

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION



ORIGINAL

May 9, 2012 - 1:18 P.M.
Concord, New Hampshire

DAY 4
AFTERNOON SESSION ONLY

**RE: DE 10-261 PUBLIC SERVICE COMPANY
OF NEW HAMPSHIRE:
Least Cost Integrated Resource Plan**

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

Sandy Deno, Clerk

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Reptg. N.H. Sierra Club:
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Reptg. Conservation Law Foundation:
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EDWARD C. ARNOLD

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1 AFTERNOON PROCEEDINGS

2 CHAIRMAN IGNATIUS: Welcome
3 back. I think we were at the point of
4 questioning from the Bench, if I'm right. Is
5 there anything else prior to that?

6 Then, Commissioner Harrington,
7 any questions?

8 CMSR. HARRINGTON: Yeah, a
9 couple questions.

10 INTERROGATORIES BY MR. HARRINGTON:

11 Q. You were talking before, Mr. Hachey, about
12 the oil that was at the Newington facility.
13 And there was quite a bit of discussion
14 about what the value of that was and so
15 forth. But were you implying that it would
16 have been more economic to run that plant
17 more on gas and then be selling the oil at
18 market value, which was substantially higher
19 than what was paid for the oil?

20 A. No. I think what I said is that you get the
21 value for the oil that was there. They
22 should have either priced the oil at the
23 replacement cost or market cost, which has
24 been a utility convention way back in the

1 regulated days; or sell the oil, and then
2 they could have gotten the value for the
3 oil, so that when the oil burned they were
4 in fact getting the value of that oil from
5 within the power market. If it looked
6 hopeless of ever getting that value in the
7 power market -- and it kind of was -- then
8 you'd sell the oil.

9 Q. And run on natural gas when dispatched
10 economically for that.

11 A. Sure. What it appears is that, based on
12 everything I can see, which is primarily the
13 FERC 1 document, that the value of the oil
14 was not recovered.

15 Q. Okay. And turning to your testimony,
16 Exhibit TransCanada 14, maybe I'm just
17 looking between the lines here and missing
18 something, but on Page 3, at the bottom of
19 the page, below Line 72, you talk about the
20 capacity benefits of 25 million which could
21 be realized if the facility was retired.
22 Now, by that I assume you're referring to
23 Newington would have a capacity supply
24 obligation that they obtained already

1 through the FCA; then a decision would be
2 made to retire them, and then they would
3 sell that obligation in the reconfiguration
4 market?

5 A. That's the concept, yes.

6 Q. And then profit would come from the
7 arbitrage between the FCA price and the
8 reconfiguration market?

9 A. Yes.

10 Q. On Page 11, you kind of go into a little
11 more detail about that at the very top of
12 the page. I see the number of 30 million
13 and then other things -- or 20 million. Was
14 25 just an average price? I mean --

15 A. Yes.

16 Q. Okay. Just so that clears that up.

17 You were asked a question about some
18 costs going forward, and you said something
19 to the effect that some costs were
20 irrelevant, which seems to be not exactly
21 the same thing as Mr. Traum was talking
22 about before. Can you explain?

23 A. Sure. We're probably talking about two
24 different -- in two different contexts.

1 From an unregulated merchant looking at
2 an asset, some costs are largely irrelevant
3 if we're looking at purchasing it or valuing
4 it for property tax purposes or something of
5 that sort. In a regulated context, they may
6 be very relevant, particularly as regards
7 the return one would earn on it. And I
8 wasn't delving into that area.

9 Q. Okay. That helps quite a bit. Thank you.

10 Another thing that came up quite a bit,
11 and just so we're all clear on this, has to
12 do with the FCA. Now, do you agree that in
13 every FCA where there's been a floor,
14 there's also been a surplus when that floor
15 was reached, more capacity than ICR?

16 A. Yes.

17 Q. And that's what you're referring to as a
18 "pro rated price." So the effect of the
19 price becomes somewhat lower than the floor.
20 If we have, for example, 10 percent more
21 capacity at the floor than ICR, then the
22 payment price is down -- pro rated down to
23 about 10 percent.

24 A. Exactly.

1 Q. Okay. And there was also some talk about
2 why anyone new would enter the market. You
3 said that you -- you mentioned the Laidlaw
4 plan and Cape Wind and so forth. Isn't
5 there an active movement going on right now
6 to shield renewables from the minimum price
7 offer in the present FCA negotiations, such
8 that they would be able to come in as price
9 takers, even though their minimum offer
10 price is determined by the ISO to be quite a
11 bit higher than that?

12 A. Yes. You've got a couple things going on.
13 You've got a FERC order relative to FCA 8,
14 and arguably beyond, that establishes the
15 minimum offer price rule with no exemptions
16 that have been provided for. I think FERC
17 said something to the effect of If you want
18 an exemption, come down and see us. My
19 language, not what they said.

20 In a number of meetings I've attended,
21 with the swirl of what are we -- what else
22 can we do with the FCM, there has been a lot
23 of talk about exemptions or something of the
24 sort as part of an agreement, if I've

1 answered that fully.

2 Q. Yes. And another question. I think you
3 stated that in the continuing operating
4 analysis that was done, in your testimony
5 you talked about the benefits of the
6 capacity supply obligation we just
7 discussed -- I.E., even though you didn't
8 have an operating plant, you could sell it
9 into the reconfiguration market and more
10 than likely sell it for a lower price than
11 you even paid for it and make money off of
12 it.

13 A. Right.

14 Q. That wasn't considered in the Levitan study.
15 And that was because they never looked at
16 the possibility of the plant being shut down
17 and taking that approach and selling the
18 CSO?

19 A. It wasn't brought up in the Levitan study.
20 I unearthed that myself, and I said wait a
21 minute. If there was a shutdown, there
22 is -- actually, when I was trying to do some
23 cases, it dawned on me that there was in
24 fact a continuing revenue that one could get

1 from the capacity market. It just was
2 counterintuitive to me until I was actually
3 thinking about it.

4 Q. Yeah, it doesn't make sense to think you'd
5 be making money on a facility after you shut
6 it down.

7 A. Right, right.

8 Q. In this case, it's --

9 A. It's possible. In fact, it's happening.
10 You know, a lot of the DR resources are
11 selling off their obligations. And the
12 parties buying them are the generators of
13 surplus by virtue of having their supply
14 portfolio derated, if you will, freeing up
15 capacity.

16 Q. And just to make it clear on this, this
17 method of arbitraging between the capacity
18 supply obligation and the reconfiguration
19 options, that would only be for a limited
20 amount of time, because once the plant was
21 shut down and determined to be retired, they
22 wouldn't be obtaining a capacity supply
23 obligation into the future, because there
24 they would have had to put in, I assume, a

1 permanent de-list --

2 A. Right. That would all come to an end. And
3 that's what I tried to model.

4 Q. So this would be out for possibly three
5 years from the last time they obtained a
6 capacity supply obligation they'd be able to
7 do this --

8 A. Something on that order, yeah.

9 Q. Okay.

10 CMSR. HARRINGTON: That's all I
11 have. Thank you.

12 CHAIRMAN IGNATIUS: Commissioner
13 Scott, questions?

14 CMSR. SCOTT: Yes.

15 INTERROGATORIES BY CMSR. SCOTT:

16 Q. Mr. Hachey, when you first came to the
17 stand, one of the first statements you made
18 regarded the importance of looking at the
19 net energy benefits --

20 A. Yes.

21 Q. -- for the calendar year 2011.

22 A. Yes.

23 Q. Were you here yesterday also?

24 A. Yes.

1 Q. So, yesterday, you may remember, we approved
2 Record Request No. 4 for energy service rate
3 numbers for calendar year 2011. If that's
4 fulfilled, will that provide the data that
5 you think is needed?

6 A. Yes.

7 Q. Thank you.

8 A. Yes, we already have -- by virtue of the
9 FERC Form 1, we got half the data. I was
10 looking to find if there was any way that I
11 actually had all of the data from any of the
12 filings or anything that PSNH may have made
13 with the FERC Form 1. I got part of it, but
14 not the rest of it. And it's very elemental
15 data. For example: It's really the sum of
16 the settlements for the calendar year. And
17 you would have had the sum of the
18 settlements at the very -- at the conclusion
19 of every month, you'd have the prior month's
20 settlement within a week. So it's something
21 that's very readily obtainable.

22 Q. Okay. Also, yesterday's panel indicated
23 multiple times how useful your comments
24 were, if I remember correctly. To my count,

1 there's, I think, four revisions, to my
2 count, if I include PSNH 1, PSNH 2, PSNH 12,
3 and then the mark-ups we got yesterday on
4 PSNH 12. So, by my count, that would be
5 four revisions to the CUO. Would you -- I'd
6 like your opinion on why you think there
7 were so many changes to that document and
8 the calculations involved.

9 A. Well, I don't know. I was -- we went
10 looking around for a docket to get into when
11 we saw this docket. But I looked at the
12 study and went right to the net energy
13 benefits. And I looked at the historical
14 benefits and I looked at the projected
15 benefits. And I know a little bit about
16 power plants' relative efficiencies in New
17 England, and you can't get there from here.
18 So that report never should have made the
19 light of day, based on the way it was
20 drafted the first time. So, after that, I
21 can't explain. We tried to signal as fast
22 as we could in Interrogatory Set 1,
23 Interrogatory No. 2, look at the negatives
24 in history. I couldn't do much more than

1 that. When they're sitting there with 15 to
2 20 million positives in the future,
3 negatives in the history, something isn't
4 right. You got to be able to explain how
5 you go from here to here. I put myself
6 often in the -- if I'm making a presentation
7 upon management, what's the first thing I
8 got to explain? How these are negatives and
9 suddenly these are positives, big positives.
10 So, beyond how to explain why there's so
11 many changes, I don't know. But that one
12 troubled me a lot, and that's why we got
13 into the docket.

14 Q. Thank you.

15 CMSR. SCOTT: That's all I have.

16 CHAIRMAN IGNATIUS: Thank you.

17 No other questions? Any redirect from Mr.

18 Patch?

19 MR. PATCH: Thank you.

20 REDIRECT EXAMINATION

21 BY MR. PATCH:

22 Q. Mr. Hachey, you recall that Ms. Knowlton
23 asked you a question about whether it was
24 your recommendation to the Commission in

1 this docket to retire Newington Station, and
2 your answer to that was "No." I guess I'd
3 like to follow up and say, then what is your
4 recommendation to the Commission in this
5 docket?

6 A. Sure.

7 CHAIRMAN IGNATIUS: Before you
8 answer the question, that strikes me as a --
9 his testimony is in. And is there -- I don't
10 understand why just asking him to describe his
11 recommendations is appropriate on redirect.
12 Is there something specific about Ms.
13 Knowlton's question that needs to be
14 clarified?

15 MR. PATCH: I just thought it
16 would be good to clear up for the record
17 exactly what his recommendation is. If the
18 Commission, you know, knows that from his
19 testimony, I'm happy to move on. But I just
20 wanted to make sure that you were clear on
21 what his recommendation is. That was my
22 reason for asking.

23 (Off-the-record discussion among Commissioners.)

24 CHAIRMAN IGNATIUS: All right.

1 We'll allow a very brief response to the
2 question.

3 A. I've got my marching orders.

4 Very brief, on Page 2 of 13, beginning
5 with Line 51, my principal conclusion is
6 that the study must be redone by an
7 analytical firm that is completely
8 independent of PSNH.

9 BY MR. PATCH:

10 Q. Ms. Knowlton asked you a number of questions
11 related to the corrections that I believe
12 were dated July 8th of 2011. And I think
13 you had freely admitted that you hadn't
14 reviewed those when you prepared MEH
15 Exhibit 1, you know, the attachment to your
16 July 27th, 2011 testimony. Would you be
17 willing to update MEH Exhibit 1 with those
18 revised numbers if the Commission were to
19 find it useful?

20 A. Absolutely.

21 MR. PATCH: I guess I'll leave
22 that to the Commission as to whether you think
23 that would be helpful to have that done.

24 CHAIRMAN IGNATIUS: I think that

1 would be good. Should we reserve a
2 TransCanada 16 --

3 THE CLERK: That's correct.

4 CHAIRMAN IGNATIUS: -- for that?

5 (The data request, as described, was
6 herewith reserved as TransCanada 16
7 for identification.)

8 Q. Mr. Hachey, Ms. Knowlton asked you some
9 questions regarding the ES rate, and I think
10 one of the implications being that PSNH is
11 in competition with TransCanada. Is that
12 your understanding of the relationship
13 between the default service rate and the
14 competitive market in New Hampshire, that
15 you're in competition with PSNH?

16 A. No. I thought that the idea was that the ES
17 rate was sort of the backstop or last,
18 whatever it's called, last resort service or
19 something to that effect. I didn't know
20 that we were in competition. But it doesn't
21 matter, so long as they keep their costs
22 appropriately allocated. We'll deal with it
23 from there.

