

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

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Concord, New Hampshire

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RE: IR 13-244
ELECTRIC AND GAS DISTRIBUTION UTILITIES:
Investigation into Payment Hierarchy
between Competitive Energy Suppliers and
Electric and Natural Gas Distribution
Utilities. (*Prehearing conference*)

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

Sandy Deno, Clerk

APPEARANCES: Reptg. Unutil Energy Systems and
Northern Utilities:
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Reptg. N.H. Electric Cooperative:
Mark W. Dean, Esq.

Reptg. Granite State Electric Company and
EnergyNorth Natural Gas, d/b/a Liberty Util.:
Kevin Baum, Esq. (Devine, Millimet & Branch)

Reptg. Public Service of New Hampshire:
Matthew J. Fossum, Esq.

COURT REPORTER: Steven E. Patnaude, LCR No. 52

ORIGINAL

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Reptg. Retail Energy Supply Association:

Douglas L. Patch, Esq. (Orr & Reno)

Reptg. Electricity N.H. d/b/a E.N.H. Power:

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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 IR 13-244. This is a docket opened at the request of the Office of Consumer Advocate and the Commission Staff to consider investigating the merits of establishing a revised payment hierarchy between electric distribution utilities and competitive energy suppliers that allocates payment in a more equitable manner than provided by current practice. That was a statement made by the OCA and the Staff in a letter filed in another docket. And, the Commission accepted the recommendation and opened this docket, an investigatory docket. And, so, by an order of notice dated August 20th, we scheduled this preliminary hearing today, to take any requests for intervention, discuss any procedural matters, get an understanding of an overview of the docket, and develop a procedural schedule afterwards.

So, let's begin first with appearances. And, then, after we do that, we'll take up interventions.

MR. EPLER: Good afternoon. Gary Epler, counsel for Unitil Energy Systems and Northern Utilities. Thank you.

CHAIRMAN IGNATIUS: Thank you.

MR. DEAN: Good afternoon. Mark Dean,

1 representing the New Hampshire Electric Cooperative.

2 MR. BAUM: Good afternoon. Kevin Baum,
3 of Devine, Millimet & Branch, representing Granite State
4 Electric and EnergyNorth, both doing business as Liberty
5 Utilities.

6 MR. FOSSUM: And, good afternoon.
7 Matthew Fossum, for Public Service Company of New
8 Hampshire.

9 MR. MUNNELLY: Robert Munnelly, here on
10 behalf of North American Power. And, with me is Taff
11 Tschamler from the Company.

12 MR. PATCH: Doug Patch, from Orr & Reno,
13 on behalf of the Retail Energy Supply Association.

14 MR. ASLIN: Chris Aslin, from Bernstein
15 Shur, on behalf of Electricity N.H., LLC, doing business
16 as E.N.H. Power.

17 MR. RODIER: Jim Rodier, for PNE Energy
18 Supply.

19 MR. ECKBERG: Good afternoon,
20 Commissioners. For the Office of Consumer Advocate this
21 afternoon, I'm Stephen Eckberg. And, with me today is my
22 colleague James Brennan.

23 MS. AMIDON: Pardon me. Suzanne Amidon,
24 for Commission Staff. To my immediate left is Amanda

1 Noonan, who is the Director of the Consumer Affairs
2 Division, and to her left is my colleague in the Legal
3 Department, Mike Sheehan, who will be co-counsel on this
4 docket.

5 CHAIRMAN IGNATIUS: Thank you. Welcome,
6 everyone. We do have intervention requests filed by PNE
7 Energy, the Retail Energy Supply Association, Electricity
8 New Hampshire, and North American Power & Gas, and all of
9 you are here today. I don't see any other requests for
10 intervention in the docket filings. Is anyone aware of
11 anyone further who is seeking to intervene?

12 (No verbal response)

13 CHAIRMAN IGNATIUS: Doesn't appear there
14 are. Are there any objections to the requests to
15 intervene?

16 MR. EPLER: No objections.

17 CHAIRMAN IGNATIUS: All right. And, we
18 also don't see any basis not to grant the intervention. I
19 think they have made out their case. And, so, we will
20 grant those four requests for intervention. We also have
21 a statement from the Office of Consumer Advocate that it
22 intends to participate.

23 And, so, I think it now becomes a
24 question of discussing the scope of the docket and any

1 sort of summary and the expectation of issues that are out
2 ahead of us. And, I'm going to turn to Staff and the OCA
3 to go first, since they were the ones who kind of
4 initiated this thing. But one of the questions I have is,
5 in the order we granted -- we required the gas companies
6 to be mandatory parties to this docket. We weren't
7 entirely sure how applicable these issues are to the gas
8 utilities, but we thought bringing them forward into the
9 discussion. And, if it isn't appropriate, we would take
10 argument on why they should not be. And, if it is
11 appropriate, on why we should maintain them as mandatory
12 parties. So, I'll throw that out to people to, when you
13 make any sort of comments, to think about that question,
14 if you have an issue, yes or no, on whether or not the gas
15 utilities should also be mandatory parties, as well as
16 electric. I mean, the issues certainly arose in the
17 context of electric service.

