

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

October 1, 2013 - 1:41 p.m.
Concord, New Hampshire

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RE: **DRM 13-238**
RULEMAKING:
Puc 1600 Rules for Tariffs
and Special Contracts.

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

Clare E. Howard-Pike, Clerk

APPEARANCES: (No appearances taken)

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

ORIGINAL

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P R O C E E D I N G

CHAIRMAN IGNATIUS: Good afternoon. I'd like to open the hearing in Docket DRM 13-238. This is regarding our Administrative Rules, Chapter 1600, which deal with tariffs and the filing requirements. We are working our way through the required Administrative Rules process that involves publishing of the proposed rules in the Rulemaking Register, and having a public hearing to take comments on the proposed rules, before a final rule is submitted to the Joint Legislative Committee on Administrative Rules.

So, we are today at the point of a public hearing. We noticed that on September 4th, 2013, as well as inclusion of the hearing in the State's Rulemaking Registry as well.

We don't need to take appearances. This isn't something with parties. But we want to give an opportunity, for anyone who has comments on the rules, to put those on the record. And, also to note for everyone that there was an opportunity for written comment that extends until October 8th, 2013. So, if there's comments either that you want to submit then or speak today, and then follow that with written comment as well, all of that would be fine, as long as it's in by October 8th.

1 We have some people here, both from the
2 Staff, the Office of Consumer Advocate, and from the
3 utilities, and wonder if you have comments on the 1600
4 rules, in any order that anyone wants to take here?
5 Ms. Mullholand, do you want to begin?

6 MS. MULLHOLAND: Sure. Good afternoon,
7 Commissioners. My name is Kath Mullholand. I'm here
8 representing TVC Albany, Inc. and SegTEL, Inc., both doing
9 business as FirstLight Fiber in New Hampshire. I'm also
10 here as a representative of the CLEC Association of
11 Northern New England, known as "CANNE". I am CANNE's
12 president.

13 Both CANNE and FirstLight have the same
14 concern about the rules. It is to do with the application
15 in Puc 1601.01, Item (c), the definition of "telephone
16 utilities".

17 CHAIRMAN IGNATIUS: Give us a moment.
18 Let's get to that section, so we can read with you. So,
19 1601.01(c)?

20 MS. MULLHOLAND: Yes.

21 CMSR. HARRINGTON: It's the very first
22 page of the rules.

23 MS. MULLHOLAND: It's our understanding
24 that it was not the Commission's intent to create new

1 tariff requirements for entities that have not, in the
2 past, been required to file tariffs. CLECs traditionally
3 have not been required to file tariffs for their retail or
4 wholesale offerings, although there has been a recent
5 change in the requirement to file access charges, and we
6 understand that that would continue. However, we believe
7 this definition, because it applies to "excepted local
8 exchange carriers", as defined in RSA 362:7, I", and if I
9 refer over to that statute, Item (c) -- sorry, Item (3),
10 under "excepted local exchange carrier", means "any
11 provider of telecommunications services that is not an
12 incumbent local exchange carrier." We believe that
13 includes us. And, that through that, there may be an
14 inadvertent requirement that CLECs would now have to file
15 tariffs for all of their wholesale offerings in the state,
16 which are extensive for some of us.

17 CHAIRMAN IGNATIUS: And, do you have a
18 recommendation? Have you thought about language that
19 would not have that inadvertent result?

20 MS. MULLHOLAND: Well, I understand the
21 state has not defined "competitive local exchange
22 carrier", but the FCC has. And, I think that the state --
23 that the rules could refer to "competitive local exchange
24 carriers", and exempt us from requirements for filing

1 tariffs, as they did in the past.

2 Alternatively, it might be a way to
3 carve it out is to say that telephone utilities file
4 tariffs only if the Commission has ordered them to do so
5 in specific instances. It has, in fact, required all of
6 the ILECs to file tariffs in the past, and it has required
7 an access tariff from competitive toll providers.

8 So, I think either way of doing this
9 would take care of the problem.

10 CMSR. HARRINGTON: Just so I can
11 clarify. What you're saying is the companies you
12 represent are not ELECs?

13 MS. MULLHOLAND: We are, under the law,
14 we are ELECs. But we are also CLECs, competitive local
15 exchange carriers, under federal law. And, traditionally,
16 New Hampshire has not required CLECs to file tariffs.

17 CMSR. HARRINGTON: But, if you're an
18 ELEC, doesn't it say "are not required to comply with this
19 chapter with respect to any retail services provided or
20 offered by such utilities"? You're saying that, by
21 leaving out the wholesale part, it's implying that it's
22 required for the wholesale services?

23 MS. MULLHOLAND: That's how I would read
24 it. Yes, sir.

1 CMSR. HARRINGTON: Okay. I didn't read
2 it that way. But, now that I hear what you're saying,
3 this probably could be clarified.

4 MS. MULLHOLAND: And, I'm reading it
5 that way because FairPoint is most decidedly required to
6 file wholesale tariffs. And, so, I don't see how I read
7 into a requirement for FairPoint that I can't -- that I
8 can then read out for myself.

9 CMSR. HARRINGTON: Okay. And, will you
10 be submitting written comments to this effect or --

11 MS. MULLHOLAND: Yes. We will.

12 CMSR. HARRINGTON: Thank you.

13 CHAIRMAN IGNATIUS: Thank you. That
14 helps, that exchange helps me to understand part of the
15 problem. Anything else, Ms. Mullholand?

16 MS. MULLHOLAND: No. That is our
17 primary concern.

18 CHAIRMAN IGNATIUS: Okay. Thank you for
19 coming. That's useful. Any other comments?

20 MS. KNOWLTON: Good afternoon
21 Commissioners. My name is Sarah Knowlton. And, I'm here
22 with Stephen Hall from Liberty Utilities. And, we do have
23 some comments to offer on the proposed 1600 rules. We
24 very much appreciate the chance to provide these comments

1 today. Most of the comments that we have are housekeeping
2 in nature, some go to administrative burden. So, I'll
3 just go through each one.