24 Q. And one of the other implications of some of

1 her questions seemed to be that it's somehow
2 to TransCanada's benefit if they keep the
3 costs down. Is that in fact the case?
4 Wouldn't it be to TransCanada's benefit if
5 their costs were higher, if they spent a
6 billion dollars on Merrimack Station or
7 something else; as long as all those costs
8 are included in the ES rate, then that would
9 create a greater margin between the ES rate
10 and what you could sell power to customers
11 on the market?

12 A. Yeah. If you look at our activities in this
13 state, other states, I don't think that
14 you'll find many instances where we're
15 trying to artificially push anybody's costs
16 up. In fact, I can virtually guarantee you
17 that in every instance we've been looking
18 for efficient markets, whatever they may be.
19 So if we were interested in pushing PSNH's
20 costs up, we would have supported the
21 construction of the scrubber. If we were
22 interested in pushing all sorts of other
23 people's costs up, we wouldn't have been
24 opposed to Cape Wind in Massachusetts.

1 That's been the -- what we're looking for
2 are efficient, competitive markets. And I
3 have no interest in artificially pushing
4 anyone's costs up.

5 MR. PATCH: That's all the
6 questions. Thank you.

7 CHAIRMAN IGNATIUS: Thank you.
8 Thank you, Mr. Hachey. You're excused.

9 Do we go now to Mr. McCluskey?

10 MR. SPEIDEL: Yes.

11 Commissioners, as a matter of fact, I'd like
12 to call Mr. McCluskey and Mr. Arnold, Staff's
13 consultant, as a panel. Staff would engage in
14 direct with both and then at the end would be
15 open to cross-examination and Commission
16 questions.

17 Now, I do ask at the outset of
18 our questioning that you have Staff
19 Exhibit 4 handy. Does everyone have a copy
20 of that handy on the Bench, because I have
21 additional if you would like some.

22 CHAIRMAN IGNATIUS: Yes.

23 (WHEREUPON, GEORGE McCLUSKEY and

24 EDWARD ARNOLD were duly sworn and

1 cautioned by the Court Reporter.)

2 GEORGE McCLUSKEY, SWORN

3 EDWARD ARNOLD, SWORN

4 MR. SPEIDEL: Very good. We've
5 already introduced Mr. McCluskey, so I'll
6 begin with Mr. Arnold.

7 DIRECT EXAMINATION

8 BY MR. SPEIDEL:

9 Q. Mr. Arnold, are you situated?

10 A. Yes, I am.

11 Q. Okay. What is your full name and place of
12 employment?

13 A. (Mr. Arnold) Can you hear me? Edward
14 Arnold. I work for Jacobs Consultancy, out
15 of Chicago, Illinois.

16 Q. Now, what is your position at Jacobs, Mr.
17 Arnold?

18 A. (Mr. Arnold) I'm a group manager at Jacobs.

19 Q. What relationship do you have with the Staff
20 of the New Hampshire Public Utilities
21 Commission?

22 A. (Mr. Arnold) I am a consultant for the
23 Staff.

24 Q. What do you consider to be your area of

1 professional expertise?

2 A. (Mr. Arnold) My main area of expertise is
3 valuation, typically using stochastic
4 modeling techniques, sometimes using real
5 option techniques. I also do quite a bit of
6 event-based simulation modeling to help
7 people optimize logistics systems. I also
8 do some quantitative risk analysis.

9 Q. Very good. Do you recognize this document
10 that I'm holding up, Staff Exhibit 1? I can
11 bring it up to you.

12 A. (Mr. Arnold) Bring it up.

13 CHAIRMAN IGNATIUS: Sounded a
14 little bit like a magic trick there.

15 WITNESS ARNOLD: Yeah.

16 BY MR. SPEIDEL:

17 Q. Do you recognize that document?

18 A. (Mr. Arnold) Let's see. Which one is it?
19 Just open it up. Yes. This is the
20 testimony of -- yes, my testimony.
21 Absolutely.

22 Q. Very good. Now, would you please turn to
23 the document that's part of Staff Exhibit 1
24 that has been styled as Staff Exhibit 9 at

1 the back.

2 A. (Mr. Arnold) Okay.

3 Q. Please identify this document then, Mr.
4 Arnold.

5 A. (Mr. Arnold) Okay. This is my review in
6 final form of the LAI model. That's my
7 review for George.

8 Q. For the Newington Station?

9 A. (By Mr. Arnold) Yes.

10 Q. Very good. Do you consider the matters
11 within this testimony, including your report
12 to Mr. McCluskey filed as part of Staff
13 Exhibit 1, to be within your area of
14 professional expertise?

15 A. Yes, I do.

16 Q. Do you still support the conclusions made in
17 this written testimony regarding the
18 Newington CUO, as summarized at Pages 29 and
19 30 of Staff Exhibit 1, Lines 11 through 33
20 and 1 through 21?

21 CMSR. HARRINGTON: Could you
22 repeat the cite again?

23 MR. SPEIDEL: Sure. Pages 29
24 and 30 of the main body of the testimony --

1 A. (Mr. Arnold) Yes, I do.

2 MR. SPEIDEL: -- Staff Exhibit
3 1, Lines 11 through 33 and 1 through 21.

4 BY MR. SPEIDEL:

5 Q. Very good. All right. Leaving aside the
6 conclusions of your testimony in Staff
7 Exhibit 1 for a moment, I would like to ask
8 about your understanding of the model
9 prepared by Levitan & Associates on behalf
10 of the Company for the Newington CUO study.
11 Would you agree that the model applies
12 probabilities of events occurring in the
13 future to try to predict the future economic
14 performance of Newington Station?

15 MS. KNOWLTON: I'm going to
16 object to the question. I thought that the
17 purpose of this examination was to qualify the
18 witness and to make him available for
19 cross-examination. It sounds like he's --

20 MR. SPEIDEL: I think we might
21 have a misunderstanding here. I'm engaged in
22 the direct questioning of my witness.

23 MS. KNOWLTON: Right. I
24 understand that. But I guess my understanding

1 of what that direct examination would be is to
2 qualify the witness; have him verify his
3 testimony; make any corrections to it; to the
4 extent he had any comments that he would like
5 to offer with regard to new testimony that's
6 been provided, that he have the opportunity to
7 do so, but that it otherwise be limited.

8 MR. SPEIDEL: Well, I'm building
9 a line of questioning, Commissioners,
10 regarding certain assertions made in rebuttal
11 testimony of the Company relating to access to
12 models and confidentiality agreements between
13 Jacobs, our consultant, and the Company. So
14 this is new ground. I don't necessarily have
15 the ability to ask everything in a single
16 question, and I don't think that would be
17 advisable. So I think we'll be building up to
18 a pretty clear line of questioning within
19 about three seconds, if we can continue.

20 CHAIRMAN IGNATIUS: All right.
21 Well, if you can keep your focus on
22 information that either has come out newly
23 during the hearings or was in rebuttal that
24 you could not have given a response to -- that

1 the witnesses could not have given a response
2 to, that has been our practice in this case.

3 MR. SPEIDEL: Yes.

4 CHAIRMAN IGNATIUS: So get to
5 that as quickly as you can.

6 MR. SPEIDEL: We are here and we
7 are going to ask about rebuttal matters.

8 Thank you, Commissioners.

9 BY MS. SPEIDEL:

10 Q. So, would you also agree that Levitan's
11 model applies a proprietary mathematical
12 model structure to produce probability
13 distributions for the factors that would
14 inform Newington Station's economic
15 performance? Yes or no?

16 A. (Mr. Arnold) I agree with all that, except
17 the word "proprietary," because I can't say
18 for sure if there's proprietary content in
19 their model, because I didn't see it.

20 Q. Okay. Have you analyzed similar
21 probabilistic models used to predict future
22 economic performance of capital assets in
23 private industry?

24 A. (By Mr. Arnold) Yes, many times.

1 Q. Can you provide some general examples of
2 such analysis which you've engaged in and
3 clients you've worked in?

4 A. (By Mr. Arnold) Yes.

5 CHAIRMAN IGNATIUS: Before you
6 respond -- Ms. Knowlton.

7 MS. KNOWLTON: Can Attorney
8 Speidel give us an offer of proof of how this
9 is responsive to new testimony?

10 MR. SPEIDEL: Well, Mr. Levitan
11 said yesterday that this has been an ordeal of
12 unheard-of proportions working with Staff and
13 working with Jacobs in trying to establish a
14 non-disclosure agreement. And we are
15 rebutting those assertions made yesterday in
16 the hearing room. And Staff strongly believes
17 that we have a right to rebut those
18 assertions, and I find it absolutely critical
19 to our case. And we have not made broad-brush
20 assertions as part of our presentation here,
21 and we are going to be very focused on our
22 analysis.

23 CHAIRMAN IGNATIUS: What I think
24 would be helpful is if you were to phrase it

1 as, "You heard Mr. X testify to a certain
2 statement," and then build from there so that
3 it's clear whether it relates to new and
4 rebuttal information or not.

5 MR. SPEIDEL: Very good.

6 BY MS. SPEIDEL:

7 Q. Well, Mr. Arnold, yesterday you heard Mr.
8 Levitan say that he has never had such
9 difficulties as he had with Jacobs and Staff
10 in exercising some sort of understanding for
11 a non-disclosure agreement. Have you found
12 that in past instances -- and you might want
13 to give some specific examples -- that
14 you've been able to reach non-disclosure
15 agreements with clients and/or third
16 parties?

17 A. (By Mr. Arnold) Yes, in almost all cases we
18 have been able to.

19 Q. Can you list a couple of clients, just as a
20 matter of illustration?

21 A. (Mr. Arnold) Okay. I have to think about
22 the ones where I have the right to use their
23 name. BP, British Petroleum; Suncorp;
24 Microsoft; ConocoPhillips.

1 Q. That's fine. Thank you. So, in these
2 efforts in analyzing such proprietary
3 models, have you found access to the complex
4 proprietary models to be critical to
5 understanding the workings of such models?

6 A. (Mr. Arnold) Yes, almost always. I say
7 "almost," because sometimes the model turns
8 out to be very simple. They're a derivation
9 of a model I've worked with before, or I can
10 duplicate them very quickly. So in those
11 rare cases, I don't need that. But in most
12 cases I do, to answer the questions I would
13 be getting from people like George.

14 Q. Okay. Have you found access to such models
15 to be critical to independently verifying as
16 to whether a given probabilistic model is
17 set up using commonly accepted standards?

18 A. (Mr. Arnold) Usually, yes.

19 Q. What does "access" -- and I'll put that in
20 quotations -- to a model entail for a model
21 such as that used for Levitan?

22 A. (By Mr. Arnold) Okay.

23 MS. KNOWLTON: If I may, I would
24 like to state another objection for the

1 record. The Staff had extensive testimony
2 about this issue of access, what it considered
3 access, and I don't see how this is responsive
4 to testimony Mr. Levitan gave yesterday.

5 MR. SPEIDEL: It's extremely
6 responsive. Mr. Levitan, in his rebuttal
7 testimony, said that Staff acted, it's
8 implied, in bad faith in dealing with him in
9 trying to reach a non-disclosure agreement,
10 and that the access supplied by Mr. Levitan
11 through PSNH's intervention efforts were
12 adequate for Staff's purposes. Staff is
13 saying, no, that is not the case. And so we
14 have a right to ask our consultant, Mr.
15 Arnold, a few basic questions about what he
16 thinks "access" is as compared to what Mr.
17 Levitan asserted yesterday "access" is.
18 That's our point.

19 CHAIRMAN IGNATIUS: Ms.
20 Knowlton.

21 MS. KNOWLTON: I just want to
22 note that I don't believe that the Company or
23 any of its witnesses have used the words "bad
24 faith" or have alleged that Mr. Arnold or his

1 company has acted in bad faith. So I don't
2 think that's a fair characterization of what
3 the testimony has been so far.

4 MR. SPEIDEL: Well, I can walk
5 that back and say if not bad faith, then
6 extremely difficult in dealings with the
7 Company and with Levitan. And we have to make
8 our own points clear. So I'll continue on, if
9 it's all right.

10 CHAIRMAN IGNATIUS: Please try
11 to focus on what you heard yesterday or what's
12 in the filed testimony that you're responding
13 to, to keep the question focus so that I know
14 whether it's an appropriate line or not.

15 MR. SPEIDEL: Very good.

16 BY MS. SPEIDEL:

17 Q. So, Mr. Levitan gave a little bit of
18 testimony yesterday saying that, in his
19 view, Staff had all of the information it
20 needed to properly assess the model applied
21 in the Newington Continued Unit Operations
22 Study. Do you recall that?

23 A. (By Mr. Arnold) Yes.

24 Q. Now, in your view, did Jacobs & Associates

1 and Staff, together, receive that level of
2 access during its visits to Levitan in the
3 spring of 2011?

