

1 STATE OF NEW HAMPSHIRE

2 PUBLIC UTILITIES COMMISSION

3 **September 20, 2006** - 10:02 a.m.
4 Concord, New Hampshire5
6 **RE: DW 06-094**
7 **AQUARION WATER COMPANY OF NEW HAMPSHIRE:**
8 **Verified Petition for Approval of the**
9 **Acquisition of Aquarion Company by**
10 **Macquarie Utilities, Inc.**11
12 **PRESENT:** Chairman Thomas B. Getz, Presiding
13 Commissioner Graham J. Morrison
14 Commissioner Clifton C. Below15
16 Diane Bateman, Clerk17
18 **APPEARANCES:** **Reptg. Aquarion Water Company of N.H.:**
19 Steven V. Camerino, Esq.20
21 **Reptg. the Town of Hampton:**
22 Mark S. Gearreald, Esq.23
24 **Reptg. the Town of North Hampton Water**
Commission and the Town of North Hampton:
Henry Fuller, Chairman of Water Commission**Reptg. Residential Ratepayers:**
Rorie Hollenberg, Esq.
Office of Consumer Advocate**Reptg. PUC Staff:**
Marcia A. B. Thunberg, Esq.

Court Reporter: Steven E. Patnaude, CCR

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 CHARLES V. FIRLOTTE
 LARRY L. BINGAMAN
 LINDA M. DISCEPOLO

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1 **CMSR. MORRISON:** Good morning.

2 **CMSR. BELOW:** Good morning.

3 **MR. GEARREALD:** Good morning. Mark
4 Gearreald. I'm here for the Town of Hampton.

5 **CHAIRMAN GETZ:** Good morning.

6 **CMSR. MORRISON:** Good morning.

7 **CMSR. BELOW:** Good morning.

8 **MS. HOLLENBERG:** Good morning. Rorie
9 Hollenberg and Kenneth Traum here for the Office of
10 Consumer Advocate.

11 **CHAIRMAN GETZ:** Good morning.

12 **CMSR. MORRISON:** Good morning.

13 **CMSR. BELOW:** Good morning.

14 **MS. THUNBERG:** Good morning. Marcia
15 Thunberg, on behalf of Staff. And, with me today is Mark
16 Naylor, who will be participating in one of the panels
17 today, as well as Jim Lenihan, Doug Brogan, and Jayson
18 LaFlamme. Thank you.

19 **CHAIRMAN GETZ:** Good morning.

20 **CMSR. MORRISON:** Good morning.

21 **CMSR. BELOW:** Good morning.

22 **CHAIRMAN GETZ:** Let me note a couple of
23 things. We have a Settlement Agreement that was filed on
24 September 14th on behalf of the Companies and Staff. I

1 also note that, in a previous procedural order, we had
2 granted the intervention of Rye Beach Village District.
3 Is there anyone here this morning representing the Rye
4 Beach?

5 (No verbal response)

6 **CHAIRMAN GETZ:** Okay. Note for the
7 record that there is no one here this morning. And, I
8 also note, Mr. Fuller, and I guess in a procedural order
9 we also indicated that the party in interest was the Town
10 of North Hampton, so are you appearing today on behalf of
11 the Town as well?

12 **MR. FULLER:** Yes. Yes.

13 **CHAIRMAN GETZ:** Okay. Thank you. Okay,
14 are there any other procedural matters to address, before
15 we hear the panel supporting the Settlement Agreement?

16 (No verbal response)

17 **CHAIRMAN GETZ:** Okay. Hearing nothing,
18 then could the parties proceed.

19 **MR. CAMERINO:** Thank you, Mr. Chairman.
20 With the agreement of the intervenors and the Staff, the
21 Company would like to call four witnesses as a panel, and
22 we'll do our best to squeeze them up there. That would be
23 Mr. Leslie and Mr. Firlotte, who signed the Verified
24 Petition, and then also Mr. Bingaman and Ms. Discepolo.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 **CHAIRMAN GETZ:** Okay. Please proceed.

2 **MR. CAMERINO:** And, just for
3 clarification, the way we set it up, Mr. Leslie and
4 Mr. Firlotte are doing the lion's share of the direct
5 examination. They're the ones who signed the petition,
6 which is a Verified Petition. So, in this case, that is
7 the prefiled testimony. Ms. Discepolo is here to testify
8 about the pension issue, and Mr. Bingaman is going to
9 testify regarding the Settlement and one other matter. I
10 thought it would be best to have all four of them up
11 there, because I think -- I don't know how the
12 cross-examination will go, and I don't want to have people
13 getting up and down.

14 (Whereupon **Christopher J. Leslie,**
15 **Charles V. Firlotte, Larry L. Bingaman,**
16 and **Linda M. Discepolo** were duly sworn
17 and cautioned by the Court Reporter.)

18 **CHRISTOPHER J. LESLIE, SWORN**

19 **CHARLES V. FIRLOTTE, SWORN**

20 **LARRY L. BINGAMAN, SWORN**

21 **LINDA M. DISCEPOLO, SWORN**

22 **DIRECT EXAMINATION**

23 BY MR. CAMERINO:

24 Q Why don't we start with Mr. Leslie. I'm just going

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 to have each of you introduce yourself. Mr. Leslie,
2 would you give your name and business address for the
3 record please.

4 A (Leslie) My name is Christopher Leslie. I am the
5 Chief Executive Officer of Macquarie Infrastructure
6 Partners. My business address is 125 West 55th
7 Street, New York, New York.

8 Q And, by whom are you employed and in what capacity?

9 A (Leslie) I am employed by Macquarie Infrastructure
10 Partners as the Chief Executive Officer.

11 Q Okay. And, what are your responsibilities in that
12 regard?

13 A (Leslie) I manage and oversee an infrastructure fund
14 by the name of Macquarie Infrastructure Partners,
15 which is a diversified infrastructure fund, investing
16 in infrastructure in the United States and Canada,
17 including the Aquarion transaction in New Hampshire,
18 if the acquisition is approved.

19 Q Okay. Mr. Firlotte, could you give your name and
20 business address for the record please.

21 A (Firlotte) Sure. I am Charles V. Firlotte. And, my
22 business address is Aquarion Company, 835 Main
23 Street, Bridgeport, Connecticut.

24 Q And, by whom are you employed and in what capacity?

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 A (Firlotte) I am employed by the Aquarion Company as
2 President and Chief Executive.

3 Q And, what are your responsibilities in that regard?

4 A (Firlotte) To oversee the Company and its employees
5 in the communities we serve in the four northeastern
6 states.

7 Q And, Mr. Bingaman, what's your name and address,
8 business address for the record?

9 A (Bingaman) My name is Larry Bingaman. And, my
10 business address is 900 Main Street, Hingham,
11 Massachusetts.

12 Q And, by whom are you employed and in what capacity?

13 A (Bingaman) I am employed by Aquarion Water Company as
14 the Senior Vice President of Operations, in charge of
15 our New Hampshire and Massachusetts operations.

16 Q And, Ms. Discepolo, your name and address please.

17 A (Discepolo) My name is Linda Discepolo. And, my
18 business address is 600 Lindley Street, in
19 Bridgeport, Connecticut.

20 Q And, by whom are you employed and in what capacity?

21 A (Discepolo) I'm employed by Aquarion Water Company of
22 Connecticut. And, I am the Director of Rates and
23 Regulations, responsible for the financial matters
24 for each of the Aquarion's five regulated entities.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 Q Mr. Leslie and Mr. Firlotte, I'd like to show you a
2 document that's under a cover letter dated June 22,
3 2006, and ask both of you, is that the petition that
4 was filed in this case and the exhibits to that
5 petition?

6 A (Leslie) Yes, it is.

7 A (Firlotte) Yes, it is.

8 Q And, you signed that petition under oath as being
9 true and correct to the best of your knowledge and
10 belief?

11 A (Leslie) Yes.

12 A (Firlotte) Yes, we did.

13 Q And, is that still the case, that it's true and
14 correct to the best of your knowledge and belief?

15 A (Firlotte) Yes.

16 A (Leslie) Yes.

17 **MR. CAMERINO:** If we could have the
18 petition and all of the attachments marked as "Exhibit 1"
19 for identification, Mr. Chairman.

20 **CHAIRMAN GETZ:** Be so marked.

21 (The document, as described, was
22 herewith marked as **Exhibit 1** for
23 identification.)

24 **MR. CAMERINO:** And, just for the record,

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 I want to note that the way this -- just so that it's
2 clear, there are four attachments, each of which are then
3 numbered as exhibits, Exhibit 1, 2, 3, and 4. Those are
4 all intended to be part of this Exhibit 1. And, the pages
5 are numbered, although it appears that each attachment the
6 page numbering starts again. So, just, if we refer to the
7 page numbers here, people want to be a little bit careful
8 about that.

9 BY MR. CAMERINO:

10 Q Okay. And, while we're at it, Mr. Bingaman, let me
11 just show you what was submitted as the Settlement
12 Agreement in this case, and ask you if that document
13 I've just shown you is a correct copy of the
14 settlement that Aquarion has entered into in this
15 case?

16 A (Bingaman) Yes, it is.

17 **MR. CAMERINO:** Okay. And, could we have
18 the Settlement Agreement marked as "Exhibit 2" for
19 identification please.

20 **CHAIRMAN GETZ:** Be so marked.
21 (The document, as described, was
22 herewith marked as **Exhibit 2** for
23 identification.)

24 **MR. CAMERINO:** And, that document is

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 five pages long.

2 BY MR. CAMERINO:

3 Q Mr. Firlotte, would you just first give a brief
4 overview of the current ownership structure of
5 Aquarion Water Company of New Hampshire?

6 A (Firlotte) I'm sorry, the Aquarion Water Company?

7 Q The Aquarion Water Company and its parent, the
8 overall corporate structure.

9 A (Firlotte) Surely. Aquarion Water Company of New
10 Hampshire is a subsidiary of Aquarion Water Company
11 of Bridgeport, Connecticut. And, Aquarion Company is
12 presently owned by the Kelda Group, Inc. of Bradford,
13 England, which acquired Aquarion Company in late
14 1999/early 2000. The Kelda Group, Inc. is publicly
15 traded on the London Exchange.

16 Q And, I'm going to show you Exhibit -- what's labeled
17 as "Exhibit 2" to that petition, which we marked in
18 this case as "Exhibit 1". Does that set out the
19 corporate structure that you're describing?

20 A (Firlotte) Yes, it does, sir.

21 Q Okay. And, if you would just briefly describe the
22 transaction that's being put forward today to the
23 Commission by which Kelda is divesting itself of its
24 ownership of Aquarion.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 A (Firlotte) Surely. The Kelda Group made a strategic
2 decision, the board of Kelda made a strategic
3 decision in the past year to divest itself of its
4 U.S. holdings, which was essentially, in its
5 entirety, Aquarion Company, and signed an agreement
6 with Macquarie Utilities, Inc. in late February,
7 whereby Macquarie Utilities, Inc. would purchase the
8 stock of Aquarion Company.

9 Q And, so, if we're looking at that same chart that I
10 just showed you from the petition, it's Aquarion
11 Company, that is the entity and everything below it
12 that Kelda is divesting itself of?

13 A (Firlotte) That is correct, sir.

14 Q And, that company ultimately owns a number of water
15 utilities in various states?

16 A (Firlotte) Yes. Would you like me to describe that?

17 Q Please do.

18 A (Firlotte) Aquarion Water Company has subsidiaries as
19 follows: The Aquarion Water Company of Connecticut
20 which is the largest piece of the business; Aquarion
21 Water Company of New York, where we serve Port
22 Chester and Rye; Aquarion Water Company of Sea Cliff,
23 which is also in New York, in Long Island, where we
24 serve approximately six communities there. It's a

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 separate legal entity from the Aquarion Water Company
2 of New York; Aquarion Water Company of New Hampshire;
3 and Aquarion Water Company of Massachusetts.