4 CHAIRMAN IGNATIUS: All right.

5 MS. KNOWLTON: The first is an issue
6 that I think about all the time, which is "what kind of
7 signature is required on the tariff that we submit to the
8 Commission? 1603.02(e)(7) does require that the tariff
9 come in with a signature. And, I'd like to suggest today
10 that the rule be clarified to indicate that an electronic
11 signature on each, on the tariff page, would be an
12 acceptable form of signature.

13 CHAIRMAN IGNATIUS: All right. Can you
14 hold up?

15 MS. KNOWLTON: Sure.

16 CHAIRMAN IGNATIUS: 1603 --

17 CMSR. HARRINGTON: It's Page 3.

18 CHAIRMAN IGNATIUS: Thank you.

19 MS. KNOWLTON: 02.

20 CHAIRMAN IGNATIUS: All right.

21 MS. KNOWLTON: (e)(7), right, asks for a
22 signature, requires "the signature of the official issuing
23 the tariff on behalf of the utility." And, as you know,
24 the tariffs can be quite big documents. And, so, when

1 you're submitting a big tariff, if you're filing the
2 entire tariff, you know, to get someone to sit and sign
3 every single page, you know, is -- can be a cumbersome.
4 And, so, I know some now do submit with electronic
5 signatures, some submit with a hand signature. And, you
6 know, it's never been entirely clear to me whether both
7 are acceptable. So, if there would be a way to clarify
8 that, so that an electronic signature would be acceptable,
9 we would certainly appreciate that.

10 CMSR. HARRINGTON: And, are you also --
11 I guess, are you questioning the need to sign every single
12 page, as well as the method of signing?

13 MS. KNOWLTON: No. I understand -- I
14 think I understand the need for the signature on the page,
15 you know, indicating that it's, you know, it's been
16 reviewed and, you know, it is what the utility is putting
17 forward. But, you know, just the mere act of signing
18 sometimes what's hundreds of pages --

19 CMSR. HARRINGTON: Well, I'm glad
20 someone understands the reason for signing every page. I
21 never quite got it, though.

22 MS. KNOWLTON: You know, and also, on
23 the other end, I wouldn't want someone to say, "well,
24 because it has an electronic signature, that's not

1 sufficient." So, it's also, you know, I think, to provide
2 a measure of protection, if we are doing electronic
3 signature, that we have, you know, the ability under the
4 rules to submit it in that format.

5 CMSR. SCOTT: Can you elaborate what an
6 electronic signature is to you? I only say that, because
7 I think it probably means different things to different
8 people.

9 MS. KNOWLTON: I think it does. I mean,
10 you know, what I see most commonly on tariffs is a "/S/"
11 and a typed out version of the person's name, as opposed
12 to, you know, an electronic, you know, graphic
13 representation of the person's signature. And, I think
14 doing the "/S/" with the name typed out, because then you
15 can also -- it's legible, you know, to me would be the
16 preferred method of marking the tariff.

17 CMSR. HARRINGTON: Maybe we should add a
18 definition for "electronic signature" somewhere within it,
19 if we're going to use the term.

20 MS. KNOWLTON: I think so. And, you
21 know, I've gone and looked. I mean, if you look at the
22 tariffs that are on file, there is somewhat of a variety
23 of approaches that are adopted by utilities. Not
24 everybody is signing in the same fashion.

1 So, again, it's housekeeping, but it's
2 also administrative burden, because it would make our
3 lives easier if we could, you know, not have the
4 individual physically sign every page.

5 CHAIRMAN IGNATIUS: And, this is our
6 chance, if there are some things, and it may not be
7 controversial, but, if they don't need to be there or the
8 world has moved on and can be cleaned up, this is our
9 chance. So, we're happy to hear any of those
10 recommendations.

11 MS. KNOWLTON: Okay.

12 CHAIRMAN IGNATIUS: And, by the way, I'm
13 going to, at the end, ask Staff to comment on any of the
14 recommendations it's heard. And, if you have any support
15 or concern about any of those, to let us know, or to
16 follow up in writing if you had a chance to think about it
17 some more. Ms. Knowlton, anything further?

18 MS. KNOWLTON: The next comment that I
19 have relates to Section 1603.03. And, the comment relates
20 to Page 6 -- I'm sorry, 1603.05, which begins on Page 6,
21 and it carries over to Page 7, Subsection (b). And, this
22 section deals with the marking in tariff pages. And, it
23 creates a system whereas, if you're making a change to a
24 tariff page, you're supposed to determine the nature of

1 the change that you're making and which of these letter
2 categories it falls into. And, then, you've got to put,
3 you know, the "C" or the "D" or maybe both on the top of
4 the page indicating the nature of the change.

5 And, what I would propose is that that
6 (b)(1), that number -- or, actually, it's (1), (b)(1) and
7 (2) be eliminated. The way that we do the tariffs now is
8 that we submit a redline version of the tariff that shows
9 what's been struck, what's been added, we submit a clean
10 version of the tariff. And, we actually get in, you know
11 debates back at the office, you know, "Is it a "C"? Is it
12 a (D)?" You know, arguing over which category, what's the
13 right way to mark it. And, I'm not even sure that it's
14 necessary to have that letter designation, where the
15 redline shows you, you know, what specifically has been
16 changed. And, again, it's just another one that creates
17 burden for us in trying to, you know, make the computer do
18 the right thing, you know, get the letter in the right
19 place, and mark it correctly. And, it's not clear to me
20 that that's something that's used in this day and age.

21 We chatted briefly with Staff and the
22 OCA before this session started today. And, you know, the
23 thought was maybe that was something that was there when
24 things were done with typewriters, and redline versions

1 weren't necessarily submitted.

2 So, we would propose striking the
3 language in 1603.05(b). The last clause says "marked as
4 follows:", that we would strike "as follows", and then
5 delete all the text in (1) and all the text in (2).