4 A. (Mr. Arnold) To be able to answer the type
5 of questions that I was getting from Staff,
6 from George, we did not have ultimately the
7 required level of access. It's what we call
8 "DPA." We deal with this a lot. It's
9 direct personal access. To answer the types
10 of questions that I was getting and expected
11 to continue to get, somebody in my position,
12 in my group, needs to be able to be, you
13 know, if not alone, they have to play with
14 the model personally. It can be on the
15 client's site. But we've got to be able,
16 first of all, to verify we're working with
17 the same model that was used in the study.
18 We do that by getting the same results from
19 A to Z, or close to that. And then we do a
20 little bit of stress testing. We do a
21 little bit of sensitivity analysis. And
22 then we make sure that we can answer the
23 basic questions that we know we'll be
24 getting, such as: Do you believe it

1 accurately represents what this asset will
2 do in the future under the conditions
3 specified? Do you believe it's free of
4 material errors, et cetera?

5 Q. Very good. So, Mr. Arnold, I would like to
6 present a document to you and distribute it
7 amongst the room attendees. And I'll give a
8 little description.

9 (Mr. Speidel distributing document.)

10 BY MS. SPEIDEL:

11 Q. Mr. Arnold, did you prepare this document?

12 A. (Mr. Arnold) Yes, I did.

13 Q. Is this document a summary that you prepared
14 of Jacobs' negotiations with Levitan for a
15 non-disclosure agreement?

16 A. (Mr. Arnold) It's a summary of negotiations,
17 e-mails, phone calls, discussions and talks.

18 Q. Okay. Let's turn this over to the back of
19 the page, because this is in reverse
20 chronological order.

21 CHAIRMAN IGNATIUS: And for the
22 sake of the record, we'll identify this for
23 identification as Staff Exhibit 8.

24 MR. SPEIDEL: Thank you very

1 much, Chairman Ignatius.

2 (The document, as described, was
3 herewith marked as Staff 8 for
4 identification.)

5 BY MS. SPEIDEL:

6 Q. Let's start from the beginning. As I had
7 mentioned yesterday in the line of
8 questioning to Mr. Levitan, there was a
9 proposal for a non-disclosure agreement
10 submitted to Staff on the 31st of May. And
11 you can see in the first bullet point that
12 ultimately it was conveyed to Jacobs.

13 A. (Mr. Arnold) Right.

14 Q. Now, as you go further in time, there's some
15 communications. But I'll ask a specific
16 question here. And if you take a look at
17 Staff Exhibit 4 -- do you have a copy of
18 that handy with you?

19 A. (Mr. Arnold) Staff Exhibit 4.

20 Q. I can give you a copy. Here you go.

21 (Mr. Speidel gives document to witness.)

22 A. (Mr. Arnold) All right.

23 Q. So you can see the page up -- let's turn to
24 Page 8 of Staff Exhibit 4.

1 A. (Mr. Arnold) Okay.

2 Q. All right. So you can see -- what do you
3 have on the top there? Do you see that this
4 is an e-mail that you received on Wednesday,
5 June 1st?

6 A. (Mr. Arnold) Yes.

7 Q. And this e-mail is from myself to Mr. George
8 McCluskey and you, an internal e-mail to
9 Staff and its consultant?

10 A. (Mr. Arnold) Yes.

11 Q. All right. Can you read the body of the
12 e-mail, just a few sentences here? "These
13 are..."

14 A. (Mr. Arnold) "George and Ed: These are the
15 actual documents discussed in my e-mail that
16 I just sent. Anne Ross gave me the go-ahead
17 to have Ed/Jacobs Consulting enter into a
18 non-disclose. But as you've seen, I told
19 Jerry to make modifications to enable us to
20 share info among ourselves, Commissioners
21 and OCA as well."

22 Q. Okay. Very good. And let's turn to Page 11
23 of Staff Exhibit 4.

24 A. (Mr. Arnold) Okay.

1 Q. As was discussed yesterday, I won't
2 reiterate this, there was a response from
3 Mr. Eaton at the Company saying, "I think
4 we're almost there. Your additions are
5 acceptable" and so on.

6 Let's turn to Page 12. And this is the
7 substance of the question I'm going to ask.
8 Do you recall receiving this e-mail on
9 Thursday, June 2nd?

10 A. (By Mr. Arnold) Yes.

11 Q. Okay. Do you mind reading what it says
12 there?

13 A. (Mr. Arnold) Okay. It's from you?

14 Q. Yes, from myself.

15 A. (By Mr. Arnold) "Jerry, that is a good add.
16 We are okay with that being added. When you
17 send along the revised agreement, I will
18 make sure that Ed Arnold, or his responsible
19 corporate officer, signs it before close of
20 business today."

21 Q. Very good. Okay. So, after this point, Mr.
22 Arnold, do you recall that there had been
23 bilateral negotiations going on between some
24 of your corporate officers at Jacobs and

1 through PSNH's representatives with Levitan
2 to try to sign some sort of non-disclosure
3 agreement? Would you agree with that?

4 A. (By Mr. Arnold) Right. To try to arrive at
5 a form of an agreement that both parties
6 would sign.

7 Q. Very good. Now, as you see, as you go
8 forward in the timeline, there's a bullet
9 point, three bullet points down from the top
10 of Page 2, that reads, "June 6th, 2011:
11 e-mail to involved parties from Alexander
12 Speidel RE: status of agreement
13 negotiations." Do you recall my sending
14 that sort of e-mail?

15 A. (Mr. Arnold) I looked at it recently.

16 Q. Very good. And if we turn to the front of
17 this timeline, you can see there's a bullet,
18 second down, reading "July 15th, 2011."

19 A. (By Mr. Arnold) Yes.

20 Q. "Ed Arnold sends e-mail to Jerry Eaton with
21 latest version of NDA." Do you recall
22 sending that kind of an e-mail?

23 A. (Mr. Arnold) Yes.

24 Q. All right. I will distribute two documents

1 now to the hearing room, if I may.

2 (Atty. Speidel distributes documents.)

3 BY MR. SPEIDEL:

4 Q. As that's being passed around, I would like
5 to just -- let me see here. Just a second.

6 Okay. Now, Mr. Arnold, let's look at
7 Staff --

8 MR. SPEIDEL: And I would like
9 to have what's styled as "Staff Exhibit 10"
10 marked as such, and also what's styled as
11 "Staff Exhibit 9" marked as such. And these
12 two matters, the Exhibit 9 is the e-mail of
13 July 15th sent by Mr. Arnold, and Staff
14 Exhibit 10 is an e-mail from myself sent on
15 Monday, June the 6th.

16 (The documents, as described, were
17 herewith marked as Staff 9 and 10 for
18 identification.)

19 BY MR. SPEIDEL:

20 Q. So, looking at Staff Exhibit 10 first -- I
21 know that's counterintuitive -- I think it
22 would be helpful for me just to read this
23 out quickly and have you say whether you
24 agree with Staff's position on this still.

1 So I'll read as follows: "I have
2 discussed the possibilities for solutions to
3 the" -- from Staff 10 -- "I have discussed
4 the possibilities for solutions to the
5 impasse on non-disclosure between Jacobs and
6 Levitan & Associates with my legal
7 colleagues here at the Commission, and, in
8 light of the continuing concerns outlined by
9 Jacobs regarding their need for a retention
10 carve-out for their work product under the
11 non-disclosure agreement, I think that it is
12 time to take stock of where we stand on
13 this.

14 "My hopes for a workaround using Staff
15 as an information-retention conduit are not
16 supportable at this time, in light of
17 further guidance from my superiors" -- sorry
18 -- "supervisors. Therefore, Jacobs and
19 Levitan need to come to a non-disclosure
20 agreement that is reasonable for both
21 parties so that Jacobs/Ed Arnold can do the
22 work they need to do on behalf of Staff. In
23 Staff's view the version of the
24 non-disclosure agreement with the

1 work-product carve-out suggested by Jacobs
2 is such a reasonable agreement.

3 "At this time, it is useful to keep in
4 mind what I told PSNH and Levitan Staff at
5 the Friday meeting. Levitan and its client,
6 PSNH, bear the burden of demonstrating to
7 this Commission that the Newington
8 Continuing Unit Operation Study has been
9 prepared using robust, verifiable scientific
10 methods. In order for Staff to issue a
11 recommendation on this docket stating that
12 Staff has been able to independently verify
13 the methodology of the Newington study,
14 Staff and our consultant, Jacobs/Ed Arnold,
15 need to have access to information about the
16 methodology, as determined by Staff and its
17 consultant. We accept the need for a
18 non-disclosure agreement between Jacobs and
19 Levitan as a prerequisite for more granular
20 levels of access by Jacobs/Ed Arnold that
21 implicate possible trade secrets. But
22 please bear in mind that if such an
23 agreement cannot be reached, and the
24 information needed for Staff and Jacobs'

1 analysis of the methodology used in the
2 Newington study is not made available, Staff
3 will likely not be able to issue a
4 recommendation to the Commission with the
5 component verifying the Levitan methodology
6 for the Newington study."

7 So, Mr. Arnold, can you confirm that
8 this was sent by me and you had a carbon
9 copy on Monday, June 6th, of 2011?

10 A. (Mr. Arnold) Yes.

11 Q. And would you still agree with this
12 conclusion that we've reached in this
13 instance as Staff --

14 A. (Mr. Arnold) Yes.

15 Q. -- as consultant? Thank you.

16 All right. Now let's turn to Staff
17 Exhibit 9. There's a reference to it on
18 Staff Exhibit 8, which is the timeline. You
19 have a little summary here, and you can read
20 it yourself. What is the date? And just
21 read the e-mail, please.

22 A. (Mr. Arnold) Okay. The date is July 15th.
23 It is to Jerry, and you are copied.

24 CHAIRMAN IGNATIUS: Before you

1 read, I'm not sure why we're reading exhibits
2 into the record. If they're in the record,
3 they're in the record. So is there -- this is
4 a short one. But what's -- if you can direct
5 the witness to your particular question.

6 MR. SPEIDEL: Very good.

7 BY MR. SPEIDEL:

8 Q. Mr. Arnold, in this e-mail, did you return a
9 version of the non-disclosure agreement to
10 the go-between, Mr. Jerry Eaton of PSNH,
11 between Jacobs and Levitan that was
12 acceptable to Jacobs & Associates?

13 A. (Mr. Arnold) Yes, I did. It was attached.

14 Q. And this is attached to Staff Exhibit 9?

15 A. (Mr. Arnold) Right.

16 Q. Very good. So I'm going to show you one
17 more document for your own purposes, because
18 it's already been entered as a Company
19 exhibit. This is PSNH Exhibit 13. And this
20 is the revised response to Staff Round 4,
21 one of the data responses. And do you just
22 see the little sentence at the very end
23 there?

24 A. (Mr. Arnold) Yes.

1 Q. What does it read?

2 A. (Mr. Arnold) "By the time the Staff
3 testimony was filed on July 27th, 2011 LAI
4 had not heard of a reply from Jacobs to that
5 proposed NDA."

6 Q. Did you think that by sending an e-mail on
7 July 15th, Jacobs was making a good faith
8 effort to respond to some of the comments
9 that the Company had made on the proposed
10 NDA?

11 A. (Mr. Arnold) Yes.

12 Q. Thank you.

13 Now, Mr. Arnold, is it the usual
14 practice of Jacobs to maintain an archival
15 copy of its own work product for legal
16 purposes, even if such work product relied
17 on proprietary information for its
18 development?

19 A. (Mr. Arnold) Yes. It's "work product." I
20 think that's an important term.

21 Q. Mr. Arnold, in your experience, has any
22 client or third party who've presented
23 proprietary models in the context of Jacobs'
24 work for its clients, objected to this

1 provision allowing for one archival copy of
2 work product to be retained by Jacobs?

3 A. (Mr. Arnold) In cases like this where
4 proprietary models are involved, I -- after
5 working on many cases like this, there was
6 one case where a client objected.

7 Q. Just one?

8 A. (Mr. Arnold) Right. We could not reach an
9 agreement.

10 Q. Okay. If Levitan had agreed to the version
11 of the non-disclosure agreement presented by
12 Jacobs on July 15th, 2011, by e-mail, would
13 Jacobs have approved of the execution of
14 such an agreement?

15 A. (Mr. Arnold) Can you say that again?

16 Q. If Levitan had agreed to the version of the
17 non-disclosure agreement presented by
18 Jacobs -- that is, the one on July 15,
19 2011 -- would Jacobs have approved of the
20 execution of such an agreement?

21 A. (Mr. Arnold) I am certain they would have.
22 Yes.

23 Q. Okay. Now, the work product at issue in the
24 non-disclosure agreement negotiations, would

1 that be like that presented in Staff's joint
2 testimony, Staff Exhibit 1?

3 A. (Mr. Arnold) Yes. It would probably be
4 that, plus a collection of any e-mails or
5 other materials that were sent to parties,
6 you know, such as you or George, or if I was
7 communicating directly with Levitan or
8 somebody.