18 MS. AMIDON: One moment.

19 CHAIRMAN IGNATIUS: Take your time.

20 MS. AMIDON: All right. Thank you.

21 Insofar as the gas companies goes, Staff understands that
22 the gas companies do not serve residential customers,
23 which is the primary concern that the OCA and Staff shared
24 when we proposed this investigation. And, we do not

1 believe that they need to be necessary parties. So,
2 that's our view on that.

3 Just to flesh out a little bit more
4 about what Staff was thinking when it decided to file this
5 letter with the OCA. First of all, we think there should
6 be some kind of -- well, the payment should be -- the
7 payment hierarchy should be reviewed and looked at. And,
8 some of the concerns of the competitive suppliers may be
9 legitimate, in the sense that, if they do not get paid,
10 they begin to call customers, residential customers, and
11 indicate that they're going to terminate service or
12 something like that. There needs to be better -- a better
13 way to deal with that on a more uniform basis. And, as I
14 understand it, Liberty, and they can correct me if I'm
15 wrong, Liberty, Unitil, and PSNH all have tariffs which
16 require the payment to go to the -- first, in the first
17 instance, to the distribution utility. And, I think that
18 should be reviewed to determine, in cases where we do have
19 competitive supply, how the supplier's portion of the bill
20 gets paid.

21 Secondly, I think one of the things
22 we're also concerned about, and probably wasn't stated in
23 the letter, is that there needs to be some clarity about
24 responsibilities for collection. I think, in most

1 instances, if the utilities are doing the collection, then
2 perhaps they should be the ones responsible for calling
3 customers when bills are not paid on a timely basis. But
4 there needs to be some clarity in that regard. And, what
5 mechanism that is, I'm not sure. Whether it's part of the
6 agreement between the utility and the competitive
7 supplier. But, certainly, it is confusing for customers,
8 if they're getting calls from both the utility and the
9 competitive supplier. And, that's the kind of concern
10 that we continue to have.

11 And, finally, we believe that there
12 should be some communication or a better means of
13 communication between the distribution utilities and the
14 competitive suppliers regarding customers who may be on a
15 budget plan or on a payment plan with a utility, where
16 they make, say, a fixed payment of \$100 per month, and for
17 a period of time, to pay for their electric bill for the
18 entire year.

19 As far as I know, some of these
20 communications don't take place on a regular basis. And,
21 we think the uniformity of communicating on whether a
22 customer is on a low income or a budget plan or a payment
23 plan is important, in considering not only the allocation
24 of money, but who's making calls, and determining

1 something is a late payment or not. One moment.

2 So, these are the elements that we
3 believe should be investigated by the Commission. And,
4 the Commission should evaluate to determine if there is a
5 better way going forward to allocate the payments and to
6 communicate clarity about responsibilities and about
7 customer status. Thank you.

8 CHAIRMAN IGNATIUS: Thank you. That's
9 helpful. Mr. Eckberg, --

10 MR. ECKBERG: Yes.

11 CHAIRMAN IGNATIUS: -- does OCA have
12 further to add to that?

13 MR. ECKBERG: One additional comment.
14 We certainly support the comments that Ms. Amidon has made
15 and clarifying the issues before the Commission in this
16 docket. I would point out that I believe simultaneously
17 the Commission is working on upgrading its 2000 rules,
18 which has to do with competitive suppliers. And, there
19 may be an opportunity, within that effort as well, to
20 address issues that pertain to this hierarchy of payments.
21 But I think that I just wanted to point that out. Is
22 there something there that may interact? Thank you.
23 That's all we have.

24 CHAIRMAN IGNATIUS: Thank you. And,

1 either, whether this docket becomes an input to that
2 rulemaking, or the rulemaking helps develop things,
3 whether we need two things or two proceedings or one, I
4 appreciate that. There may be some overlap.

5 Why don't then we just work our way
6 around the room with other comments in response. I have
7 no particular order, if anyone wants to go first.
8 Otherwise, Mr. Epler, you get stuck being in the front
9 seat there.

10 MR. EPLER: Well, in that case, I'll
11 volunteer to go first.

12 (Laughter.)

13 CHAIRMAN IGNATIUS: Thank you.

14 MR. EPLER: Thank you. Good afternoon.
15 A couple of things. First, in terms of the scope, and I
16 think that Staff outlined the scope, as to some of the
17 issues that were discussed at the -- I think it was the
18 last technical session we had in the Purchase of
19 Receivable docket, certainly, the questions that arose
20 there. There is a matter that --

21 CMSR. SCOTT: Is your mike on?

22 MR. EPLER: Okay. Is it on? I think
23 it's on now. Sorry. There is a matter I would like to
24 disclose. As a result of that technical session, the

1 Company went back and, as indicated by Attorney Amidon,
2 the -- UES's tariff does provide that, if we receive a
3 partial payment, we are to apply the proceeds first to
4 distribution, and then to the supplier's account. We have
5 determined, however, that that is not what we are doing.
6 And, we have been prorating our payments. So that
7 payments, for example, if we have a bill that is
8 40 percent distribution charge and 60 percent competitive
9 supplier charge, and we get a partial payment in, we will
10 allocate that payment 40 percent to distribution and
11 60 percent to the competitive supplier. We were,
12 actually, upon learning of that, we were about to rectify
13 it, to bring it in line with our tariff. And, that's when
14 the Commission issued its order of notice. And, we
15 figured, well, since this issue is going to be before the
16 Commission, there may be some changes, we would leave that
17 in place. Because we felt that, upon examining it, we
18 didn't believe that anyone was being harmed, other than
19 potentially the Company, because we were taking less than
20 what we were entitled to under the tariff. But we didn't
21 think that our customers would be harmed or the third
22 party suppliers. So, we decided to keep that in place.
23 We did -- I did have a discussion with Staff to advise
24 them of this, and just on an informal basis, to let them

1 know that this was happening.