6 CHAIRMAN IGNATIUS: So, it would be
7 "shall be clearly annotated."?

8 MS. KNOWLTON: Or "marked", I guess.
9 Or, if "annotated" is sufficient, that would be fine as
10 well.

11 CHAIRMAN IGNATIUS: All right.

12 MS. KNOWLTON: The next comment I have
13 is on 1604.01, which begins on Page 10. And, that's the
14 "Contents of a Full Rate Case". And, this relates to
15 Subsection (a)(10), which includes now the ability to
16 provide hyperlinks in the rate case filing to things like
17 the SEC 10K forms and 10Qs. And, I wanted to just note
18 that we like that change, and we really appreciate that.
19 I think it makes sense, you know, wherever we can, to do
20 things like hyperlinks. Those are big documents, and it
21 definitely cuts down on a lot of paper. So, I wanted to
22 say "thank you" for making that change. And, we support,
23 you know, any other changes like that that people can
24 think of.

1 In that same 1604.01(a) section, number
2 (14), this is the section that asks -- historically has
3 asked for "compensation for officers and directors of the
4 utility". And, what's new about the rule is that
5 "executives" are now included in that listing. And, we
6 don't know, we're not sure what that means, "executive",
7 it's not defined. I'm not sure who that is within the
8 company that I work for. I know who the officers and
9 directors are, that's very clear. Those are legal terms.
10 And, so, we would propose that "executives" be struck, and
11 that we -- that the rule continue to require the officers'
12 and directors' information, but to not include
13 "executive".

14 And, I would note that I'm not clear
15 also what the need is for that additional information, to
16 the extent that there was a concern that additional
17 information should be provided.

18 The next comment, and I apologize, I'm
19 jumping back a little bit, still in 1604.01, the subpart
20 (a), on Page 10, now asks for "6 copies", instead of "5".
21 And, if six is needed, you know, that's what we'll do.
22 But, again, I just want to make sure that, if another copy
23 is requested, that's because it is needed, and that
24 there's a, you know, a legitimate purpose for that.

1 Because these things are big, and copying costs, you know,
2 really can be significant.

3 There's a number of changes, I'll just
4 -- I'll give you some examples. In 1604.01(a)(5), now,
5 under this proposed rule, would increase the amount of
6 information that's required for charitable contributions.
7 It's dropped the dollar amount to a lot lower. Similarly,
8 (a)(11) now asks for lobbying information; (a)(6) is
9 increasing the disclosure requirements on advertising
10 information. And, you know, each one in and of itself,
11 you know, may not necessarily be a huge burden on the
12 utility. But I would say that there are a number of
13 changes in this part of the rule that relate to the
14 requirements for filing of data in a full rate case that
15 together result in an increase in administrative expense
16 and workload, I would argue, not just on the utility end,
17 but on the Commission's part as well.

18 And, while we can't quantify for you
19 today the dollar impact of that to us to compile that
20 additional information and provide it in a full rate case,
21 you know, we do feel strongly that it will have an impact.
22 It's more information that everyone in the case is going
23 to be receiving and dealing with. And, it's not clear to
24 me, again, what the rationale is for that additional

1 information, and whether the effort that's going to be
2 required to pull that information together is going to
3 support the need for it.

4 And, so, we would ask that you take that
5 into consideration and weigh the expense against the need.
6 I would argue that, if it's needed in a particular case,
7 that, in that case, it could be asked for in a discovery
8 request. But, to create the burden at the outset, I'm not
9 sure there's really a need for that.

10 CHAIRMAN IGNATIUS: Do you have a
11 recommendation on what the appropriate level should be?

12 MS. KNOWLTON: I think we would say
13 "leave it where it was, where it is, under the current
14 rules." We've been operating that way for a long time.
15 And, it takes a lot of effort to pull all this information
16 together. Whether you're, you know, looking at that
17 expense, or there's disclosure requirements for
18 contractual services. I think, you know, again,
19 collectively, all of these changes, the increase in the
20 amount of information that's being provided is quite
21 burdensome.

22 CMSR. HARRINGTON: And, would that apply
23 to the advertising charges in Section (6), on the top of
24 Page 11 as well?

1 MS. KNOWLTON: Yes. And, I'm offering
2 those as examples. And, we can provide written comments
3 and go through, you know, give you -- identify each of
4 them that we have concerns with. But there are a number
5 of changes in that 1604(a) subsection that are increasing
6 the amount of information that utilities would be filing
7 in a full rate case.

8 Where, again, where we have, you know,
9 typically, a lengthy discovery process in a rate case, if
10 there's something specific that's needed from an
11 individual utility, our position is, you know, ask for it
12 in that case. But, to do it across the board, --

13 CHAIRMAN IGNATIUS: Isn't it a little
14 bit circular, though? How do you know to be asking for
15 it, if you're not seeing something to make you realize you
16 should be scrutinizing it?

17 MS. KNOWLTON: Well, I think there is a
18 fair amount of information that's provided already. And,
19 I mean, if you take the advertising or the charitable
20 expense, I mean, it's dropped to \$50. I mean, that's
21 pretty *de minimus*, in my view.

22 CHAIRMAN IGNATIUS: That's for a company
23 under -- I see, and the threshold revenue is now higher as
24 well. So, that's a company under \$100 million revenue.

1 MS. KNOWLTON: Right.

2 CHAIRMAN IGNATIUS: Does your accounting
3 use these same categories, so that, when you do need to
4 pull up one of these sorts of reports, it's already
5 electronically sorted, so charitable contributions, you
6 know, you can query it to pull those forward? Lobbying,
7 that sort of thing? So, that it's not -- you're not
8 hunting through invoices at that point, it's already
9 electronically available to you?

10 MS. KNOWLTON: Yes. We have to go back
11 and talk to our Accounting Department and find out what
12 exactly is entailed when they conduct the search. I know
13 that the comments, you know, that we have on the 1604.01
14 section, you know, they are from our accounting people
15 that are doing this work to pull this together. I mean, I
16 know some of it's automated. But, you know, the numbers
17 still all have to be scrubbed. So, we can provide some
18 more detail about that in our written comments.