4 Q Thank you. Mr. Leslie, would you give a brief
5 overview of the corporate structure of Macquarie.

6 A (Leslie) Certainly. Macquarie is a global financial
7 services organization. We have approximately 8,600
8 people around the world, and I think in 23 countries
9 at the moment. We are headquartered in Sydney, in
10 Australia. The parent company of the group is
11 Macquarie Bank Limited, which is a licensed bank in
12 Australia. It's listed on the Australian Stock
13 Exchange, and has a market capitalization of about
14 \$12 billion.

15 I think, while within Australia
16 Macquarie is a full-service investment bank in the
17 Wall Street sense, outside of Australia Macquarie is
18 perhaps best known for the management of
19 infrastructure funds. And, so, to be clear,
20 Macquarie is the manager of the fund. They invest in
21 infrastructure, in fact, we're manager of a series of
22 such funds, over 20 of them around the world, two of
23 which are participating in this particular
24 transaction. One of those is called "Macquarie

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 Infrastructure Partners", of which I am the CEO.
2 That is the larger investor of the two in this
3 transaction, and will be the lead investor. The
4 other fund is a fund by the name of the Macquarie
5 Essential Assets Partnership, which is based in
6 Toronto.

7 The investors in these funds typically
8 are pension funds and other long-term institutional
9 investors. They're looking, I guess, in these
10 investments for predictable, stable returns, and have
11 identified infrastructure as a business that provides
12 such returns. And, so, Macquarie's mandate from its
13 investors is to locate investments that exhibit these
14 characteristics. At present, our funds invest in
15 approximately 100 assets around the world. The
16 amount of funds that we've invested on behalf of our
17 investors in infrastructure is approximately
18 \$24 billion. And, the total value of those 100
19 assets that I just mentioned is somewhere in the
20 region of \$60 billion around the world.

21 Macquarie's assets serve approximately
22 100 million people every day in various industries
23 around the world; in water, in electricity and gas,
24 so the full squeeze of utility industries. We're

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 also an active manager of airport assets, including
2 the Sydney Airport in Australia, Brussels in Belgium,
3 two airports in Rome, among others. We have quite a
4 large portfolio of toll road assets, including, in
5 the United States, the Chicago Skyway, the Indiana
6 Toll Road, the Dulles Greenway, and the South Bay
7 Expressway in California.

8 And, so, in coming to this particular
9 transaction, Aquarion obviously is a water utility,
10 and, as such, is an infrastructure asset of the type
11 that our investors are interested in investing in.
12 Philosophically speaking, Macquarie takes a very
13 long-term view for its investments. The reason for
14 that, as you may appreciate, is that pension funds
15 have very long-term liabilities to their investors or
16 to their members in the form of pensions, and it's
17 quite difficult to match assets of that sort of
18 duration. So, we're talking, you know, 30, 40, 50
19 year duration assets, are quite, quite hard to come
20 by in the stock market. And, so, infrastructure is
21 emerging as an asset class in its own right around
22 the world, in the same way as real estate and bonds
23 and stocks are asset classes.

24 Aside from being very long-term

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 investors, we also go to some lengths to distinguish
2 ourselves from private equity investors as such.
3 And, I think the mandate the private equity funds
4 have from their investors is to find companies that
5 need fixing, for want of a better word, where the
6 private equity fund can use its expertise, often
7 through making radical changes and cuts, to turn a
8 company around, and divest it within typically a five
9 to seven year time period. So, that's private
10 equity.

11 I think the infrastructure approach, and
12 particularly Macquarie's approach, is quite
13 different. And, specifically, we are long-term
14 owners of assets, and we look for well-run assets.
15 Our philosophy is not about turning companies around
16 and slashing and burning, as some of the private
17 equity funds have, I guess, a reputation for. We
18 look for good businesses, good management teams, and
19 then we support them through a very large
20 infrastructure of our own, in terms of the expertise
21 that we have in financing and ability to sort of
22 cross-fertilize between businesses.

23 Q You had mentioned in your description of the
24 corporate structure that Macquarie makes these

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 acquisitions through funds that come from -- from
2 what I'll call "mutual funds", I don't think you used
3 the word "mutual", but --

4 A (Leslie) Right.

5 Q -- let me get a clarification, is that the type of
6 fund you meant? Maybe you could just describe what
7 you mean by "fund".

8 A (Leslie) Yes. Okay. There's two parts to the
9 question, I guess. The fund itself, and if I take
10 Macquarie Infrastructure Partners, which is the
11 potential shareholder here, as an example, the fund
12 itself is a limited liability partnership. The legal
13 structure is not that different to private equity, to
14 be honest. Aside, while we go to some lengths to
15 distinguish ourselves from private equity on an
16 investment philosophy basis, legally, the structure
17 of the fund is similar. So, it's a partnership of
18 investors. Those investors, in turn, are often
19 pension funds, insurance companies, endowments,
20 foundations, organizations of that nature. So,
21 there's the fund, there's the investors, and then the
22 management of the fund is the activity which is
23 conducted by Macquarie.

24 Q And, so, the money that's being invested here, in

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 order to acquire Aquarion, is not Macquarie Bank's
2 money, it's the money of third parties, is that
3 correct?

4 A (Leslie) Yes, that's right. Probably the closest
5 analogy is a mutual fund. It's a somewhat different
6 structure to a mutual fund, but it's akin to an
7 individual investing in, for example, a Fidelity
8 fund, and Fidelity then using those monies to invest
9 in a portfolio of shares. In our case, we have a
10 group of pension fund investors in place of the
11 individuals, and our funds invest in infrastructure.

12 Q That being the case, that the money for this
13 acquisition is from third parties, where does
14 Macquarie come in, in terms of management or control?
15 What is Macquarie's role in that regard?

16 A (Leslie) We are the manager of both the Macquarie
17 Essential Assets Partnership and Macquarie
18 Infrastructure Partners. In terms of the number of
19 individuals we have dedicated to infrastructure
20 around the world, I mentioned earlier that we have
21 8,600 people at Macquarie, approximately 850 of those
22 are part of our infrastructure business. And, there
23 are various parts to that. There are, obviously,
24 activities involved in looking for new investments.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 There's then the management of those investments,
2 which I'm part of that part of the business. And, we
3 divide that really into a number of categories. We
4 look at the business, obviously, from a broad
5 commercial perspective. We take a keen interest in
6 the financing of the business. Being an investment
7 bank, we are particularly adept, we believe, when it
8 comes to financial matters. But, to distinguish
9 ourselves from the classic Wall Street investment
10 bank, I think we do have a depth of resources on the
11 technical side. We have amongst our number former
12 CEOs, for example, of utility businesses, one of whom
13 is here today, Mr. Bob Rollinson. We employ former
14 regulators. And, so, we have a depth of operational
15 expertise within our ranks, which allows us to manage
16 our investments more intensively than a simple
17 passive manager.

18 Q Okay. Actually, my question was a little more narrow
19 than that. If Macquarie is not the owner of --
20 ultimately of Aquarion, if I can put it that way, are
21 you saying that it nevertheless is the manager? And,
22 if so, how does that occur?

23 A (Leslie) Yes. We are the entity which manages the
24 business day-to-day from an investment point of view.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 From an operational point of view, we're not
2 proposing to make any changes at the management
3 level. So, as far as the businesses are concerned,
4 as far as the customers are concerned, there won't be
5 any obvious changes at Aquarion. We lend support to
6 the businesses. So, I'm based in New York, which a
7 number of my colleagues are, who will lend support to
8 Chuck and his team, in business planning processes,
9 funding for capital expenditures, the larger issues I
10 guess that face the business at a strategic level.
11 And, we keep an eye on the business. We review
12 reports from management, and basically manage the
13 investment actively on behalf of the investors.

14 Q I have one more document to mark here. Mr. Leslie
15 and Mr. Bingaman, I want to show you a letter that
16 the Company received yesterday. A copy of a letter
17 to the Commission that was written by a member of the
18 Company's Customer Advisory Council. And, I just
19 want to focus your attention on the paragraph at the
20 top of Page 2 that discusses this person's concern
21 about what I'll describe as the "investment horizon"
22 of Macquarie.

23 And, first, Mr. Bingaman, I want to ask
24 you whether you've had a conversation with this

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 person and can share -- can share that conversation
2 if you have?

3 A (Bingaman) Sure. I must say I was a little surprised
4 to see what Mr. Webb had written, as it is contrary
5 to some of the information that we had provided.
6 And, in talking to him, it appears that he has
7 coupled a misunderstanding of some information with
8 some previous business background. Mr. Webb had
9 worked for a company that apparently developed
10 assets, kept them for somewhere in the neighborhood
11 of 12 years, and then would sell them. In a
12 presentation that I had made to the Customer Advisory
13 Board, I had initially indicated, in trying to
14 familiarize them with Macquarie and their long-term
15 holding philosophy, that Macquarie had been in the
16 infrastructure business for about 12 years, and
17 during that time they had only sold two or three
18 assets. And, it seems that, in talking with him,
19 that he's confused the previous experience that he
20 had with the 12 years that Macquarie had been in the
21 investment -- in the infrastructure business, and
22 therefore drawing the conclusion that Macquarie would
23 hold the assets for 12 years and sell it. So, it
24 appears to be a misunderstanding of the information

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 that we previously had provided him.

2 Q And, then, Mr. Leslie, I want to ask you, regardless
3 of whether there is any misunderstanding, so I'm not
4 asking you to question whether Mr. Bingaman's
5 understanding as he just laid it out is correct or
6 not, could you reiterate for the Commission
7 Macquarie's investment philosophy and whether any of
8 what Mr. Webb describes here and expresses concern
9 about with regard to Macquarie, whether any of that
10 is correct from Macquarie's standpoint?

11 A (Leslie) Okay. As I mentioned earlier, our
12 investment philosophy, as mandated by our investors,
13 is a long-term one. Our investors are looking to
14 match their long-dated liabilities with long-term
15 assets. And, so, by the very nature of our mandate,
16 we are a long-term investor.

17 As Mr. Bingaman mentioned, we have been
18 in this business for about 12 years now, since the
19 mid '90s, essentially since Australia began
20 privatizing a number of assets, that's really how we
21 got started. It's coincidental, I guess, with the 12
22 years that happens to be in this letter. But it's
23 not correct to say that this applies to Macquarie.
24 We have a very long-term view of assets.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 It's perhaps correct to say that the
2 private equity community has a shorter term horizon.
3 And, so, I guess these comments may be based on a
4 view of the private equity world. But, as mentioned
5 earlier, we distinguish ourselves from that world and
6 have a much longer term horizon.

7 Q Now, Mr. Leslie, would you just briefly give the
8 Commission a sense of what are Macquarie's plans with
9 regard to Aquarion's management, Aquarion's rates,
10 Aquarion's operations, once this deal is consummated?

11 **CHAIRMAN GETZ:** Excuse me, before we get
12 to that, let's address a couple of issues here. This --
13 We have this three-page letter, it's addressed to the
14 Chairman. It appears to be dated "September 9th", there's
15 a stamp that I can't distinguish. And, I don't see that
16 it was entered into the docket book. Is that correct, Ms.
17 Thunberg?

18 **MS. THUNBERG:** I couldn't find it in the
19 docket book.

