

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

February 18, 2016 - 2:05 p.m.
Concord, New Hampshire

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RE: DG 14-180
LIBERTY UTILITIES (ENERGYNORTH NATURAL
GAS) CORP. d/b/a LIBERTY UTILITIES:
Notice of Intent to File Rate Schedules.
(Hearing regarding the Scope of Audit)

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey

Adele Leighton, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth Natural
Gas) Corp. d/b/a Liberty Utilities:
Sarah B. Knowlton, Esq. (Rath, Young...)

Reptg. Residential Ratepayers:
Donald M. Kreis, Esq., Consumer Advocate
Pradip Chattopadhyay, Asst. Consumer Advocate
Office of Consumer Advocate

Reptg. PUC Staff:
David K. Wiesner, Esq.
Amanda Noonan, Dir./Consumer Services...
Stephen Frink, Asst. Dir./Gas & Water Div.
Jay Dudley, Electric Division
John Antonuk, Liberty Consulting Group

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

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P R O C E E D I N G

CHAIRMAN HONIGBERG: We're here this afternoon in Docket DG 14-180, to resolve a dispute about the scope of the audit that's been going on for a while, which was part of the resolution of -- well, "resolution", almost a resolution of this docket earlier.

Before we go any further, let's take appearances.

MS. KNOWLTON: Good morning -- oh, good afternoon, Commissioners. My name is Sarah Knowlton. I'm here today on behalf of Liberty Utilities (EnergyNorth Natural Gas) Corp. And, I'm from Rath, Young & Pignatelli. With me today from the Company are company employees Steve Mullen, Steve Hall, and Bill Killeen.

MR. KREIS: Good afternoon, members of the Commission. I am Attorney Donald Kreis, the newly appointed Consumer Advocate. This is my first opportunity to greet the three of you formally in the hearing room. And, I would just like to say that it is a great honor to represent the residential ratepayers of this fine state. And, I hope whatever I say here during my term of office meets with favor with the Commission.

To my immediate left is the Assistant Consumer Advocate, Pradip Chattopadhyay.

1 CHAIRMAN HONIGBERG: Welcome back, Mr.
2 Kreis.

3 MR. KREIS: Thank you.

4 MR. WIESNER: And, Mr. Chairman,
5 Commissioners, I'm David Wiesner, Staff Attorney
6 representing Commission Staff. With me today are Jay
7 Dudley of the Electric Division; Amanda Noonan, director
8 of Consumer Services and External Affairs; and John
9 Antonuk, of Liberty Consulting Group, who is the third
10 party consultant engaged to perform the audit, which is
11 the subject of today's motion.

12 CHAIRMAN HONIGBERG: Ms. Knowlton, your
13 motion, why don't you go first.

14 MS. KNOWLTON: Thank you. Good
15 afternoon, Commissioners. I first would like to thank you
16 for your time today, and to let you know that the Company
17 did not take lightly its decision to bring this matter
18 forward to the Commission for its assistance.

19 The Company has been fully cooperative
20 in the audit with Liberty Consulting, providing countless
21 hours of interviews and responding to well over 100 audit
22 requests. Even during the pendency of this dispute, and
23 since the motion has been filed, the Company has continued
24 to make employees available for interviews and is

1 answering questions. The Company has nothing to hide and
2 is very proud of its business.

3 We're here today based on a bargain that
4 was struck on May 18th, 2015, and that bargain is the
5 Settlement Agreement in the Company's last distribution
6 rate case. The Settlement represented a comprehensive
7 resolution of all the issues in the case, ranging from the
8 revenue requirement, where the Company agreed to accept
9 significantly less than requested, to rate design, to a
10 soft-off policy, changes to its tariff, and among others,
11 the agreement by the Settling Parties that there would be
12 a "targeted" audit -- excuse me, "targeted audit", in
13 quotes, by an independent consultant.

14 Attachment 7 to the Settlement described
15 the areas of review for the targeted audit. All Settling
16 Parties testified at the hearing that these areas would
17 include customer service, and the finance and accounting
18 functions. This arose out of concerns that were raised
19 during the case about lingering customer service issues
20 and some issues raised as result of the rate case audit in
21 the finance and accounting areas.

22 By nature, settlements are negotiated
23 documents, and that was the case here. What would be
24 included in the audit, and what would not be included,

1 were closely negotiated. The same can be said for the
2 words used to describe the audit. It was not simply
3 called an "audit". It was not called a "management
4 audit". It was called a "targeted audit", and that was
5 for a reason. The audit was intended to look into the
6 underlying causes and ultimate resolutions of
7 customer-impacting issues that had been occurring. The
8 audit was intended to answer specific questions: What is
9 causing the customer service issues, and the issues
10 associated with the finance/accounting group? All with
11 the goal of improving performance for the Company's
12 customers.

13 After the Commission approved the
14 Settlement, it issued an RFP to hire the independent
15 auditor. Attachment 7 was included with the RFP, but
16 oddly, the RFP was modified to include the words
17 "management audit of customer service and accounting
18 functions". In fact, the RFP and ultimately the Liberty
19 Consulting contract are replete with use of the words
20 "management audit". The Company had no input into the RFP
21 and never saw a draft of it. What I do know is that the
22 Company never agreed to a management audit. It agreed to
23 a targeted audit of specific areas.

24 Liberty Consulting was hired and began

1 its work. Following the first round of questions and
2 interviews, it began asking for documents and interviews
3 on topics well afield of the targeted audit of the
4 customer service and finance/accounting areas. It wants
5 the strategic plans of Algonquin Power & Utilities Corp.,
6 which is the ultimate parent company of EnergyNorth. And,
7 that's a publicly traded company on the Toronto Stock
8 Exchange. It wants APUC's 5-year plans. It wants
9 performance results of named individual employees, both
10 locally and in Canada. It wants all of APUC's audit
11 committee work. It wants information about the IT
12 transition from National Grid, and that was extensively
13 reviewed, as you know, by another Commission consultant,
14 G3. When the Company called a timeout and asked "why are
15 you asking for this?", Liberty Consulting told the Company
16 "this is what we ask for, this is what we routinely review
17 in audits of these issues."

18 But this is not a management audit.
19 It's not a one-size-fit-all process, where you come and
20 say "well, this is how we always do it", because we have a
21 Settlement here that specified what the scope of this
22 audit would be. And, while the Settlement does give the
23 independent auditor the right to inquire about "related
24 areas", "related area" does not mean any aspect of the

1 Company's operation that the consultant typically reviews
2 in a management audit. It means "related to customer
3 service and finance/accounting". If "related" meant "any
4 area", then the concept of a "targeted audit" would be
5 meaningless. Just to take an example, I question how
6 looking at the strategic plan of a \$4.5 billion publicly
7 traded company is going to help a New Hampshire Gas
8 company improve the functioning of its customer service
9 and finance and accounting groups. That strategic plan,
10 it might include things such as "Do we invest in a wind
11 farm in Michigan?" "Do we acquire a utility in Missouri?"
12 But I don't think that it bears any relation to the
13 targeted focus that was agreed to in the Settlement.