19 CHAIRMAN IGNATIUS: Well, I just think,
20 even in the most basic Quick Books programs, it's
21 categorized. You know, you don't have to go flipping
22 through the pages. You simply say "Print me everything
23 that falls into the category of charitable contributions
24 that you've made over the course of the year", and it

1 automatically pops up. So, I guess I'm not seeing where
2 the extra burden is. I think it's a fair question, "do we
3 really need that much information?" But --

4 MS. KNOWLTON: Yes. And, I think, you
5 know, as I said, we'll go back and we'll talk to our
6 accounting people to understand the computer program that
7 we use better, and the specifics that are involved on
8 their end, in terms of the manual interface with what the
9 computer spits out.

10 CMSR. HARRINGTON: Just so we're clear
11 on this, you're not saying that your programs were set up
12 to deal with the existing rules, so that those levels were
13 already calculated in somehow, and now you have to
14 reprogram it?

15 MS. KNOWLTON: No, I don't think so.

16 CMSR. HARRINGTON: Or, is it just going
17 after the information -- it would just be more of it to go
18 after, because the levels are different?

19 MS. KNOWLTON: Right. I think that's
20 what it is. I mean, my understanding is that the
21 accounting, you know, is premised on the FERC Chart of
22 Accounts for electric, and that the accounting is
23 maintained in that manner, consistent with what the FERC
24 Chart of Accounts requires, but not tied specifically to

1 the New Hampshire rules.

2 CMSR. HARRINGTON: All right.

3 MS. KNOWLTON: The next section is
4 1604.02, which is on Page 14. Actually, the Subsection
5 (d) that I will comment on is on the next page, on 15.
6 And, this section says that "The Commission is going to
7 maintain a list on its website of the types of electronic
8 file formats that are compatible with its computer
9 system", which I think is helpful. But I would encourage
10 you to also require, in this subsection, that on your
11 website you indicate what the file size of documents must
12 be that are acceptable to your computer system, because I
13 know there is a limit. And, again, that's just another
14 one, is, you know, I never can remember, is it, you know,
15 six? Is it eight? And, if I knew I had a place to go and
16 find it, that would be really helpful.

17 CHAIRMAN IGNATIUS: And, that could be
18 done just that you go to the webpage and see it?

19 MS. KNOWLTON: Right. And, you could
20 update it as you had IT changes and capability that would
21 accept larger size files. But that would be helpful to
22 us.

23 CHAIRMAN IGNATIUS: All right. That's a
24 good idea. Thank you.

1 MS. KNOWLTON: All right.

2 CMSR. HARRINGTON: Excuse me. You want
3 the information on the webpage as to what size it will
4 accept, is that what you're saying?

5 MS. KNOWLTON: Right.

6 CMSR. HARRINGTON: Okay.

7 MS. KNOWLTON: Yes. Just a place to go
8 and check and say "Okay, you know, is this file going to
9 make it? Do I need to split it up?"

10 1604.03(e) requires that utilities
11 "publish the order of notice in a newspaper of general
12 circulation in the area affected." I would ask the
13 Commission to consider including something in this rule
14 that allows for publication of orders of notice on the
15 Commission's website and/or the company's website. This,
16 I think you know, can be a very significant expense,
17 ultimately, for customers. For Granite State Electric,
18 we're publishing in two newspapers, because we have
19 disparate service territories. We're publishing, for the
20 northern part of our service territory, in the Valley
21 News, and, then, in the Eagle Tribune for the Salem/Pelham
22 area. And, individual publications oftentimes are over a
23 thousand dollars, you know. So, we've got -- we can have
24 a couple thousand dollars of publications just for one

1 order of notice.

2 I know this applies to rate cases. But
3 I would just ask that you consider that, you know, that
4 there be some mechanism to, you know, and maybe it doesn't
5 have to be every circumstance, but, in the right
6 circumstance, to be able to do that, because, again, it's
7 getting very expensive.

8 And, also, I think, you know, there is
9 somewhat of a delay. We get the order of notice. And,
10 you know, we usually do what we can to get it to the paper
11 right away when we receive it. Some papers, the Union
12 Leader, can publish a lot faster than some of the smaller
13 papers. And, so, the public actually would know about
14 something sooner, you know, if we could get it out
15 electronically on the website. You know, then, they may
16 or may not see it one day in the newspaper, if they happen
17 to look at the legal notices. You know, if it sat there
18 on the website, it's, you know, it's there, it's there
19 right away, and it stays there. Whereas, the newspaper is
20 much more fleeting. It's there the day of the
21 publication, and that's it. So, if you could think about
22 that, I would very much appreciate it.

23 CMSR. HARRINGTON: Just out of
24 curiosity, have you, in your experience, have you ever

1 been contacted by someone who said "Well, I just happened
2 to be reading the legal notices. What's this hearing
3 you're having?" I mean, is there some -- I don't know if
4 this is a legal -- this may be a statutory requirement is
5 it, that it has to be in a newspaper like that?

6 CHAIRMAN IGNATIUS: There's notice
7 requirements. And, I will check whether the word
8 "publication" --

9 CMSR. HARRINGTON: Yes. Clearly, it's
10 probably time to change it, because I don't think anybody
11 reads -- they don't sell very many newspapers anyway. I
12 go into the store now early in the morning, there's like
13 five or six there.

14 MS. KNOWLTON: Right.

15 CMSR. HARRINGTON: So, most people
16 aren't buying a newspaper, and the ones that are probably
17 aren't reading the legal notices.