20 **CHAIRMAN GETZ:** Do the parties all have
21 a copy of this letter? Okay. Well, let's just -- we'll
22 mark it for identification as "Exhibit 3" at this point.

23 (The document, as described, was
24 herewith marked as **Exhibit 3** for

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 identification.)

2 **MR. CAMERINO:** I'll just add a little
3 bit for clarification, so that it's clear on the record.
4 First of all, I checked the Commission's docket yesterday
5 myself and didn't see it on there. But I know that
6 sometimes the docket isn't up to the day. This came to me
7 from Mr. Bingaman, and he could explain just briefly how
8 he got it.

9 **CHAIRMAN GETZ:** Well, do we know what
10 that stamp, that --

11 **MR. CAMERINO:** The date stamp?

12 **CHAIRMAN GETZ:** -- indistinguishable
13 date stamp is about?

14 **MR. CAMERINO:** I'll ask Mr. Bingaman
15 that.

16 **WITNESS BINGAMAN:** I don't have a copy
17 of that, but that was the date in which my office received
18 this.

19 **CHAIRMAN GETZ:** Okay.

20 **WITNESS BINGAMAN:** And, it looks to be
21 "September 13" or something like that.

22 **CHAIRMAN GETZ:** Okay. Thank you.

23 **MS. THUNBERG:** Mr. Chairman, Staff has
24 -- can put its hands on a date stamp of the PUC on

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 September 12th. Although, I know from checking the docket
2 book just now, it's not entered in. That may be perhaps
3 because the docket number was not added onto this letter.

4 **CHAIRMAN GETZ:** Okay. Thank you.

5 **MS. THUNBERG:** But if that helps.

6 **CHAIRMAN GETZ:** All right. Well, we'll
7 make sure that it gets in the docket book, and it's now
8 marked for identification, so you may proceed, Mr.
9 Camerino.

10 **MR. CAMERINO:** Thank you. And, as the
11 letter indicates at the end, it was copied directly to
12 Mr. Bingaman as well.

13 BY MR. CAMERINO:

14 Q So, Mr. Leslie, if you would just give the Commission
15 a sense of, assuming that the deal is consummated,
16 what Aquarion -- what Macquarie's plans are for
17 Aquarion, in terms of management, operations,
18 *etcetera*?

19 A (Leslie) Okay. In terms of management and
20 operations, as I've mentioned before, we're planning
21 no change. If I can draw the Commission's attention
22 to Exhibit 4, as previously tabled by Steve, which
23 depicts the organization structure for Aquarion in
24 New Hampshire. You can see the current and proposed

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 structure. So, that will remain unchanged. And,
2 this basically is the theme throughout the four
3 states in which Aquarion operates. So, right up
4 through to the senior management at Chuck's level and
5 throughout the organization, we're proposing to
6 maintain the structures.

7 We're not proposing any change in rates
8 or terms of service as a consequence of the change of
9 control in this transaction. We're not proposing any
10 changes in operations. We would hope that the
11 business makes, you know, continual improvements over
12 time, but we're not proposing radical changes in
13 course or otherwise changing anything at an
14 operational level today.

15 In terms of the acquisition premium,
16 there may be concerns that we propose to somehow
17 recover those in rates. I would like to give you my
18 assurance that we do not propose to seek the recovery
19 of the acquisition premium in the rates of the
20 Aquarion Company in the future.

21 In terms of -- Perhaps, if I could just
22 touch on some of the benefits we see in Macquarie's
23 ownership of Aquarion. Firstly, I guess financial,
24 we have a depth of experience in infrastructure

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 around the world. And, we bring significant access
2 to capital. We see infrastructure in the United
3 States, in particular, as going through a period of
4 high capital intensity. For example, take toll
5 roads, the interstate highway system is 50 years old
6 this year. There are bridges, tunnels, and roads
7 that are in need of massive capital expenditures. In
8 the utility industry, the electricity grid is in need
9 of expenditure, and in the water industry there are,
10 obviously, capital expenditures required for health
11 and safety purposes. And, so, Macquarie brings with
12 it tremendous depth of access to both equity and debt
13 markets globally, and in expertise in bringing low
14 cost capital, we believe, to develop the Company's
15 capital base.

16 In addition, business expertise, while
17 we're plainly an investment bank and a fund manager,
18 not a utility, in the nature of Kelda, we do have a
19 depth of technical expertise on staff. I drew your
20 attention earlier to Mr. Bob Rollinson, who's ex-CEO
21 of National Power in Australia in New South Wales.
22 And, perhaps more relevantly here, and I apologize
23 that he couldn't be with us today, because he got
24 caught up in LaGuardia last night in the rain, but a

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 gentleman by the name of Andrew Chapman, who is the
2 former Chief Executive of Elizabethtown Water, in New
3 Jersey. We have recently brought Andrew into our
4 team, in part in response to -- for our pending
5 acquisition of Aquarion, and recognizing that his
6 expertise could be helpful to us in managing those
7 investments.

8 Macquarie is an extremely flat
9 structure, I think, you know, in terms of
10 organization. There's not a lot of hierarchy. The
11 800 or so individuals I mentioned earlier that is
12 part of the infrastructure group are a shared
13 resource globally. And, so, we bring expertise to
14 bear from wherever it may be residing. A number of
15 our executives travel the world. For example, we
16 have a former regulator in the person of Tom Perry,
17 who I believe some of the Staff have met previously,
18 who travels around the world visiting our various
19 assets and looking for opportunities on the
20 regulatory side. And, so, we have a tremendous
21 cross-fertilization of that expertise.

22 As one example, in terms of our
23 capability, I just would like to mention a
24 transaction called "Wales" -- what we call "Wales and

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 the West", which is a gas distribution network in the
2 United Kingdom. This was a transaction that we
3 acquired from National Grid. National Grid
4 previously operated the system as an integrated
5 national network, and so there was one gas
6 distribution network in the United Kingdom. They
7 split that into, I think, seven or eight separate
8 businesses and sold a number of them to third
9 parties.

10 Macquarie was successful in drawing
11 together a consortium to buy the business in Wales
12 and the West of England. And, as you might imagine,
13 taking a business from a nationally organized
14 business into a regional one, where there was no
15 regional operational control, we essentially drew a
16 hypothetical line through some pipes, and we acquired
17 that part of the business. There was no central
18 office, there was no system, there was no billing,
19 etcetera. Macquarie spent something in the order of
20 40,000 -- I'm sorry, 40 million pounds prior to close
21 of that transaction and countless man-years in
22 developing the systems and structure to allow us to
23 accept that business at financial close from National
24 Grid in a fully functioning fashion.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 And, so, we would go to some length to
2 distinguish ourselves from a simple financial house.
3 We do have a depth of technical expertise in our
4 ranks that we believe we can bring to bear to assist
5 Aquarion in developing its business. Importantly,
6 despite being a global organization, we are a very
7 local business. I'm based in New York, have been for
8 seven years now. The funds that we represent are
9 North American based funds.

10 And, I would like to make one point of
11 distinction from that model versus perhaps a foreign
12 utility model, which might apply to Kelda.
13 Macquarie's business is grown organically outside of
14 Australia. So, you go to a new country, you set up a
15 business, you bring local money to invest in local
16 infrastructure, and that's what Macquarie has been
17 doing over the last seven years or so in the United
18 States. And, we don't suffer from a phenomenon I
19 think that has plagued some of the foreign utilities,
20 where there's trouble at home and there's sort of a
21 retreat back to the home market. There's nothing
22 that could happen in Australia, for example, that
23 would cause Macquarie Infrastructure Partners and the
24 other funds in this transaction to disassemble

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 themselves and somehow retreat to Australia.
2 Australia is not part of their market at all.
3 They're locally managed. While Macquarie is
4 undeniably an Australian manager, the businesses will
5 be run far more locally. And, so, Chuck will be
6 interacting with me on a regular basis, I am based in
7 New York, which is, obviously, far closer than
8 Yorkshire to the business on a day-to-day basis. So,
9 that's our story.

10 Q Ms. Discepolo, I'd like to ask you if you would
11 briefly explain for the Commission the nature of the
12 Company's request for recognition of a regulatory
13 asset related to pensions and other post-retirement
14 benefits, and why the Company is seeking that
15 recognition?

16 A (Discepolo) Sure. We're requesting recognition of a
17 regulatory asset or a liability in order to comply
18 with the purchase accounting rules and regulations as
19 stipulated in Financial Accounting Standard 141.
20 And, these rules require that, at the time of
21 acquisition, that the Company record on its financial
22 statements the difference between the benefit plan's
23 obligations versus the plan assets that support those
24 obligations.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 Q And, that difference, is that an amount that's
2 currently on the Company's books? How is it
3 currently treated?

4 A (Discepolo) Currently, we reflect a net liability
5 number, which has, as part of it, nets against
6 unrecognized prior service costs, gains and losses
7 and things like that. No, we do not have currently
8 this full value, this full liability reflected on the
9 books, but a net liability value, in accordance with
10 the way the regulations are today.

11 Q And, if the Commission were to authorize the Company
12 to create this asset on its books, would that change
13 in any way the way that the Company submits the
14 expenses related to these plans for ratemaking
15 purposes?

16 A (Discepolo) No, it will have no impact. This
17 regulatory asset or liability will have no impact.
18 We will calculate our pension and post-retirement
19 health care expense as we historically have, based on
20 Generally Accepted Accounting Principles, FAS 87, FAS
21 106. So, this accounting entry will not have an
22 impact on ratemaking.

23 Q And, then, finally, if the Commission were to approve
24 the accounting treatment that you're requesting, what

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 is the date on which this snapshot would be taken to
2 determine the amount of the asset or liability that
3 would be booked?

4 A (Discepolo) Once the transaction is closed at the
5 date of acquisition, that is the date that the assets
6 and liabilities would then be evaluated, and this
7 regulatory asset would then be calculated. So, it
8 has to -- we have to have the acquisition occur, and
9 at that date the actuary will calculate it, and we'll
10 be back before the Commission to review, show you the
11 numbers.

12 Q So, the amount that the Company would book, if the
13 Commission gave its approval to this treatment, would
14 be the amount that was calculated effective as of the
15 date of closing of the transaction?

16 A (Discepolo) Correct.

17 Q Thank you. Mr. Firlotte, there are some other
18 regulatory approvals that the Company needs in order
19 to proceed with this transaction. Could you just
20 outline those for the Commission and give the
21 Commission an update on the status of them?

22 A (Firlotte) Surely. On the 5th of July, we received
23 approval from the Federal Trade Commission on what is
24 commonly referred to as the "Scott-Rodino", which

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 essentially gives the blessing that there are no
2 antitrust implications and gives us permission to
3 proceed with the merger.

4 In the State of Massachusetts does not
5 require regulatory approval. In Connecticut, we've
6 had interrogatories and a day of hearings and late
7 filed exhibits, and we anticipate and are hoping for
8 approval on or about the 18th of October, in
9 Connecticut. It is of significance to note,
10 Mr. Camerino, that the Office of Consumer Counsel
11 submitted its written response to the Commission and
12 had absolutely no objection to this request for the
13 merger acquisition, or no conditions to apply. And,
14 in New York, we are in process as well, have
15 responded to several interrogatories and have a
16 hearing in Albany on Friday of -- or a meeting with
17 Staff, I should say, on Friday of this week. So,
18 we're -- all in all, the process has gone
19 considerably well, and we're hoping for approvals as
20 soon as possible.