2 On the gas side, as, again, as Staff
3 indicated, we don't see it as an issue. Any customer
4 that's taking third party supply is not taking
5 consolidated billing. So, they are wholly dealing with
6 their own billing and collections.

7 CHAIRMAN IGNATIUS: Can I ask you,
8 though, is that the way it happens to be or is that a
9 requirement that they not take consolidated billings?

10 MR. EPLER: It's not a requirement.
11 That is the way it happens to be. Our experience in other
12 states, as well as New Hampshire, is that, in terms of
13 large customers, the third party suppliers prefer to
14 maintain the relationship with the larger customers.
15 That's not the case with the smaller customers, they're
16 willing to do consolidated billing. And, thus, the issue
17 of purchase of receivable arises. That may not be
18 entirely uniform, but that's pretty much what we see in
19 the different states.

20 CMSR. HARRINGTON: Excuse me, just to
21 follow up on that.

22 MR. EPLER: Sure.

23 CMSR. HARRINGTON: At this time, UES has
24 no gas customers with consolidated billing, is that

1 correct?

2 MR. EPLER: That would be Northern.

3 CMSR. HARRINGTON: Okay.

4 MR. EPLER: And, that's correct.

5 CMSR. HARRINGTON: Thank you.

6 MR. EPLER: The only other issue that I
7 wanted to emphasize that, again, Staff also raised, is the
8 issue of contact with customers. We have had a number of
9 third party suppliers who have been sending letters
10 directly to customers, if there are arrearages. And, this
11 has created some customer confusion. We have received
12 recently a fairly large number of calls from customers who
13 are on third party electric supply somewhat confused,
14 thinking that either they had worked out some kind of
15 payment arrangement with us, or they had just made a
16 payment, and they weren't sure who -- why they were
17 getting this letter. And, what's happening is sometimes
18 there is a mismatch or a delay in the information that the
19 third party supplier may have, in terms of the status of
20 account, compared to the information we have. But, for
21 whatever reason, there are these customer issues that are
22 arising. So, we have been in discussions with the third
23 party suppliers and asking them, while this docket is
24 before the Commission, if they could refrain from sending

1 letters until that issue is worked out, and we're in the
2 process of negotiating that issue. And, so, we'd like to
3 see that addressed, at least on a temporary basis, to have
4 some kind of cessation of that activity while we're
5 discussing this. Thank you.

6 CHAIRMAN IGNATIUS: Thank you. Mr.
7 Dean.

8 MR. DEAN: Thank you. First of all, I'm
9 essentially profoundly ignorant of the gas side of the
10 issue, and the Cooperative doesn't really have a position
11 one way or another concerning that.

12 And, with regard to the general scope,
13 as described by the Staff, and I think as amplified by
14 Mr. Epler, is essentially what we would understand it to
15 have been from the notice.

16 By way of background for the Co-op, the
17 Co-op has only had experience with consolidated billing
18 for about a month and a half now. We haven't had, prior
19 to that, suppliers seeking or electing that route. In
20 that limited time period, I think we're only aware of one
21 member who hasn't paid the entire bill owing in all
22 respects. So that we've only had one member that we know
23 of that has in any way been impacting by the hierarchy
24 issues, etcetera, and have not received any complaints on

1 that. But, obviously, the issues raised in the docket,
2 presumably, over time we will see those.

3 I think the only thing I would really
4 add to Mr. Epler's comments is that I think, to the extent
5 there are issues with consolidated billing, whether it's
6 the hierarchy or communication issues, which cause
7 confusion or dissatisfaction for members and consumers,
8 we're obviously concerned about that, and would like to
9 better understand what those issues are and how they might
10 be resolved.

11 I also think that it's important, as you
12 go through this process, to keep in mind that I think,
13 when consolidated billing was really first created or put
14 on the table during the whole restructuring process, I
15 think the general idea was that the utilities were already
16 in the business of doing billing, and that there was a
17 certain efficiency that might be available, not required,
18 but available for competitive suppliers to take advantage
19 of, that might produce, essentially, lower costs, as
20 opposed to having them go out and recreate that wheel.
21 And, that the utilities basically made their existing
22 billing structure and mechanisms, with some minor tweaks,
23 to accommodate the consolidated billing, available at a
24 price.

1 To the extent we start talking about
2 changes in the systems that were there and are there,
3 whether it's about communications or it's about the way
4 the computer systems have to work in applying -- in
5 applying proceeds from payments, you know, there may be
6 additional costs. They may be small, they may be great,
7 but I think we need to keep that in mind.