9 Q. Okay. Now, Mr. Arnold, please turn to --

10 A. (Mr. Arnold) But the key is "work product."
11 It's typically our report that is kept.

12 Q. Thank you.

13 Okay. Now, Mr. Arnold, please turn to
14 Page 30 of Staff Exhibit 1, your prefiled
15 testimony. And that would be the main body
16 of the testimony.

17 A. (Mr. Arnold) Okay.

18 Q. Could you please read Item 7, Lines 13 to
19 16, just briefly.

20 CHAIRMAN IGNATIUS: Well, let me
21 ask why, if this is only identifying areas
22 that are new, that have come up as response to
23 rebuttal testimony or things that have
24 transpired in the hearing.

1 MR. SPEIDEL: Well, I can
2 tighten it up a little bit, but it is in
3 reference to the assertions made by Mr.
4 Levitan yesterday that the so-called "input
5 data issue was a non-starter," that the input
6 data substitutes that had been proposed by the
7 Company and Levitan in their rebuttal
8 testimony would have been a perfectly adequate
9 substitute for what Staff required for its
10 analysis. We are saying that that is not the
11 case through this line of questioning.

12 CHAIRMAN IGNATIUS: Well, why
13 don't you ask directly about the things that
14 you just mentioned as opposed to restating
15 what was in his prefiled. We've read it. We
16 know what the statements are.

17 MR. SPEIDEL: That's fine.

18 BY MR. SPEIDEL:

19 Q. Now, Mr. Arnold, would you believe that, in
20 light of the fact that the Bloomberg data
21 had not been provided by the Company or by
22 Levitan is part of your review of the model
23 presented for the Newington study, would you
24 believe that there could be any potential

1 problems with substitute data that had been
2 proposed by the Company and Levitan?

3 A. (Mr. Arnold) There could be. I've seen
4 that. I've lived through it.

5 Q. In your experience, would you expect that a
6 creator of a model submitted to Jacobs for
7 independent analysis should have arranged
8 for a license to provide Jacobs with access
9 to data, such as the Bloomberg pricing data
10 that you referred to?

11 A. (Mr. Arnold) Most of the organizations that
12 I work with. And when I'm on the other side
13 of the table, I'm typically prepared to do
14 that.

15 Q. Okay.

16 A. (Mr. Arnold) I mean, I only get there if I
17 have to. I try and other people try as much
18 as they can to use non-proprietary data or
19 proxy data.

20 Q. Very good. Now, Mr. Arnold, as part of your
21 efforts that you engaged in to discern the
22 workings and effectiveness of Levitan's CUO
23 study model, though you did not have access
24 to the Bloomberg pricing data, and access,

1 as you define it, to Levitan's complex,
2 probabilistic modeling, you directed a
3 so-called "backcast"; correct?

4 A. (By Mr. Arnold) Correct.

5 Q. Briefly, what is a "backcast," and why did
6 you run the backcast?

7 CHAIRMAN IGNATIUS: Ms.
8 Knowlton.

9 MS. KNOWLTON: I'm going to
10 object again. I think this is the same issue,
11 which is if Mr. Speidel could phrase the
12 question in terms of a specific statement or
13 testimony given by Dr. Carlson or Mr. Levitan.
14 But explaining what a backcast is I think
15 really goes back to the prefiled testimony of
16 Staff's witness.

17 MR. SPEIDEL: Well, it's more
18 for the benefit of the Commission. But I see
19 the point. I wanted to give a little bit of
20 background. But we can get right into it
21 then.

22 CHAIRMAN IGNATIUS: Thank you.

23 BY MR. SPEIDEL:

24 Q. In reference to a backcast, Mr. Arnold, are

1 you familiar with Mr. Levitan and Dr.
2 Carlson's testimony which has been filed as
3 PSNH Exhibit 8?

4 A. (Mr. Arnold) Yes.

5 Q. Okay. Do you have a copy handy?

6 A. (Mr. Arnold) Yes.

7 Q. All right. So let's turn to Page 22,
8 Line 26 of the Levitan rebuttal testimony.
9 That's what I'll refer to it in short.

10 CHAIRMAN IGNATIUS: Which
11 exhibit number, please?

12 MR. SPEIDEL: That is PSNH
13 Exhibit 8.

14 A. (Mr. Arnold) What are the lines?

15 BY MR. SPEIDEL:

16 Q. The specific lines on Page 22 would be
17 Line 26.

18 A. (Mr. Arnold) Okay. What's the title?

19 Q. Well, we're just kind of starting there.

20 A. (Mr. Arnold) Are you talking about the
21 numbers at the bottom of the page?

22 Q. No. There's -- here we are at "G. Model
23 Calibration with Backcast."

24 A. (By Mr. Arnold) I got it, yeah.

1 Q. So, is it fair to say that, starting at that
2 point in the testimony, the Levitan rebuttal
3 testimony, through Page 24 at Line 3, put
4 forth four criticisms of your technical
5 analysis of the accuracy of the Levitan
6 model --

7 A. (Mr. Arnold) Yes.

8 Q. -- using the backcast effort?

9 A. (Mr. Arnold) Yes.

10 Q. Okay. So there's the first criticism. And
11 I won't read it into the record. It's
12 fairly technical. But it begins at Line 40
13 on Page 22, and it ends at Line 12 on Page
14 23.

15 A. (Mr. Arnold) Yes.

16 Q. Do you have a brief response, Mr. Arnold, to
17 that criticism?

18 A. (Mr. Arnold) Yes, I do. I mean, the essence
19 of this criticism was that my benchmark
20 wasn't valid. And Mr. Levitan or Dr.
21 Carlson went into an impressive course on
22 statistics here, which I agree with. But
23 it's not really pertinent here, because my
24 basis was my experience. I really --

1 because I didn't have access to the model or
2 the data used to run the model, I really
3 couldn't do the type of analysis that
4 they're referring to in the first two
5 criticisms here. We requested the data
6 related to the second criticism and were
7 unable to get it.

8 But in general, when I talk about my
9 "benchmark," it's the 30-percent number.
10 I'm talking about experience. I went back
11 to similar backcasts, where both the model
12 and the forecast was being evaluated. And
13 almost all of the backcasts that were
14 performed fell within plus or minus
15 30 percent of the actual near-term near
16 values. So, that's my metric. Now, I also
17 want to say that that metric is based on the
18 median. It's a median-based metric. It's
19 not based on the expected or average value.
20 So that's all I can really do is use my
21 basis of backcast for similar-type models.

22 Q. Okay. Now, Mr. Arnold, there's a second
23 criticism within the Levitan testimony that
24 begins on Line 14 of Page 23, and it

1 continues through Line 32. Do you have a
2 brief criticism -- I'm sorry -- a brief
3 response to this criticism?

4 A. (Mr. Arnold) Are these the second three?

5 Q. Yes, the second. Second of four, as a
6 matter of fact.

7 A. (Mr. Arnold) Okay. All right.

8 Q. On Page 23.

9 A. (Mr. Arnold) Okay. On the second one,
10 basically, we couldn't use this approach
11 because we didn't have the information.

12 Q. All right. And the third criticism on
13 Lines 34 through 39 on Page 33?

14 A. (By Mr. Arnold) Right. On the third
15 criticism, I fundamentally disagree here.
16 These are relatively small numbers compared
17 to some of the earlier numbers that were
18 presented for net energy revenue. But the
19 difference between these numbers is big. So
20 I think the percentage here is reasonable.
21 You know, if on the other hand we were
22 talking about a difference between two very
23 large numbers, I would say we've got a
24 problem here. But this is a big difference

1 between two numbers that are similar in
2 magnitude.

3 Q. Okay. And there's one fourth criticism on
4 this point --

5 A. (Mr. Arnold) Right.

6 Q. -- of the testimony from Lines 41 through 4
7 on Page 24.

8 A. (Mr. Arnold) Right.

9 Q. Are we going to perhaps provide additional
10 background on that criticism from Mr.
11 McCluskey's testimony?

12 A. (Mr. Arnold) You're talking about the fourth
13 criticism?

14 Q. Yes, the fourth criticism, I think we might
15 address that specific one through Mr.
16 McCluskey's questioning. Is that --

17 A. (Mr. Arnold) I think that might be good to
18 have him address it. We basically agreed
19 with it.

20 Q. Okay. Good. Now, let's turn to Page 25 of
21 the Levitan rebuttal testimony with the
22 heading reading "Fuels Price Forecast."

23 CHAIRMAN IGNATIUS: I'm sorry.
24 Page 24 has that heading?

1 MR. SPEIDEL: Yes, 24. I'm very
2 sorry. The body of the material is on Page 25
3 and the heading is on 24. The very bottom of
4 24 and the body of Page 25.

5 A. (By Mr. Arnold) Okay. I've got it.

6 BY MR. SPEIDEL:

7 Q. Okay. Now, is it fair to say that the
8 Levitan rebuttal testimony through Page 25,
9 Line 36, put forward three criticisms of
10 your technical analysis of the fuel
11 prices --

12 A. (Mr. Arnold) Yes.

13 Q. -- considered as part of the Levitan model?

14 A. (Mr. Arnold) Yes.

15 Q. Okay. Have you any brief responses to these
16 criticisms, starting with the first?

17 A. (Mr. Arnold) Yes. First of all, just in the
18 initial statement, I actually said 4.0
19 versus 4.4. I think that was straightened
20 out.

21 Now, on the second one, I didn't use
22 Dracut. I didn't have access to Dracut
23 prices. So my ratio was RFO to Henry Hub.
24 I would have liked to use Dracut, but I

1 didn't have the Dracut prices.

2 Second -- you want me to go to the
3 second criticism?

4 Q. Sure. Go ahead.

5 A. (Mr. Arnold) The second criticism is that I
6 only used three months to base the forecast
7 on. And that's not correct. I did use that
8 as a basis. But what I used, I basically
9 looked at those three months together with
10 our current internal forecast for this item,
11 and I used our current long-term forecast as
12 the basis with the three months.

13 And the third item is that it's talking
14 about the use of futures curves. It says
15 LAI made use of futures market curves for
16 WTI oil prices and Henry Hub prices together
17 with oil product and gas location spreads to
18 forecast the RFO 2 fuel oil and the Dracut
19 prices in their study. Use of these futures
20 or forward prices is generally preferred to
21 relying on any single analyst's long-term
22 forecast of spot prices.

23 Well, I agree. I wouldn't rely on a
24 single forecast. Our forecast is a

1 composite forecast. And we found that that
2 is almost always superior to the future
3 strips for forecasts. There have been very
4 few occasions where the future strips are
5 influenced significantly by near-term
6 events. Again, we use a composite forecast
7 from six people within the consultancy,
8 three organizations outside.

9 Q. Okay. Very good, Mr. Arnold. Thank you.

10 Now, you had heard yesterday some
11 comments from certain of the Levitan and
12 Company witnesses that the time frame for
13 preparing the Newington CUO study was fairly
14 compressed. Do you believe that there might
15 be some implications for that resulting in
16 the study's quality or things that might
17 occur as a result of that compressed time
18 frame?

19 A. (Mr. Arnold) Yes, I do. I think that there
20 is some chance there still could be some
21 issues with the model that would make me a
22 little more concerned that issues may exist.
23 I say that with confidence because I've
24 lived through it when these models are

1 complex. It's nothing against the model.
2 It's just that it takes time. It takes peer
3 review. It's not hard to have issues.

4 Q. So, just to be clear, you think there's a
5 potential that there's additional errors in
6 the model that have not been discussed
7 through this proceeding yet.

8 A. (Mr. Arnold) Yes.

9 Q. Very good. Thank you very much, Mr. Arnold.

10 Mr. McCluskey, I'm going to start
11 asking you some questions. And we've
12 already been introduced, so I guess we can
13 get right to it.

14 Mr. McCluskey, do you have any line
15 edits or changes to the testimony that has
16 been filed as Staff Exhibit 1?

17 A. Yes, I've got three or four small changes
18 that I would like to make. The first one is
19 on Page 22, Line 1, and it refers to the
20 ratio of "4.4 to 1."

21 Q. Okay. And how would you like to have that
22 revised?

23 A. I would like to change that to "4.0 to 1."

24 CHAIRMAN IGNATIUS: Can I ask,

1 when you're calling this an update or a
2 correction, is that because of what now -- is
3 that because of the phrase as it now stands at
4 and so you're updating it to today's date? Or
5 are you stating that at the time you submitted
6 your testimony in September, it should have
7 been read -- as of that date it should have
8 been read "4.4 to 1"?

9 WITNESS McCLUSKEY: In this
10 case, it should have read "4.0 to 1." I
11 believe Mr. Arnold said that a matter of
12 moments ago. In some analysis that he did, he
13 used the ratio of 4.0 to 1, and for some
14 reason when we developed the testimony, it
15 should have been 4.4 to 1.

16 CHAIRMAN IGNATIUS: All right.
17 I just want to be sure that it wasn't changing
18 what now it's referring to. It's still as of
19 the filing of the testimony date.