21 Q Thank you. Finally, Mr. Bingaman, I'd like to ask
22 you if you would just summarize the Settlement
23 Agreement that has been submitted and which we've
24 marked for identification as "Exhibit 2". And, if I

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 could direct your attention to Page 2 of the
2 settlement, if you would just summarize the actual
3 substantive terms of this settlement for the
4 Commission please.

5 A (Bingaman) Sure. There are six key points to the
6 Settlement Agreement. Number one: The acquisition
7 will not result in an adverse impact on the rates,
8 terms, conditions or operations of Aquarion Water
9 Company of New Hampshire, and is therefore consistent
10 with the public interest, and we believe meets the
11 applicable standards. Number two: Aquarion and
12 Macquarie plan to continue to maintain the local
13 office for bill payments and customer inquiries.
14 And, we have no plans -- And, while we have no plans
15 to close that office, if, in the long term, there
16 should be some change, there is a mechanism in place
17 as part of the Settlement Agreement to notify the
18 Commission, the OCA, and the towns that we serve with
19 at least six months' prior written notice.

20 Number three: We plan to maintain the
21 current management structure and to have local
22 management remain aware of and responsive to local
23 concerns and issues, and have reaffirmed no plans to
24 change the terms or conditions of service. Number

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 four: We have reaffirmed our plans to maintain the
2 Customer Advisory Council. And, if there is a change
3 that should occur, we also have reaffirmed that we
4 will provide 90 days' written notice to the
5 Commission, the OCA, and towns before there was any
6 change to the Customer Advisory Council, such as
7 eliminating it.

8 Number five: We will not seek to
9 recover the acquisition premium in rates. And, if,
10 from an accounting standpoint, the acquisition
11 premium must be reflected on the books, it will be
12 below the line. And, finally, there will be a
13 recognition of the pension treatment, which has
14 already been described by Ms. Discepolo.

15 **MR. CAMERINO:** Thank you, Mr. Bingaman.
16 Mr. Chairman, if I could just clarify for the record
17 finally. Mr. Leslie, in discussing management, both pre
18 and post merger, referred to "Exhibit 4". I just want to
19 clarify for the record that that's the very last page of
20 what we've marked as "Exhibit 1" for identification.
21 Thank you. That completes the direct examination.

22 **CHAIRMAN GETZ:** Thank you. Ms.
23 Thunberg?

24 **MS. THUNBERG:** Staff has no direct of

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 this panel. Thank you.

2 **CHAIRMAN GETZ:** Ms. Hollenberg?

3 **MS. HOLLENBERG:** Thank you.

4 **CROSS-EXAMINATION**

5 BY MS. HOLLENBERG:

6 Q I'm going to start with Ms. Discepolo. I just have
7 one question for you. You were speaking on direct
8 about the creation of a regulatory asset or liability
9 or the recognition of that. And, I just want to make
10 sure that I understand. Are you saying that the
11 existence of that regulatory asset will have no
12 impact on future ratemaking?

13 A (Discepolo) That is correct.

14 Q Okay. Thank you. And, with respect to my other
15 questions, I believe I am probably going to direct
16 most of them to either Mr. Leslie or Mr. Firlotte.
17 And, I'll attempt to direct them correctly, but if I
18 don't, I'll allow you to direct them to the
19 appropriate person. The Settlement Agreement affirms
20 Macquarie Utilities' commitment to maintain a local
21 customer service center. And, I'm just wondering if
22 you could explain on the record, Mr. Firlotte, or
23 actually Mr. Bingaman may be able to address this,
24 too, what the functions of the customer service

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 center is in New Hampshire?

2 A (Bingaman) Sure. The customer service center
3 performs three key functions. First, it answers
4 calls from customers and responds to their questions,
5 it schedules appointments for customer service calls,
6 and accepts payments from our customers, who may wish
7 to come in and make a payment directly with the
8 customer service representatives.

9 Q Where is that located?

10 A (Bingaman) That's in One Merrill Park -- One Merrill
11 Industrial Drive, in Hampton.

12 Q And, for Mr. Leslie, what, if anything, will change
13 if Macquarie acquires Aquarion-New Hampshire?

14 A (Leslie) There will be no changes.

15 Q Thank you. Presently, Mr. Bingaman, what is
16 Aquarion-New Hampshire's obligation to maintain a
17 local customer service center?

18 A (Bingaman) Under the Settlement Agreement that
19 Aquarion reached with the Commission when it acquired
20 the Hampton Water Works in 2002, we committed to
21 maintain a local customer service presence to answer
22 questions from customers, as well as to receive
23 over-the-counter payments.

24 Q And, what is your understanding of the process that

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 would have to be followed in order to close the local
2 customer service center if nothing -- if this
3 transaction didn't take place, what is your
4 understanding of what would have to happen?

5 A (Bingaman) Well, there's nothing in the existing
6 settlement agreement that would require any sort of a
7 notification. But we have -- we do have an
8 understanding that we would provide notice to the
9 Commission, OCA, as well as the towns that we serve,
10 if we were to close that office.

11 Q So, if I understand correctly, the Settlement
12 Agreement for the -- for Aquarion to take over the
13 Hampton Water system required the customer service
14 center, and the Settlement Agreement is silent as to
15 what would happen if Aquarion-New Hampshire wanted to
16 close that customer service center?

17 A (Bingaman) That is correct.

18 Q Do you not interpret the Settlement Agreement to
19 require the customer service center to exist
20 indefinitely?

21 A (Bingaman) We did make a commitment that it would --
22 that we would maintain a local customer service
23 presence there, to answer calls and to take bill
24 payments.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 Q Okay. And, in terms of the, I guess, the Settlement
2 Agreement then allows or introduces a way to close
3 that customer service center?

4 A (Bingaman) It does. I think all it does is I think
5 put into writing what the understanding is now, in
6 that we would have to provide at least six months'
7 prior written notice before we would close the local
8 customer service office.

9 A (Firlotte) If I could just add, if I could. There
10 are absolutely no plans to close the customer service
11 center in New Hampshire. As a matter of fact, about
12 a year and a half ago or two, we had customer calls
13 going to the large call center in Connecticut, and we
14 had some customer concerns and complaints that they
15 wanted a local presence. And, so, we stopped that
16 and moved it back to the Hampton operations. So,
17 just to set the record clear, we have absolutely no
18 plans to close the operation or specifically the call
19 center or the customer service walk-in in Hampton.

20 A (Leslie) And, for the record, we have no plans
21 either, and we would be supportive of anything that
22 management, in particular Larry, decided to do in
23 terms of interacting with the local communities and
24 what might be required there.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 **MS. HOLLENBERG:** One moment please.

2 (Short pause.)

3 BY MS. HOLLENBERG:

4 Q I guess understanding that we're going from the prior
5 process, which seems to imply that it would be an
6 indefinite existence of a customer service center,
7 and I'm hearing what you're saying, is that that is
8 the current intention to maintain it, why is there a
9 provision for a closure of the customer service
10 center in the Settlement Agreement?

11 A (Bingaman) Well, there are -- there can always be
12 significant changes in the long term that we're not
13 aware of today. So, I think what it provides is the
14 flexibility to at least consider that and to
15 communicate with the Commission and OCA and the local
16 towns both what the issue is, as well as our plans to
17 address that. Even though there's no plans today to
18 do that, long term there could be a change in
19 business conditions.

20 Q Would your notification, would you expect any sort of
21 approval process that would have to be followed, if
22 you were to notify the Commission at that point, or
23 would there be an opportunity for a party, for
24 instance, a customer or the Office of Consumer

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 Advocate or Staff, for that matter, to object to
2 that? Do you envision anything like that?

3 A (Bingaman) Yes, I think we would seek the input of
4 the Commission and the OCA, as well as the towns,
5 before we made the final decision on that, certainly.

6 Q Okay. Onto the next set of questions concerning the
7 commitment in the Settlement Agreement to maintain
8 the Customer Advisory Council. I guess I would
9 direct the first question to either Mr. Firlotte or
10 Mr. Bingaman, and ask what the functions of the
11 Customer Advisory Council are?

12 A (Bingaman) I'll be glad to answer that. The Customer
13 Advisory Council serves four key functions. One, it
14 provides input to the Company on policies, practices,
15 and procedures to improve customer service, as well
16 as customer communications. They help us to identify
17 issues in the community before they fester. They
18 help us to identify activities within the community
19 in which we should be involved and participate. And,
20 they also help us to communicate with town officials,
21 by taking information that we provide to them and
22 communicate that to local town officials and other
23 community leaders.

24 Q And, Mr. Leslie, is that your understanding of what

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 the functions will be, once -- if the Commission does
2 approve the transaction in front of it now?

3 A (Leslie) Yes.

4 Q And, again, similar to my questions about the
5 customer service center, what, Mr. Bingaman, are
6 Aquarion-New Hampshire's understanding of the
7 obligations to maintain a Customer Advisory Council?

8 A (Bingaman) Again, as part of the settlement agreement
9 for the acquisition of Hampton Water Works, there is
10 a commitment to maintain the Customer Advisory
11 Council to serve as a sounding board for the Company.

12 Q And, similar to the local customer service center,
13 the settlement agreement requires the acquisition --
14 or, the settlement agreement requires the Customer
15 Advisory Council, but doesn't speak to any sort of
16 termination of that in that settlement agreement, do
17 you --

18 A (Bingaman) That is correct.

19 Q Okay. And, then, the process in the Settlement
20 Agreement, in this Settlement Agreement before the
21 Commission, would require a certain amount of notice
22 to the Commission?

23 A (Bingaman) That is correct. It would require that
24 there be at least 90 days written notice to the

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 Commission and the OCA and the towns that we serve
2 prior to eliminating the Customer Advisory Council.

3 Q And, if I understand correctly, there are no
4 expectations or intentions on the part of
5 Aquarion-New Hampshire or Macquarie to vote -- or, to
6 end, terminate the Customer Advisory Council?

7 A (Bingaman) We have no plans to eliminate that. As a
8 matter of fact, Aquarion has had customer advisory
9 councils in our Connecticut operations since the mid
10 1960's, and have had them on an ongoing basis, going
11 from a few, to I think today we have four or five
12 within the State of Connecticut. We also have three
13 in the State of Massachusetts, which has been
14 established in the last two years. So, we have found
15 the Customer Advisory Council to be a very effective
16 means of providing customer input to the Company and
17 to help us improve operations, as well as
18 communications.

19 As an example of the way that we have
20 used the Customer Advisory Council or worked with
21 them in New Hampshire is that, last year, when we
22 were beginning getting ready to file for our rate
23 case, we actually provided them with an overview of
24 what the rate case was, some of the key issues, and

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 our plans on how we would communicate that. And,
2 they gave us some very valuable input on how to
3 effectively communicate the case and what some of the
4 reasons were. So, we have found them to be a very
5 good mechanism to help us improve operations on an
6 ongoing basis. So, we have no plans to eliminate the
7 Customer Advisory Council.

8 Q Okay. And, Mr. Leslie, would you affirm Macquarie's
9 intention not to eliminate the Customer Advisory
10 Council?

11 A (Leslie) Yes.

12 Q Do I understand correctly, based on your,
13 Mr. Bingaman, based on your responses regarding the
14 customer service center, that the termination
15 provision in the current Settlement Agreement about
16 the Customer Advisory Council is merely a
17 clarification of the process that would occur if
18 things change in the future?

19 A (Bingaman) That's correct. As I said, while there's
20 nothing in the current agreement, we certainly have
21 an understanding that we would advise the Commission,
22 OCA, and the towns, if we were to eliminate the
23 Customer Advisory Council. And, I can't imagine that
24 there would be a condition that we'd request that

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 that decision would be made, but, again, long term,
2 if something should happen from a business condition
3 standpoint, it does provide that mechanism for
4 notification.