14 Staff argues that the Commission then
15 should interpret the scope of the audit in the context of
16 discovery. Because the Settlement Agreement is a
17 contract, I would argue that the correct body of law to
18 apply here is the law of contract interpretation. And,
19 certainly, if the Commission wishes to look at what the
20 Parties' understanding of the contract was at the time it
21 was agreed to, there's nothing better to look at than the
22 hearing transcript from the Settlement hearing in May of
23 2015. And, that transcript makes it clear that all of the
24 Parties understood and testified to the fact that this

1 would be focused on particular areas of performance that
2 were of concern.

3 The Company recognized it needed to
4 improve, and, at the time of the Settlement, began a
5 meter-to-cash audit. And, I believe Mr. Mullen testified
6 about that at the hearing. Since then, the Company has
7 made a lot of changes, which have resulted in real
8 improvements to its performance. By every metric
9 measured, the Company's performance has improved; whether
10 it's call answering metrics, bill presentment, and others.
11 The Company met with the Staff and the OCA in October and
12 made a presentation about all the changes and
13 improvements, which was a very positive meeting.

14 While we understand the trepidation that
15 exists with a change in utility ownership, and the growing
16 pains that Liberty experienced, we believe that this audit
17 should be conducted consistent with that bargained for
18 exchange. It should focus on customer service and finance
19 and accounting and make recommendations specific to those
20 areas so that, in the end, customers receive the benefit
21 of the audit process. We ask you to limit the scope of
22 the inquiry to these agreed upon areas.

23 I would also say to the Commission that
24 I do have, as I said, Mr. Mullen and Mr. Hall are here,

1 and they have participated, they both participated in the
2 negotiation of the Settlement Agreement, but they have
3 been on -- out in front on the audit and involved, you
4 know, every day in the back-and-forth with Liberty
5 Consulting. And, so, if it's helpful to the Commission,
6 certainly can have them take the stand and answer any
7 questions that you might have or explain their perspective
8 on the experience.

9 CHAIRMAN HONIGBERG: Thank you,
10 Ms. Knowlton.

11 Mr. Kreis, do you have anything to say
12 on this motion? Your office hasn't filed anything.

13 MR. KREIS: That's true. And, my excuse
14 for not having filed anything is that the deadline for
15 making this filing preceded my being sworn in to my
16 present office. And, since I wasn't involved in this
17 dispute as it brewed up, I don't have a lot to say but I
18 do want to say this.

19 CHAIRMAN HONIGBERG: Is your microphone
20 on?

21 MR. KREIS: Oh. I do want to turn on my
22 microphone, yes. Thank you.

23 I am troubled, I think, by the -- I
24 guess the approach or the assumption that a settlement

1 agreement that parties to a proceeding here, including the
2 Commission Staff, enters into is in the nature of a
3 contract. It may be that, in civil court, two private
4 parties, who resolve litigation through a settlement
5 agreement, have entered into a binding contract.

6 But, in this context, your Staff are
7 your agents. So, it's not as if Liberty can turn around
8 and sue the Staff of the New Hampshire Public Utilities
9 Commission for violating a contractual undertaking if it
10 does something that is inconsistent with the terms of a
11 settlement agreement.

12 Now, my office was a signatory to the
13 Settlement Agreement, but I wasn't privy or involved in
14 the negotiations that led to the execution of the
15 Settlement Agreement. I have to say I'm disappointed with
16 the approach that focuses this dispute on the words of the
17 Settlement Agreement. It seems to me that what we ought
18 to be focusing on here is what will serve the public
19 interest.

20 I'm supportive of Staff's position. I
21 think all of the information that Staff and its
22 consultants are seeking is reasonably within the scope of
23 what I think the Commission was hoping would be
24 accomplished through this audit. And, so, I would hope

1 that maybe we could be involved in some informal
2 conversations about how to move this process forward,
3 without having an elaborate argument that falls back on
4 principles of contract law.

5 CHAIRMAN HONIGBERG: Thank you, Mr.
6 Kreis. Mr. Wiesner.

7 MR. WIESNER: As noted in Staff's
8 written response, Staff takes the view that Liberty's
9 proposed limitations to the scope of the audit, if I can
10 characterize them as such, are unnecessary and improper,
11 in the context of what was actually agreed to be performed
12 as a "targeted audit", admittedly, but broad-ranging,
13 including IT services, budgeting, business planning,
14 accounting, areas which, in a multilevel, multinational
15 holding company structure, in our view, necessarily
16 involve inquiry made at levels above those of the New
17 Hampshire utilities, including management functions,
18 budgeting, resource allocation, decisions that are made in
19 the Canadian headquarters of the parent company.

20 This is a company which really does not
21 stand alone. It draws heavily, our understanding, on
22 services provided at upper management levels, and, in
23 particular, in the context of budgeting, we believe that
24 resource allocation decisions are made on an

1 enterprisewide basis at the holding company level. And, I
2 believe that is the genesis for the inquiries which look
3 at the strategic planning function at the parent company
4 level.

5 Certainly, some of what has been
6 requested by Liberty Consulting will fall well outside the
7 scope of the targeted audit, which, of course, is focused
8 on the effect on New Hampshire customers of Liberty
9 Utilities. However, we also understand that Liberty
10 Consulting has made reasonable accommodations to not push
11 for information which is not relevant, if it can be shown
12 to be such, in terms of receiving redacted versions of
13 documents, as well as it's -- as long as it's clear that
14 what is being redacted is not relevant. And, in terms of
15 preserving the commercial sensitivity and proprietary
16 nature of some of the strategic information that's being
17 sought, Liberty Consulting as well is prepared to respect
18 the terms of the nondisclosure agreement that it has
19 signed, and also review some of the materials only
20 on-site, and, again, only in redacted form.

21 I think I would -- with the Commission's
22 indulgence, I would ask John Antonuk, of Liberty
23 Consulting, to speak in somewhat more detail about their
24 view of the audit, and the appropriateness of the

1 questions that have been asked, including those which are
2 at issue in Liberty's motion.

3 CHAIRMAN HONIGBERG: Mr. Antonuk,
4 briefly.

5 MR. ANTONUK: Yes. We responded to an
6 RFP, which attached the relevant exhibit from the
7 Settlement Agreement. We used the RFP, not the language
8 from the Settlement Agreement, but I found the RFP, in my
9 view, consistent. We are doing both a "targeted audit",
10 to use the Company's words, and a management audit. It is
11 a "management audit of targeted areas". There was a
12 conflation between a statement that "we usually ask for
13 information like this when we audit these issues", which
14 then transitioned into "we're asking for what we ask in a
15 general management audit." Those aren't the same
16 statements, and they should not be equated.

17 We told the Company that "when we are
18 auditing IT, these are the questions we ask", "when we are
19 auditing budgeting, these are the questions we ask", "when
20 we are auditing customer service, these are the questions
21 we ask". Those are listed in the Settlement attachment.

