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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

August 30, 2012 - 11:14 a.m.  
Concord, New Hampshire

Morning Session  
ONLY

NHPUC SEP14'12 PM 4:26

RE: DE 10-188  
2011 CORE ELECTRIC PROGRAMS AND  
NATURAL GAS ENERGY EFFICIENCY PROGRAMS:  
*Energy Efficiency Programs.*  
(Hearing regarding available RGGI funds)

PRESENT: Chairman Amy L. Ignatius, Presiding  
Commissioner Robert R. Scott  
Commissioner Michael D. Harrington  
  
Sandy Deno, Clerk

APPEARANCES: Reptg. Public Service Co. of New Hampshire:  
Robert A. Bersak, Esq.  
  
Reptg. Unutil Energy Systems:  
Rachel A. Goldwasser, Esq. (Orr & Reno)  
  
Reptg. Granite State Electric Co. d/b/a  
Liberty Utilities:  
Sarah B. Knowlton, Esq.  
  
Reptg. New Hampshire Electric Cooperative:  
Mark W. Dean, Esq.  
  
Reptg. TRC Energy Services:  
Tom Rooney

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

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**APPEARANCES: (C o n t i n u e d)**

**Reptg. Dept. of Environmental Services:**  
Rebecca Ohler

**Reptg. N.H. Housing Finance Authority:**  
Benjamin Frost

**Reptg. N.H. Community Loan Fund:**  
Richard Minard

**Reptg. Conservation Law Foundation:**  
Christophe G. Courchesne, Esq.

**Reptg. The Way Home:**  
Alan Linder, Esq. (N.H. Legal Assistance)

**Reptg. the Community Action Association:**  
Dana Nute  
Ryan Cloutier

**Reptg. the Jordan Institute:**  
D. Dickinson Henry, Jr.  
Laura Richardson

**Reptg. Residential Ratepayers:**  
Rorie E. P. Hollenberg, Esq.  
Office of Consumer Advocate

**Reptg. the PUC Staff:**  
Marcia A. B. Thunberg, Esq.  
Jack Ruderman, Dir./Sustainable Energy Div.  
Al-Azad Iqbal, Electric Division  
James J. Cunningham, Jr., Electric Division

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Mr. Linder	17
Ms. Knowlton	23
Mr. Dean	24
Mr. Rooney	26
Mr. Nute	27

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1  
2 CHAIRMAN IGNATIUS: Good morning. I'll  
3 open the hearing in Docket DE 10-188, which is a  
4 continuation of issues involving what originally was the  
5 2010-2011 CORE Electric Programs and Natural Gas Energy  
6 Efficiency Programs. We have had some supplemental orders  
7 of notice and letters, secretarial letters explaining the  
8 scope of today's proceedings, and have had filings made  
9 pursuant to those. And, I understand people have been  
10 working today to continue to explore each others positions  
11 and streamline the issues, if possible. So, we appreciate  
12 that.

13 Why don't we begin with appearances.  
14 And, then, I'll turn to whoever wants to be a spokesperson  
15 for how we're proceeding today, to lay that out just  
16 procedurally of what we're going to be expecting. And,  
17 also just mention, I have a commitment at noon, a  
18 conference call I have to get to. So, we'll only be able  
19 to go until 12:00, and then take a lunch break, where I  
20 can do the call, and then we can resume at probably 1:15  
21 or something like that. All right?

22 So, let's begin with appearances please.

23 MS. GOLDWASSER: Good morning. My name  
24 is Rachel Goldwasser. I'm an attorney at the law firm of

1 Orr & Reno, in Concord. I'm here today on behalf of  
2 Unitil Energy Systems. And, with me are Tom Palma and  
3 Mary Downes.

4 MR. BERSAK: Good morning,  
5 Commissioners. Robert Bersak, here on behalf of Public  
6 Service Company of New Hampshire. And, joining me today  
7 are Gilbert Gelineau and Rhonda J. Bisson on behalf of the  
8 Company.

9 MR. DEAN: Good morning. Mark Dean, on  
10 behalf of the New Hampshire Electric Cooperative.

11 CHAIRMAN IGNATIUS: Other parties next  
12 in the group?

13 MS. KNOWLTON: Good morning,  
14 Commissioners. My name is Sarah Knowlton. I'm here today  
15 on behalf of Granite State Electric Company d/b/a Liberty  
16 Utilities. And, with me today from the Company is Eric  
17 Stanley.