8 And, other than that, I think there was
9 one issue that was raised, I think was mentioned about the
10 EAP. And, that is one issue that isn't necessarily
11 confined to consolidated billing. I know the Co-op has
12 had members, who are EAP participants, switch to a
13 competitive supplier. Thereby, clearly, unless the
14 competitive supplier is giving them the kind of discount
15 on their power supply that they would have gotten from the
16 utility under the EAP, the member is actually
17 disadvantaged and paying more. So, there's a question
18 there, I think, that I don't know if this is the docket to
19 deal with, but it was certainly an issue when you talk
20 about communication with consumers. That's a situation,
21 obviously, that I don't think anyone would want to have
22 happen. Thank you.

23 CHAIRMAN IGNATIUS: Thank you. Mr.
24 Baum.

1 MR. BAUM: Yes. Well, to begin, to
2 address the gas side, EnergyNorth similarly has no --
3 currently has no suppliers using consolidated billing.
4 So, the Company's position would be that the gas companies
5 not be mandatory parties.

6 One, to begin with one clarification to
7 the Staff letter. Granite State does apply partial
8 payments first to the utility past due amounts. But one
9 difference from what was described in the Staff letter is
10 that the payments are then applied to supplier past due
11 amounts, then the utility current amount, and then
12 supplier current amount. I just wanted to clarify that.

13 As for our position here, the Company
14 shares the concern that was indicated by the Co-op, about
15 increased costs due to changes in billing. My
16 understanding, in speaking with the people -- our billing
17 people have said it will not be little, there will be
18 significant costs to make those changes. So, we wanted to
19 make sure that those are kept in mind.

20 CHAIRMAN IGNATIUS: This can all be
21 developed through the course of the docket. But it seems
22 illogical to me that, if you're already splitting up
23 payments in a four-stage hierarchy you described, --

24 MR. BAUM: Uh-huh.

1 CHAIRMAN IGNATIUS: -- why splitting it
2 up in a different, but still allocating it through some
3 sort of protocol, why that should be so expensive to do?

4 MR. BAUM: It's the matter of the
5 programming costs, is my understanding, and building --
6 and, well, and in one instance, at least for Granite
7 State, is we're in the process of building out the system
8 as well. And, so, there is some concern about delay in
9 that build-out due to a change as we go forward. So, --

10 CHAIRMAN IGNATIUS: All right.

11 MR. BAUM: And, then, the Company
12 similarly shares concerns, obviously, with the customer
13 communications. But, also, we're concerned about the
14 potential unintended consequences of increased customer
15 disconnections, if the payment structure changes and the
16 past due amount aren't applied first to the distribution
17 company. So, thank you.

18 CHAIRMAN IGNATIUS: Thank you.
19 Mr. Fossum.

20 MR. FOSSUM: Thank you. I'll try not to
21 reinvent the wheel too much by parroting what others have
22 said. I'll say PSNH does share the concerns that have
23 been raised about some of the confusing or potentially
24 confusing customer communications issues. I would point

1 out in that regard that PSNH's consolidated billing is
2 like the consolidated billing of the other utilities, it's
3 on optional service. And, so, to the extent that the
4 suppliers are taking the billing service, and choosing to
5 take the billing service, it comes in conjunction with
6 collection services that the Company offers. So, you
7 know, it would be our position that, if the Company -- if
8 PSNH is doing collections, that the suppliers should not,
9 at the same time, be sending notices to customers to
10 collect on essentially identical amounts.

11 In the same regard, because, as you've
12 heard this morning, there are -- or, this afternoon, there
13 are, at least on the gas side, there are suppliers that do
14 their own billing. It's my understanding that there are
15 suppliers on the electric side that do so as well. And,
16 so, to the extent that there is, I guess, an issue with
17 how some of the companies are allocating their payments,
18 perhaps, you know a ready solution would be then for
19 suppliers to conduct their own billing.

20 And, I will also add that, in line with
21 what Mr. Baum said, is that right now the Commission's
22 1200 rules prohibit disconnection for -- if the utility's
23 portion of a bill is paid. And, so, to the extent that a
24 change in the hierarchy may result in the utility bill not

1 being paid or an increase in the utility bills not being
2 paid, there is a potential increase in disconnections.
3 And, so, you know, there's a potential for that. I don't
4 know how big a potential, but it is there.

5 We -- the Company is certainly willing
6 to speak with and work with the other parties, the
7 suppliers, the other utilities, to get more information
8 made available. I think that's to the benefit of
9 everybody, so that we are all working on the same set of
10 information. So that, if there is budget billing or EAP
11 customers or the like, that we make sure that they're all
12 treated fairly and appropriately, and that they don't end
13 up being harmed by a simple lack of information.

14 And, so, I guess that would be, for the
15 moment, our position. Oh, and to the extent it might
16 matter, we have no position on whether the gas companies
17 should be participants in the docket. Thank you.