22 I think probably the best way to kind of
23 cut through this is to respond to the question "why would
24 we want to see strategic plans?" They might deal with

1 windmill acquisitions, and we don't care. Suppose they
2 only deal with windmill acquisitions, suppose they only
3 deal with customer service issues that are outside what's
4 happening in New Hampshire. Well, what we've got to
5 remember here is that, with a company of this type, and,
6 by the way, 4.5 isn't a very big company, we've audited
7 international holding companies that are ten or more times
8 the size of this. So, size is not really an issue. It's
9 not new to us.

10 But what -- here's the issue: New
11 Hampshire doesn't -- people in New Hampshire don't make
12 decisions about investments in New Hampshire, they
13 contribute to them. They're made at a higher level,
14 they're driven by the financial plans of the holding
15 company. If the holding company's plans do not include
16 attention to issues that this audit is concerned about,
17 customer service, IT, then I think it's worth seeing those
18 plans, in order to ask the Company "where is the emphasis
19 on those issues for New Hampshire?" If I look at your
20 plans, and I see attention to them, then I'm comfortable
21 that the parent company and the subsidiary that handles
22 U.S. operations all across the country is focused on the
23 right issues.

24 Those plans might be as interesting for

1 what they don't include as what they do include. And, I'm
2 not in a position to say either way. I'm only in a
3 position to say that they will help us to identify issues
4 like whether the holding company is focused on customer
5 service systems, where there are indications that there
6 are problems. Is the Company focused on auditing controls
7 in the accounting sector of the Company, where there are
8 identifications of problems to us preliminarily.

9 So, I don't come here kind of saying "I
10 know where we're going." I'm just coming here telling you
11 what we need to know, what we need to look at, for us to
12 be able to independently of what the Company tells us in
13 interviews, is actually happening as it concerns the
14 issues listed in Appendix 7.

15 CHAIRMAN HONIGBERG: Mr. Wiesner, do you
16 have anything else?

17 MR. WIESNER: I think I just wanted to
18 briefly refer to the question of potential overlap with
19 the work that G3 did, in looking at the information
20 technology systems to be used by Liberty, and, in
21 particular, the transition from National Grid systems to
22 Liberty's systems. And, I think Staff's view is that
23 there's little or no overlap. And, to the extent that
24 there is overlap, that asking the question is not improper

1 in the first instance.

2 Again, as Mr. Antonuk suggested, if
3 information is irrelevant, it will be disregarded, but
4 that's not a reason to deny access to the appropriate
5 information.

6 CHAIRMAN HONIGBERG: All right.
7 Ms. Knowlton, I think it appropriate to have you respond,
8 to the extent you want to, and then I'll unleash
9 Commissioner Scott and Commissioner Bailey.

10 MS. KNOWLTON: Okay. All right. And, I
11 just want to start with, I'm pretty uncomfortable with the
12 fact that so far, up until the point where Mr. Antonuk
13 started speaking, we had lawyers who are speaking to the
14 Commission. And, we've now got someone who's provided
15 unsworn testimony, I don't know what it is, to the
16 Commission. So, I think that's -- let's just say, in my
17 perspective, that's unusual. So, I don't know where we're
18 going with that. So, I'll express that concern.

19 CHAIRMAN HONIGBERG: Ms. Knowlton,
20 before you go further, I mean, I interpreted that to be
21 Mr. Wiesner ceding a bit of his time to have someone else
22 make part of his argument for him.

23 MS. KNOWLTON: Okay.

24 CHAIRMAN HONIGBERG: I didn't perceive

1 what Mr. Antonuk said to be in the nature of testimony. I
2 mean, I think he offered some opinions about scope and how
3 he interpreted documents. But it's the same kind of
4 argument a lawyer might make in making his or her case.

5 But I understand the concern, but I
6 didn't perceive that to be necessarily what was happening
7 on the other side of the room. But I hear you.

8 MS. KNOWLTON: Okay. Thank you. I have
9 a couple of brief comments, and I may cede some of my time
10 to Mr. Mullen.

11 But let me just start with this. This
12 is not a situation where someone comes in and says, you
13 know, "Let's do an audit. Let's look and see what's going
14 on with this company." This is a situation where these
15 utilities were sold to Liberty a couple of years ago.
16 And, at the time that they were sold, it was known, it was
17 discussed at length in the proceeding, the acquisition
18 proceeding here, "What were going to be the IT systems
19 that were going to be used by this company? Cogsdale?
20 Great Plains?" I mean, you know, we can pull the
21 Settlement Agreement out. There was an IT migration plan
22 that was attached to it. There was a lot of information
23 about that whole IT process.

24 And, because there were -- you know, the

1 Commission wanted to make sure that that all went well, G3
2 was hired, and it was very involved on a very ongoing
3 basis in that IT transition. Okay? The Settlement had,
4 as you I'm sure well recall, and it was an issue in this
5 case, limitations on how much rate recovery can be made
6 for those IT systems, all of which were specified. And,
7 in fact, when we were in here in this case earlier last
8 year, the Company spent in excess of what was in that
9 Settlement, and the Staff, though it never filed testimony
10 in the case, took the position that the Company couldn't
11 recover that amount of money. And, so, we reached again,
12 part of the total compromise in this case, a settlement on
13 what the revenue requirement would be.

14 But, whether they were the right
15 systems, how the systems function, I mean, that was all
16 examined exhaustively, you know, in the transition docket.
17 There were filings, if you look back in the Settlement
18 Agreement, there were extensive, extensive reporting
19 requirements on IT functions, on customer service
20 performance, that were made in DG 11-040. I mean, your
21 Docketbook, if you go online, it's, you know, like it's
22 incredibly long with all this information.

23 So, we don't start with a blank slate of
24 "let's look at how you pick IT systems and let's look at

1 what you are selected, let's look at, you know, all of
2 that." Which is, I think, also, in part, why this was
3 intended to be targeted. So, I disagree, you know,
4 fundamentally with Mr. Antonuk's approach.

5 The Company has also, I will say, there
6 have been -- it's not like we said "Oh, that's Canada.
7 You can't go there, and you can't talk to people, and you
8 can't have documents and information up the chain." The
9 Company has participated thoroughly. There have been
10 interviews, they have gone to Oakville. There have been
11 interviews, people from Oakville have come to New
12 Hampshire and been interviewed. There have been documents
13 provided.

14 Our point is, if you have a question
15 about how -- you know, "how is budgeting done for New
16 Hampshire?" Let's talk about that. Let's answer the
17 question about how budgeting is done. Both of the
18 utilities, Granite State and EnergyNorth, have revenue
19 requirements that have been approved by this Commission.
20 Someone thought there was a problem that the Company
21 wasn't spending enough money. Usually, you know, it goes
22 the other way, "Hey, you're spending too much. We don't
23 want you to put that all in rates." There's been a very
24 exhaustive review.

1 Except the point here was, you know,
2 there's customer issues that recur. Let's look at what's
3 going on. Why are they happening? Have they gotten
4 better? And, are there ways that, you know, the
5 consultant can make recommendations that they can get even
6 better?