18 MR. ROONEY: Tom Rooney, with TRC Energy  
19 Services. I'm with the intervenors.

20 MS. OHLER: Rebecca Ohler, with the  
21 Department of Environmental Services.

22 MR. FROST: Good morning, Commissioners.  
23 Ben Frost, for the New Hampshire Housing Finance  
24 Authority, intervenor.

1 MR. MINARD: Good morning. Richard  
2 Minard, with the New Hampshire Community Loan Fund, an  
3 intervenor.

4 MR. CLOUTIER: Good morning. Ryan  
5 Cloutier, with the Community Action Agencies, intervenor.

6 MR. COURCHESNE: Good morning,  
7 Commissioners. Christophe Courchesne, on behalf of the  
8 Conservation Law Foundation.

9 MR. LINDER: Good morning. My name is  
10 Alan Linder. I'm with New Hampshire Legal Assistance. We  
11 represent The Way Home, an intervenor. Good morning.

12 MR. HENRY: Good morning, Commissioners.  
13 I am Dick Henry, with the Jordan Institute. And, I am  
14 here this morning with Laura Richardson, also of the  
15 Jordan Institute.

16 MR. NUTE: Good morning, Commissioners.  
17 Dana Nute, with the New Hampshire Community Action  
18 Association, intervenors.

19 MS. HOLLENBERG: Good morning. Rorie  
20 Hollenberg, here for the Office of Consumer Advocate.

21 MS. THUNBERG: Good morning,  
22 Commissioners. Marcia Thunberg, on behalf of Staff. And,  
23 with me today is Iqbal Al-Azad, Jack Ruderman, and Jim  
24 Cunningham.

1                   And, I have an administrative note  
2                   regarding exhibits. By agreement, the Staff and the  
3                   Parties wish to mark for identification the following  
4                   documents, which I believe you have before you already.  
5                   And, I would just like to read them in order. It is the  
6                   "Joint Utilities' Proposal for use of RGGI funds", which I  
7                   believe starts off with Exhibit 57. And, then, from  
8                   there, it would be the Jordan Institute proposal. The  
9                   next exhibit would be New Hampshire Legal Assistance  
10                  filing of August 14th. Next is the Energy Efficiency and  
11                  Sustainable Energy Board letter dated July 31st.

12                 MS. HOLLENBERG: Excuse me. Could you  
13                 just slow down a little bit, so I can write down the  
14                 exhibits. We don't have a list. Go ahead. Sorry.

15                 MS. THUNBERG: Sure. The EESE Board  
16                 letter of July 31st would be the next exhibit.

17                 MS. GOLDWASSER: Is that 60?

18                 MS. THUNBERG: Would be 60. Sixty-one  
19                 (61) is the Jordan Institute response dated August 17th.  
20                 I'm sorry, 62 am I at?

21                 MS. HOLLENBERG: Yes.

22                 MS. THUNBERG: Is Office of Consumer  
23                 Advocate's response dated August 17th. Next exhibit is  
24                 Staff's comments dated August 17th. Next exhibit is

1 Conservation Law Foundation's response dated August 17th.  
2 Next is a letter from TRC dated August 28th. Next for an  
3 exhibit is Department of Environmental Services' letter  
4 dated August 29th. Next is the Community Loan Fund's  
5 letter dated August 24th. And, lastly, the Community  
6 Action Program letter dated August 29th. Those are the  
7 documents we wish to just have expressly noted in the  
8 record. They have already been filed in the docketbook.  
9 Thank you.

10 CHAIRMAN IGNATIUS: Thank you. I assume  
11 there's no objection, as this was agreed to that this list  
12 would come in and marked as such?