20 WITNESS McCLUSKEY: That's
21 correct.

22 CHAIRMAN IGNATIUS: Thank you.

23 BY MR. SPEIDEL:

24 Q. All right. And in that vein, Mr. McCluskey,

1 any other updates or --

2 A. (By Mr. McCluskey) Next one is Page 11, Line
3 16. Sorry I'm jumping around. Okay. Line
4 16. The "\$4.1 million" should be replaced
5 with "\$3.7 million."

6 The next one is on Page 26, Line 17.
7 And there I would like to strike from the
8 word "possibly" on Line 17 to the end of the
9 sentence, which ends "emissions."

10 MR. PATCH: Can I just have that
11 again? I didn't catch that.

12 WITNESS McCLUSKEY: Starting on
13 Line 17, the word "possibly." So whatever
14 comes after "possibly," including "possibly,"
15 would be stricken.

16 BY MR. SPEIDEL:

17 Q. And could you provide a little bit of brief
18 background why you made that change, Mr.
19 McCluskey?

20 A. (By Mr. McCluskey) Yes. Okay. Just give me
21 one moment. In the testimony, Staff stated
22 that the EPA's Utility MACT Rule forced PSNH
23 to make capital expenditures on control
24 equipment, possibly an activated

1 carbon-injection system to reduce mercury
2 emissions. After further research, Staff
3 recognizes that the primary pollutant for
4 modified generation is not mercury but
5 nickel cancer-causing substances; hence, we
6 think the need to strike the reference to
7 "installing an activated carbon-injection
8 system."

9 Q. Okay.

10 MS. KNOWLTON: Can I -- I just
11 want to make sure that I'm understanding what
12 this is. I mean, is it essentially the
13 Staff's position on this issue has changed?
14 It's a retraction of a position? Is that a
15 fair characterization?

16 MR. SPEIDEL: I think it would
17 be -- versus a retraction, I'd say it's an
18 update based on new information, and it's
19 something that I believe would redound to the
20 Company's benefit.

21 BY MR. SPEIDEL:

22 Q. Isn't that correct in some sense?

23 A. (By Mr. McCluskey) No. If I could respond?

24 Q. Okay.

1 CHAIRMAN IGNATIUS: Well, one
2 moment. Is there an objection to the question
3 or just --

4 MS. KNOWLTON: I'm just trying
5 to understand the nature of the change,
6 whether he's changing his position, you know,
7 whether he was incorrect at the time that he
8 wrote it. I'm just trying to understand what
9 causes the change.

10 CHAIRMAN IGNATIUS: All right.
11 I guess what I thought was happening was that
12 there's still the statement regarding PSNH
13 possibly making additional and expensive
14 control equipment investments, but rather than
15 to reduce mercury emissions, it would be to
16 reduce other things. And so the statement of
17 the need for expensive equipment remains; it's
18 just the specific mercury reference is
19 changing. Is that right?

20 MR. SPEIDEL: Right. I don't
21 understand why the Company would object to
22 just freshening the information, because we
23 aren't doing it to harm the Company's
24 interest. So I don't know what the basis of

1 the objection would be. It's just providing
2 up-to-the-minute information.

3 MS. KNOWLTON: I haven't
4 necessarily objected. I was trying to
5 understand the basis for it. I mean this is a
6 topic the Company did discovery on. So, I
7 mean, I just -- it affects the discovery
8 responses that we received to date so far. So
9 that's why I'm trying to gain an understanding
10 of what the implications of this are what's
11 driving this.

12 CHAIRMAN IGNATIUS: Why don't we
13 move on.

14 BY MR. SPEIDEL:

15 Q. All right. Now, Mr. McCluskey, I think --

16 A. (By Mr. McCluskey) If I could continue with
17 my --

18 Q. You have a few more line edits. That's what
19 I was going to ask, yes.

20 A. (By Mr. McCluskey) Line 28. Sorry.

21 Page 28, Line 4.

22 CMSR. HARRINGTON: You said what
23 line?

24 WITNESS McCLUSKEY: Four.

1 A. (By Mr. McCluskey) And replace the phrase
2 "an activated carbon injection" with the
3 word "a," so it will read "a system."

4 And on Line 7, strike the word
5 "injection."

6 BY MR. SPEIDEL:

7 Q. Very good. Now, Mr. McCluskey, I think we
8 have some testimony [sic] within PSNH
9 Exhibit 8 -- that is, the Levitan testimony.
10 And that would be on Page 24 of that
11 testimony?

12 A. (By Mr. McCluskey) What's the exhibit?
13 Eight?

14 Q. PSNH Exhibit 8.

15 A. (By Mr. McCluskey) Okay. Which page?

16 Q. Twenty-four.

17 A. (By Mr. McCluskey) Thank you.

18 Q. And that states, to paraphrase that, the
19 natural gas basis spreads calculated by
20 Staff are not well supported and that 2010
21 appears to have had unusually large summer
22 basis spread. Do you recall that?

23 A. (By Mr. McCluskey) I do.

24 Q. Now, would you agree that, using Emera's

1 price data supplied by the Company, and
2 Dracut daily natural gas prices, Staff
3 engaged in some calculations of those
4 spreads?

5 A. (By Mr. McCluskey) Yes, the --

6 Q. Now, let's be careful about being too
7 specific. But would you agree with that or
8 not, with the creation of such a summary?

9 A. (By Mr. McCluskey) I do.

10 Q. Okay. Now, if you could just give me a
11 moment, I'd like to distribute a
12 confidential exhibit. We're only going to
13 refer to it in very general terms, without
14 specific dollar figures. So I will give it
15 to the Commissioners, to the Company and to
16 the Office of the Consumer Advocate and the
17 witnesses.

18 CHAIRMAN IGNATIUS: Now, whose
19 confidential data is this?

20 MR. SPEIDEL: It is confidential
21 data supplied by the Company. So, it is Emera
22 pricing data supplied by their suppliers.

23 CHAIRMAN IGNATIUS: Are there
24 parties to whom it should not be distributed?

1 Is it one of those --

2 MR. SPEIDEL: In an abundance of
3 caution, I believe that none of the parties,
4 aside from the Office of Consumer Advocate and
5 the Staff should have access to this data.

6 CHAIRMAN IGNATIUS: Is there any
7 objection that?

8 (No verbal response)

9 CHAIRMAN IGNATIUS: All right.

10 MR. SPEIDEL: Thank you.

11 (Mr. Speidel distributes document.)

12 MR. SPEIDEL: I would like to
13 ask that this be marked as Staff Exhibit 1 --
14 I'm sorry -- Staff Exhibit 11, a confidential
15 exhibit.

16 CHAIRMAN IGNATIUS: So marked
17 for identification.

18 (The document, as described, was
19 herewith marked as Staff 11 for
20 identification.)

21 BY MR. SPEIDEL:

22 Q. Very good. Now, Mr. McCluskey, the
23 criticism -- could you summarize the
24 criticism of the Company? Aside from it

1 being unreasonable, they made a point
2 regarding the fact that Staff's calculations
3 were inaccurate. Is that a correct
4 characterization?

5 A. (By Mr. McCluskey) I believe they said that
6 Staff's calculations were "not well
7 supported" --

8 Q. Very good.

9 A. (By Mr. McCluskey) -- was the phrase that
10 they used.

11 Q. So, for instance, let's take a look --

12 A. (By Mr. McCluskey) If I could -- it might be
13 useful just to give some background rather
14 than delving straight into some numbers.

15 Q. Okay.

16 A. (By Mr. McCluskey) What we're talking about
17 is the basis differential between natural
18 gas price at the Dracut trading point in
19 Massachusetts and the cost of gas purchased
20 by PSNH for Newington from its supplier. So
21 there is -- generally, there's a difference
22 between prices at those two points.

23 In the Continued Unit Operations Study,
24 Levitan used basis differentials that turned

1 out to be not supported by calculation; they
2 were provided data by PSNH, which PSNH could
3 not support. So, Staff requested the daily
4 prices from Emera, the supplier, and
5 received them. And we compared those
6 prices, those daily prices, with the Dracut
7 daily trading prices and calculated, for
8 certain seasons of the year, average basis
9 differentials for 2010.

10 In the rebuttal testimony, Levitan
11 claimed that using a single year was not
12 adequate support for those basis
13 differentials, and they went on to say that
14 typically they would use a six-year period.
15 So --

16 CMSR. HARRINGTON: Six-year
17 what?

18 WITNESS McCLUSKEY: Six-year
19 period to develop the average rather than a
20 single year.

21 A. (By Mr. McCluskey) So, what Staff did was
22 acquire the daily prices from Emera for
23 those -- for the last six years. It wasn't
24 every year because they didn't supply gas

1 every year. The plant dispatched only on
2 relatively small number of days in the year.

3 So we decided to calculate the averages
4 used in the six-year period rather than the
5 one-year period, which we had included in
6 our testimony. And what you see in this
7 confidential exhibit are the results of this
8 six-year average. And the two periods that
9 were modeled by Levitan were March through
10 December, and January and February. So we
11 used those two periods. And my counsel's
12 instructed me not to give numbers. But you
13 can see what the weighted average is there
14 for 2006 through 2011. You can see the
15 number that Staff used in its testimony.
16 And we actually had PSNH re-run the model
17 with the differentials based on what Staff
18 calculated for 2010 relative to what they
19 had used in their initial study. And what
20 we show, two lines from the bottom under the
21 table, is the percentage of the weighted
22 average to Staff for 2010. And we think
23 that percentage is a pretty good percentage.
24 We think that percentage of 89 percent --

1 that's not confidential -- we think that it
2 shows that the number that we used for March
3 through December is not an unreasonable
4 estimate to use in the calculation.

5 Q. Okay. Now, very good, Mr. McCluskey. Could
6 you just identify the column that is marked
7 "March to December," the next to the last
8 column on the right-hand side of the table
9 here that's presented in Staff Exhibit 11.

10 A. (By Mr. McCluskey) Yes. It's the average
11 prices for each year on an MMBTU basis.

12 Q. And you can summarize those as "summer basis
13 spreads?"

14 A. That's correct.

15 Q. Now, would you agree that, as you would
16 characterize it, the "summer basis spreads"
17 for 2010, they don't seem to deviate very
18 much from those of 2009 or 2011? Would you
19 agree with that?

20 A. (By Mr. McCluskey) Certainly the years 2009
21 through 2011, I think they're actually
22 higher and very close to the number that we
23 include in our testimony.

24 Q. Very good.

1 A. (By Mr. McCluskey) March through December is
2 the critical period for the Continued Unit
3 Operations Study.

4 Q. Okay. Now, Mr. McCluskey, we're all set
5 with Staff Exhibit 11 for now.

6 Could you provide --

7 CHAIRMAN IGNATIUS: Before you
8 go on, Mr. Speidel. Mr. Patch.

9 MR. PATCH: I have one request.
10 I took from Mr. McCluskey's testimony that
11 there was some information on that sheet that
12 does not have to be kept as confidential. And
13 so I'm asking -- if that's not the case,
14 fine -- could there be a redacted version
15 provided in the next exhibit?

16 MR. SPEIDEL: Well, that's the
17 hazard of not talking to an attorney directly.
18 I don't know. I don't know. That would
19 require some consultation with the Company,
20 and I'm not prepared to do that right now. So
21 maybe we can have a redacted exhibit submitted
22 as a record request. But it will take a
23 little bit of time. I'll be out of town next
24 week, for instance. And so, if we could make

1 a record request to prepare a redacted
2 version, that would be fine. But I would have
3 to be very cautious about whether that's even
4 possible.

5 CHAIRMAN IGNATIUS: Well, why
6 don't we make a request for any information on
7 this Exhibit 11 that can be made public. And,
8 obviously, our goal is always for the most
9 information as possible to be publicly
10 available and as least as possible to be
11 restricted. So we'll mark that as Staff
12 Exhibit 12 for the record request.

13 MR. SPEIDEL: Yes. And I can do
14 that.

15 (The document, as described, was
16 herewith marked as Staff 12 for
17 identification.)

18 BY MR. SPEIDEL:

19 Q. Mr. McCluskey, you heard mention from Mr.
20 Arnold earlier about certain issues related
21 to operating reserves by the Newington power
22 plant.

23 A. (By Mr. McCluskey) I did.

24 Q. It was just a short, little reference. Now,

1 Mr. Smagula had talked about that yesterday
2 in general detail, not super specific
3 detail. Would Staff like to make a comment
4 about what its position is on that issue?

5 A. (By Mr. McCluskey) Yes. In our testimony, I
6 don't believe we used the term "operating
7 reserves," but we did say that it could be
8 taken as a criticism that the Levitan did
9 not model the actual operations of
10 Newington. They modeled economic dispatch,
11 when in fact Newington was providing in the
12 majority of hours, at least for 2010,
13 operating reserves. So we made a statement
14 in the testimony that it didn't model actual
15 operations. I'm not sure whether we
16 actually say this in the testimony. I
17 haven't been able to find it, whether we
18 indicated that that would have an impact on
19 the results of the study. But that issue, I
20 believe, was addressed by the PSNH panel.
21 And after more research and discussion with
22 a member of the ISO, we now believe that Mr.
23 Smagula is correct, that the modeling of
24 economic dispatch -- or to say it another

1 way, the actual provision of operating
2 reserves does not impact the economic result
3 that Levitan developed.