7 But I just -- I think it has -- I don't
8 think that there's really been a case made for why, you
9 know, there needs to be this exhaustive inquiry, you know,
10 into the strategic and budgetary planning, you know,
11 across all levels of Algonquin. Let's talk about what
12 happens in New Hampshire. How does it happen? How does
13 it relate to what happens from the holding company
14 perspective, to make sure that the needs of customers in
15 New Hampshire are being met?

16 And, I'm going to let Mr. Mullen, if I
17 may, speak for a moment.

18 CHAIRMAN HONIGBERG: Mr. Mullen.

19 MR. MULLEN: Good afternoon. And, going
20 further on something that Attorney Knowlton referred to in
21 her opening statement, at the hearing that we had last
22 May, or whenever it was, when I testified about this
23 audit, and I testified about the genesis of the audit, and
24 I said "Yes, there were issues that were going on at the

1 time." The Company recognized that. We initiated our own
2 internal meter-to-cash audit. We told Staff we would
3 share the scope of that with them; we did. And, as I said
4 during that hearing, that set the basis for the customer
5 service side of this audit. And, if you were to compare
6 the scopes of both of those documents, you would see that
7 the first seven things in Attachment 7 to this Settlement
8 Agreement mirror what's in the scope of that internal
9 audit. And, the whole point there was to say there were
10 certain customer-impacting issues that were arising, and
11 everybody wanted to get to the bottom of it. Why were
12 they occurring and how could we fix them?

13 The Company has done a lot of work in
14 the past year plus, has shared a lot of that information
15 with Staff over time, Staff and the OCA.

16 I think people need to remain focused on
17 what the point of this audit was. The point of this audit
18 wasn't to have a management audit of the Company. The
19 point of it was to say "What's going on in these
20 particular areas of customer service, finance and
21 accounting? How can we look at what's causing it? And,
22 how can we make it better?"

23 It seems that people are starting to
24 lose focus on that. And, just say "well, we can" -- you

1 know, "because of these other words in the Settlement
2 about "related areas", which are meant to say "areas that
3 might not be specifically listed in the Attachment 7 to
4 the Settlement Agreement, but relate to customer service
5 and finance and accounting", that's fine.

6 And, we've answered lots and lots of
7 questions. And, on the budget process, we've had people
8 available for interviews, we've answered questions about
9 how the budget process works for capital expenditures, how
10 it works for operating expenditures. The Company files
11 its budgets with the Commission every year, in accordance
12 with the rules. So, it's not as if there's no information
13 on this.

14 And, I just want to make sure that
15 everybody keeps focus on the fact that this was a
16 bargained for scope. It's part of a bargain in an overall
17 Settlement Agreement. So, to the extent that any part of
18 that bargain changes, the whole -- the Settlement changes.
19 And, it was an integrated piece of everything that was in
20 there. And, every word that was either in or out of that
21 Settlement was highly scrutinized by all involved.

22 CHAIRMAN HONIGBERG: Off the record.

23 *[Brief off-the-record discussion*
24 *ensued.]*

1 CHAIRMAN HONIGBERG: Back on the record.

2 MR. MULLEN: Yes. And, that goes to my
3 point of saying "if this was to be a full management
4 audit, and that's what the Parties agreed on, the
5 Settlement would have looked much different", I can
6 guarantee you that.

7 CHAIRMAN HONIGBERG: All right. Thank
8 you. Commissioner Scott, what's on your mind?

9 COMMISSIONER SCOTT: Thank you. So,
10 let's -- I'm looking at Attachment 7, titled "Scope for
11 Targeted Audit", which I know you're familiar with. So, I
12 read the first paragraph, and I'm not reading the whole
13 thing, but it says "a targeted audit", and then it says
14 "but does not limit the scope of the audit should the
15 independent consultant...determine a review of related
16 areas is appropriate."

17 And, so, what's the Company's view of
18 what was intended by that language, because that seems
19 pretty broad?

20 MR. MULLEN: Is that a question for me?

21 CHAIRMAN HONIGBERG: It's a question for
22 whomever Ms. Knowlton feels would be most appropriate to
23 answer it.

24 MS. KNOWLTON: I'm going to have

1 Mr. Mullen answer it. He was the witness who testified to
2 what the Settlement meant at the hearing. So, --

3 MR. MULLEN: What that means is, as you
4 get in and you start looking at the areas that are
5 specified in this scope, if you find -- if you start
6 finding something else that says "well, that leads me to
7 this", say like, as he mentioned in our motion, there are
8 areas such as the website, our communications plan, those
9 aren't specifically listed here. They do have impacts
10 related to customers. That's fine. We said "Okay, that's
11 a related area. We're okay with that."

12 It does not mean that an auditor will
13 come in and say "Well, this scope doesn't fit what we
14 would do in a management audit. So, we are going to now
15 look into other areas that we think are more appropriate."

16 CHAIRMAN HONIGBERG: Let me follow up on
17 that. Mr. Antonuk said a minute ago that this phrase
18 "management audit" is being thrown about too loosely.
19 That what he really means, when he said "this is what we
20 would do in a management audit", he said this is a
21 "management-style audit of targeted areas". Does that
22 mean anything to you? Do you have a response to that?

23 MS. KNOWLTON: And, I'm going to
24 interrupt and ask that Mr. Hall speak, because Mr. Hall

1 actually has been a participant in a management audit.

2 I will say, from a lawyering
3 perspective, every single word that is in that document is
4 in there for a reason. And, the words that are not in
5 that document, in Attachment 7 or the Settlement, they are
6 not in there for a reason. This was a hotly contested and
7 negotiated document. Mr. Mullen has his file here that
8 has, you know, all the things that we can't get into that
9 led up to this. But, I'm telling you, the words, you
10 know, and I know you appreciate this, that we use words
11 for a reason and we leave words out for a reason.

12 And, so, I just would ask now Mr. Hall
13 to address, from his perspective, what does a "management
14 audit" mean to you?

15 CHAIRMAN HONIGBERG: Mr. Hall.

16 MR. HALL: Thank you. Is this on?

17 CHAIRMAN HONIGBERG: It is.

18 MR. HALL: Okay. Some 20 some odd years
19 ago, when I was still with PSNH, I was involved in a
20 management audit of the company conducted by Staff. Where
21 Staff employed Liberty Consulting Group to perform the
22 audit. That audit was a very broad-based, wide-ranging
23 audit, involving many, many areas of the company. It
24 involved an audit and review of accounting, treasury,

1 finance, regulatory, legal, customer service. It may have
2 even involved human resources, although, at this point, 20
3 years ago, my memory is a little bit foggy.

4 When we were negotiating this Settlement
5 Agreement, as Attorney Knowlton said, we used the term
6 "targeted audit" for a very specific reason. We did not
7 want this to be a management audit, so that's what we
8 negotiated. Management audits take up a substantial
9 amount of company resources, time and effort. And, in
10 this case, such an audit, we felt, was not going to focus
11 on the two primary areas that were of concern to staff,
12 namely customer service and the finance and accounting
13 area.

