this is the right place to deal with it.  
16 We have Public Service asserting that this is not the right  
17 docket to consider this matter. And I heard from the  
18 Department of Energy that you don't think this is a is per se  
19 a right or wrong place to do it, but it could be done in this  
20 docket.

21 Does the Department of Energy have any  
22 recommendations to the Commission on this point? In other  
23 words, should we consider renoticing this, or should we  
24 encourage an approach that opens a separate docket on this?

1 MR. DEXTER: So I haven't looked at what was noticed  
2 and what wasn't so I can't comment on that. But as I said,  
3 this case was filed under 378:28. It's a permanent rate case.  
4 And when that statute was passed that was designed to cover  
5 the rates of the company. And there is a long history of  
6 making these structural type changes in rate cases. And I  
7 actually want to correct what I said earlier about the Unitil  
8 precedent that I mentioned; that had to do with working  
9 capital on stranded costs and on transmission costs, and I was  
10 able to find the docket number in the order number. So I'd  
11 like to provide that to you since you referenced it. It was  
12 DE 21-121 and it was order number 26,500 issued July 29th,  
13 2021. And that as a recommendation as to whether or not the  
14 particular order of notice was broad enough. And we urge the  
15 Commission to look at it. And if it can be interpreted that  
16 way, as I said, this seems to be an appropriate place to  
17 consider the Consortium's rate.

18 CHAIRMAN GOLDNER: So I'm going to need to bring the  
19 hearing to a close. If we have any further questions, we can  
20 come back on Thursday, unless it's very brief. Do the  
21 Commissioners have any additional questions or shall we come  
22 back on Thursday?

23 COMMISSIONER DELL'ORFANO: I would like to just  
24 follow up with the assistant consumer advocate and see if

1 their office has a position on --

2 CHAIRMAN GOLDNER: Okay.

3 COMMISSIONER DELL'ORFANO: -- whether or not the  
4 current notice would encompass this, whether renotece would be  
5 appropriate, and if this should be handled by a different  
6 docket, with this docket.

7 COMMISSIONER CHATTOPADHYAY: If we have a hard stop  
8 then, you know, you may have to go to the next day. But I  
9 would also like to wrap up if possible.

10 CHAIRMAN GOLDNER: And did you say how many  
11 questions do you have, Commissioner Chattopadhyay?

12 COMMISSIONER CHATTOPADHYAY: It depends on what the  
13 responses are, but I think maybe I have one line of  
14 questioning that I want to go on.

15 CHAIRMAN GOLDNER: Okay.

16 COMMISSIONER CHATTOPADHYAY: So maybe two or three  
17 questions.

18 CHAIRMAN GOLDNER: Okay. So we -- with the hard  
19 stop was at noon, and I really meant that. So let's return  
20 with the balance of this particular issue on a Thursday  
21 morning at 9 a.m. And it sounds like there won't be that much  
22 more but there is -- there is more. In the meanwhile, we'll  
23 take the CPCNH issue under advisement, and the late-filed  
24 testimony, and we'll issue an order on that as quickly as

1 possible. And I'll just ask before we part, is there anything  
2 else that we need to cover today?

3 MR. BOROWSKI: Yes. One issue is we came down from  
4 the greater Portland area, and if we're just going to spend a  
5 couple more minutes on Thursday morning, would we be okay if  
6 we participated virtually?

7 CHAIRMAN GOLDNER: Absolutely, absolutely.

8 MR. BOROWSKI: Okay.

9 CHAIRMAN GOLDNER: So approved.

10 MR. BOROWSKI: Appreciate that.

11 CHAIRMAN GOLDNER: Approved on that. But please  
12 we'll have you call in on Thursday morning, 9 a.m.

13 Okay. With that, we are adjourned. Thank you.

14 (Whereupon the pre-hearing conference/tech session  
15 was concluded at 12:04 p.m.)

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CERTIFICATE

I, Traci Fine, a court-approved proofreader, do hereby certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, to the best of my professional skills and abilities.

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March 2, 2025