4 Q. And that's good to know. Thank you.

5 Now, I suppose I have an additional
6 question on direct. You heard some
7 discussion from Mr. Levitan yesterday that
8 he was confident that, despite the downward
9 revisions in net present value for customer
10 benefits to 37 million -- and you may
11 correct my paraphrasing of his comment --
12 that in spite of that, he was confident that
13 Newington was going to run in the black --
14 quote, run in the black for the foreseeable
15 future. Do you have any response to that?
16 Do you believe that really does represent a
17 reasonable forecast of the future?

18 A. (By Mr. McCluskey) If I can say it a
19 different way? Several times Mr. Levitan
20 indicated in response to questions that,
21 despite the criticisms that have been
22 leveled at the modeling that they did, and
23 the Company's own revision and the revision
24 that resulted from Staff's requested re-run,

1 that the study was still showing that
2 Newington was in the black. He didn't
3 specify what he meant by "in the black,"
4 what value. But he was claiming that,
5 despite all of the criticisms, that he
6 believed that the net result of all the
7 modeling was "in the black." And it's that,
8 that I would like to comment on.

9 First, I'd just like to -- certainly
10 for the benefit of Commissioner Ignatius,
11 the Company's initial Continued Unit
12 Operations Study produced the present value
13 net benefit of operating -- continuing to
14 operate the plant over 10 years of \$152
15 million. Due to various errors, they
16 subsequently revised that result and dropped
17 it down to \$72 million. As a result of the
18 backcast analysis, additional errors were
19 found. And we asked the Company to re-run
20 the model that produced the 72 million with
21 changes to eliminate those errors and two
22 other changes in the assumptions, one of
23 which was the natural gas prices based on
24 the basis spreads that we discussed in Staff

1 Exhibit 11. And that re-run dropped the
2 expected net benefit to customers over 10
3 years to approximately \$37 million. Now,
4 when he said he still thinks it's "in the
5 black," we're not sure that he's referring
6 to 72, which is what they filed, or the
7 37 million that was the result of Staff's
8 request. Now, assuming it is 37 million
9 that he's referring to -- so, in round
10 numbers, what we're talking about, that's a
11 present value number, but we're essentially
12 looking at a net benefit to customers --
13 this is going to -- if it's realized, will
14 flow to the benefit of the customers of
15 PSNH. So, approximately, we're looking at
16 \$3.7 million of net benefit each year over a
17 ten-year period.

18 Now, the kind of analysis that produced
19 that result, this forward -- ongoing
20 forward -- I forget the term now. It will
21 come to me in a moment. But this only
22 looking at the incremental costs and
23 revenues -- "going forward" is what I was
24 striving for, the going-forward value of the

1 plant. The method that produces this is
2 typically a method that's applied to
3 merchant power plants. It's a standard
4 approach. The problem is, PSNH, the owner
5 of the plant, is not a merchant power plant;
6 it's a regulated company. And it
7 receives -- in addition to these net
8 benefits from future operations, it
9 receives, obviously, the depreciation on its
10 investment in the plant, and, importantly, a
11 return on the undepreciated investment. And
12 I would just like to point out that over the
13 five years prior to the analysis period, the
14 return paid by PSNH customers to PSNH for
15 the Newington plant alone varied from \$9- to
16 \$10 million. So, in order to -- so, for
17 operating for -- constructing and operating
18 this power plant, in addition to its
19 depreciation, it receives a return of \$9- to
20 \$10 million. So, going forward, customers
21 are going to have to pay PSNH each year
22 something in that range, 9 to 10. Could be
23 smaller, depending how the investment is
24 depreciated and what additional capital

1 expenditures are incurred over the future.
2 So, what this analysis is showing is that
3 customers will be shelling out \$9- to
4 \$10 million in return and receiving in
5 return approximately \$3.7 million. That, to
6 me, is not an indication of an economic
7 plant from the standpoint of a regulated
8 utility.

9 And so what I'm saying is that, for
10 regulated companies, it's also important to
11 take into account in these types of analyses
12 the return that's paid over the analysis
13 period. And so typically what -- you would
14 think that if a utility has in its resources
15 a owned unit, that that unit would be
16 producing net benefits for customers -- by
17 that I mean net of any return that is paid
18 to the utility. And if it's not, then it
19 could be argued that this plant is not used
20 and useful in the standard way, and the
21 options can vary from no return, reduced
22 return, full return, whatever the Commission
23 decides is appropriate. In our
24 jurisdictions, the outcome has varied.

1 Sometimes, plants that have been deemed to
2 be uneconomic are removed from rate base and
3 no return is paid. Sometimes the return is
4 reduced. Other times the return remains as
5 is. So I would just like to point out that
6 it's important if we're asking the question
7 of what will -- what do customers benefit
8 from the continued operation of the plant.
9 We must look at more than what the standard
10 calculations for emergent power plant
11 produces.

12 Q. Thank you.

13 MR. SPEIDEL: I have no further
14 direct questions of the panel.

15 CHAIRMAN IGNATIUS: Thank you.

16 Mr. Patch.

17 CROSS-EXAMINATION

18 BY MR. PATCH:

19 Q. Good afternoon. These questions are
20 probably -- I don't have a lot of questions,
21 but a few questions, and probably mostly for
22 you, Mr. McCluskey. But Mr. Arnold, if you
23 want to participate in answering them, that
24 would be fine.

1 Mr. McCluskey, I think in response to a
2 question on direct you had discussed the
3 fact of essentially the operating reserves
4 and how that relates to the Levitan's model
5 use of -- or being based on an assumption
6 that the plant is dispatched when it's
7 economic to do so. And I see that's at
8 Page 8 of your testimony. And there is, I
9 believe it's at Line 21, a reference to
10 "operating reserves." I think you had
11 indicated that you couldn't find where in
12 your testimony that was. And so I just want
13 to make sure I understand what you were
14 saying in response to the question on direct
15 and whether you would therefore change that
16 portion of your testimony.

17 A. (By Mr. McCluskey) No. This portion of my
18 testimony does not need to be changed. The
19 reference to "the provision of operating
20 reserves" is correct. They provide not only
21 economic energy, but also operating
22 reserves. The issue I was getting to was
23 the fact that Levitan & Associates did not
24 model operating reserves does not result in

1 an unsupportable net benefit from the
2 analysis.

3 Q. So then, you stand by your criticism of the
4 Levitan model as being based on an
5 assumption that the plant dispatched when
6 it's economic to do is inappropriate because
7 it doesn't reflect actual operations?

8 A. (By Mr. McCluskey) It's a fact that it
9 didn't -- that the model does not reflect
10 actual operation. But I'm saying there's no
11 impact on the study results as a result of
12 that assumption, that simplified assumption
13 that they make.

14 Q. On Page 9 of your testimony, you had
15 indicated that the Levitan model estimated
16 average heat rate for Newington at, I think
17 it's 11,230 BTUs per kilowatt hour. And you
18 pointed out that this is different than the
19 actual heat rate of 13,500. Do I have those
20 numbers correct?

21 A. That's correct.

22 Q. And how would this estimate have impacted
23 the study if it had been done, as you
24 suggest, using the higher heat rate?

1 A. (By Mr. McCluskey) I believe the higher heat
2 rate was attributable to the provision of
3 operating reserves, and, as I've stated, the
4 provision of those reserves do not impact
5 the economic result. So, while there might
6 be an implication that they use a lower heat
7 rate, what I'm saying today is it should not
8 be read that way.

9 Q. On Page 12, Lines 18 and 19, you indicate
10 that over the six years, ending in 2010,
11 costs incurred by customers actually
12 exceeded the benefits received. Do I have
13 that correct?

14 A. (By Mr. McCluskey) If I could just take a
15 moment.

16 (Witness reviews document.)

17 A. (By Mr. McCluskey) Yes, I'm referring now to
18 the historic period as opposed to the
19 analysis period.

20 BY MR. PATCH:

21 Q. I think this is consistent with some of the
22 testimony that was referred to earlier in
23 this proceeding that Mr. Mullen gave in that
24 ES docket in 2009. Does that sound correct

1 to you?

2 A. (By Mr. McCluskey) I couldn't say. I recall
3 from reading the Commission's order that Mr.
4 Mullen had something to say in the energy
5 service proceeding, but I never reviewed his
6 testimony, if he filed any.

7 Q. And your Exhibit 7 to your testimony shows
8 net profit and loss in net energy revenue
9 from 2005 to 2010. Do I have that correct?

10 A. (By Mr. McCluskey) Yes. The line or row
11 second from the bottom I think is what
12 you're referring to, the net profit or loss?

13 Q. That's right. And what does that show again
14 for those years?

15 A. (By Mr. McCluskey) For the years 2005
16 through 2010, this analysis shows that the
17 Company recorded on its books losses ranging
18 from a high of almost \$21 million to a low
19 of \$3.6 million.

20 Q. There's been some discussion about the
21 backcasting analysis that you had requested
22 that Levitan perform. Could you summarize
23 essentially what you conclude from that
24 analysis.

1 A. (Mr. Arnold) Okay. The conclusion from the
2 final backcast analysis is that the model
3 came within 45 percent of the actual 2010
4 values.

5 Q. Forty-five percent?

6 A. (By Mr. Arnold) Forty-five percent. It was
7 a difference of 1.2 million or two point --
8 it's 45 percent.

9 Q. That was the analysis that led to the
10 uncovering of a few other errors in the
11 Levitan report; right?

12 A. (By Mr. Arnold) Well, yeah. From the start
13 to the end, the process of building up the
14 backcast and setting up the model led to
15 some discovery.

16 A. (By Mr. McCluskey) The primary purpose of
17 the backcast analysis was to -- because the
18 analysis period looked forward 2011 through
19 2020, we needed something to benchmark the
20 analysis. We didn't have final 2011 results
21 from Newington at the time. So we said,
22 well, based on as experience of doing these
23 kind of analyses for other models, let's
24 change the data, the input data that would

1 allow us to actually run the model
2 backwards, determine what the model was
3 predicting for, I believe the energy net
4 revenues for 2010. And we actually had
5 actual net revenues for that period. And
6 the bottom line was it was substantially
7 off. And one of the benefits of the
8 analysis was we actually -- when the Company
9 tried to explain the difference, they were
10 able to determine that there was some
11 additional errors that had not been caught
12 in the first revision that they submitted in
13 April 2010.

14 So, not only did we find that the model
15 was not predicting actual results for 2010,
16 we actually found some additional errors,
17 which we attempted to eliminate through our
18 re-run, and that produced the \$37 million.

19 Q. On Page 23 of your original testimony, you
20 had expressed a concern about the impact of
21 Northern Pass; correct?

22 A. (By Mr. McCluskey) You have a particular
23 line number? Okay. I see it. Starting on
24 Line 5.

1 Q. Yes.

2 A. (By Mr. McCluskey) Yes. Yes, the concern is
3 described in our testimony.

4 Q. And then after the information contained in
5 the CRA study was provided in your
6 supplemental testimony, you evaluated the
7 CRA data with regard to Newington. And
8 obviously, the CRA data sort of had it both
9 ways, with and without Northern Pass. Do
10 you recall that?

11 A. (By Mr. McCluskey) That's correct. It did.

12 Q. And what did you conclude, based on your
13 review of the CRA data?

14 A. (By Mr. McCluskey) The CRA study addressed
15 energy not -- addressed the impact of market
16 energy prices in New England as a result of
17 the Northern Pass project being completed,
18 and so it did not -- although, I believe we
19 argue in the testimony that it would also
20 have an impact on the capacity prices. The
21 CRA did not address capacity prices.

22 So what the CRA study did, it included
23 cost estimates of how the -- how
24 Newington -- because the work papers for the

1 CRA study had information relative to
2 Newington, it was able to determine the
3 incremental impact of Northern Pass with and
4 without the project. And so that was the
5 primary benefit. It showed that the
6 Northern Pass would have the downward prices
7 resulting from the completion of the
8 Northern Pass, would impact the revenues
9 and -- I believe the revenues, the net
10 revenues for Newington. That was a critical
11 result that we got from that data from
12 Northern -- from the CRA study.

13 Q. On Page 11 of your testimony -- and I'm
14 looking at Line 13 on Page 11, of your
15 original testimony, not the supplemental --
16 you had indicated there that even the LAI
17 reports indicated that Newington's recent
18 financial performance has not been good; is
19 that correct?