14 So, in a management audit, our concern
15 was that we get a very broad-based audit, in areas where
16 there really wasn't a problem. Staff perceived the
17 problem to be in customer service and accounting and
18 finance; we agreed. That's what we agreed to, is a
19 targeted audit in those areas.

20 So, that's really how I perceive the
21 difference between this type of "targeted audit" and what
22 I view as a "management audit".

23 CHAIRMAN HONIGBERG: Mr. Wiesner, you
24 want to respond?

1 MR. WIESNER: I mean, Ms. Knowlton
2 points to certain language or the lack of certain language
3 in Attachment 7. I guess I look at Attachment 7 and I see
4 words that include "IT Support and Services", "Corporate
5 Services", "Business Planning", "budgeting", these are
6 areas which are directly addressed in the scope of this
7 targeted audit.

8 And, given the fact that this Company is
9 not managed as a stand-alone in New Hampshire, but is part
10 of a greater holding company structure, where significant
11 decision-making occurs at the corporate parent level, our
12 view is it's entirely appropriate to look under those
13 rocks, if you will, and disregard what's not relevant to
14 the core focus, but not be denied access to those
15 particular rocks, as Liberty is proposing.

16 CHAIRMAN HONIGBERG: Commissioner Bailey
17 I think has a follow-up.

18 COMMISSIONER BAILEY: Ms. Knowlton, in
19 your motion, you quote Ms. Noonan's testimony from the
20 hearing that says "while this is not a comprehensive
21 management audit, it's styled loosely on that". Those are
22 very specific words that say that it looks like it's going
23 to be a management audit, but more targeted and focused to
24 the areas that we know to be of concern. Was that part of

1 a panel? That testimony, was that part of a panel? Maybe
2 Ms. Noonan remembers?

3 MS. NOONAN: Yes.

4 MS. KNOWLTON: I'm looking at the
5 transcript. My recollection -- yes, it was. Yes. It was
6 Mr. Mullen, Mr. Frink, Ms. Noonan, and Mr. Brennan.

7 COMMISSIONER BAILEY: And, did the
8 Company disagree with that statement? I mean, you've put
9 it in your pleading to show that that's what the intent
10 was. And, maybe the words "management audit" are not
11 included in the Settlement Agreement, but here's the
12 testimony about the Settlement Agreement.

13 MS. KNOWLTON: And, I can check and see.
14 I mean, I can also say that, when Mr. Mullen testified
15 about what he understood the audit meant, Mr. Frink was
16 asked, by his counsel, "do you agree with what
17 Mr. Mullen's characterization of the audit is?" And, he
18 said "yes". So, -- I don't know that. I'd have to go
19 back and review the entire transcript. I don't know off
20 the top of my head that the Company commented on her
21 statement.

22 COMMISSIONER BAILEY: But you put this
23 in your motion, this statement in your motion, --

24 MS. KNOWLTON: Yes, I did put it in my

1 motion.

2 COMMISSIONER BAILEY: -- to support your
3 argument.

4 MS. KNOWLTON: Yes, I did.

5 COMMISSIONER BAILEY: But it doesn't
6 seem like it's supporting your argument.

7 MS. KNOWLTON: I think it does, myself.

8 COMMISSIONER BAILEY: Okay. Explain?

9 MS. KNOWLTON: I do. The word
10 "management" does not appear in the Settlement. It was a
11 negotiated -- the term "targeted" was a negotiated term.
12 I understand that Ms. Noonan said this at the hearing.
13 But I think, you know, I think, when I read the entire
14 transcript and I read the testimony of the Parties, it
15 doesn't -- I mean, even if you want to say "it's a
16 management audit of customer service and finance areas",
17 it's -- I think our point, really, is that this is not a
18 "management audit". It's an audit of these areas within
19 the Company.

20 Yes. I understand that, when you want
21 to understand how those areas are working, you're going to
22 ask "how are they managed?" But it's not intended to be
23 an audit of all these various functions. And, it's
24 intended to improve the performance of customer service

1 and finance and accounting in New Hampshire. There were
2 concerns about, you know, the bills, about budget billing,
3 and things like that. And, that's what this was intended
4 to do.

5 CHAIRMAN HONIGBERG: Commissioner Scott,
6 do you want to continue?

7 MR. WIESNER: Okay. Could I just ask if
8 Mr. Antonuk could respond to what we've just heard?

9 COMMISSIONER BAILEY: I have some
10 questions for Mr. Antonuk.

11 CHAIRMAN HONIGBERG: Well, --

12 COMMISSIONER BAILEY: Or Staff.

13 CHAIRMAN HONIGBERG: Yes. I mean, we're
14 going to -- we're going to go through what we usually do,
15 which is allow the Commissioners to ask whatever questions
16 they want. If it is related to this topic, we can
17 continue to run this topic to ground.

18 COMMISSIONER BAILEY: I've got a lot of
19 questions that are sort of related. So, why don't we just
20 let Commissioner Scott ask his questions, and then I'll
21 ask mine.

22 CHAIRMAN HONIGBERG: Yes. Why don't
23 we -- I think we're going to get a chance to circle back
24 to this in a few minutes, is my guess.

1 Commissioner Scott, why don't you
2 continue.

3 COMMISSIONER SCOTT: I just wanted you
4 to flesh out a little bit also, this is for Attorney
5 Knowlton, whoever she wants to have answer, I think we're
6 in agreement that a lot of these, the functions that need
7 to be looked at at the local level for the affiliate,
8 there's guidance management, coordination with the
9 corporate body, correct?

10 MS. KNOWLTON: Correct. And, my
11 understanding is, and, again, I can have Mr. Mullen and
12 Mr. Hall speak to this, since they have been on the front
13 lines of it, I have not. But that the Company has
14 offered, you know, they have made people available to talk
15 about "how does that work?" So, you know, it's not that
16 it's a black hole and we're saying "you can't ask
17 anything". There has been discussion about that, "so,
18 explain how your budgeting process works?" You know,
19 whether it's, you know, for capital items or operating
20 expense. And, there's been that dialogue.

21 COMMISSIONER SCOTT: So, I'm just trying
22 to tease up, make sure I fully understand your argument.
23 So, it's not that asking questions at the corporate level
24 to understand how that -- the New Hampshire affiliate is

1 incorporated holistically on those issues is
2 out-of-bounds, and, again, I don't want to put words in
3 your mouth, I want to understand, it's that the questions
4 are overbroad for corporate, is that correct?

5 MS. KNOWLTON: Correct. Correct. And,
6 Mr. Mullen wants to speak.

7 MR. MULLEN: The Company has made
8 numerous people at various levels of the organization,
9 both locally and in Canada, available on a variety of
10 topics. Whether it has to do with budgeting, whether it
11 has to do with IT, --

12 CHAIRMAN HONIGBERG: Yes, Mr. Mullen.
13 I'm going to stop you, because we've heard this already.
14 We know this. We've already heard you say this, or maybe
15 it was Ms. Knowlton. Unless, I'm really going to ask, I'm
16 going to follow up on something that Ms. Knowlton said
17 earlier, unless there's something unique that your clients
18 or your -- the nonlawyer representatives here need to say,
19 I would really like this to focus on the lawyers providing
20 us with the information.