13 **(Documents so marked for identification as Exh. 57 thru 68)**

14 CHAIRMAN IGNATIUS: All right. Are  
15 there -- there is one other paperwork issue I just want to  
16 bring to everyone's attention. These are not exhibits,  
17 but we have received two emails regarding this docket that  
18 came directly to one or more of the Commissioners. That  
19 isn't the way it should go. And, so, when that arrived,  
20 we had them put in the public file and available. And,  
21 there's been no response to the people who sent them. So,  
22 we haven't had a private discussion of those things, but I  
23 just wanted that known. And, to the extent you're ever  
24 working with company supporters, partners in projects, who

1 don't know how the rules work, please remind them of that.  
2 I'm sure they meant no harm by sending a direct e-mail,  
3 but that's, you know, in an adjudicative case, that's not  
4 the way we do it. It should be part of the public record.

5 So, there was one from Joe Scott, is  
6 that right?

7 CMSR. SCOTT: Short.

8 CHAIRMAN IGNATIUS: I'm sorry, Joe  
9 Short. And, the other was from Pamela LaFlamme, from the  
10 City of Berlin. And, they're on our website.

11 Any other procedural matters to address  
12 before we either get going or talk about how we're going  
13 to get going?

14 (No verbal response)

15 CHAIRMAN IGNATIUS: All right. What is  
16 your recommended plan of action for this morning and this  
17 afternoon?

18 MS. GOLDWASSER: Chairman, I think we  
19 have a two-part proposal. I'm going to speak on behalf of  
20 the utilities, and then I believe that Mr. Henry is going  
21 to speak at least on behalf of some, if not many or most  
22 of the other intervenors.

23 The utilities, in accordance with the  
24 Supplemental Order of Notice and following secretarial

1 letters in this docket, are prepared today to present a  
2 \$2 million proposal to supplement the CORE Programs and  
3 provide some additional programmatic work during the Fall  
4 of 2012 to be completed by the end of this year. That's  
5 the first part of their proposal. The second part, with  
6 respect to the utilities beginning work in 2013, they  
7 propose that \$1 million be set aside and available to  
8 begin RGGI-related work via the 2013 and 2014 CORE  
9 Programs. And, the reason for that is, under HB 1490, the  
10 first funds to come in via RGGI will be coming in in  
11 March. And, so, that \$1 million will provide an  
12 opportunity to start moving on those programs at the  
13 beginning of 2013. And, we'll have a -- we have a panel  
14 available to provide some details on that proposal.

15 That is what we believe needs to happen  
16 today, in order to provide the utilities with time to  
17 start moving this fall with the \$2 million proposal that  
18 they have presented to the Commission, and to begin  
19 planning for the September 17th filing that's due for the  
20 2013-2014 programs.

21 CHAIRMAN IGNATIUS: And, that would be  
22 presented with a panel or a witness?

23 MS. GOLDWASSER: Yes. We have a panel  
24 today that will consist of Mr. Gelineau, Ms. Bisson, and

1 Mr. Palma.

2 CHAIRMAN IGNATIUS: And, the expectation  
3 is that parties would have an opportunity to cross-examine  
4 the panel, either through a single spokesperson or  
5 individually?

6 MS. GOLDWASSER: Right. And, the  
7 substance of that panel testimony will be as a I  
8 mentioned, this \$3 million plan; \$2 million to be spent  
9 this fall, and 1 million to begin as seed money for the  
10 2013 programs.

11 CHAIRMAN IGNATIUS: All right. Thank  
12 you.

13 CMSR. HARRINGTON: I'm sorry, could you  
14 repeat those numbers again please? Two million this fall?

15 MS. GOLDWASSER: Two million this fall,  
16 which is the amount that was presented in the Supplemental  
17 Order of Notice, which issued on July 13th.

18 CMSR. HARRINGTON: Yes.

19 MS. GOLDWASSER: And, \$1 million in seed  
20 money to begin the RGGI component of the CORE Programs  
21 under HB 1490, beginning January 2013.

22 CMSR. HARRINGTON: Okay.

23 MS. GOLDWASSER: With respect to the  
24 proposal that Mr. Henry -- I understand Mr. Henry is about

1 to make, the utilities don't take any position and are,  
2 you know, welcome Mr. Henry's proposal.