18 MS. KNOWLTON: And, Mr. Hall is telling
19 me that he's been working for 34 years in this industry
20 and has never once had a call. I haven't had a call
21 myself. I can also tell you that it can be, just again,
22 I'm giving you sort of the over side, which is what we
23 deal with back at the office on a day-to-day basis,
24 getting the affidavits of publication out of the newspaper

1 is -- can sometimes be a full-time job. You know, we
2 docket it, we start calling them, "can you please send
3 it", you know, we call in advance. We're chasing them,
4 even though they don't do tear sheets anymore. You know,
5 it seems like it's an easy thing. I'm sure they're, you
6 know, they're just busy with their business. But that
7 becomes a whole other game, is chasing for the affidavits
8 to get that in time. And, you know, we certainly, you
9 know, could do an affidavit, if we published it on our
10 website. We certainly could provide an affidavit from
11 somebody, you know, at the Company that "it was posted as
12 of this date", and that would be very easy to do. But,
13 you know, with the newspapers, there's a lot of
14 limitations, I think.

15 CHAIRMAN IGNATIUS: Commissioner Scott.

16 CMSR. SCOTT: I sympathize with that,
17 and I know, as you say, everybody is not reading the
18 papers as much as they used to. But, obviously, the
19 push-pull here is is -- the difficulty we're trying to
20 figure out is how does the customer get to know, even if
21 it's on your website or our website, typically, my guess
22 is the average customer isn't always looking at your
23 website just in case something gets posted. So, my
24 question was, do you have -- obviously, a lot of people do

1 billing and paying bills electronically, do you have a
2 mechanism that you could push out such information to
3 customers, whether it's e-mails or that type of thing?

4 MS. KNOWLTON: Well, we do -- the 1200
5 rules do require a bill insert when you file a rate case.
6 And that, you know, the draft of the insert we always run
7 by the Consumer Affairs Division here at the Commission,
8 to make sure that that division is comfortable with the
9 content. And, so, actually, the customers are getting in
10 their bill, at the time the rate case is filed, or, you
11 know, very shortly thereafter, they're receiving something
12 in the bill directly that says, you know, "This rate case
13 has been filed. If you want information about it, you
14 know, you can call the PUC, you can go to our website.
15 You know, here's how you access it." And, so, in that
16 regard, we are directly and individually notifying every
17 customer.

18 I don't know that we have the ability to
19 push out an e-mail to all of our customers in order to do
20 that kind of notice. But, I think, in a lot of ways, to
21 me, the bill is a good place for it to go. People, you
22 know, do hopefully see that when they open up their bill.
23 And, we do that already. And, it does come very early in
24 the process.

1 CMSR. SCOTT: I appreciate that. And,
2 as the Chair mentioned, I believe that all the State
3 agencies have this challenge, as far as generally of being
4 required to notice in newspapers, but -- and, in fact,
5 which is why I asked if there is some other mechanism
6 which was -- we could demonstrate is equally as effective,
7 and maybe that's something we should look at. I
8 sympathize, I guess.

9 MS. KNOWLTON: I think that's all we
10 have for today. Again, we'll put some comments in
11 writing. And, if we think of other things, we'll let you
12 know. But those are the things that caught our eye when
13 we went over the rule. And, again, we very much
14 appreciate your hearing our thoughts on that.

15 CHAIRMAN IGNATIUS: Well, thank you.
16 You don't need to restate the things that you've already
17 said. If there are additional comments or proposed
18 language for something that was a little more open-ended,
19 we'd be happy to look at it. But I'd hate you to spend
20 the time to just type up what we've already talked about.
21 We've got it in the transcript, and we've got our own
22 notes from the session today. So, thank you.

23 MS. KNOWLTON: Thank you.

24 CHAIRMAN IGNATIUS: Ms. Hollenberg, do

1 you have comments on the rules?

2 MS. HOLLENBERG: I would just make one
3 comment, based on the discussion that was just going on
4 about the notice to customers. I don't necessarily
5 disagree with finding an alternative to newspaper
6 publication. I would just mention that there are
7 companies that seek waivers of the requirement to send
8 individual notice. So, if the Commission were to change
9 from a newspaper notification to something more akin to
10 doing it on the website of the company and/or the
11 Commission, it would need to be mindful of requests to
12 waive the individual notice to customers, that that
13 happens on occasion. And, that's the only comment I have
14 to offer. Thank you.

15 CHAIRMAN IGNATIUS: Thank you.
16 Ms. Brown.

17 MS. KNOWLTON: May I just make one
18 comment in response to that?

19 CHAIRMAN IGNATIUS: Yes.

20 MS. KNOWLTON: We're not suggesting that
21 we would discontinue the bill insert.

22 MS. HOLLENBERG: Okay.

23 MS. KNOWLTON: We would still do that,
24 because we think that is really important to send that out

1 to the customers.

2 MS. HOLLENBERG: And, I think it's
3 mostly -- I've seen it with small companies --

4 MS. KNOWLTON: Okay.

5 MS. HOLLENBERG: -- that have come in
6 and asked for a waiver of that rule. And, just to be
7 mindful of that that I mention it.

8 CHAIRMAN IGNATIUS: Okay. Thank you.

9 MS. HOLLENBERG: Thank you.

10 MS. BROWN: Okay. Staff has comments.
11 And, I'll start with Mr. Naylor first.

12 MR. NAYLOR: I just wanted to address
13 the issues with respect to the 1604.01, "Contents of a
14 Full Rate Case", particularly with respect to the items
15 sought in (a)(5), (a)(6), and (a)(11). And, more
16 particularly with the issue of these requirements being
17 burdensome. It's important to note here that, in all
18 three of those requests, the Commission's rules are
19 calling for a list of these items, whether it's charitable
20 contributions or advertising expenses, only that are
21 booked above the line. These three areas charitable,
22 advertising, and membership fees and dues and lobbying,
23 are typically not items that are includable in the
24 utility's cost of service.

1 If they're booked below the line, which,
2 in most cases, they probably should be, then they're not
3 required to be provided. So, it's only items booked above
4 the line and, therefore, without scrutiny, they would be
5 included in cost of service and, therefore, included in
6 customer rates.

7 CMSR. SCOTT: Before you continue, so,
8 can you show us where that "above the line" language is
9 clear?

10 MR. NAYLOR: Yes. In (a)(5), which is
11 Page 10, "A detailed list of charitable contributions
12 charged in the test year above the line".