20 A. (By Mr. McCluskey) Yes, that's the essence
21 of what I say in Lines 13 through 17.

22 Q. And in reaching that conclusion, you had
23 looked at G.1 to the original study. And I
24 think that information has in fact been

1 updated twice, if I'm correct. And that
2 G.1, as you say here, shows that Newington
3 recorded losses on its regulatory books in
4 each of the six years ending in 2010 and
5 that those losses were collected from PSNH
6 retail customers through rates regulated by
7 the Commission. I mean, do I understand
8 that correctly? Is that essentially the
9 testimony that you gave there?

10 MS. KNOWLTON: I'm going to
11 object. I really just feel like this is a
12 regurgitation of the testimony. I don't hear
13 Mr. McCluskey saying anything new. I don't
14 hear that there's actually a question there
15 except for, "Did I read your testimony
16 correctly?"

17 MR. PATCH: Well, I have another
18 question actually related to that. I was
19 trying to lay a foundation for that. And my
20 question basically is whether the corrections
21 that were made after that, in which direction
22 did those corrections go, in terms of the
23 testimony that he has here.

24 CHAIRMAN IGNATIUS: All right.

1 You may ask --

2 MR. PATCH: Or whether this
3 review --

4 BY MR. PATCH:

5 Q. When you did this review, you had all of
6 those corrections before you?

7 A. (By Mr. McCluskey) The exhibit that supports
8 the testimony on Page 11 is Staff Exhibit 7.
9 And I believe when I prepared that exhibit,
10 I already had the corrections submitted by
11 PSNH. So, subject to check, the results of
12 Exhibit 7 reflect those corrections. I'd
13 have to check that.

14 Q. But the bottom line on it is that it shows
15 that Newington had reported losses on its
16 regulatory books in each of the six years
17 ending in 2010; is that correct?

18 A. (By Mr. McCluskey) That's my testimony based
19 on Exhibit 7.

20 CHAIRMAN IGNATIUS: And just for
21 the sake of the record, when you say "Staff
22 Exhibit 7," you mean the attachment to your
23 testimony which is Staff Exhibit 1?

24 WITNESS McCLUSKEY: That's

1 correct. That's one of the problems.

2 CHAIRMAN IGNATIUS: That's fine.

3 WITNESS McCLUSKEY: We realized
4 that we were using the same description for
5 the attachments to our testimony.

6 MR. SPEIDEL: Well, yeah. It's
7 all right, Mr. McCluskey. As a matter of
8 fact, we can say that Staff Exhibit 7 as
9 styled is actually on numeral Page 57 of Staff
10 Exhibit 1. So, perhaps going forward we can
11 refer to pages within Staff Exhibit 1.

12 WITNESS McCLUSKEY: Okay. Thank
13 you.

14 BY MR. PATCH:

15 Q. And maybe just to follow up on that, then,
16 on Page 57 of that exhibit, could you just
17 quickly run through the energy net revenues
18 that you have on those exhibits for the
19 years listed for Newington Station.

20 A. (By Mr. McCluskey) Yeah.

21 CHAIRMAN IGNATIUS: Before we do
22 that and make the court reporter's brain
23 almost explode, since numbers are particularly
24 hard, we have it in front of us. What is your

1 question?

2 MR. PATCH: I just want to make
3 sure that the record was clear on what those
4 numbers were. I guess that should be fine, as
5 long as the record's clear that that's where
6 those numbers are located.

7 BY MR. PATCH:

8 Q. On Page 24 of your direct testimony, you had
9 expressed a concern about the lower level of
10 capital expenditures that were used by
11 Levitan in the model; is that fair?

12 A. (By Mr. McCluskey) You're referring to the
13 half-million dollars?

14 Q. Yes.

15 A. (By Mr. McCluskey) Yes.

16 Q. And you had also noted that Levitan had
17 assumed that the plant capacity factor would
18 be much higher in the future than in recent
19 years. I'm not sure it was a direct -- if I
20 understand correctly, I think you may have
21 backed into those plant capacity numbers.
22 I'm not sure they're ones you directly
23 relied upon. Is that correct?

24 A. (By Mr. McCluskey) I don't think I'd call it

1 "backing in." One of the results of the
2 economic analysis is to produce the expected
3 capacity factors for operation each year.
4 So, each of the three studies that I've made
5 reference to have produced \$152-, \$72- and
6 \$37 million would have separate set of
7 capacity factors associated with them.

8 Q. And do you recall the capacity factors that
9 were included in those particular charts?
10 Were they consistent with recent capacity
11 factors, or were they in fact higher than
12 recent capacity factors?

13 A. (By Mr. McCluskey) Well, I actually have the
14 exhibits. The information is actually
15 provided on Exhibit G.17 of the initial
16 study -- of the revised study. And Levitan
17 & Associates kindly produced what they
18 titled as "Attachment 2" that produces the
19 similar numbers under the run that produced
20 the \$37 million estimate. So, as I said,
21 each of those has a separate set of capacity
22 factors, particularly for what they call the
23 "expected value" for these benefits.

24 Q. And do you recall whether those -- how they

1 measure up against recent capacity
2 factors -- actual capacity factors for
3 Newington Station?

4 A. (By Mr. McCluskey) Yes. In recent years,
5 the capacity factor has dropped
6 significantly to in the range of 3 to
7 4 percent in the most recent years.

8 In the initial study, the expected
9 value for the capacity factors ranged -- it
10 was in the 16- to 17-percent range. In the
11 revised study, it was in the 8 to 9 --
12 actually, there's a figure there of 10.7.
13 So, 10.7 was the tops and 7 was the lowest
14 number. In the run that produced the
15 \$37 million net benefit, the capacity factor
16 was typically in the high 3s to mid 4s.

17 CMSR. HARRINGTON: Excuse me.
18 Which document are you reading from on that
19 last one?

20 WITNESS McCLUSKEY: The Company
21 submitted their discovery response to a
22 technical session question which provided the
23 results of the run that produced the \$37
24 million net benefit.

1 CMSR. HARRINGTON: Is that in as
2 evidence or --

3 WITNESS McCLUSKEY: I believe it
4 has --

5 MR. SPEIDEL: Yes. As a matter
6 of fact, it was submitted as evidence quite a
7 while ago. I believe it was PSNH exhibit --
8 just give me a sec -- 11.

9 CMSR. HARRINGTON: Thank you.

10 MR. SPEIDEL: It has a cover
11 letter dated July the 12th. Am I right, Mr.
12 McCluskey?

13 WITNESS McCLUSKEY: I'll accept
14 your statement that it is Exhibit 11.

15 A. (By Mr. McCluskey) You'll find two sheets,
16 one of which has the figure of
17 \$36.78 million; and the other sheet has kind
18 of supporting information, and that's
19 labeled "Attachment 2." The first sheet was
20 labeled "Attachment 1." And it's in
21 Attachment 2 that has the capacity factor
22 numbers. I see Mr. -- Commissioner
23 Harrington looking at Attachment 2. It's
24 the first block, "Expected Value," where I

1 was reading off the capacity factor numbers.

2 CMSR. HARRINGTON: Thank you.

3 MR. PATCH: Okay. That's all
4 the questions I have. Thank you.

5 CHAIRMAN IGNATIUS: Thank you.

6 Ms. Smith.

7 MS. SMITH: No, thank you.

8 CHAIRMAN IGNATIUS: Mr.

9 Cunningham.

10 MR. CUNNINGHAM: No.

11 CHAIRMAN IGNATIUS: Mr.

12 Steltzer.

13 MR. STELTZER: No questions.

14 Thank You.

15 CHAIRMAN IGNATIUS: Mr. Peress,
16 questions?

17 MR. PERESS: Yes, thank you,
18 Madam Chair. I'm going to direct my questions
19 primarily to Mr. McCluskey, although CLF
20 doesn't have any objection to the other
21 witness chiming in.

22 CROSS-EXAMINATION

23 BY MR. PERESS:

24 Q. Mr. McCluskey, do you recall yesterday's

1 discussion relating to the decision by
2 Levitan not to include the impact of the
3 Northern Pass Transmission Project in its
4 CUO analysis?

5 A. (By Mr. McCluskey) Yes, I do.

6 Q. And are you familiar with the
7 Levitan/Carlson rebuttal testimony that's
8 PSNH Exhibit 8 --

9 A. (By Mr. McCluskey) Yes, I am.

10 Q. -- where on Page 17 they state that, quote,
11 There is no need to accelerate a retirement
12 decision based on the uncertain prospect
13 that the NPT project will be operational
14 well before the end of the study horizon?

15 A. (By Mr. McCluskey) What page is that?

16 Q. Page 17.

17 CHAIRMAN IGNATIUS: And again,
18 are you using the center numbers or the Bates
19 Stamp numbers?

20 MR. PERESS: I am using the
21 center numbers.

22 A. (By Mr. McCluskey) And what line? I see it.
23 It's in the middle of the second Q & A.

24 MR. SPEIDEL: Can you give a

1 line number for the hearing room, Mr.
2 McCluskey?

3 A. (By Mr. McCluskey) Starting at -- the
4 sentence begins at Line 21 and runs through
5 Line 26.

6 BY MR. PERESS:

7 Q. And Mr. McCluskey, you were here during the
8 cross-examination of Mr. Levitan yesterday.
9 Yes?

10 A. (By Mr. McCluskey's) Could I just get it --
11 are we on the same page? The line numbers I
12 referred to, is that where your question is
13 going?

14 Q. I was just using it, actually, to establish
15 a foundation for my questions. It's not
16 that critical. And, yes, I was starting at
17 Line 18.

18 You were here during Mr. Levitan's
19 cross-examination yesterday; correct?

20 A. (By Mr. McCluskey) Yes.

21 Q. Do you recall Mr. Levitan stating something
22 to the effect that, if the Northern Pass
23 Transmission Project becomes more certain,
24 then the conclusions in the CUO need to be

1 revisited due to its -- and I wrote this
2 down as best as I could -- quote,
3 significant implications to Newington
4 future, end quote?

5 A. (By Mr. McCluskey) Something of that sort.
6 I couldn't quote his testimony today.

7 Q. Would you agree with the proposition that
8 the Northern Pass Transmission Project has a
9 significant effect on the value of Newington
10 Station?

11 A. (By Mr. McCluskey) Yes, I believe so, based
12 on the CRA study results as they impact
13 Newington.

14 Q. And indeed, your testimony concludes that
15 Northern Pass will adversely affect the
16 plant's market value; is that correct?

17 A. (By Mr. McCluskey) It affects the result.
18 It would affect the results of the study. I
19 wouldn't call the results of the study a
20 "market valuation."

21 Q. Can you turn to Page 3 of your supplemental
22 testimony, please.

23 MR. SPEIDEL: That would be
24 Staff Exhibit 2.

1 A. (By Mr. McCluskey) Page 3?

2 BY MR. PERESS:

3 Q. Yes. Can you just read Lines 14 through 17,
4 please.

5 A. (By Mr. McCluskey) "These data clearly
6 indicate that the going-forward value of the
7 plant is lower under CRA's view of the
8 future than under LAI's view."

9 Q. The next sentence, also.

10 A. (By Mr. McCluskey) "The data also confirmed
11 that the Northern Pass transmission line, if
12 completed, will adversely affect the plant's
13 market value."

14 Q. So I'd like to explore with you whether the
15 impacts of the Northern Pass Transmission
16 Project should be reflected in the Continued
17 Unit Operation Study and in PSNH's planning.

18 MR. PERESS: And I'd like to
19 pass out an exhibit, please. May I approach?

20 CHAIRMAN IGNATIUS: You may.
21 Were you asking him that question, though?

22 MR. PERESS: This is the basis
23 for the next question.

24 CHAIRMAN IGNATIUS: But he may

1 have a view independent of whatever paper you
2 have. Does he have an answer to that
3 question?

4 WITNESS McCLUSKEY: And what was
5 the question?

6 CHAIRMAN IGNATIUS: Whether the
7 Northern Pass -- well, go ahead. I don't know
8 why you're passing out a document if he hasn't
9 answered the question.

10 MR. PERESS: I wasn't asking the
11 question.

12 CHAIRMAN IGNATIUS: Go ahead.

13 MR. PERESS: Madam Chair, if we
14 could mark this for identification as CLF
15 Exhibit 9, please.

16 CHAIRMAN IGNATIUS: Ten.

17 MR. PERESS: CLF 10.

18 CHAIRMAN IGNATIUS: We'll mark
19 that for identification as CLF 10.

20 (The document, as described, was
21 herewith marked as CLF 10 for
22 identification.)

23 BY MR. PERESS:

24 Q. Mr. McCluskey, this appears to be a filing

1 by NSTAR to the Securities and Exchange
2 Commission; is that correct?

3 A. (By Mr. McCluskey) That's correct.

4 Q. And do you see the date of this filing at
5 the top of the page?

6 A. (By Mr. McCluskey) October the 4th, 2010.

7 Q. And that would be approximately four days
8 after the date that the LCIRP was filed; is
9 that correct?

10 A. (By Mr. McCluskey) That's correct.

11 Q. And do you mind reading the first two
12 sentences in the body of the filing, please,
13 beginning with "On October 4th, 2010."