3 CHAIRMAN IGNATIUS: All right. Mr.  
4 Henry.

5 MR. HENRY: Thank you, Chairman Ignatius  
6 and Commissioners. As the intervenors or many of the  
7 intervenors indicated, it appears that there may be  
8 additional funds above the \$3 million that will come in  
9 during the September and December auctions. And, as the  
10 utilities have not taken a position on what may be  
11 approximately \$3 million remaining in RGGI funds prior to  
12 the new law taking effect, the intervenors have indicated  
13 that there is an excessive backlog of projects that could  
14 benefit from those dollars.

15 I am not a lawyer, and make no pretense  
16 as such, so forgive me if I couch this incorrectly. But  
17 we would like the Commission's opinion on which is the  
18 best way to proceed, given the three options that are laid  
19 out in the statute.

20 Our own opinion is that the first  
21 option, of submitting proposals and reviewing them, is too  
22 cumbersome and would take too long, and not allow us to  
23 allocate the funds by December 31st. And, so, we are  
24 asking the Commission, is it possible for us to proceed

1 with allocating the potential \$3 million to the existing  
2 RGGI programs and other innovative programs through this  
3 docket, or would you prefer or encourage us to propose  
4 that, under item -- under the third option, of opening  
5 another adjudicative proceeding?

6 Oh, excuse me. Jack corrects me. It's  
7 the administrative rules that apply to the three options.  
8 Hopefully, you knew what I was talking about.

9 CHAIRMAN IGNATIUS: Thank you. And, are  
10 you giving us an overview of what you're going to propose  
11 or is this it? This is the proposal and the time to  
12 inquire?

13 MR. HENRY: Well, as you know, we went  
14 back and forth this morning with the utilities. And, so,  
15 we would like, first of all, we would like to know which  
16 way you think we should go, but we would like a little  
17 more time to solidify our proposal, seeing that there's  
18 been quite a bit of discussion since our exhibit was  
19 submitted. And, so, the intervening group would like  
20 perhaps to come back to you next week with a more specific  
21 proposal about how the remaining funds might be expended.

22 CHAIRMAN IGNATIUS: Was it the  
23 expectation of the Parties today that there would be a  
24 witness testifying to the initial proposal your group had

1 made today or to simply do it through a kind of  
2 representation of what you're thinking about and not  
3 actually have someone on the stand to cross-examine?

4 MR. HENRY: Yes. I think so much has  
5 happened today that we would prefer to be able to submit a  
6 more articulate summation of what -- how those funds might  
7 be used, as I said, early next week.

8 I also should say that my son is getting  
9 married this weekend. And, as a result, I have to leave  
10 at 1:00. So, Ben Frost will take over for me and  
11 represent the intervening groups.

12 CHAIRMAN IGNATIUS: Well,  
13 congratulations. And, I think that's fine, as long as  
14 there was no one who was expecting otherwise. I take it  
15 that, as Mr. Henry described it, that there be sort of an  
16 offer of proof of the kind of thing he's thinking about,  
17 but not the specifics yet? Is that everyone's  
18 expectation?

19 MS. GOLDWASSER: Yes. I think the  
20 clarification that's necessary here is that the  
21 secretarial letter that issued on August 16th indicated  
22 that this proceeding is operating under 26 -- excuse me,  
23 Puc Rule 2604.01(b)(2), which permits RGGI funds to be  
24 distributed via an adjudicative proceeding for the System

1 Benefits Charge CORE Efficiency Programs. So that, you  
2 know, from the utilities' perspective, that's what we're  
3 here to do today.

4 I think the proposal that the  
5 intervenors are making may require some, and I think Mr.  
6 Henry sort of alluded to this, may require some other  
7 process.

8 CHAIRMAN IGNATIUS: Well, also, in one  
9 of the secretarial letters, the one dated August 16th,  
10 says that, in making clear that, as you're right, it is  
11 under that Administrative Rule 2604.01(b)(2). The letter  
12 then said, in the last sentence of that paragraph, "the  
13 Commission will consider alternatives and modifications to  
14 the existing CORE Programs in this matter." So that  
15 certainly "modifications to the existing CORE Programs" is  
16 within this, you know, clearly within the CORE structure  
17 of "alternatives", I think was designed to mean it might  
18 be something that was different than a CORE Program, but  
19 it was within the CORE docket, which often takes on issues  
20 beyond just the utility-run programs as part of the  
21 matters that come forward and are proposed. And, we've  
22 seen that in other dockets. So, if that wasn't clear,  
23 that was our intention.