13 CMSR. SCOTT: I see it now. Thank you.

14 MR. NAYLOR: And, a definition of "above
15 the line" has been added to rules. And, the definition is
16 "any item that's includable in the calculation of net
17 operating income" -- or, "net utility operating income."

18 CMSR. HARRINGTON: Mr. Naylor, can I
19 just interrupt one second? Ms. Knowlton, were you aware
20 of the "above the line" thing going in, because that was
21 different from the present rules in the past, where it
22 would apply to everything?

23 MS. KNOWLTON: Yup. Yes.

24 CMSR. HARRINGTON: So, your comments

1 still stand?

2 MS. KNOWLTON: Yes.

3 CMSR. HARRINGTON: Okay. Thank you.

4 Excuse me, Mr. Naylor. Go ahead.

5 MR. NAYLOR: Yes. And, the other one I
6 wanted to comment on with respect to the publishing of
7 notice. You know, my division works, of course, with a
8 lot of smaller companies, the water and sewer companies.
9 And, I think, and we've always struggled, the Commission
10 has always struggled with proper notice and trying to get
11 notice to customers. With some of the smaller companies,
12 as the Commission knows, we have some seasonal components
13 to some of the customer bases. They're not reached by a
14 newspaper generally. So, I mean, I think the approach
15 that Staff has advocated for, and, certainly, the Consumer
16 Affairs Division, under Ms. Noonan, has advocated for, is
17 that the more notice, reasonable notice that the
18 Commission can provide, the better. So, certainly,
19 publishing on a website, whether it's the Commission's
20 website or the utility's website, if it has one, is
21 helpful. But I don't think that that necessarily should
22 take the place of other more traditional notice, which has
23 usually been newspapers.

24 In many of the communities, I shouldn't

1 say "many", a number of the communities, there's a weekly
2 newspaper. We've run into that in a number of cases with
3 the small companies. And, you know, it can create a
4 little bit of a problem, in terms of the Commission
5 directing the utility to publish a notice by a certain
6 date, and ends up being, you know, they got one day to
7 essentially get it in the weekly, something like that.

8 But, sympathetic with the comments with
9 regarding the cost of publication, but I don't think that
10 that should be eliminated entirely, with respect to
11 newspaper publication. There are people out there that
12 don't have computers, too, which is hard to believe these
13 days. But a number of times we've gotten comments that
14 people interested in submitting comments on a rate case or
15 something like that, they have to do it by mail, regular
16 mail. So, --

17 CHAIRMAN IGNATIUS: Mr. Naylor, are you
18 aware of any utilities that have set up an alert system
19 that says "if you're interested in hearing about the news
20 from the utility," you know, however they want to define
21 it, you know, "sign up here." I mean, businesses do that
22 all the time now. And, I often regret asking for the
23 alerts after I get, you know, twelve in two days. But
24 that would be, for those who do have computers, wouldn't

1 that be an easy way to develop that kind of communication
2 between the utility and its customers?

3 MR. NAYLOR: I don't know off the top of
4 my head whether any of the utilities in the gas/water area
5 have it. I don't. Not that I'm aware of.

6 CMSR. HARRINGTON: Just a follow-up
7 question on this issue. You had said that there's a
8 number of your water companies have seasonal ratepayers,
9 because they're only there during the summer or something
10 like that. They're not probably getting the local
11 newspaper at all, whether it's a daily or a weekly, if
12 they live, you know, 200 miles away, in Massachusetts or
13 something. So, wouldn't they -- but they would get a
14 bill, presumably they get billed year-round. So, wouldn't
15 they get the -- the bill insert be probably the best way
16 to get to them?

17 MR. NAYLOR: Yes. Yes. That's, you
18 know, we've tried to make sure that that happens, that
19 some kind of notice is provided ahead of time. Also, with
20 the small companies, where we have substituted for
21 newspaper publication, is direct notice through, you know,
22 mailing the order of notice to each customer individually.
23 That was done, in fact, in the case of the two utilities
24 that were the subject of the prehearing conference this

1 morning, for White Rock Water and Lakeland Management, and
2 that's provided for in these rules, that a direct mailing
3 to each customer can substitute for publication. So, --

4 CMSR. HARRINGTON: And, does the --
5 would it have to be a special direct mailing, where it was
6 just the order of notice, or is including that in a bill
7 that's already being sent out qualify as something that
8 would preempt the need for a order -- a notification in
9 the newspaper?

10 MR. NAYLOR: I don't think that's ever
11 been a substitute for so-called "direct notice".

12 CMSR. HARRINGTON: Okay.

13 MR. NAYLOR: Not that I recall.
14 Typically, the Commission's prehearing conference orders,
15 as you know, direct the utility to make a separate notice,
16 attempt to notice, either through publication or through a
17 direct mailing to customers.

18 CMSR. HARRINGTON: And, Ms. Knowlton,
19 I'm assuming, on the case of larger utilities, that that
20 wouldn't be considered a very acceptable alternative,
21 because now, instead of paying for the newspapers, you're
22 going to be paying a lot of money in postage and handling
23 just to send these separate letters out?

24 MS. KNOWLTON: Yes. It would be very

1 expensive to do that. And, in that case, I would choose
2 the newspaper publication.

3 CMSR. HARRINGTON: Thank you.

4 MS. KNOWLTON: We do, by the way, do --
5 I mean, Liberty does have some use of Twitter, I believe,
6 and Facebook during storms. I know there's -- Twitter has
7 been used, and I know there's been some use of Twitter to
8 make interested people aware of energy efficiency
9 opportunities, just as another mechanism. I don't know
10 that it's been used in a more widespread manner. And, I
11 don't know the percentage of people, you know, our
12 customers that are using Twitter. The way I understand --
13 I'm not a Twitter expert, but the way I understand it is
14 that anyone could decide that they wanted to, you know,
15 follow the Company on Facebook or sign up for the Twitter.
16 So, just because someone signs up, doesn't necessarily
17 mean they're our customer. But there is some use of that
18 social media to communicate.