5 Q And, as with your comments about the customer service
6 center, do you agree that the process for the closure
7 or the termination of a customer advisory council, if
8 that were to occur in the future, would include some
9 sort of process that includes input from the
10 stakeholders, such as the customers, the OCA, the
11 Staff of the Commission and the Commission itself?

12 A (Bingaman) Yes, we would seek that input --

13 Q Okay.

14 A (Bingaman) -- and to work with those parties.

15 Q And, Mr. Leslie, is that your understanding also?

16 A (Leslie) Yes, it is.

17 Q Thank you. A question just for clarification,
18 Mr. Leslie, the corporation that's actually buying
19 the Company or Aquarion is Macquarie Utilities, Inc.?

20 A (Leslie) That's right.

21 Q Okay. And, that's a Delaware corporation?

22 A (Leslie) That's right.

23 Q Who is -- And, which is invested in by the two funds
24 that you manage, is that correct?

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 A (Leslie) That Macquarie manages, yes.

2 Q Okay. And, those two funds were the Macquarie
3 Infrastructure Partners fund, and then what was the
4 other one?

5 A (Leslie) Macquarie -- It's Macquarie Utilities, LP.

6 Q Okay.

7 A (Leslie) Yes.

8 Q Okay.

9 A (Leslie) MLP, which itself is an amalgam of two
10 investors, being the Macquarie Essential Assets
11 Partnership, which is based in Toronto, and also
12 British Columbia Investment Management Corporation,
13 which is investing alongside MEAP. BCIMC, as it's
14 known, is also an investor in the Toronto fund, and
15 it's an arrangement which is common, I guess, in
16 these types of funds, where one of the investors in
17 the fund makes a co-investment alongside of the fund
18 on a direct basis, in order to put more capital to
19 work in a given acquisition. So, that's the nature
20 of Macquarie Utilities, LP.

21 Q I think I need a raise first to try and even
22 understand that, the possible relationships among all
23 those people. But, thank you, that's helpful. The
24 entity Macquarie utilities, Inc., does that have any

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 experience managing or owning public utilities in the
2 United States?

3 A (Leslie) Macquarie utilities, Inc. was a vehicle of
4 convenience for the acquisition.

5 Q Uh-huh.

6 A (Leslie) And, so, it consolidates the investments of
7 the shareholders above that. In some ways, it's a
8 company without staff or experience. It was newly
9 created for the acquisition. The expertise resides
10 within the broader Macquarie organization, which is
11 above that level.

12 Q And, so, would it be correct to say that one or both
13 of the funds that are investing in or providing funds
14 for Macquarie Utilities, Inc. to purchase Aquarion
15 have experience running or owning public utilities in
16 the United States?

17 A (Leslie) Yes, that is correct. In particular, the
18 Canadian-based funds have experience owning
19 electricity transmission grid in Michigan, formally
20 or known as Michigan Electric Transmission Company.
21 But, again, I think, in terms of the way Macquarie
22 manages its assets, it's the Macquarie organization's
23 expertise that's being brought to bear. Each fund is
24 not confined merely to its staff. It's really the

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 entire organization. So, when you step back beyond
2 the fund itself, you step into the experience which I
3 detailed earlier. And, in particular, we have
4 investments in -- like in South East Water in the
5 United Kingdom and some water assets in Sydney,
6 Australia. In the United States, we have investments
7 in -- pending investments in Dusquene Light in
8 Pittsburgh. We also manage the gas company in
9 Hawaii, which is a gas distribution utility in the
10 Hawaiian Islands. Close by, in Canada, we manage an
11 investment in AltaLink, in the Province of Alberta.
12 And, I think that's probably it. Yes, we -- that's
13 right. In Chicago, we manage a business called
14 "Chicago Thermal", which is a district cooling
15 business, supplies chilled water to I guess about 90
16 or so downtown CPD buildings and is regulated by the
17 Commission in Chicago.

18 Q So, do I understand correctly that it may not
19 necessarily be the funds that have the expertise,
20 it's the manage -- so, the owners might not have the
21 expertise, the manager has the expertise?

22 A (Leslie) That's exactly right.

23 **MS. HOLLENBERG:** Okay. One moment
24 please.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 BY MS. HOLLENBERG:

2 Q When you were speaking about the entities that -- of
3 managers that Macquarie has experience with, the
4 public utilities that you have experience with, we
5 didn't necessarily hear any water utilities. And, I
6 guess I'm wondering if the Commission should have any
7 concerns about the expertise of Macquarie to manage a
8 water utility?

9 A (Leslie) Okay. There are no utilities in the
10 portfolio within the United States. But there are
11 water utilities in United Kingdom and in Australia.
12 I think I'd also make the point, that in terms of the
13 day-to-day management and operations, Aquarion is
14 very much a self-contained organization in many ways.
15 So, Mr. Firlotte and the team are the individuals in
16 the organization capable of running a water utility.
17 And, we are making an investment in them that we hope
18 to manage actively for the benefit of our investors.
19 But the day-to-day operations and management will
20 reside with the management team. And, we've selected
21 them, I guess, as a good investment on the basis that
22 they are a very capable management team. We believe
23 we can supplement and support that effort. But we
24 don't position ourselves as an operator of utilities,

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 *per se*. We are an investor.

2 Q And, I guess I will direct this to Mr. Leslie and to
3 one or more of the representatives for Aquarion here
4 today. Do you agree that the sale of Aquarion to --
5 by Kelda to Macquarie involves a change in the
6 ultimate ownership of the utility, but will not
7 result in a change in Aquarion's management or
8 day-to-day operations?

9 A (Leslie) Yes, that's correct.

10 A (Bingaman) Yes.

11 Q And, do you agree that the transaction will not
12 diminish the Commission's jurisdiction to address
13 issues relating to quality of service, capital
14 spending, water conservation, or other matters after
15 the merger?

16 A (Leslie) Yes.

17 A (Bingaman) That is correct.

18 A (Leslie) That's correct.

19 Q And, do you agree that the New Hampshire workforce
20 will not be reduced as a result of the merger?

21 A (Leslie) Yes.

22 A (Bingaman) Yes.

23 Q It's the OCA's understanding, based on the discovery
24 in this case, that Aquarion maintains a targeted

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 dividend payout ratio, which is subject to cash flow
2 requirements due to capital expenditures. And, I'm
3 wondering if, Mr. Leslie, do you agree that Macquarie
4 plans to take a comparable approach?

5 A (Leslie) Yes, I'll ask Mr. Camerino to remind me of
6 the -- part of the response here, I think we did
7 respond on this issue. Our approach is probably
8 comparable. I think we're probably not expecting to
9 be -- to hold ourselves to a strict dividend payout
10 ratio, as in some circumstances that can constrain
11 operations. And, I guess I'd just direct you to the
12 response that we made at the time, which I think was
13 along those lines.

14 And, so, just to direct you to OCA-3 and
15 to read that. The concluding sentence there:

16 "However, Macquarie does not believe it would be
17 prudent to obligate itself to maintain a particular
18 debt to equity ratio or dividend payout ratio because
19 such an agreement would limit management's ability to
20 respond to changing circumstances in the manner it
21 believed to be in the best interests of the utility
22 and its customers."

23 So, I think you asked whether it's going
24 to be comparable, I think, yes, it will be

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 comparable, but there will be subtle differences, in
2 terms of how strict we might be on the dividend
3 payout ratio.

4 Q And, just for -- just to also, if you would, do you
5 agree that Macquarie has no plans to alter the
6 capital structure through a modification of the
7 dividend policy, that was part of your response as
8 well?

9 A (Leslie) That's right.

10 Q And, do you agree that the acquisition of
11 Aquarion-New Hampshire will not impact the timing of
12 Aquarion-New Hampshire's capital expense -- capital
13 program?

14 A (Leslie) No, we don't expect it to.

15 A (Bingaman) And, I'd just point out, it certainly
16 wouldn't be the acquisition that would change the
17 capital expenditures, but would be dictated more by
18 external events, such as changes in regulations,
19 water quality regulations, or a change in priorities
20 or perhaps a carrying over of projects year to year
21 that might cause the capital budgets to fluctuate
22 slightly from what was submitted. But Macquarie has
23 reaffirmed its support of the five year capital plan
24 that we had submitted to Staff as part of the

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 interrogatory process.

2 Q And, I just have one final question. If the
3 Commission approves the Settlement Agreement, what,
4 if any, impact will the acquisition have on the price
5 that North Hampton or another municipality might have
6 to pay to acquire these assets?

7 A (Leslie) Interesting question. I guess, to start
8 with, the business is not for sale. I'll just make
9 that point clear. But I don't see how the -- our
10 acquisition, *per se*, or the Commission's approval,
11 for that matter, would impact the value. I think the
12 value or the price would be objectively determinable
13 at any stage.

14 **MS. HOLLENBERG:** Thank you. No further
15 questions.

16 **CHAIRMAN GETZ:** Thank you.
17 Mr. Gearreald.

18 **MR. GEARREALD:** I just wanted to ask if
19 the Commissioners had each copies of Exhibit 1, the
20 original petition and all attachments thereto?

21 **CHAIRMAN GETZ:** We do.

22 **MR. GEARREALD:** Thank you.

23 BY MR. GEARREALD:

24 Q In connection with Exhibit 1 and the attachments

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 thereto, there are a number of exhibits attached to
2 Exhibit 1. The first of those is the Stock Purchase
3 Agreement. And, Exhibit 2 thereto depicts the
4 existing Aquarion Company organization structure. If
5 I could just draw the witnesses' attention, if you
6 have it, to Exhibit 2. I believe, Mr. Firlotte,
7 perhaps you had described the current, in direct
8 testimony, organization structure. Do you have that
9 exhibit in front of you?

10 A (Firlotte) Yes, I do, sir.

11 Q Yes. And, as currently organized, Aquarion Company,
12 as owned by Kelda, has beneath it three different, I
13 want to use the right label, "investments", is that a
14 proper term? One being "Mass. Capital"?

15 A (Firlotte) Yes.

16 Q The second being "Aquarion Water Company"?

17 A (Firlotte) Yes.

18 Q And, the third being "Aquarion Safety Valve"?

19 A (Firlotte) Uh-huh.

20 Q Did I correctly characterize those as "investments"
21 or would you want to call those "divisions"?

22 A (Firlotte) I guess either way would be fine. Mass.
23 Capital is a -- is simply a financing vehicle to hold
24 the filtration facility in Massachusetts, which was

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 arranged when a treatment plan was built there a few
2 years back. And, it was an opportunity to finance on
3 a least cost basis. So, it's simply a financing
4 vehicle. And, Aquarion Water Company is the most
5 significant investment or asset there. Aquarion
6 Safety Valve, sir, is a small, non-regulated business
7 that we have, whereby we, for a modest fee per year,
8 will repair or replace the customer's portion of the
9 pipe from the property line to the home. And, it's,
10 you know, it's a very small business.

11 Q Does that operate, Aquarion Safety Valve, in any
12 particular location serving any particular customer
13 group?

14 A (Firlotte) Yes, sir. We've -- We actually market
15 that service in Connecticut and in the Northeast
16 here, and we've tried outside of the Northeast as
17 well.

18 Q Does that serve any of the customers that would be
19 involved in the Aquarion Water Company of New
20 Hampshire's rate base?

21 A (Firlotte) Yes, we do.

22 Q Underneath Aquarion Water Company itself, I think
23 it's probably fair to characterize each of those five
24 entities, of which Aquarion Water Company of New

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 Hampshire is one, as "divisions"?