24 I don't think that means we have to do

1 it all right now, if it makes more sense to stage this a  
2 bit, either in written materials or another hearing,  
3 that's okay. But the -- I had not certainly expected that  
4 anything that didn't have an existing CORE Program  
5 associated with it was completely off the table. It was  
6 something that could be considered. And, --

7 MS. HOLLENBERG: Excuse me,  
8 Commissioner. May I just clarify what you just said? So,  
9 your expectation would be that it would be a CORE Program,  
10 but it might not be an existing CORE Program? Or, were  
11 you expecting or understood that rule to allow CORE  
12 Programs that are not run by the utility?

13 CHAIRMAN IGNATIUS: Or neither of those  
14 two things.

15 MS. HOLLENBERG: Okay.

16 CHAIRMAN IGNATIUS: My understanding,  
17 and I think this is shared by all, is that what we wanted  
18 to hear are all ideas under a CORE docket, clearly under  
19 the CORE docket, proposals for the best way to use the  
20 RGGI money between now and January 1st, the RGGI money  
21 that will become available between now and January 1st.  
22 And, it may be that their ultimate decision is it's all  
23 related to CORE, it may be the ultimate decision that none  
24 of it goes to CORE, it may be some blend of those things.

1 They may be existing programs, they could be new programs.  
2 We have a very short time frame. So, the practicality of  
3 any of those ideas gets less because of the time  
4 constraint we're under. So, when I say "it could be those  
5 things", I'm not saying "I think that we're ready to say  
6 "yes" to that". I'm saying that's what, you know, is  
7 fairly on the table to be presented, and to consider both  
8 the legality and the practicality of pulling off any of  
9 those recommendations.

10 So, it's not so narrow as to say, "if it  
11 isn't a CORE Program in existence or it isn't a program  
12 could be created and called a CORE Program", that that's  
13 the only question. It's -- we are in kind of an odd  
14 interim period here. One second.

15 (Chairman and Commissioners conferring.)

16 CHAIRMAN IGNATIUS: Mr. Linder, a  
17 question?

18 MR. LINDER: Just two items. Mr. Henry  
19 indicated that he was not speaking for all intervenors and  
20 non-utility parties. And, I just wanted to make clear for  
21 the record that The Way Home is one of the intervenor  
22 parties for whom Mr. Henry and his associates are not  
23 speaking on behalf of.

24 And, secondly, if Mr. Henry's group is

1 going to be submitting another proposal, in addition to  
2 the exhibit that's been marked today, then, procedurally,  
3 would the other parties have an opportunity to respond to  
4 that, and would there be a process for dealing with that,  
5 regardless of whether we're under Rule (b)(2) or (b)(3)?

6 CHAIRMAN IGNATIUS: Obviously, we would  
7 want to have an opportunity for a response. I'm open to  
8 people's suggestions, if you've already discussed that, if  
9 it's a written filing and written responses, is fine with  
10 us. If people feel the need to actually have a hearing on  
11 it, we'll entertain the request. But that may not be  
12 necessary. I guess, if you talked about it and agreed on  
13 anything, let me know. Otherwise, we'll concoct our own  
14 plan and give that out to everyone. Mr. Henry.

15 MR. HENRY: In the most recent  
16 discussion, the intervening group acknowledged the  
17 utilities' \$2 million request for -- as directed by the  
18 Commission. And, we support the large majority of that.  
19 We still have questions on the performance incentive level  
20 that was indicated in our letter. But, in general, we  
21 support that. The fact that the utilities have remained  
22 silent on the balance of the funds that come in over and  
23 above the 3 million they're requesting. We're comfortable  
24 with the 2 million. I think we'd be a little more

1 comfortable with a percentage of whatever the December  
2 auction was, rather than a hard number of 1 million, but  
3 that's something we could work out.

4 And, otherwise, I think we had  
5 essentially an agreement that they would get the money  
6 they requested, and we would proceed with a specific  
7 recommendation that we would, as I say, submit to you  
8 possibly next week on how we would spend the balance of  
9 the funds as they came in. And, we really appreciate your  
10 willingness to keep this under the existing docket as you  
11 outlined.