14 A. (By Mr. McCluskey) "On October 4th, 2010,
15 Northern Pass Transmission, LLC, in
16 parentheses, NPT, and HQ Hydro Renewable
17 Energy, Inc., in parentheses, Hydro
18 Renewable Energy, an indirect and
19 wholly-owned subsidiary of Hydro-Quebec,
20 entered into a transmission service
21 agreement, parentheses, the TSA, in
22 connection with the Northern Pass
23 transmission line. NPT is a joint venture
24 indirectly owned by Northeast Utilities...

1 and NSTAR on a 75-percent and 25-percent
2 basis, respectively."

3 Q. Just one more section of this document.

4 CHAIRMAN IGNATIUS: Mr. Peress,
5 please, why are we reading documents that are
6 marked for exhibits into the record?

7 MR. PERESS: I'm just creating a
8 foundation for some of the questions relating
9 to PSNH's interest in activities with respect
10 to the Northern Pass Transmission Project and
11 how that should have been reflected in the
12 Continued Unit Operations Study.

13 CHAIRMAN IGNATIUS: Ask your
14 question. We have the document in front of
15 us.

16 BY MR. PERESS:

17 Q. Mr. McCluskey, if you'd look at the second
18 paragraph of the document, does it state
19 that NPT expects to commence construction in
20 2012 or 2013, with power flowing in the
21 second half of 2015?

22 (Witness reviews document.)

23 A. (By Mr. McCluskey) That's correct.

24 Q. So, from this document, does it appear that

1 the expectation of one of the Northern Pass
2 Transmission partners was that the project
3 would be in service by 2015?

4 A. (By Mr. McCluskey) At the time this filing
5 was made, that's correct.

6 Q. Have you reviewed the transmission services
7 agreement that this filing refers to?

8 A. (By Mr. McCluskey) Quite some time ago. I
9 must have had some free time on my hands and
10 I reviewed that document. But please don't
11 ask me what was in it.

12 Q. Well, how about if I ask you this: Are you
13 aware of any facts that suggests that PSNH
14 was substantially and meaningfully engaged
15 in planning for the Northern Pass
16 Transmission Project prior to submitting the
17 CUO and LCIRP?

18 A. (By Mr. McCluskey) That PSNH was engaged?

19 Q. Yes.

20 A. (By Mr. McCluskey) Yes. Several documents
21 that I read indicated that PSNH was, if not
22 direct, a party involved in the development
23 of the project.

24 Q. And PSNH has a very significant role in that

1 transmission services agreement. Do you
2 recall that?

3 A. (By Mr. McCluskey) Yes.

4 Q. And the project would rely on PSNH's rights
5 of way; is that correct?

6 A. (By Mr. McCluskey) That's correct, in part.

7 Q. And it would, in part, rely on PSNH's
8 substation in Franklin? Is that your
9 understanding?

10 A. (By Mr. McCluskey) You're getting to the
11 limits of my memory now. I couldn't say at
12 this point whether that's the case.

13 Q. Mr. McCluskey, do you believe Northern Pass
14 is a significant element in PSNH's least
15 cost integrated resource planning?

16 A. (By Mr. McCluskey) No, based on the fact
17 that I don't recall the Northern Pass
18 project being discussed in the IRP.

19 MS. KNOWLTON: I'd actually like
20 to object to the question and ask that the
21 answer be stricken. We're here on the CUO.
22 We're not here on the IRP. And clearly, Mr.
23 Peress is asking questions about the IRP
24 process.

1 CHAIRMAN IGNATIUS: I agree with
2 that. Is there some way this ties in to the
3 CUO discussions?

4 MR. PERESS: Yes. In the first
5 instance, the CUO is part of the IRP. In
6 fact, the Commission, in its order, which was
7 Order 25,263, stated that the purpose of the
8 CUO study is to assess the efficacy of PSNH's
9 planning.

10 CHAIRMAN IGNATIUS: I understand
11 that. But we separated this proceeding into
12 two pieces, one dealing with the least cost
13 plan itself, and the second with the CUO. So
14 if you have a tie-in between the two, I think
15 that's appropriate. If not, we've been
16 through the issues about the plan itself.

17 MR. PERESS: Madam Chair, you
18 unfortunately weren't here yesterday. We had
19 some discussion yesterday about whether the
20 division of witnesses was preclusive with
21 respect to asking questions. Now, CLF's
22 perspective is that the questions we're asking
23 relate directly to whether or not the CUO
24 should have addressed in detail the results of

1 the Northern Pass project.

2 CHAIRMAN IGNATIUS: That's fine.
3 You can pursue that.

4 MR. PERESS: I'd like to pass
5 out one more exhibit, please.

6 CHAIRMAN IGNATIUS: Actually,
7 it's 3:15. Why don't we take a break. Is
8 that all right? Unless you're almost done.

9 MR. PERESS: No, that's fine.

10 CHAIRMAN IGNATIUS: And let's
11 try to keep it to 10 minutes. And we can
12 go -- we can't go much beyond 4:30 this
13 afternoon. Let's go off the order for a
14 moment.

15 (Discussion off the record)

16 (WHEREUPON a brief recess was taken at
17 3:20 p.m. and the hearing resumed at
18 3:40 p.m.)

19 CHAIRMAN IGNATIUS: We're back
20 on the record. We are back for the final
21 session this afternoon. We've had some time
22 working on some schedule issues. We will, at
23 the close of today, because we won't be
24 finished, we'll reconvene tomorrow, Thursday,

1 at 9:00 in the morning. We've reserved space
2 in the hearing room, assuming we'll only be
3 the morning. But it's set aside until 1:00.
4 And we have agreed that we, at the close of
5 evidence -- and obviously, we've got a few
6 record requests that have to come in as
7 well -- we will not do oral closings. We'll
8 move to written briefs which will be due two
9 weeks after the transcript is finalized, which
10 we understand won't be until after the end of
11 next week. So, whatever date that transcript
12 comes, presumably a week or 10 days from now,
13 it will be two weeks from then that briefs are
14 due. And when the transcript's in, why don't
15 we send out a letter just giving a firm date
16 so that everyone's aware.

17 Is that it? Oh, and then we
18 talked about trying to limit briefs to no
19 more than 25 pages.

20 Any other procedural issues?
21 If not, then, Mr. Peress, we cut you off
22 right in the middle of your
23 cross-examination. So you may resume.

24 MR. PERESS: Thank you, Madam

1 Chair. We were discussing whether an analysis
2 of the impacts of the Northern Pass
3 Transmission Project should have been included
4 in the Continued Unit Operations Study. So I
5 have distributed to everyone here during the
6 break a document with the moniker of Concord
7 Monitor, at the top of it. So if anyone
8 doesn't have that, could you please let me
9 know.

10 For identification purposes, I
11 propose that we mark this as CLF 10, please.

12 THE CLERK: Eleven.

13 CHAIRMAN IGNATIUS: Eleven.

14 MR. PERESS: Eleven. I'm sorry.

15 (The document, as described, was
16 herewith marked as CLF 11 for
17 identification.)

18 BY MR. PERESS:

19 Q. Mr. McCluskey, can you focus on the fifth
20 paragraph down, please, that starts, "As a
21 subsidiary..."

22 A. (By Mr. McCluskey) Okay.

23 Q. And can you review that paragraph, please,
24 just so that I can ask a few questions about

1 it.

2 (Witness reviews document.)

3 A. (By Mr. McCluskey) Read it.

4 Q. The document that's been marked as CLF
5 Exhibit 11 appears to be an article or
6 letter to the Concord Monitor, dated
7 March 5th, 2011; is that correct?

8 A. That's correct.

9 Q. And can you tell me who wrote this article,
10 please?

11 A. (By Mr. McCluskey) Gary Long.

12 Q. And if you go to the very end of the
13 article, can you tell me in what capacity
14 Mr. Long prepared this letter?

15 A. (By Mr. McCluskey) He's the president and
16 chief operating officer of PSNH.

17 Q. And he also prepared this letter,
18 apparently, as a representative of NU
19 Transmission Ventures, which owns 75 percent
20 of Northern Pass Transmission, LLC?

21 A. Yes, he did.

22 Q. And in that fifth paragraph down, does
23 Mr. Long explain that the Northern Pass
24 Transmission Project is, quote, absolutely

1 essential, end quote, to the ability of PSNH
2 to meet various service needs?

3 A. (By Mr. McCluskey) Actually, it says, built
4 in, "to fulfill these responsibilities and
5 to help the state meet its long-term clean
6 energy goals and the responsibilities for
7 providing reliable service to its 500,000
8 customers."

9 Q. And do those responsibilities also include,
10 quote, ensuring that the state has power
11 supply diversity and price stability, end
12 quote?

13 A. (By Mr. McCluskey) It does say that. That's
14 right.

15 Q. And are you familiar with the factors that
16 the legislature requires the Commission to
17 consider in reviewing an LCIRP by statute?

18 A. (By Mr. McCluskey) I've certainly read it
19 numerous times, but I couldn't quote it
20 sitting up here.

21 Q. Subject to check, would you believe that
22 that includes a provision for diversity of
23 supply resources?

24 A. Yes.

1 MS. KNOWLTON: I'm going to
2 object on the basis that this line of
3 questioning relates to the IRP portion of the
4 case and that we've moved away from that
5 testimony. Mr. McCluskey has previously
6 testified and was available for that line of
7 cross if that was of interest to CLF.

8 CHAIRMAN IGNATIUS: I think
9 that's fair. Again, if you have a tie-in
10 between the Northern Pass issue and the
11 Continued Unit Operations Study, then that's
12 appropriate.

13 MR. PERESS: May I respond, or
14 have you made a ruling?

15 CHAIRMAN IGNATIUS: Well, is it
16 different than the last time we discussed this
17 a moment ago?

18 MR. PERESS: It just goes to
19 show the substantiveness of the Northern Pass
20 project with respect to the need to include it
21 in the Continued Unit Operations Study. The
22 fact that --

23 CHAIRMAN IGNATIUS: That's fine.
24 Ask him that. But don't -- but it's not about

1 whether it should be in the LCIRP that we've
2 done. Whether it should have been part of the
3 CUO study is a fair question.

4 MR. PERESS: And Madam Chair,
5 all I'm suggesting is the fact that he states
6 that the project provides and addresses the
7 same responsibilities and needs that they are
8 responsible to provide by statute suggests
9 that it's meaningful enough to go into the
10 CUO. That's the purpose of this question. So
11 I will ask the question.

12 BY MR. PERESS:

13 Q. Based on Mr. Long's explanation of the
14 importance of the Northern Pass project and
15 his description in this letter, does that
16 bear on your opinion regarding whether the
17 impacts of Northern Pass should have been
18 analyzed and discussed in the CUO?

19 A. (By Mr. McCluskey) I think it just supports
20 the position that we've already taken in our
21 testimony, that it was reasonable to include
22 the impacts of the Northern Pass project in
23 the Continued Unit Operations Study.

24 MR. PERESS: I have no more

1 questions. Thank you, Madam Chair.

2 CHAIRMAN IGNATIUS: Thank you.

3 Ms. Hollenberg.

4 MS. HOLLENBERG: No questions.

5 CHAIRMAN IGNATIUS: Questions
6 from the Bench. Commissioner Harrington? Oh,
7 did I just do it again?

8 MS. KNOWLTON: Actually, that's
9 fine. If you would like to do your
10 questioning, I can do all my questioning at
11 the conclusion. And I'm happy to do that
12 because I'm not going to finish today, so...

13 CHAIRMAN IGNATIUS: That's okay.
14 Why don't you begin. Obviously we won't
15 finish. But I apologize. I don't know what's
16 going on in my brain.

17 MS. KNOWLTON: Excuse me just
18 one minute, please.

19 CHAIRMAN IGNATIUS: That's all
20 right. Take your time.

21 You know what? I think -- why
22 don't we call it quits for today and let you
23 get organized for tomorrow.

24 MS. KNOWLTON: Thank you.

1 CHAIRMAN IGNATIUS: It's almost
2 4:00. I think everyone's a little weary.
3 We've been here since 9:00.

4 CMSR. HARRINGTON: 8:30.

5 CHAIRMAN IGNATIUS: 8:30. So
6 we're back again at 9:00 in the morning,
7 beginning with cross-examination from PSNH, if
8 that makes sense.

9 Is there anything else we
10 should do before we adjourn today?

11 MR. PATCH: Did I hear 8:30 or
12 9:00?

13 CHAIRMAN IGNATIUS: Nine. I
14 apologize. We're starting at 9:00. So, thank
15 you everyone. We'll see you in the morning.

16 (Whereupon the AFTERNOON SESSION of
17 the hearing was adjourned at 3:52
18 p.m.)

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[WITNESS PANEL: McCluskey|Arnold]

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24**C E R T I F I C A T E**

I, Susan J. Robidas, a Licensed Shorthand Court Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.



Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)