21 If there's something specific that needs
22 to be added, you can add it. But I know we already heard
23 that. So, I don't -- we don't need to hear that again.

24 I'm sorry to interrupt you, Mr. Mullen.

1 MR. MULLEN: That's fine.

2 MS. KNOWLTON: But I can give us, this
3 example might also, just as another example. So, they
4 want what's called the "Balanced Scorecard", which we've
5 given for New Hampshire. So, that shows how the New
6 Hampshire utilities have performed. And, then they said
7 "We want the Balanced Scorecard up at the Liberty
8 Utilities Co. level." Well, the Liberty Utilities Co.
9 Balanced Scorecard is -- it's just a roll-up of all the
10 scorecards from all the different utilities across the
11 United States, with CalPeco and Missouri and Georgia and
12 Arizona and, you know, on and on and on. And, we said
13 that "to us, you know, that's not relevant. That's not
14 within the scope."

15 That's another example. So, we've given
16 them the New Hampshire-specific information.

17 COMMISSIONER SCOTT: Okay. Thank you.
18 And, on the IT side, the G3, you know, I think I
19 understand your concerns that there was a strong look
20 earlier from G3, I think is one of your points, a
21 significant amount of money went into that, I think is one
22 of your points. So, is that really the end of the story,
23 though? I mean, that G3 did a strong look, there's been
24 things happening since. And, isn't there a tie-in to look

1 at what happened with G3 and now also? I mean, help me
2 out. How is that out-of-bounds for this analysis?

3 MS. KNOWLTON: I don't think -- I think
4 the Company's concern is where they want to go back
5 through the transition process, which is what G3 looked
6 at, that's the concern. You know, if you question about
7 how IT systems are working today? You know, I get that.

8 Right. I mean, I'll give you another
9 example. G3 was -- part of its engagement was to look at
10 the network security assessment. You might remember that
11 issue, that was a contentious one. So, over a year ago or
12 maybe about a year ago, the Company submitted the network
13 security assessment to the Staff, to the Commission.

14 When Liberty Consulting, right, you
15 know, when this engagement began, first thing that came up
16 was "we want to go over" -- Staff wanted to go over,
17 through this audit process, the network security
18 assessment. Well, that was something that we did with G3.
19 You know, why are we doing that again? That's the nature
20 of our concern. You know, it's -- some things are
21 repetitive and duplicative. And, I know that G3 bid on
22 the contract. And, you know, the Commission felt that it
23 was important to springboard off that knowledge and that
24 experience. You know, I get it that the bid price was

1 higher. But, if that was really important, it seemed like
2 they could have been selected as the contractor.

3 But, for us to go back and relook at
4 that, we just feel it's a misallocation of resources. You
5 know, there's only so many hours in the day and so many
6 people to work on things. And, it's not about, you know,
7 trying to hide anything or afraid of anything. It's about
8 there were particular concerns, we all want to make them
9 better. Let's focus all of our time, whether it's our
10 time, Liberty Consulting's time, to do that.

11 COMMISSIONER SCOTT: Thank you.

12 CHAIRMAN HONIGBERG: I want to follow up
13 on that, because there's an abstract aspect to the
14 Company's motion and the response. You know, unlike a
15 discovery dispute, Staff has analogized this to a
16 "discovery dispute", and I don't know that I agree with
17 it. But, within a discovery dispute, you have specific
18 questions that you can look at and say "is this or isn't
19 this within the scope of discovery?" We don't really have
20 that situation here. And, both sides are making allusions
21 and describing to us areas, aspects, but without reference
22 to specific questions and answers. I mean, Ms. Knowlton
23 just made a specific reference to questions that were
24 about the transition that, in their view, was already

1 looked at by G3. And, you know, maybe it's -- maybe it's
2 all in here and I just have missed it all. But this, I
3 mean, I have the Agreement, and I have the motion and the
4 response. I mean, there are data requests here. But the
5 way you're talking about them now, they are broad
6 categories. And, it looks like you want us to issue a
7 broad order on scope.

8 MS. KNOWLTON: We certainly can go
9 one-by-one. And, when I became involved in this matter
10 recently, you know, that was my first question was "which
11 questions are in dispute?" I think, as lawyers, that's
12 how we, you know, we tend to get into that shoot of "okay,
13 you know, show me what's, you know, what's at issue."
14 And, so, that's what the Company did, is they answered the
15 questions or objected to the questions that they felt were
16 outside the bounds. And, that's what's attached as
17 Exhibit B. And, we can go one-by-one, if that's helpful.

18 CHAIRMAN HONIGBERG: Yes, it might be
19 necessary. Because the level at which you're making these
20 arguments is so abstract that, I mean, it's hard to argue
21 with the idea that "you need to go up the chain to
22 Canada", and it's also very easy to agree with the concept
23 that "well, you already looked at the transition plan". I
24 can agree with both of those statements, and not be able

1 to resolve this, or that's not a helpful -- that's not a
2 helpful argument to be able to resolve the specific
3 disputes.

4 MS. KNOWLTON: I understand that. Since
5 we've made the motion, there have been more questions that
6 have come that are not attached. But, certainly, these
7 are the ones at the time that we had. And, you know, the
8 Company could have also just submitted these answers and
9 then done nothing, you know. But we've been talking to
10 Staff and Liberty Consulting, you know, we know that the
11 Staff is very concerned about time passing. And, so, we
12 thought, and we agreed, you know, we'll bring this
13 forward. We're not going to -- it's not like we're going
14 to sit back and wait for someone to file a motion to
15 compel or anything of that. Let's bring it forward.

16 And, so, this was the way that we
17 thought it made sense to do it. But I can totally
18 understand your perspective on it being abstract, and we
19 can go one-by-one, if it's helpful.

20 CHAIRMAN HONIGBERG: All right. I know
21 Commissioner Bailey has questions.

22 COMMISSIONER BAILEY: Let's look at
23 Exhibit -- or, Attachment 7, specifically Page 24. It was
24 Bates Page 24 to your motion. You have it?

1 MS. KNOWLTON: Yes.

2 COMMISSIONER BAILEY: Okay.

3 MS. KNOWLTON: I do, yes.

4 COMMISSIONER BAILEY: Okay. So, what
5 did you think Item G meant, "Effectiveness and Efficiency
6 of Corporate Services" and "IT Support and Services"?

7 MS. KNOWLTON: My understanding of that
8 is what -- that it was in relation to the customer service
9 and finance area. It wasn't IT, you know, in all
10 respects. For example, you know, "is the Telnet system
11 that's used by the Ops Group, you know, working well" and
12 "how is the Company doing during outages", and all of
13 that. It was -- is that these subject matter areas, as
14 they related to customer service, you know, financing and
15 the accounting group, but not across the board.