2 A (Firlotte) Sure.

3 Q And, those five divisions are proposed in Exhibit 3
4 to be maintained intact, is that correct?

5 A (Firlotte) That's correct, sir.

6 Q I note that, on Page 1 of Exhibit 1 to Exhibit 1,
7 being the first page of the Stock Purchase Agreement,
8 in Section 1.1, there is a proposal that, as part of
9 the purchase price, there are basically two
10 components. One is 615 million, characterized as the
11 "Purchase Price", and the second is the repayment of
12 an inter-company loan in the amount of \$10 million,
13 that ran from Kelda Group to Aquarion Company. Did I
14 get that right?

15 A (Firlotte) That's correct.

16 Q The inter-company loan in the amount of \$10 million,
17 is any of that loan from Kelda Group to Aquarion
18 Company allocatable to Aquarion Water Company of New
19 Hampshire's operations?

20 A (Firlotte) No, it's not, sir.

21 Q All right. Regarding the \$615 million component, as
22 the aggregate, as the purchase price, has any effort
23 been made from an accounting standpoint to allocate
24 that sum among either the three investments that

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 appear on Exhibits 2 and 3 or among the five
2 divisions under Aquarion Water Company itself?

3 A (Firlotte) No. No, sir.

4 Q Is there any anticipation that there will be such an
5 allocation made for tax purposes, as a basis for the
6 purchase?

7 A (Firlotte) No.

8 Q And, I believe you've already testified, but I just
9 wanted to ask for sure that, with regard to the plan
10 for capital expenditures for Aquarion Water Company
11 of New Hampshire over the next five years, there's no
12 anticipated change in that program as a result of
13 this proposed acquisition?

14 A (Firlotte) That is correct, sir.

15 Q When the Commission has recently approved a rate
16 increase for Aquarion Water Company of New Hampshire,
17 there was, as part of the approval, an anticipated
18 step increase that would be applied for. Are you
19 aware of that, --

20 A (Firlotte) Yes, sir.

21 Q -- Mr. Leslie?

22 A (Leslie) Yes.

23 Q And, is there any change in the timing of the request
24 for this step increase that will result from this

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 acquisition?

2 A (Firlotte) No, sir.

3 **MR. GEARREALD:** Thank you. That's all
4 the questions I have.

5 **CHAIRMAN GETZ:** Thank you. Mr. Fuller.

6 **MR. FULLER:** Yes.

7 BY MR. FULLER:

8 Q I'd like to talk to Mr. Lessels.

9 A (Leslie) Leslie.

10 Q Yes, Leslie, I'm sorry. You mentioned that you have
11 other water companies in UK and in Australia?

12 A (Leslie) Yes.

13 Q And, how many customers in UK do you have?

14 A (Leslie) It's approximately 900,000.

15 Q 900,000. Okay. How much is in Australia?

16 A (Leslie) In terms of the business in question serves
17 the City of Sydney, which has a population of
18 4 million, which is probably approximately a million
19 customers, I guess.

20 Q All right. And, that's the only two water companies
21 you have?

22 A (Leslie) In the portfolio at present, yes.

23 Q Yes. Okay. Second question is, in 2002, at the Town
24 of Hampton, the Town Hall, Mr. Bingaman came in there

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 and was going to be buying out the Hampton Water
2 Company at the time. And, we heard from him that the
3 service is not going to change and the quality of the
4 water is going to be staying the same. Since they
5 took it over, we haven't got any, either one of those
6 in the Town of North Hampton.

7 A (Leslie) In terms of there being no change?

8 Q The quality of the water has gone down, the service
9 has gone down.

10 A (Leslie) I might ask Mr. Bingaman to --

11 **MR. CAMERINO:** Excuse me. I just want
12 to interrupt. I would just ask, I'm not going to object
13 at this point of the questions being essentially
14 testimony, but I would like Mr. Fuller to pose a question
15 before the witness responds.

16 **MR. FULLER:** Okay.

17 **CHAIRMAN GETZ:** Yes. Mr. Fuller, what
18 you're basically doing is stating a fact and making an
19 argument based on it. I think you need to ask a question
20 to the witness to --

21 **MR. FULLER:** Okay. I'm sorry. I'll
22 rephrase it.

23 BY MR. FULLER:

24 Q In 2002, like I say, we was at the Town Hall. And,

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 we're hearing the same thing from you people. How
2 can we guarantee the service and the quality of the
3 water?

4 A (Bingaman) Well, I might add, we, as you know, we
5 publish an Annual Water Quality Report. And, in
6 that, it indicated this last year that we performed
7 some 500 different tests on 2,900 samples. And, all
8 of the tests show that we are in compliance or better
9 than state and federal water quality standards. Even
10 those compounds that were identified were well within
11 the regulatory limit. So, there has been no
12 deterioration in water quality. So, we consistently
13 comply or are better than what the state and federal
14 water quality standards are.

15 We have continued to invest in the
16 system, in order to improve water quality, fire flows
17 and the like. And, while I realize that we have a
18 disagreement, Mr. Fuller, on where some of those
19 investments should go, we have been continuing to
20 invest in the system for the overall improvement for
21 our customer service and water quality.

22 Q Okay. Thank you. Mr. Leslie, next question is, why
23 do you want to really buy this water company in New
24 Hampshire here, because we only got like 8,000

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 customers in this area. The only town that can grow
2 is the Town of North -- Town of Hampton. And, the
3 Town of Rye is like 800 people, roughly, and the Town
4 of North Hampton is 15. Neither one of our towns,
5 we're not going to be growing. And, if you pick up
6 another couple thousand, you're only going to be up
7 to ten. And, you got a high rate of other in UK and
8 Australia, with millions of customers. And, I'm just
9 wondering why you're here to buy this little portion
10 of New Hampshire?

11 A (Leslie) Okay. That's a good question. Well, I
12 think, obviously, we're buying Aquarion as a whole.
13 And, the bulk of Aquarion's business is in
14 Connecticut, where they do have several hundred
15 thousand customers. And, so, the business, as an
16 integrated entity, serves customers, obviously, in
17 Connecticut, here in New Hampshire, in New York, and
18 in Massachusetts. And, so, Macquarie's investment is
19 at the top level, and it takes into account all four
20 of those states.

21 And, I think, while we would agree that
22 New Hampshire is a small portion of that, it's
23 nevertheless important to the whole. But we're
24 looking at a much bigger business, I think, from an

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 investment level. And, perhaps that -- that's more
2 understandable in terms of the scale of investments
3 we make elsewhere. The total value of this
4 transaction is in excess of \$800 million, which is a
5 meaningful size transaction compared to other
6 transactions that we do around the world. And, so,
7 we found it to be a very good business. We think the
8 broad prospects for the business are good. Even if
9 the growth here in New Hampshire is perhaps modest,
10 we are very pleased with the acquisition. We think
11 it's a very good company and it's very well run.

12 Q Okay. I know once, like I say, once the Hampton
13 turns around and makes the peak of the customers and
14 investments you're going to be making into it, you're
15 going to be putting the three towns way out of
16 proportion of the money for water. And, I can see
17 that coming, and I think there's a lot of other
18 people seeing this coming, and it's the water rates
19 going up sky high. It is now. So, that's why.

20 **CHAIRMAN GETZ:** Well, Mr. Fuller, let
21 me, I guess, remind you of this. That you will have a
22 chance to make an argument and a closing statement at the
23 end of the hearing.

24 **MR. FULLER:** Okay. All right.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 **CHAIRMAN GETZ:** I think, for now, if we
2 can focus on questions for the witnesses, at the end you
3 can make your statement and your position with respect to
4 whether we should approve the merger.

5 **MR. FULLER:** Okay. Okay. Thank you. I
6 have no further questions. Thank you.

7 **CHAIRMAN GETZ:** Thank you.

8 **CMSR. BELOW:** Oh, I have one question,
9 Mr. Leslie.

10 BY CMSR. BELOW:

11 Q Do you anticipate that Macquarie Utilities, Inc. will
12 be a single purpose entity or do you expect it might
13 invest in other utilities?

14 A (Leslie) We expect it to be a single purpose entity,
15 to be honest. In terms of growing the business, with
16 have no plans at this point, in a sense that Aquarion
17 was viewed as a stand-alone investment. There was no
18 sort of add-on investments or a roll-up strategy, if
19 you will, associated with the investment. It would
20 be for Mr. Firlotte and the team to identify those
21 opportunities as they arose, and for us to decide
22 whether they went in under Aquarion, for example, or
23 went into MUI, Macquarie Utilities, Inc. or were
24 treated entirely separately.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 **CMSR. BELOW:** Okay. Thank you.

2 **CHAIRMAN GETZ:** I have some questions I
3 believe are for you, Mr. Firlotte.

4 BY CHAIRMAN GETZ:

5 Q First are following up on the status of proceedings
6 in other jurisdictions. In Connecticut, you
7 indicated that you were hopeful of obtaining approval
8 on a specific date, October 18. Is that a request
9 that you've made to Connecticut or have they --

10 A (Firlotte) No, Commissioner Getz. It's the 120 days
11 from filing, which -- that's why I said "on or
12 about". They could --

13 A (Discepolo) Statutory requirement.

14 A (Firlotte) It's statutory. They could come back and
15 ask for additional time, to be sure. But that's what
16 we're hoping for.

17 Q Okay. And, then, with respect to the process in New
18 York, is there a statutory period in New York?

19 A (Firlotte) There is not, Commissioner. There is not.

20 Q Is there a requirement for hearings?

21 A (Firlotte) I do not believe there is a requirement
22 for hearings. We're meeting with the Commission,
23 with staff, on Friday of this week. And, my
24 experience in New York has been it's usually a bit of

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 a back-and-forth negotiations, coming to an agreed
2 upon settlement.

3 A (Discepolo) It's basically a settlement agreement
4 process. It could be fully litigated, but we aim to
5 work on a settlement agreement track.

6 Q And, even the settlement would be submitted to an
7 administrative law judge, is that correct?

8 A (Discepolo) And, it would ultimately be approved by
9 the Commission.

10 A (Firlotte) Yes.

11 Q And, then, the other question I had was in the
12 Settlement Agreement, Exhibit 1, Page 3, Item 3. The
13 second sentence says that "The Joint Petitioners
14 further reaffirm that they have no plans to change
15 the terms or conditions on which service is provided
16 by Aquarion-New Hampshire for any reason relating to
17 the acquisition of Aquarion-New Hampshire by MUI."
18 Would it be more accurate to say that "the
19 Petitioners have no plans to seek permission from the
20 Commission to change the terms or conditions"?

21 A (Firlotte) Commissioner, could you repeat your
22 question?

23 **MR. CAMERINO:** I wonder if maybe I
24 should respond to this. I think I know where the Chairman

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 may be going. The way I read that, I think the answer to
2 your question is "yes". That I understand "terms and
3 conditions" to relate to the tariff. And, the Company
4 does not have any plans to seek changes in the tariff,
5 although, obviously, over time, any tariff changes for all
6 sorts of reasons, none of which relate to the acquisition.
7 If your question went beyond that, then I think we need
8 some clarification.

9 **CHAIRMAN GETZ:** Okay. Well, I guess I
10 would make this observation, I think, because my question
11 does go to terms and conditions under the tariff. The
12 language here could be read to conclude that the
13 Petitioners might believe they could make those changes on
14 their own. And, I guess it would be my position that it
15 would require approval of the Commission, and I would hope
16 that one of you would agree with that?

17 **WITNESS FIRLOTTE:** I would submit to
18 that, Commissioner Getz.

19 **WITNESS LESLIE:** We will all agree.