19 CHAIRMAN IGNATIUS: Thank you.

20 Commissioner Scott.

21 CMSR. SCOTT: I keep asking. Obviously,
22 direct mailing is probably the best, not necessarily the
23 cheapest, but the best notification possible, I would
24 assume. But I will note that I know other state agencies

1 actually send a notice to the applicable -- the towns that
2 are impacted, so that could be posted in the town offices.
3 So, I just throw that out as that may be something we want
4 to consider also, as we look at alternative methods and
5 try to evaluate the impact that may have.

6 MR. NAYLOR: Usually, when we, and
7 Ms. Brown may remind me details, when the Commission
8 typically has ordered publication, I think they're also
9 directed to provide a copy to the town clerk. I don't
10 know if that's unique to just the water and sewer
11 companies, but the town clerk is also provided notice.

12 I have one other comment, if I might?

13 CHAIRMAN IGNATIUS: Please.

14 MR. NAYLOR: On Page 11, it's Item (14).
15 Comment was offered with respect to the addition of the
16 word "executives". I think it's important to note that
17 this whole Section 1604.01, "Contents of a Full Rate
18 Case", everything that's requested here is to provide
19 information that may, in a small way, help to streamline
20 the discovery in the case. These are rate investigations
21 that we're talking about here. And, these are all of the
22 items that, if the Company provides them initially, it's
23 helpful for Staff and the Consumer Advocate, and any other
24 participating parties, rather than having to go through

1 discovery to get these things, I don't think it's onerous
2 to request this compensation information. The utility has
3 the obligation to demonstrate that their request is
4 reasonable. The burden is on the utility, of course. Any
5 cost that's proposed to be included in customer rates is
6 subject to review and scrutiny by the Commission. So,
7 officers, executives, directors, these are all costs that,
8 if they're includable in the cost of service, they can be
9 and should be reviewed.

10 I understand there's a little bit of
11 confusion about specifically how you define an
12 "executive", but I don't think that's an impediment to
13 providing information. I think the utility can use its
14 judgment as to which of its employees are executives and
15 provide the information.

16 CHAIRMAN IGNATIUS: Have you found cases
17 where a senior management official of a utility did not
18 have their compensation disclosed, because they didn't --
19 they weren't called an officer and they weren't a
20 director? I mean, are we solving a problem that we've had
21 where you end up having to chase down some additional
22 compensation figures?

23 MR. NAYLOR: I believe so. I can't
24 think of the examples.

1 CHAIRMAN IGNATIUS: I mean, if there's a
2 gap, then, I think that plugging that gap and making it
3 clear in the rule is appropriate. But we should be sure
4 we really are defining what it is, making certain that --

5 MR. NAYLOR: Right.

6 CHAIRMAN IGNATIUS: -- that that's
7 understood, and either with a definition of "executive" or
8 any other language. So, maybe think about that.

9 MR. NAYLOR: Yes. I think there's
10 generally been some sensitivity to the disclosure of
11 compensation levels for employees throughout an
12 organization, you know, not -- and employees not
13 necessarily at the top of the organization chart. And, I
14 think, typically, you know, requests for confidential
15 treatment are considered, if there's, you know, more
16 widespread, you know, review or putting into the public
17 record compensation levels of other employees. So, I
18 think there's ways to deal with it. But I'm not sure, I
19 can't offer a better explanation or better definition of
20 "executives". I'm not sure exactly what we would --

21 CHAIRMAN IGNATIUS: Commissioner
22 Harrington.

23 CMSR. HARRINGTON: Yes. I'm just -- I'm
24 trying to figure out what the problem is. I understand

1 "officers and directors", because that's a defined legal
2 term, I would guess, you know, the Company had set up.
3 So, what is it -- what information do you feel that's
4 being missed by not having "executives" there? Is it --
5 is there -- if someone makes over a certain amount of
6 money or do they have so many people work for them? What
7 constitutes someone whose salary that you have to know
8 about as compared to someone whose salary you don't have
9 to know about?

10 MR. NAYLOR: Well, it's a question of
11 ensuring that it's reasonable, I think, is the first -- is
12 the first basis. In my experience, when we've looked at
13 officer/executive compensation, we want to see what -- see
14 what it is. Is it reasonable? How does it compare with
15 executives in other businesses and other utilities? We
16 have had utilities provide us with studies of executive
17 compensation to show that, you know, that the compensation
18 that's being passed through to customers is reasonable.

19 So, I think, previously, to this point,
20 these levels of compensation were requested in discovery,
21 by Staff or other parties. And, so, it's simply a
22 proposal here to include it in the list of items that the
23 utility would provide with its rate case filing. If it's,
24 you know, for whatever reason, it's objectionable and the

1 Commission decides to strike it, then, Staff, Consumer
2 Advocate, or other parties can go back to, you know,
3 exploring it through discovery.

4 CMSR. HARRINGTON: Well, I'm just --
5 what I'm trying to get is the level that you feel you need
6 the information of. I mean, utilities we're dealing with
7 deal with some people who are very highly compensated from
8 a large utility, to ones where there's literally four or
9 five people working there. And, you know, they may call
10 all of them "vice presidents" for all I know. But is
11 there something where you say that, again, let's go to a
12 big utility, they're going to have a lot of people that
13 are working there that probably aren't considered
14 "executives", engineers, supervisors, lawyers, that are
15 being compensated at a higher level than the highest, than
16 the president of a small water utility, for example.

17 So, is it just -- I'm trying to see what
18 is it you're trying to get to beyond a legal definition of
19 certain types of people who are classified as, you know,
20 officers or directors, versus everybody else, regardless
21 of what their pay is?

22 MR. NAYLOR: I don't think it's anything
23 other than to make sure the compensation levels are
24 reasonable.

1 CMSR. HARRINGTON: But, eventually,
2 everybody's salaries are put into rates, correct?

3 MR. NAYLOR: Correct.

4 CMSR. HARRINGTON: But you draw a
5 particular line where you said "we don't go down and look
6 at what they're paying the file clerks or the receptionist
7 or the janitors", as compared to the people that are
8 classified as "executives", whatever that -- exactly that
9 means?