12 CHAIRMAN IGNATIUS: Let me ask, because  
13 we're going to lose you in 20 minutes, I think. Is there  
14 a procedural plan you can see, assuming that there was  
15 approval to use some of the RGGI money that will become  
16 available between now and December, to use some of it to  
17 go to existing RGGI-funded entities?

18 (Mr. Henry nodding in the affirmative.)

19 CHAIRMAN IGNATIUS: Is it your proposal  
20 that, although it goes to those entities, it still is  
21 under the umbrella of the CORE Programs or would be  
22 separate -- completely separate from the utility  
23 administration of CORE Programs?

24 MR. HENRY: I asked that question of the

1 utilities. And, they and I both defer to you and the  
2 Commission on how you think best to handle that.

3 CHAIRMAN IGNATIUS: All right. And,  
4 would it be your expectation that, if additional funding  
5 were made available to some currently RGGI-funded  
6 programs, that it would be through an amendment of their  
7 contracts that go before Governor and Council or through a  
8 different mechanism, say, to the utilities to then hand  
9 off to those entities?

10 MR. HENRY: We would prefer the latter.

11 CHAIRMAN IGNATIUS: Obviously, the  
12 Governor and Council approval time frame is one of concern  
13 probably for everyone, and I'm glad people have thought  
14 about, because that can throw us into well down into the  
15 fall, and not a lot of time to then make --

16 MR. HENRY: I mean, the way we read your  
17 order was that, as long as the funds were allocated prior  
18 to December 31st, they could, in fact, be spent after  
19 December 31st, which we greatly appreciate, because that  
20 allows for a more thoughtful process. And, the fact of  
21 the matter remains, we have a large number of programs --  
22 a large number of projects under existing programs that  
23 have met all of the auditing and so forth requirements,  
24 and are ready to go as soon as funds are available.

1                   CHAIRMAN IGNATIUS:  And, Ms. Goldwasser,  
2                   is there any difference of opinion in the answers that Mr.  
3                   Henry gave about utilities possibly being the conduit of  
4                   funds, to then hand off to those, if there were some  
5                   RGGI-funded entities that now would receive some money  
6                   during this interim period?

7                   MS. GOLDWASSER:  I can say, speaking  
8                   generally for Unitil, and I believe the other utilities  
9                   are in agreement about this, there's some discomfort,  
10                  significant discomfort with the utilities being asked to  
11                  basically act as a grant administrator.  I mean, that's  
12                  not the role that the utilities have played in the CORE  
13                  docket or with respect to energy efficiency funds.  
14                  Typically, they by and large administer their own programs  
15                  or hire third parties to help them administer the programs  
16                  that are approved, but they don't act as a pass-through to  
17                  another entity to administer a program.  And, that's a  
18                  different role.  That's a role that they, as far as I'm  
19                  aware, haven't played by and large, and are not -- are not  
20                  terribly comfortable with.  They play a different role  
21                  than the Sustainability office here has played with  
22                  respect to these funds.  And, I think that that's just a  
23                  fact of the matter.

24                  CHAIRMAN IGNATIUS:  Can I clarify that?

1 MS. GOLDWASSER: Yes.

2 CHAIRMAN IGNATIUS: You said two things,  
3 to me they're slightly different. One is not wanting to  
4 be a grant administrator, which suggests taking  
5 applications, reviewing, selecting winners and losers.  
6 And, then, the second was not wanting to be a pass-through  
7 entity, which has fewer of those sort of issues of grant  
8 administration. Do you really mean both of those, either  
9 the pass-through or --

10 MS. GOLDWASSER: Yes, I really mean both  
11 of those. And, this isn't something that the utilities  
12 have discussed in depth. So, I am deferring to the other  
13 companies as well. But, if the utilities are operating, I  
14 guess there's at least a two-part answer to this, if the  
15 utilities are operating as a pass-through, then they play  
16 a -- they spend a lot of time and effort in doing  
17 reporting and projecting regarding their CORE Programs.  
18 And, I think, you know, if they're responsible for the  
19 expenditure of RGGI funds that other entities are going to  
20 actually expend, I think there are some significant risks  
21 associated with what obligations the utilities have to  
22 oversee the expenditure of those funds. And, it's more  
23 than a pass-through, but it's not quite a -- it's not  
24 quite a selector of grant. I think it's a complicated

1 relationship. And, I guess the second part is, I'm not  
2 sure that that's, and this is wholly outside, I think, of  
3 the current proceeding, which is really about the funds  
4 that are coming in before January 1st, but I'm not sure if  
5 that proposal would be outside the intent of HB 1490,  
6 starting on January 1st, 2013. So, I think it's the other  
7 concern there.