20 **CHAIRMAN GETZ:** Okay. That's all the
21 questions I have. Is there any redirect?

22 **MR. CAMERINO:** I just have one
23 clarification that only a lawyer could love.

24 **REDIRECT EXAMINATION**

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 BY MR. CAMERINO:

2 Q But, Mr. Firlotte, I think it was Mr. Gearreald was
3 asking you about Exhibit 2 to the petition, the
4 corporate structure as it exists today. And, you
5 referred to the various utilities as "divisions".
6 Each of those utilities that's on that chart, those
7 are actually separate corporations, are they not?

8 A (Firlotte) Oh, yes, they are. Yes.

9 Q Okay.

10 A (Firlotte) Yes.

11 Q Just, in my mind, "division" connotes a separate
12 business unit, but all part of the same --

13 A (Firlotte) Yes.

14 Q -- entity. In this case, these are separate legal
15 entities?

16 A (Firlotte) These are separate legal entities. Thank
17 you.

18 **MR. CAMERINO:** Thank you.

19 **CHAIRMAN GETZ:** Okay. Is there anything
20 else for these witnesses?

21 (No verbal response)

22 **CHAIRMAN GETZ:** Hearing nothing, then
23 you are excused. Thank you very much.

24 **WITNESS FIRLOTTE:** Thank you.

[Witness Panel: Leslie|Firlotte|Bingaman|Discepolo]

1 **CHAIRMAN GETZ:** Ms. Thunberg, who will
2 be testifying for Staff?

3 **MS. THUNBERG:** Because of the size
4 limitations of the panel box, Staff opted to put
5 Mr. Naylor up second, as sort of a second direct. And,
6 he'll be presenting the Settlement Agreement.

7 **CHAIRMAN GETZ:** And, it's my expectation
8 that there are no other witnesses to present this morning,
9 is that correct?

10 (No verbal response)

11 **CHAIRMAN GETZ:** Okay. Well, let's do
12 this then. I think we need a brief recess. We'll take
13 that now, and then we will resume with Mr. Naylor after
14 the break. Thank you.

15 (Recess taken at 11:26 a.m. and the
16 hearing reconvened at 11:42 a.m.)

17 **CHAIRMAN GETZ:** Okay. We're back on the
18 record. So, Ms. Thunberg, if you could conduct your
19 direct examination after the witness is sworn.

20 (Whereupon **Mark A. Naylor** was duly sworn
21 and cautioned by the Court Reporter.)

22 **MARK A. NAYLOR, SWORN**

23 **DIRECT EXAMINATION**

24 BY MS. THUNBERG:

[Witness: Naylor]

1 Q Mr. Naylor, can you please state your name and
2 address for the record?

3 A My name is Mark Naylor. And, my business address is
4 21 South Fruit Street, Suite 10, Concord, New
5 Hampshire.

6 Q And, do you work for the Commission?

7 A Yes, I do.

8 Q And, what is your position with the Commission?

9 A I am the Director of the Commission's Gas and Water
10 Division.

11 Q And, as Director of the Gas and Water Division, what
12 do you do at the Commission?

13 A That's a very good question. I direct the staff of
14 the Gas and Water Division, as well as the Audit
15 Division staff. I'm responsible for all the work
16 product generated in the Gas and Water Division.

17 Q Mr. Naylor, what is your area of expertise?

18 A My background is accounting.

19 Q Have you ever testified before the Commission prior
20 to today?

21 A Yes, I have.

22 Q And, has that testimony been either within your area
23 of expertise or related to your job responsibilities
24 here at the Commission?

[Witness: Naylor]

1 A Yes.

2 Q Can you please describe your involvement with this
3 docket?

4 A I have reviewed the Joint Petition and participated
5 in the discovery that has been ongoing throughout the
6 proceeding. I was particularly interested in
7 determining if the transaction as proposed in this
8 docket would negatively impact customers.
9 Preferably, of course, that it would provide some
10 benefits to customers. I wanted to see if customers
11 would continue to receive the same quality of service
12 after the transaction as before it.

13 Q Exhibit 1 that's been previously marked is the
14 initial filing, and you stated that you reviewed
15 that, is that correct?

16 A That's correct.

17 Q And, as Exhibit 2, as previously marked, that was the
18 Settlement Agreement, did you participate in the
19 drafting of that document?

20 A Yes, I did.

21 Q And, are you familiar with the terms of that
22 document?

23 A Yes, I am.

24 Q I'd like to show you two documents to have you

[Witness: Naylor]

1 identify them for the record. And, I propose that
2 these, I believe, are, for identification, Exhibits 4
3 and 5.

4 A This document you're showing me is responses of the
5 Joint Petitioners to Staff's data requests, and these
6 responses are dated July 21st of 2006.

7 Q Okay. And, the second document, if you could please
8 describe that.

9 A This document represents data responses of the Joint
10 Petitioners to Staff's second set of requests, and it
11 is dated August 10th, 2006.

12 Q And, do you have copies before you?

13 A I do.

14 Q Okay. And, when you earlier testified that you had
15 "reviewed discovery" relating to this docket, were
16 those discovery responses as you just described as
17 Exhibits 4 and 5?

18 A Yes.

19 Q Okay.

20 A In addition to discovery requests from other parties
21 in the docket.

22 **MS. THUNBERG:** Okay. And, while we're
23 on that subject, Staff would like to mark as a exhibit a
24 data response that Mr. Leslie had referred to earlier that

[Witness: Naylor]

1 Staff is not aware of it having been placed into the
2 record yet. And, that was OCA response -- or, request and
3 Macquarie's response to Number 3. If we could have this
4 marked for identification.

5 **CHAIRMAN GETZ:** Okay. We'll mark
6 Exhibits 4, 5, and 6 as identified by Ms. Thunberg.

7 (The documents, as described, were
8 herewith marked as **Exhibits 4, 5, and 6,**
9 respectively, for identification.)

10 BY MS. THUNBERG:

11 Q Mr. Naylor, before I ask you specifics of the
12 Settlement Agreement, do you recall the line of
13 questioning, and I believe it was with OCA and Larry
14 Bingaman was responding, relating to commitments
15 Aquarion had made in an earlier docket? Do you
16 remember that testimony?

17 A Yes.

18 Q Did you participate in the docket that they were
19 describing?

20 A Yes, I did.

21 Q And, do you have a docket number that you can
22 reference?

23 A Yes. It was docket DW 01-215.

24 Q Now, I'd like to draw your attention to the

[Witness: Naylor]

1 Settlement Agreement, and specifically to Page 2.
2 I'm not going to have you relist the commitments that
3 are in this Settlement Agreement that Mr. Bingaman
4 has already identified into the record, but I would
5 just generally like to ask you why, in Staff's
6 opinion, it felt some of these commitments are
7 important?

8 A Well, we -- certainly, the baseline, I think, for
9 evaluating this particular docket really is the
10 baseline established when Aquarion acquired Hampton
11 Water Works four or five years ago. The reason for
12 that is that the Joint Petitioners in this case have
13 pledged that they will keep the management as it is,
14 both here in New Hampshire and at Aquarion in
15 Connecticut. So, we wanted to make sure that there
16 would be no change in the quality of the service
17 customers were receiving, and that the commitments
18 made in the previous case, as we referenced, DW
19 01-215, would continue after this proposed
20 transaction.

21 Q Now, Mr. Naylor, part of the testimony today included
22 testimony as to benefits that Macquarie could bring.
23 Do you recall that testimony this morning?

24 A Yes, I do.

[Witness: Naylor]

1 Q And, is it Staff's opinion that there will be or
2 could be benefits from this transaction?

3 A Yes, I think there could be. Yes. I think it's
4 clear, from the Joint Petition and the testimony
5 provided by the Company's witnesses, that there's a
6 clear incentive on the part of the acquiring company
7 to keep this company and the other Aquarion companies
8 operating efficiently. And, as an investor, I think
9 Macquarie clearly has a stake in having these
10 companies operating properly to protect their
11 investment. I think they do bring some, potentially,
12 some financial benefits, in terms of access to
13 capital. So, I think that probably sums up the
14 benefits that I see.

15 Q Would it be fair to characterize Staff's position, as
16 far as whether this transaction will not result in
17 any adverse impact to customers, is it fair to say
18 that the balance is more than just "no adverse
19 impact", that there may be benefits?

20 A Yes.

21 Q I'd like to move onto the subject of treatment of
22 pension benefits. And, I'd like to draw your
23 attention to Staff 2-4, that's Data Response 2-4 in
24 Exhibit 5. And, I'd like to ask you, does this

[Witness: Naylor]

1 fairly summarize what Aquarion is trying to
2 accomplish or what Aquarion is proposing for the
3 treatment of the pension funds?

4 A Yes, it does.

5 Q Do you believe the proposed transaction is in the
6 public interest?

7 A Yes, I do.

8 Q Mr. Naylor, I believe that's all of the areas that
9 Staff wanted to cover, but I would ask you an
10 open-ended question. Is there anything else that you
11 wanted to say in support of the Settlement Agreement
12 and this transaction?

13 A Well, Staff has, obviously, agreed to a Settlement
14 Agreement with the Joint Petitioners recommending
15 approval of the proposal. I think they have provided
16 ample evidence that the proposed transaction will at
17 least result in no net harm to the public interest.
18 We are pleased with the Company's commitment to
19 maintaining the Customer Advisory Council and the
20 Company's commitment to maintaining a local office.
21 That's important to us. Particularly, the
22 notification provisions that are contained in those
23 provisions, Paragraph 2 on Page 2 and Paragraph 4 on
24 Page 3.

[Witness: Naylor]

1 First, particularly, with the customer
2 office, six months notice, prior written notice,
3 before any intention to eliminate that office. That
4 would give Staff, Commission, OCA, and the
5 municipalities served an opportunity to look into
6 what's being proposed. I don't think it makes sense
7 to completely preclude that there may be a better way
8 of conducting business, but the notification
9 provision, I think, is an important part of this, so
10 that it can be looked at, and we can all understand
11 what they might propose at that time. But, clearly,
12 the testimony we heard earlier from the Company's
13 witnesses, and they have no plans to change how
14 they're operating the business now, so we're
15 comfortable with that. And, with that, simply Staff
16 would support the request of the Companies in this
17 docket.

18 **MS. THUNBERG:** Thank you. Staff has no
19 more direct.

20 **CHAIRMAN GETZ:** Mr. Camerino?

21 **MR. CAMERINO:** No questions.

22 **CHAIRMAN GETZ:** Ms. Hollenberg?

23 **MS. HOLLENBERG:** No questions. Thank
24 you.

[Witness: Naylor]

1 **CHAIRMAN GETZ:** Mr. Gearreald?

2 **MR. GEARREALD:** I have none. Thank you.

3 **CHAIRMAN GETZ:** Mr. Fuller?

4 **MR. FULLER:** I don't have anything.

5 **CMSR. MORRISON:** I've got one.

6 BY CMSR. MORRISON:

7 Q Mr. Naylor, in your opinion, the notification clause,
8 does that give the Commission the right to veto a
9 close of the customer service center or only the
10 right of notification?

11 A I think the Commission has the authority to
12 potentially veto it. The Commission regulates a
13 utility such as this with respect to its rates, with
14 respect to the quality of the service it provides.
15 The six months would certainly give the Commission,
16 its staff, and other parties an opportunity to look
17 at what's being proposed, and potentially to ask the
18 Commission to open a proceeding on it. And, the
19 Commission, I think, at that point could veto it. I
20 think so.

21 **CMSR. MORRISON:** I don't see that
22 wording, but I'll take your interpretation of this for
23 now.