18 CHAIRMAN IGNATIUS: Thank you. Mr.
19 Munnelly.

20 MR. MUNNELLY: Sure. Thank you for
21 opening this docket. Is this on? It should be on. Can
22 you hear it?

23 Okay. Thank you again. Thanks for
24 opening this docket today. Commissioner, can you hear --

1 CHAIRMAN IGNATIUS: I can hear you, just
2 it doesn't sound very amplified. So, I'm not sure if
3 it's --

4 CMSR. HARRINGTON: Give it a tap, see if
5 it's working.

6 MR. MUNNELLY: There we go. Is this any
7 better?

8 MR. PATNAUDE: That's better.

9 MR. MUNNELLY: Okay. Thanks again for
10 opening this docket. This is an issue that has been
11 discussed in various dockets that we've had over the past
12 year or so, as competition has really flowered in the
13 State of New Hampshire. It did get into a fairly detailed
14 discussion in the POR context, which generated and led to
15 the Staff/OCA joint letter. It's a pretty obvious
16 problem. Right now, the supplier receivables and supplier
17 current don't get paid until after the utility past due
18 and current are paid. So that if, say, a customer just
19 realizes that energy prices are high in the wintertime or
20 in some other season, and only can make partial payments
21 for several months at a time, you know, the utility past
22 due and current get paid. In the partial context, the
23 supplier may not get paid at all, or may get paid only a
24 portion. And, then, the next month the same issue

1 happens, we're behind the past due and current, and,
2 again, you know, it gets farther and farther behind, until
3 the customer finally catches up totally, which may be
4 months down the line. It's had a big impact on many
5 suppliers, that have come and had success in the state,
6 they expect to get a payment stream out of that, and
7 what's turning out is they're not getting the money that
8 they're expecting. And, so, it's certainly a big issue
9 that should be corrected.

10 I think the issue of the payment
11 hierarchy, it should be subject to a fairly
12 straightforward fix. What you would do is you would
13 prioritize the supplier receivables just higher in the
14 hierarchy, certainly above the utility current. In that
15 case -- in many cases, if not all cases, the supplier
16 would get paid, at least have a month delay, and then we'd
17 get paid. It wouldn't have the situation where it would
18 continue for potentially many months at a time.

19 That's something which I think should be
20 amenable to settlement. You know, that if you understand
21 that -- if there's an acknowledgement that there's a
22 fairly systematic unfairness that suppliers get all their
23 money paid at the end of the line, it shouldn't be that
24 hard to tweak the payment hierarchy, so that at least the

1 supplier receivable gets moved upward. That's something
2 we'd be interested in seeing if that could be resolved
3 through an agreement at the technical session or in some
4 other process. And, if it's not resolvable through
5 settlement, that's something we'd certainly love to see be
6 handled in a fairly expedited fashion, perhaps even
7 through a paper proceeding. It's a pretty straightforward
8 policy issue. And, it's something which should be teed up
9 for decision-making fairly soon.

10 With respect to the issue of
11 communications, there is a problem. That's -- the problem
12 is compounded when the supplier doesn't really get word
13 when the customer does give partial payments or even when
14 there's a payment plan set up again. Certainly, that
15 should be improved, but I would think that that's probably
16 a somewhat more complicated issue, that we'd have to
17 figure out how -- what's the way to work to a solution
18 which would allow for better communications of that. I
19 would suspect a lot of those problems would either go away
20 or be minimized if, you know, if you fix the hierarchy
21 issue.

22 CHAIRMAN IGNATIUS: Mr. Munnelly, do you
23 explain to customers how the payments will be allocated?

24 MR. MUNNELLY: Hold on one second. Yes.

1 The Company does in its interactions with the customers.

2 CHAIRMAN IGNATIUS: And, the description
3 of where you, in your view, ought to move the competitive
4 suppliers up in that hierarchy, is it pretty much what Mr.
5 Baum is describing that Granite State Electric uses?

6 MR. MUNNELLY: Yes. Either that option,
7 or there's another one, which we talked about during the
8 POR process. In I think it's Dayton, Ohio, has the
9 hierarchy where the supplier receivable gets paid first.
10 So, it would be supplier receivable, the utility
11 receivable, the utility current, and then supplier
12 current. So, supplier would be paid first and last. But,
13 certainly, the one that was being talked about was
14 certainly -- is certainly better than what we have today.

15 CHAIRMAN IGNATIUS: Okay. Thank you.

16 MR. MUNNELLY: I think that's -- I
17 believe that's it. But, one other point, it would be
18 great to be able to find a move towards a fix on this, on
19 the supplier side would be great.

20 CHAIRMAN IGNATIUS: One other question,
21 in dealings with customers, do sales people for North
22 American Power explain the EAP issue, and that somebody
23 may, by changing supplier, would lose that EAP
24 eligibility?

1 MR. MUNNELLY: Okay. I believe I have
2 the answer to that question, I'll do it subject to check
3 and consultation. I believe, at this point, they have
4 recognized the issue. It's something that arose pretty
5 quickly when they started marketing to the state. I
6 believe, at this point, we discourage -- if one of the
7 questions turns up that the customer is on an EAP rate, I
8 think the Company discourages the customer from signing
9 up. That's -- perhaps that's a broader issue of whether
10 that program should be change at some point, but this is
11 certainly not the docket to deal with that issue.