16 COMMISSIONER BAILEY: Okay. So, which
17 question, in Attachment B, is the one that you object to
18 with respect to "IT services"? Let's look at that.

19 MS. KNOWLTON: And, there's also
20 interview requests. So, it was a combination of
21 particular audit requests and interview requests. And, I
22 know, on the IT side, and I believe, if we go back to
23 the -- let me see, Bates Page -- Bates Page 45. I took
24 the interview request that the Company received, and then

1 I highlighted the blocks where the Company had concerns,
2 so, Bates 45 and 46. Areas including "Description of the
3 IT transition from National Grid", "description of the
4 development and implementation of new IT applications
5 after the acquisition of the New Hampshire utilities". I
6 mean, that was addressed at length in the Settlement
7 Agreement in DG 11-040 and the G3 process.

8 COMMISSIONER BAILEY: So, is it
9 possible, though, that something was expected from the IT
10 transition, and that this audit would look at whether that
11 actually happened or not?

12 MS. KNOWLTON: Well, my understanding is
13 is that G3 was involved in the discussions at the time and
14 the review at the time before the Company cut over. And,
15 there was a determination that was made that cutover was
16 appropriate to proceed, both for Granite State and for
17 EnergyNorth. They cut over separately, but --

18 COMMISSIONER BAILEY: But isn't there a
19 difference between whether the systems were the best
20 systems, which is what you argued you thought they might
21 be trying to determine, and whether the systems are being
22 used efficiently and effectively to do what they were
23 supposed to do, and that was to improve customer service?

24 MS. KNOWLTON: No, I don't think the

1 Company disputes that, if Liberty Consulting wants to
2 inquire about that, as it relates, you know, to the areas
3 within the scope of the audit, the Company will answer
4 those questions. And, there's been a lot of IT interviews
5 that have occurred.

6 COMMISSIONER BAILEY: But, if they don't
7 know what was supposed to happen, how can they answer the
8 second question? It doesn't matter what was supposed to
9 happen?

10 MS. KNOWLTON: I don't think they start
11 with a blank slate. I mean, assuming that the Staff has
12 given them the Settlement in DG 11-040, that they've got
13 the migration plan. I mean, the Settlement is about this
14 thick [indicating], with the attachments, with all the
15 various -- you know, there's an IT migration plan, there's
16 another IT document, I don't have it in front of me. But
17 I'm assuming that they've been given some information
18 before they started, that they didn't start with a blank
19 slate.

20 And, certainly, I know that the purpose
21 of a lot of the interviews was, you know, to give them
22 that contextual orientation, so that, you know, they
23 wouldn't start from zero.

24 But, again, to back in to assess the

1 transition --

2 COMMISSIONER BAILEY: I'm not convinced
3 that they're trying to "assess the transition". I think
4 my understanding of what they're trying to assess is
5 whether the transition systems did what they were expected
6 to do, and how they have improved customer service.

7 MS. KNOWLTON: I mean, I think you
8 understand, or you may not agree, but you understand what
9 our position is. Again, it's not that we're not willing
10 to talk about IT and how IT is working today. What we're
11 saying is, you know -- you know, to go back to the very
12 beginning, to us, is not, you know, a productive use of
13 time, when G3 was extensively involved in that.

14 COMMISSIONER BAILEY: Okay. Let's go on
15 to the debate about access to the corporate information
16 and how that relates. Do strategic plans and annual plans
17 include strategies to improve customer service?

18 MS. KNOWLTON: My understanding is is
19 that these are very high-level documents, that look at,
20 again, you know, it's a very large company, that has
21 various aspects to its business. There's the regulated
22 side of the business. There's the unregulated side of the
23 business. Algonquin owns generation, both in Canada and
24 the United States. So, I don't believe that the plans are

1 that granular.

2 COMMISSIONER BAILEY: So, there's
3 nothing in the strategic plans about improving customer
4 service? I mean, --

5 MS. KNOWLTON: I don't know. I'd have
6 to go examine the document to see whether that phrase
7 "improving customer service" exists. I mean, what the
8 Company has provided is there is a document, a publicly
9 available document on its generation, transmission, and
10 distribution business, you know, that talks about, you
11 know, priorities, you know, what the Company's --

12 COMMISSIONER BAILEY: That's a marketing
13 thing, though.

14 MS. KNOWLTON: -- performance. But, you
15 know, I can -- you know, we can go and look and see if the
16 words, you know, "customer service" appear in Algonquin's
17 strategic plan.

18 COMMISSIONER BAILEY: But why isn't it
19 appropriate for the auditor not to look at that?

20 MS. KNOWLTON: Because I don't think
21 it's appropriate for the auditor to be looking at a
22 document that is, first of all, a confidential document of
23 a publicly traded company, that deals with aspects of its
24 business that have nothing to do whatsoever with the State

1 of New Hampshire. I just -- it does not.

2 COMMISSIONER BAILEY: I get your point
3 on that.

4 MS. KNOWLTON: So, if we said "can we
5 see" -- "can we see if there's anything about New
6 Hampshire in there?", and that's a different question than
7 "give us your, you know, your plans for this publicly
8 traded company for the next five years, give us your
9 strategic plans for this publicly traded company", it's a
10 different question to say "is there anything in there
11 about New Hampshire?" And, then, you know, maybe there is
12 -- maybe there isn't, and, if there isn't, then, you know,
13 Liberty Consulting wants to reach a conclusion about that,
14 I mean, they're certainly entitled to.

15 COMMISSIONER BAILEY: Well, I think the
16 question may be a little broader. "Is there anything
17 about customer service in general?" And, then, "is there
18 anything specific to New Hampshire?" Because, if there's
19 nothing specific in general, or, if there is something
20 specific to customer service, but it's about customer
21 service in one of the other states and not New Hampshire,
22 that would inform the debate as well.

23 MS. KNOWLTON: That wasn't the question
24 that we got.

1 COMMISSIONER BAILEY: Okay.

2 MS. KNOWLTON: And, we did, I mean, just
3 so that you know, we, you know, it's not as though we
4 haven't tried to talk among ourselves to work this out.
5 We did, as I started, you know, with my statement today,
6 we didn't take lightly the decision to come and file this.
7 We showed a draft of our motion to the Staff before we
8 filed it. And, then, there had been discussions that
9 occurred prior to that. So, --

10 COMMISSIONER BAILEY: Okay. How about
11 "incentives for executives to improve customer service"?
12 Is that included in any of the documents that were
13 requested, or might it be?

14 MS. KNOWLTON: Well, I know that most
15 recently, the most recent batch of questions has asked for
16 incentives that have been paid by individual name, by
17 employee, across the entire organization and New
18 Hampshire.