8 CHAIRMAN IGNATIUS: And, why would that  
9 be a concern?

10 MS. GOLDWASSER: Because HB 1490 made it  
11 clear that the Legislature intends those funds to be spent  
12 via the CORE Energy Efficiency Programs. And, to date,  
13 the CORE Programs have been administered by, you know,  
14 have been presented and administered by the utilities.  
15 So, to take programs that have been historically approved  
16 in this other separate process that the Legislature has  
17 indicated it doesn't want to pursue, and put it under the  
18 umbrella of the CORE Programs may be a concern. And, it's  
19 not something that, again, all of the utilities have  
20 discussed. So, I'm certainly not indicating that I'm  
21 speaking for all four, but it's a question that would have  
22 to get -- be addressed.

23 CHAIRMAN IGNATIUS: Ms. Knowlton.

24 MS. KNOWLTON: I just want to echo

1 Attorney Goldwasser's comments, and particularly in regard  
2 to the question of whether, and I'll speak just now for  
3 Liberty Utilities, whether Liberty should be essentially a  
4 fiscal intermediary between, you know, money that the  
5 Commission authorizes for the expenditure of certain  
6 programs and to disburse that, you know, to the current  
7 RGGI awardees, when we would not be in support of or  
8 agreeable to playing that kind of role. We don't have the  
9 structures in place to do that, and I think it also puts  
10 the utility, you know, in, again, in a position as a  
11 holder of funds and disbursing them to parties over which  
12 we have no relationship, contractual, legal or otherwise.  
13 So, I would ask that the Commission not pursue that, that  
14 method of disbursement of money.

15 CHAIRMAN IGNATIUS: Mr. Dean.

16 MR. DEAN: I guess all I was going to  
17 say, on behalf of the Cooperative on this issue, is I  
18 think when the discussion came up earlier about whether  
19 this kind of pass-through mechanism was something that the  
20 utilities would (a) conclude "could be done legally", and  
21 (b) "would they want to do it?" You know, my response to  
22 Mr. Henry was, on the first question, "I don't know."  
23 It's being proposed here this morning. I don't know  
24 whether it's a problem or isn't a problem legally. And,

1 you know, as I told him, "I'm not going to figure that out  
2 this morning I don't think." So, obviously, there's a  
3 discomfort based upon essentially that, that uncertainty.

4 Obviously, whatever the Commission  
5 orders, the utilities will have to deal with. But sort of  
6 a sleeving arrangement is something that just we have not  
7 worked through in thinking about whether it's appropriate.

8 CMSR. HARRINGTON: Excuse me. You had  
9 mentioned at the beginning of your statement there was two  
10 things, whether it was legal and whether you preferred or  
11 not preferred to do it. You didn't address the second  
12 one.

13 MR. DEAN: Well, the second one I think

14 --

15 CMSR. HARRINGTON: Assuming it was --

16 MR. DEAN: -- I think I'm probably  
17 accurate for all the utilities, it's not something that  
18 they would prefer to do, whether it's resources or any  
19 other issue.

20 CMSR. HARRINGTON: Thank you.

21 (Chairman and Commissioners conferring.)

22 CHAIRMAN IGNATIUS: Mr. Henry, do you  
23 have any response to the discussions that have been going  
24 on the last few minutes?

1 MR. HENRY: It's a frustrating  
2 situation. We have a program in effect that is collecting  
3 funds. Over the last three years we've built up a series  
4 of program administrators that have projects that need  
5 these funds. And, these funds, if they are not expended  
6 or committed by December 31st, will all revert to the  
7 utilities anyway.