10 MR. NAYLOR: True. True.

11 CMSR. HARRINGTON: All right.

12 MR. NAYLOR: But, I mean, the people at
13 the top generally set the salaries, or the board of
14 directors. So, I think there's more -- it's prudent for
15 the regulatory agency and other participating parties to
16 focus more attention on the upper levels of the
17 organizational structure.

18 CHAIRMAN IGNATIUS: Well, I think we're
19 still struggling with what would fit within the category
20 of "executive" that doesn't already fit within "officer"
21 and "director". So, think about that, if there's other
22 language that would be clearer, so that the companies
23 don't have to guess at what they should be submitting.

24 CMSR. SCOTT: Would it, I'm not

1 suggesting this is the right solution, but would it meet
2 your goal, for instance, if the utilities were required to
3 report their top 1 percent salary levels, that type of
4 thing? Or, I mean, that would be -- certainly may not be
5 desirable, but it certainly would be more concrete.

6 MR. NAYLOR: Well, I guess I'd like to,
7 you know, if you're looking to Staff to make a -- to make
8 a recommendation for some additional language here, I
9 certainly would like to consult with the other divisions.
10 As you know, a number of the recommended changes here came
11 from a process of the different divisions here working
12 together to hopefully improve these requirements. We've
13 stripped out some of the requirements. We have set aside
14 and created a second section for smaller utilities that
15 has fewer requirements. So, I certainly would like to
16 discuss it with the other divisions and propose something
17 that might make sense.

18 CHAIRMAN IGNATIUS: That's fair. Thank
19 you. Anything further? Any other responses, Ms. Brown?

20 MS. BROWN: No.

21 CMSR. HARRINGTON: Is she saying "no"?
22 I'm not sure.

23 MS. BROWN: The Staff attorney has
24 nothing further. Mr. Naylor covered it thoroughly. Thank

1 you. With the exception of, I think we inadvertently --
2 the Commission inadvertently deleted the "(c)" in
3 1601.01(c). The strike-out extends over to the numeral --
4 or, letter (c), which I think was inadvertent.

5 CHAIRMAN IGNATIUS: Thank you. Any
6 other comments? Ms. Mullholand?

7 (No verbal response)

8 CHAIRMAN IGNATIUS: Ms. Knowlton or Mr.
9 Hall?

10 (No verbal response)

11 CHAIRMAN IGNATIUS: No. Ms. Hollenberg?

12 MS. HOLLENBERG: No thank you.

13 CHAIRMAN IGNATIUS: Thank you then. Oh,
14 I did want to ask the Staff, why the increase from five
15 copies to six, for the submission of a rate case, at
16 1604.01(a)?

17 MR. NAYLOR: Yes, I'm not sure I have
18 the answer for you. I know that it was pointed out that
19 there were some inconsistencies with the number of copies
20 required in different areas. And, I don't know if it was
21 just within the 1600 rules or in other areas. I know, for
22 filing tariffs, and that's in the 1600, I think it's an
23 original and two copies. But I think there were some
24 inconsistencies. I just don't know off the top of my head

1 where they were. And, I think, as also part of the
2 discussions on this renewal of these rules that five
3 copies just didn't, you know, wasn't enough to get one to
4 either the Consumer Affairs Division or the Legal Staff, I
5 forget. And, I think we determined that it just five
6 wasn't -- we were at least one short. So, -- because one
7 goes to the Clerk, one each to the Commissioners, there's
8 four, and then, typically, Legal Department gets one, the
9 Division gets one, and Consumer Affairs. That's like
10 seven. So, --

11 CMSR. HARRINGTON: Oh-oh.

12 MR. NAYLOR: But I'm not sure that -- I
13 think it was determined that Consumer Affairs would not
14 automatically get a copy, that if they had issues to raise
15 in a proceeding they typically are involved in in dockets
16 as each of the other divisions are. So, I think six was
17 deemed necessary.

18 CHAIRMAN IGNATIUS: We should take a
19 look at that internally. We seem to be going the opposite
20 direction of the world to do more electronically, and to
21 be asking for more hard copies seems discouraging. But
22 we'll take a look at that.

23 I also wondered about your view on the
24 letter categorization in a rate case, how much your staff

1 relies on those little notations, what's a rate change, as
2 a "C" and "I", all of those notes? Are you -- would it be
3 a problem for you if it were changed to be just redlined,
4 so you would see it without the little characterization?

5 MS. BROWN: Staff is fine with the
6 proposed deletion by Attorney --

7 MR. HALL: Sarah Knowlton.

8 MS. BROWN: -- Knowlton, Knowlton,
9 sorry, you've been away too long. As she said, she had
10 run that change by OCA and Staff prior to today's public
11 hearing. And, yes, we think it's a relic of typewriter
12 age, and that redline would be sufficient. When we pick
13 it up, we're going to know automatically whether the rate
14 is increased or decreased, if a paragraph has been
15 inserted. So, I think Staff is fine with removing that
16 paragraph. But, because these edits were a joint project
17 among all the divisions, we'd like to just run that change
18 by everybody, just to make sure that everyone is okay with
19 just going straight redline.

20 CHAIRMAN IGNATIUS: All right. And,
21 Ms. Hollenberg, that would work for you, if it were just
22 redlined?

23 MS. HOLLENBERG: That's acceptable.

24 CHAIRMAN IGNATIUS: All right. Anything

1 else?

2 (No verbal response)

3 CHAIRMAN IGNATIUS: I appreciate your
4 comments. If you have further thoughts on new areas not
5 addressed or any additional thoughts or suggested language
6 on the ones we've talked about today, please submit them
7 in writing. It's due by October 8th, by the end of the
8 business day. And, we will then work through all of the
9 comments and prepare a final draft for submission in the
10 rulemaking process.

11 So, thank you very much for your going
12 through it carefully, really thinking about it. And, we
13 are adjourned.

14 **(Whereupon the hearing was adjourned at**
15 **2:39 p.m.)**