12 CHAIRMAN IGNATIUS: Yes, Commissioner.

13 CMSR. HARRINGTON: Just so I can follow
14 up on that. So, when someone signs up for this, in your
15 company in particular, I'm assuming it's like most of the
16 advertising I've heard, you can just got to a website and
17 punch up and put in your customer number from your
18 distribution utility, and that's it. Are you saying that,
19 when someone goes there to sign up for yours, there's a
20 specific question asked, "Are you receiving EAP funding
21 for your electric bill?"

22 MR. MUNNELLY: Certainly, there's the
23 two, I know that there's -- it can be a phone contact, in
24 which case that could very well happen. Hold on one

1 second, I don't know about the website piece.

2 (Short pause.)

3 MR. MUNNELLY: Okay. It is something
4 which is stated on the website, a portion of it, it's a
5 statement. And, if the customer does sign up and the
6 Company determines that they have signed up inadvertently,
7 they will return the customer. And, in some cases, they
8 have even given rebates to the people to put them back.

9 CMSR. HARRINGTON: I guess my -- I can
10 understand it's on the website, and it says "if you're an
11 EAP customer, you should investigate further", or
12 something to that effect. But how would the Company,
13 let's say someone doesn't bother to read that, and since
14 it's not a specific box to check, "I'm an EAP customer,
15 yes or no?" So, I'm an EAP customer and I sign up for
16 your -- to get energy through you, how would your company
17 know to say "this is a bad move for you", because you have
18 no way of knowing I'm an EAP customer, unless I tell you?

19 MR. MUNNELLY: Yes. I think that, first
20 of all, there is the statement, so that the customers
21 should be seeing that, would realize that that's not a
22 good deal. My suspicion is that, what would happen is,
23 when they get a rate or pay amounts that are higher than
24 they anticipated, they would call the Company up through

1 customer service lines. In which case, the dialogue would
2 happen, the issue would get identified, and it would be
3 addressed.

4 CMSR. HARRINGTON: All right. Thank
5 you.

6 CHAIRMAN IGNATIUS: Thank you. Anything
7 further?

8 MR. MUNNELLY: I think that's it for
9 now.

10 CHAIRMAN IGNATIUS: All right. Mr.
11 Patch.

12 MR. PATCH: The Retail Energy Supply
13 Association supported the letter from the Staff and the
14 Consumer Advocate in the POR docket, and continue to
15 support the opening of the docket and the issues as they
16 have been outlined. I think the EAP issue does get into
17 bigger issues. So, I'm not sure this is the appropriate
18 docket to resolve it. But I don't think EA -- I don't
19 think RESA has a strong position on that.

20 In terms of process, we agree with North
21 American that we think this is a pretty discrete issue,
22 payment hierarchy. We think it should be -- we don't
23 think it needs to be a fully litigated docket, that has
24 testimony, discovery, rebuttal testimony, more discovery,

1 motions to compel. We think there's a better way to do it
2 than that. And, I like Mr. Eckberg's suggestion that
3 there's some overlap with the 2000 rules, I think it is
4 that particular docket. And, maybe there is a way to
5 combine with that docket. Maybe there's a way to
6 establish a process that would encourage settlement, as
7 Mr. Munnelly referred to. But we think there's a better
8 way to do it than a litigated docket, and we would
9 encourage the Commission to think along those lines, and
10 maybe the parties, if we meet in a technical session
11 afterwards, to think along those lines.

12 Generally, I think RESA comes into this
13 thinking that the pro rata way of allocating is the
14 preferred way or the most progressive way to do it. But I
15 think we'd be open to suggestions, along the lines of what
16 North American suggested, at least discussions in that
17 way.

18 CHAIRMAN IGNATIUS: Thank you. A couple
19 of questions, the same things I asked Mr. Munnelly. Do
20 you know if your members explain the kind of payment
21 allocations that will be made?

22 MR. PATCH: I don't.

23 CHAIRMAN IGNATIUS: All right. And, do
24 you have a position, and, Mr. Munnelly, I forgot to ask

1 you, do you have a position on whether the gas companies
2 should be a party? Is this an issue for gas customers as
3 well?

4 MR. MUNNELLY: I don't know that we have
5 a formal position on it at this point. But I do think
6 that, based on the positions that have been stated here,
7 the fact that this is largely a commercial business, with
8 suppliers having their own billing with the customer
9 directly, it doesn't appear to be something which would
10 need to be in this docket.

11 CHAIRMAN IGNATIUS: Thank you. Mr.
12 Patch?

13 MR. PATCH: I think we'd concur with
14 that.

15 CHAIRMAN IGNATIUS: All right. Mr.
16 Aslin.

17 MR. ASLIN: Yes. Thank you. E.N.H.
18 Power, and I won't repeat a lot, I think we're in
19 essentially the same position that's been stated by Mr.
20 Munnelly and Mr. Patch. The scope of the docket as
21 described, we would agree with. The only addition I would
22 place on that is that communication issues --

23 (Court reporter interruption.)