8 I really appreciate your willingness to  
9 do this under this docket. But I, too, like Mark, do not  
10 have a solution this moment on how to do this. But the  
11 need is there, and I wish there was a way we could find a  
12 collaborative solution to this issue.

13 CHAIRMAN IGNATIUS: Anyone else on this  
14 issue? And, then, I think our plan probably will be to  
15 break, come back after lunch and begin with the utilities'  
16 proposal testimony. And, if people over the break have a  
17 chance to think through and come up with anything else  
18 they want to add to this, that's fine. But I would note  
19 you won't be back, to make sure we give you an opportunity  
20 to say what you can say before you have to leave.

21 Anyone else on this sort of procedural  
22 issue that we're in the midst of? Mr. Rooney.

23 MR. ROONEY: Yes. I would just like to  
24 back up. I'm not sure of the options. It sounds like one

1 of the only options may be working through the utilities.  
2 And, I guess the thing to maybe think about is, there's  
3 the programs and there's savings, but many of these  
4 programs that are being run now outside of the utilities  
5 are involving energy efficiency professionals, a growing  
6 market that isn't necessarily served the same way through  
7 CORE Programs. And that, while preferences of the  
8 utilities are certainly something to consider, so are jobs  
9 and economic development in this state and moving forward  
10 with energy efficiency. So, just maybe something else to  
11 consider. Thank you.

12 CHAIRMAN IGNATIUS: Thank you.

13 Mr. Nute.

14 MR. NUTE: I'd just like to add that,  
15 just to add to this, that there's an existing vehicle now  
16 that money can go through, through the low income program,  
17 that is now through the CORE and through the utilities.

18 CHAIRMAN IGNATIUS: Well, elaborate on  
19 that.

20 MR. NUTE: Well, because the HEA  
21 Program, through the CORE Program, I mean, that's another  
22 way the funds could go through. And, then, we could, from  
23 there, work out a way to distribute them.

24 CHAIRMAN IGNATIUS: And, what is it

1 about the HEA Program that makes you see that as a more  
2 viable or palatable or acceptable program than all the  
3 others?

4 MR. NUTE: Well, I guess what I'm  
5 saying, it's an existing vehicle right now. And, it seems  
6 to me that's part of the issue, where -- how we can  
7 distribute these funds. So, I mean, there are other  
8 programs there, too, but this is just one I'm just trying  
9 to emphasize.

10 CHAIRMAN IGNATIUS: Okay. Anything else  
11 before we break? Ms. Hollenberg.

12 MS. HOLLENBERG: I just have a  
13 procedural matter to address, so the Commission and the  
14 parties are aware. But there will not be anyone here for  
15 the Office of Consumer Advocate after 3:15 today,  
16 unfortunately. I apologize for that.

17 CHAIRMAN IGNATIUS: All right. Well,  
18 we'll see where we are.

19 MS. HOLLENBERG: To the extent that I  
20 can facilitate giving the Commission the Office of  
21 Consumer Advocate's position through another party, I will  
22 strive to do that.

23 CHAIRMAN IGNATIUS: All right. I would  
24 appreciate that. And, the other thing is, when we're on a

1 break, if you could talk with each other about the  
2 procedures for filing of a further proposal from the  
3 intervenor group, a deadline for that. Are people  
4 comfortable with written responses and not reconvene to  
5 have anyone testify to those things, or is that something  
6 that you think you're going to request, if you can talk  
7 about that. And, if you have agreement, tell us  
8 afterwards. If not, we will do what we think is best.

9 (Chairman and Commissioners conferring.)

10 CHAIRMAN IGNATIUS: It sounds like we  
11 have multiple things happening by 3:15 or so. So, it may  
12 be that we can't go much later than that anyway.

13 All right. Well, I appreciate  
14 everyone's help this morning. This is complicated. And,  
15 it's clear that people are trying to see if there's a  
16 procedural plan that works for everyone. And, that we're  
17 not there yet, but I recognize that you're really giving  
18 it a shot, and that's appreciated. So, thank you.

19 We will reconvene at 1:00?

20 (No verbal response)

21 CHAIRMAN IGNATIUS: Thank you.

22 **(Lunch recess was taken at 11:54 a.m.**  
23 **and the hearing resumed under separate**  
24 **cover as "Afternoon Session ONLY".)**