24 **CHAIRMAN GETZ:** I have no questions for

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the witness. Is there any redirect?

MS. THUNBERG: No.

CHAIRMAN GETZ: The witness is excused.

Thank you. Is there any objection to striking the

identifications and entering the exhibits as full

exhibits?

(No verbal response)

CHAIRMAN GETZ: Hearing no objection,

they will be entered as full exhibits. Are there any

other matters to address, before we provide the

opportunity for closing statements?

(No verbal response)

CHAIRMAN GETZ: Okay. Hearing nothing,

then we will allow the petitioner to go last. So, we'll

start with you, Mr. Fuller.

MR. FULLER: Thank you. In 1957, the

Water Commission Board has been -- was established. Since

1957, we have been fully involved with the water company,

working with them and back and forth. In 1987, there was

a Coakley Landfill Superfund site in our town. And, there

came up pollution all the wells around the well sites,

with pollution. We went to the Town, the Water

Commissioners at the time, went to the water company and

asked them to run a water main to up to these well sites.

[Witness: Naylor]

1 That's at Lafayette Road, Route 1, Park Circle, Lower
2 North Road, and North Road on the left-hand side on the
3 west side, and also Lafayette Terrace. The water company
4 says they wouldn't run the water line. So, the Water
5 Commissioner came back to the Budget Committee and asked
6 what we're going to do. The water company -- I mean, the
7 Town of North Hampton put a special water article in to
8 run the water mains up Route 1 and all these places at the
9 time. So, the North Hampton Water Commissioners and the
10 taxpayers in that town spent the money to run the water
11 lines up through there. We were concerned about the water
12 at the time because of the Coakley Landfill, it was a
13 Superfund site. We had been fully involved in that.

14 So, and later on, in 1998 -- I mean,
15 '90, there was a Coakley Land -- there was the Hobbs well
16 was put in, it was trying to be put in. We came in front
17 of the Commissioner here, all three towns was involved on
18 the water. They tried to put the water well in, and the
19 three towns fight it, and we shot it down. All right.
20 Back into our town again, we are a full working board with
21 the Town, and we are involved in setbacks for the
22 wetlands, a thousand -- I mean, a hundred feet, which the
23 state is asking 50. We have spent a lot of money to
24 protect the water aquifer for the community in Rye, North

1 Hampton, and Hampton.

2 Also, we worked with the Rockingham
3 County Commissioners to set up the lots of water head
4 shelters and everything else to protect it. And, this
5 process, I think that the State of New Hampshire should
6 leave -- let the municipality along the Seacoast take
7 actions on this, and to at least have the first -- a few
8 years to buy the water company out. We have never had
9 refusal, ask that they're for sale. They're being bought
10 out from outside of America. And, I think the
11 municipality has the right first to have the option to buy
12 it.

13 Water in this world is the most precious
14 thing in the world. We leave the State of New Hampshire
15 to control it in trust. The word "trust", we trust the
16 State of New Hampshire to trust it to watch over the towns
17 for the water resource in the community. I don't think
18 this deal should be put behind us, since we have set --
19 put in a petition now to look into to buy it. I think
20 that the municipality has the right first to go forward.
21 I lost the thought. I'm sorry, that's it. Thank you.

22 **CHAIRMAN GETZ:** Thank you.

23 Mr. Gearreald.

24 **MR. GEARREALD:** Two years ago the voters

1 in the Town of Hampton had before them a warrant article
2 which asked the voters whether or not they were interested
3 in exploring the idea of acquiring Aquarion with the Town
4 of Hampton. And, there was no money associated with that
5 particular warrant article, but, nevertheless, the voters
6 defeated that article. So, that is my mandate in
7 connection with the idea that the Town of North Hampton is
8 pursuing, as reflected in a letter from its counsel dated
9 September 11, 2006 to the Commission. In other words, the
10 Town of Hampton is not a part of that effort.

11 It is my understanding that, with
12 regards to this Settlement Agreement, which neither the
13 Office of Consumer Advocate nor the Town of Hampton has
14 joined in, that the Office of Consumer Advocate today is
15 going to articulate certain positions with regard to that,
16 based on the testimony that's been heard today that is
17 important to that office. And, I would merely like to say
18 that we or the Town of Hampton join in what the Office of
19 Consumer Advocate will articulate in its closing
20 statement. So, I thank you very much.

21 **CHAIRMAN GETZ:** Thank you.

22 Ms. Hollenberg.

23 **MS. HOLLENBERG:** Thank you. That was a
24 nice introduction. The OCA does not oppose the

1 acquisition by Macquarie of the Aquarion-New Hampshire
2 company. We would only ask that the Commission, to the
3 extent that the Stipulation does not explicitly articulate
4 the commitments that were articulated today on the stand
5 with respect to the local customer service center and the
6 Consumer Advisory Council, that those be reflected in the
7 Commission's order, if it decides to approve the
8 acquisition. Specifically, we would ask that the
9 Commission's order recognize the commitment to allow some
10 process and input of stakeholders, as well as the
11 Commission's authority over any closure of the local
12 customer service center or the termination of the Consumer
13 Advisory Council.

14 Further, we would ask that the
15 Commission's approval be based, if it decides to approve
16 this acquisition, be based on the understanding that the
17 regulatory asset or liability requested will not impact
18 future ratemaking. And, that would conclude our comments.
19 Thank you very much.

20 **CHAIRMAN GETZ:** Thank you. Ms.
21 Thunberg.

22 **MS. THUNBERG:** Staff rests on Staff's
23 testimony today, and respectfully requests that the
24 Commission approve the proposed Settlement Agreement.

1 Thank you.

2 **CHAIRMAN GETZ:** Thank you.

3 Mr. Camerino.

4 **MR. CAMERINO:** Thank you, Mr. Chairman.
5 As the Commission is aware, the transaction that's before
6 the Commission today is the proposed acquisition of
7 Aquarion Water Company by Macquarie Utilities, Inc., not
8 some possible interest by North Hampton, if the voters
9 down the road approve proceeding with municipalization.
10 So, those are two separate issues today. We're looking at
11 the transaction that's been proposed and supported by the
12 evidence. And, that transaction is a fairly simple one.
13 It's a change in shareholders. Currently, the
14 shareholders of Aquarion Water Company, which is a
15 self-contained water company serving a number of Northeast
16 states, is Kelda. Kelda has a U.S. subsidiary. The
17 ultimate parent is in Britain. And, every day
18 shareholders -- shares change hands in that company. And,
19 over time, presumably 100 percent of the ownership of that
20 company changes hands. What is being proposed here is
21 that a new shareholder of Aquarion Water Company come in.
22 In this case, that shareholder are funds that are actually
23 located in North America, they're North American
24 investments, rather than overseas. Kelda has made clear

1 that it wants to divest itself of Aquarion, and Macquarie
2 was the successful purchaser in negotiations.

3 The Company that Macquarie is interested
4 in acquiring through these funds is one that you heard
5 from the Staff in the prehearing conference is well run,
6 is well regarded by the Commission staff, has done a good
7 job of keeping its rates at reasonable levels. And,
8 that's the Company that Macquarie is interested in
9 acquiring. It's that management, it's that history, and
10 they have made clear that it's the management that has
11 achieved those results that they want to keep in place.

12 Macquarie has also made clear that it's
13 a long-term investor. It is not an investor that is
14 looking to make radical changes and then flip the
15 investment. It has funds that are seeking long-term --
16 that have a long-term perspective in terms of their
17 investment horizon. And, that's why they look for
18 companies that are already well managed.

19 As Mr. Leslie indicated, one of the
20 benefits of the transaction is that you're going to move
21 from a management structure that is ultimately sitting in
22 Britain, to one that is focussed in Connecticut and New
23 York and New Hampshire. New Hampshire is the most local
24 management. Those managers are overseen by people in --

1 Mr. Bingaman, in Massachusetts, and Mr. Firlotte and his
2 team in Connecticut, and MUI, the acquiring company, will
3 be sitting in New York. And, so, that is a benefit, we
4 believe, to customers.

5 As you heard from Mr. Leslie also, the
6 Company has very broad expertise, not just in the utility
7 industry, but also in many other infrastructure areas.
8 And, so, they can bring to bear some of those experiences
9 when there are particularly difficult problems that are
10 faced here in the Northeast. Although, again, the ability
11 to manage the Company on an ongoing basis is already in
12 place.

13 And, thirdly, the Company, Macquarie,
14 has an extremely broad reach in terms of access to capital
15 markets. That's worldwide. And, it's very experienced in
16 the financial industries. And, that has the potential of
17 generating benefits ultimately, in terms of capital
18 structure and cost of capital.

19 All of those things clearly indicate,
20 most importantly, first and foremost, that, in accordance
21 with the statute, there is no adverse impact that will
22 come from this transaction. Because the day after this
23 transaction, you will be looking at the same management
24 and the same operations and the same people as you were

1 the day before the transaction, with no intention of
2 making any changes resulting from that transaction. And,
3 secondly, some benefits that either will or may accrue
4 because of the items that I indicated.

5 So, for all of those reasons, we believe
6 that the transaction is consistent with the public
7 interest, as is required, and we would ask that you
8 approve it. Thank you.

9 **CHAIRMAN GETZ:** Could you address
10 specifically, Mr. Camerino, there seems to be some
11 ambiguity about the Item Number 2 in the Settlement
12 Agreement about maintaining an office, whether it's merely
13 that the Company is stating that its committing to
14 notifying the Commission or whether it expects that, in
15 the event it did give notice that it wanted to close the
16 local office, Mr. Naylor has indicated that he reads this
17 as a approval process. Can you tell me what the Company's
18 understanding of that commitment is?

19 **MR. CAMERINO:** Sure. I don't think the
20 Company contemplates that an approval is required. But we
21 intentionally put in a sufficient time frame there, in
22 fact, I think Mr. Naylor at one point actually asked that
23 those -- those timeframes be longer than the Company had
24 originally proposed. We put in a sufficient time period

1 that, if the Commission wanted to take action, such as
2 opening a docket or other action to stop the Company from
3 doing what it was proposing, and that assumes, of course,
4 that the Company, based on dialogue with the Staff and
5 OCA, already may have reached that conclusion, that it
6 would have the ability to do that. And, what we, in
7 addition to that, what we proposed was a notice process
8 that was broad enough so that all of the interested
9 parties would be aware of any such proposal. So, not just
10 notice to the Commission, but also notice to the Consumer
11 Advocate and notice to the municipalities that are served.

12 We, to be honest, we were wary of even
13 talking in those terms, because it might somehow indicate
14 that the Company is contemplating taking that action.
15 And, as the witnesses have indicated, they are not,
16 absolutely not contemplating taking action, either in the
17 area of changing the Customer Advisory Council or closing
18 the local service office. But, as Mr. Bingaman indicated,
19 one can contemplate situations down the road where there
20 might be such a significant change that that was the right
21 thing to do.

22 So, the short answer is, the way the
23 Company views that process is it was intended to give a
24 sufficient time period that, if, after communicating with

1 the Staff and the Consumer Advocate and the towns there
2 wasn't agreement on what action should be taken, there was
3 time for the Commission to jump in and open a proceeding,
4 issue a show cause order or some kind of I'll call it
5 "injunction", that's probably a bad word, a directive not
6 to take that action.

7 **CHAIRMAN GETZ:** Okay. Then, is there
8 anything else for us to hear this afternoon?

9 (No verbal response)

10 **CHAIRMAN GETZ:** Hearing nothing, then we
11 will close the hearing and take the matter under
12 advisement. Thank you.

13 **(Hearing ended at 12:10 p.m.)**

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