24 MR. ASLIN: I'll just start over. I

1 think the communication issues go beyond the question of
2 just payment plans and potentially EAP issues, and they
3 also go to the timing of billing and collection actions.
4 Because one of the problems that arises, payments may have
5 been sent to the utility at a time, and it takes some
6 amount of time for that payment to be transferred over to
7 the supplier. And, in that intervening period, if the
8 supplier believes that their customer has become
9 delinquent, and they then start to take their own actions.
10 It's really a miscommunication issue, rather than a
11 payment priority issue. So, in the case of Unitil, for
12 example, where they are doing a pro rata sharing or
13 allocation of payments, the hierarchy isn't a problem, but
14 we're still seeing this confusion of not knowing when a
15 customer has made a payment or is in the process of making
16 a payment, or even knowing the precise billing cycle that
17 is being used for various customers. So, that's another
18 piece of this issue, in terms of clarifying how the
19 customers are getting their payments and how the suppliers
20 fit in with utilities.

21 Other than that, I will try to address a
22 couple other questions that you had. We don't have any
23 position on the gas. We don't do gas supply. So, that's
24 sort of beyond our purview. I don't think that there

1 would be any reason for them to be part of the docket,
2 from our perspective.

3 With regard to the EAP and the payment
4 hierarchy, my understanding, and I would have to double
5 check, is that communications to customers, with regard to
6 the payment hierarchy for E.N.H. Power, simply refer to
7 the fact that the utility is going to be doing the
8 billing, they will still receive their bill from the
9 utility, and the utility is doing the collections. They
10 do receive notice that the supplier can communicate with
11 them further about collections, but there's no express, to
12 my knowledge, disclosure of the payment hierarchy and how
13 that is expressed to customers, because the utility is
14 handling it.

15 As for EAP, I do not know the answer as
16 to whether we have a mechanism for identifying the EAP
17 customers and warning them that there may be an issue if
18 they switch to their supplier. I don't believe that the
19 suppliers have access to the information of which
20 customers are EAP customers, unless the customer tells us.

21 CHAIRMAN IGNATIUS: But, while you're
22 dealing with customers, for those who make a phone call,
23 you would have the opportunity to inquire and let them
24 know and let them make their own decisions, couldn't you?

1 MR. ASLIN: Absolutely. And, I don't
2 know if that is part of E.N.H. Power's discussion as a
3 matter of course.

4 CHAIRMAN IGNATIUS: Thank you.

5 MR. ASLIN: And, I'll just reflect that
6 E.N.H. Power is -- would support an expedited process for
7 this proceeding, and certainly is open to settlement
8 discussions as well.

9 CHAIRMAN IGNATIUS: All right. Mr.
10 Rodier.

11 MR. RODIER: I would just simply concur
12 with what I heard from the other suppliers. I have
13 nothing to add.

14 CHAIRMAN IGNATIUS: All right. Let me
15 just make sure I know your position on a few things
16 though. Do you see a need for the gas companies to be
17 parties to this docket?

18 MR. RODIER: No.

19 CHAIRMAN IGNATIUS: And, are you aware
20 of any outreach that your company makes to customers, to
21 explain how payments may be allocated or, if they're an
22 EAP recipient, how that could change their status?

23 MR. RODIER: I'm not aware of it, of
24 what PNE does on that point.

1 CHAIRMAN IGNATIUS: Let me ask the
2 parallel question. I got to asking the suppliers about
3 how they notify customers when this arises, this
4 allocation of payments. What do the utilities do? When
5 you're sending out bills, is there anything on your bills
6 that makes it clear how payments will be allocated?

7 MR. EPLER: For UES and for Northern,
8 no.

9 CHAIRMAN IGNATIUS: All right. Mr.
10 Dean?

11 MR. DEAN: No.

12 CHAIRMAN IGNATIUS: Mr. Baum?

13 MR. BAUM: We don't believe so.

14 CHAIRMAN IGNATIUS: Mr. Fossum?

15 MR. FOSSUM: To the best of my
16 knowledge, there's nothing on the bills. But PSNH does
17 apply the payments in line with what is stated in its
18 tariff. So, it is -- it's in the tariff, but not on the
19 bill.

20 CHAIRMAN IGNATIUS: All right.
21 Commissioner Scott, a question?

22 CMSR. SCOTT: This is for the -- I guess
23 for the utilities, probably an easy answer. We talk about
24 the EAP, the communications issue between the supplier and

1 the utilities for EAP. It seems to me, obviously, for the
2 EDI at the utility, am I correct that's where the
3 information would reside, whether somebody is taking EAP
4 payments, is that correct? Or, is that the logical place
5 for it?

6 MR. EPLER: If I understand -- if I
7 understand the question correctly, we do know who is
8 receiving the EAP payments.

9 CHAIRMAN IGNATIUS: So, to elaborate
10 more. So, you get a transaction request, I don't know if
11 that's the right nomenclature, from a competitive supplier
12 saying "this customer has elected to switch", you'd be
13 able to see at that point would be a logical place to at
14 least have some kind of communication that "wait a minute,
15 they're on EAP"?

16 MR. EPLER: If I could have my colleague
17 respond, Todd Bohan, Senior Energy Trader.

18 MR. BOHAN: We actually had this come up
19 with a few customers. We had customers that started to be
20 enrolled, they were on EAP, they were going to switch to a
21 competitive supplier. And, it turns out that their
22 discount actually would have gone away, their bills would
23 have gone up. So, we contacted the suppliers and we
24 talked with them, and they immediately said "any of those

1 customers that you can identify that come across your
2 desk, please do not enroll them and let us know." And,
3 since then, we haven't had any issues with that.

4 CMSR. SCOTT: Excellent. Thank you.
5 Mr. Dean wants to answer.

6 CHAIRMAN IGNATIUS: I'm sorry. Mr.
7 Dean.

8 MR. DEAN: I guess I would add, I think
9 this isn't something that the Cooperative really has had
10 experience with yet, I think, at least in the consolidated
11 billing situation. But, clearly, utilities know who is in
12 EAP. The actual transactions that occur, that transfer
13 someone to a competitive supplier, are essentially largely
14 automated, and, presumably, something could be done to
15 create a flag.

16 I think, absent something from the
17 Commission, if my client said "should you be contacting a
18 member and advising them not to switch to a competitive
19 supplier", I would say that I would not advise that,
20 absent some other direction or requirement by the
21 Commission.

22 CMSR. SCOTT: Thank you.

23 CHAIRMAN IGNATIUS: Mr. Baum?

24 MR. BAUM: Yes. I actually don't -- I

1 don't know exactly how the process would work. But I
2 would concur with Mr. Dean's comments, that I would think
3 it's known, it's largely automated, but I don't know the
4 exact process.

5 CMSR. SCOTT: Thank you.

6 MR. FOSSUM: And, PSNH would also concur
7 with the comments of the Cooperative on this.

8 CMSR. SCOTT: Thank you.

9 CHAIRMAN IGNATIUS: I mean, it is a
10 difficult question. There are all sorts of prohibitions
11 about trying to convince a customer not to make a switch.
12 And, so, I think we recognize the delicacy of getting into
13 the middle of those discussions. And, yet, we don't want
14 people inadvertently losing a benefit out of just a lack
15 of understanding. Mr. Patch.

16 MR. PATCH: I just have one comment with
17 regard to the EAP. And, that is, if the Commission is
18 considering including it in this docket, I think somebody
19 ought to let New Hampshire Legal Assistance know.
20 Because, clearly, you know, they have a lot of knowledge
21 of this, a lot of involvement in this kind of issue, and I
22 think could contribute a lot to the discussion.

23 CHAIRMAN IGNATIUS: That's a good
24 suggestion. Thank you.

1 MR. FOSSUM: Commissioners, I wanted to
2 let you know, I did communicate with Alan Linder at New
3 Hampshire Legal Assistance that this docket had been
4 opened, and that these issues were out there. He
5 responded to me that, at the moment, they would not be
6 participating. I don't -- obviously, they can change
7 their minds and potentially seek intervention later, but I
8 did want to let you know that I did have that
9 communication with him.

10 CHAIRMAN IGNATIUS: All right. Thank
11 you. Anyone else on that? Mr. Eckberg.

12 MR. ECKBERG: Yes. I just wanted to
13 comment that I don't believe the issue of the "EAP
14 payment" was noticed as part of this docket. I may be
15 mistaken. But -- so, I'm not sure if Mr. Fossum discussed
16 with Mr. Linder simply the issue of "payment hierarchy" or
17 what issues were discussed.

18 MR. FOSSUM: Well, and to the extent
19 that it matters, all I -- I let him know that the order of
20 notice was issued. And, he was, as far as I know, he was
21 able to read it for himself, and informed me that they
22 would not be participating. What analysis he did to make
23 that determination, I do not know. I will say I did not
24 specifically raise the issue of "EAP" with him.

1 CHAIRMAN IGNATIUS: Thank you.

2 MR. ECKBERG: Thank you.

3 CHAIRMAN IGNATIUS: All right. I think
4 that concludes the questions that we had. I don't know if
5 Staff or OCA had anything more it wanted to add after
6 hearing the discussions around.

7 MS. AMIDON: Well, Staff has developed a
8 procedural schedule, which certainly has an opportunity to
9 receive a joint proposal from the competitive suppliers.
10 And, we've scheduled a meeting, which it can be either a
11 technical session or a settlement conference. So, I think
12 that, you know, depending on how -- what the competitive
13 suppliers propose, whether individually or jointly, and
14 the respond to that, we may be able to resolve the payment
15 hierarchy issue. I still want to say those communication
16 issues are very important to the Consumer Affairs
17 Division, because customer confusion needs to be brought
18 to a minimum on these things. And, we don't want to just
19 resolve the payment hierarchy without noting that these
20 other issues have to be addressed as well. Thank you.

21 CHAIRMAN IGNATIUS: Thank you. Is there
22 anything further?

23 (No verbal response)

24 CHAIRMAN IGNATIUS: If not, what we'll

1 do is leave the issues of developing a schedule and
2 working through other issues that might come up in a
3 technical session this afternoon to all of you, and await
4 a report from that meeting.

5 So, unless there's anything else anyone
6 has?

7 (No verbal response)

8 CHAIRMAN IGNATIUS: Seeing nothing,
9 we'll adjourned this portion, and then you can resume.

10 MS. AMIDON: Thank you.

11 **(Whereupon the prehearing conference was**
12 **adjourned at 2:30 p.m., and a technical**
13 **conference was held thereafter.)**
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