19 COMMISSIONER BAILEY: But, even at the
20 parent company level, if the incentives are skewed for or
21 against improvements in customer service, to employees in
22 New Hampshire versus employees in Missouri, that could
23 tell the auditor something, couldn't it, about what the
24 Company's real intent about improving customer service in

1 New Hampshire is?

2 MS. KNOWLTON: I think the Company is --
3 has provided information about how incentives are -- what
4 the -- the Balanced Scorecard and the method for
5 determining whether or not incentives are paid. I know
6 that, in the rate case, I believe there were documents
7 produced about, you know, the incentive plan and how that
8 works, which is, you know, typical that that would come up
9 in a rate case, so that there's an ability to understand
10 how that works.

11 COMMISSIONER BAILEY: How it works is
12 different than whether it's being done, right?

13 MS. KNOWLTON: Right. I mean, there
14 was, in this same case, you know, there was compensation
15 information that was produced, I believe the compensation
16 of all the individuals and employees in New Hampshire.
17 There was also officer and director compensation
18 information that was produced in DG 14-380 -- I'm sorry,
19 180. You know, we can produce that to Liberty Consulting,
20 and I think the Staff has it as well.

21 I mean, they have asked most recently,
22 you know, how do you -- what amounts do you pay in
23 bonuses, you know, for employees that are in collective
24 bargaining units, that those are contractually determined

1 obligations.

2 COMMISSIONER BAILEY: Okay. I have a
3 question for Mr. Mullen, but I don't know if it's
4 appropriate or not?

5 CHAIRMAN HONIGBERG: Well, you can ask.
6 I think, if Ms. Knowlton is willing to have Mr. Mullen
7 answer the question, that's fine.

8 COMMISSIONER BAILEY: Mr. Mullen, when
9 you were a Staff member, were involved in the management
10 audit of PSNH?

11 MR. MULLEN: That was ongoing when I
12 joined the Commission.

13 COMMISSIONER BAILEY: Uh-huh. And, was
14 it your experience that the key to unlocking all of the
15 information was more at the parent company level?

16 MR. MULLEN: As I said, that was ongoing
17 when I joined the Commission. I was a member of the Audit
18 Staff at the time. And, I was not really involved in that
19 proceeding. I saw the document that came out at the end
20 of it, but that was it.

21 COMMISSIONER BAILEY: Okay. Thank you.
22 Is now the appropriate time to ask my questions of Staff?

23 CHAIRMAN HONIGBERG: Yes.

24 COMMISSIONER BAILEY: Okay. Can you

1 explain to me what your position is on the -- you know,
2 how the description of the IT transition from National
3 Grid is important to how the IT systems are working
4 effectively and efficiently now?

5 MR. ANTONUK: Yes. It's one of
6 approximately ten things we asked, all of which have been
7 refused. It's not just that.

8 Its particular relevance is that it was
9 designed to look at what was happening during the
10 transition. It is possible, and, by the way, I'm not here
11 to kind of say what anything is going to tell me when I
12 look at it. I don't know, that's my point. What we want
13 to look at it for is to see what kind of problems were
14 identified, what level of confidence was stated about
15 whether they were solved, what -- particularly, what risks
16 for the future may have been identified, because that's
17 what we're looking at now. We were looking at their
18 future, which is our present.

19 So, the relevance of all that is to sort
20 of see what insight comes from that audit that may bear on
21 how effective IT is today. That work was done a couple of
22 years ago. And, in the IT business, that's a generation
23 sometimes.

24 COMMISSIONER BAILEY: Does Staff have

1 results of that audit? Do we have -- you know, we have
2 the G3 reports. Do we have -- I mean, could Staff somehow
3 provide that information to Liberty, and would the Company
4 object to that, if -- I don't even know if that's
5 possible, but --

6 MS. NOONAN: We would have to go back to
7 look and see what it is that we still have. There were
8 reports that were provided by G3. There was not a lot of
9 work done by G3 on the transition post transition. So,
10 they looked at the transition plan, the coordination
11 between National Grid and Liberty. The cleaning of the
12 data, the testing, making sure everything mapped
13 appropriately. They did some early work looking at the
14 systems to see if the systems were functional. They
15 identified some areas of concern. And, then, G3 did a --
16 the gas conversion was in September of 2013. They did a
17 site visit in November of 2013, to just kind of see how
18 things were going. There's a report of that that we must
19 have. And, then, in the spring, they were involved in
20 some discussions, Spring of 2014, they were involved in
21 some discussions with Staff and the Company about the
22 Company's readiness for the electric conversion. We
23 didn't have any reports from G3 from that necessarily.
24 There was a Commission status conference. And, then,

1 ultimately, the Commission, based on filings by Staff and
2 the Company, determined that it was appropriate for the
3 Company to move forward.

4 So, there is some of that information.
5 But, you know, based on what Mr. Antonuk described,
6 there's not a lot of overlap. There is perhaps something
7 that could be learned.

8 COMMISSIONER BAILEY: And, I think the
9 Company has agreed that they would answer questions about
10 information that has to do with information after the G3
11 work was done.

12 And, do you have any objections if Staff
13 shares the work that G3 did while it was here with
14 Liberty?

15 MS. KNOWLTON: No. I have none.

16 COMMISSIONER BAILEY: Okay. And, are
17 there questions that you've asked the Company about that
18 work that Staff doesn't have?

19 MR. ANTONUK: We don't -- we don't know
20 what the Company has. I mean, that's the problem. I
21 can't really make even an offer of proof here.

22 Within the general scope, auditors
23 rummage around and follow their nose until they find
24 something interesting. And, that's what we're trying to

1 do. In 13 areas in that question, one of them relates to
2 this. The objection is to all 13. The others of which
3 deal with what's happening now and in the future. So, you
4 know, resolving the one leaves another dozen.

5 COMMISSIONER BAILEY: Right. And, I
6 think I heard the Company say that the other dozen they
7 could probably answer. Am I wrong with that,
8 Ms. Knowlton?

9 MS. KNOWLTON: All right. I think, if I
10 can find my copy, my Bates copy, I mean, the Company has
11 already provided a lot of IT interviews and information.
12 So, looking at Bates 45, there's been extensive
13 information provided about the IT systems.

14 So, I mean, I think a lot of it has been
15 provided through these interviews of Mr. Neufville, I know
16 that one occurred, I believe, recently, Mr. Ferrari and
17 Mr. Ormsby.

18 CHAIRMAN HONIGBERG: When was the last
19 time the Parties discussed the scope of this dispute,
20 other than in the papers that they fired back and forth at
21 each other?

22 MS. KNOWLTON: Well, there was a lot of
23 written back and forth between the Parties just prior to
24 the filing of the motion.

1 CHAIRMAN HONIGBERG: How about since
2 then?

3 MS. KNOWLTON: I'd defer to Mr. Mullen
4 and Mr. Hall, because there been interviews that have
5 occurred.

6 CHAIRMAN HONIGBERG: I'm talking about
7 discussions about the scope of this dispute. Because it
8 seems, to the uninformed person up here, who only knows
9 what he has read, that you have not talked to each other
10 adequately about the scope of this.

11 MS. KNOWLTON: We did --

12 CHAIRMAN HONIGBERG: And, I'm not
13 just -- I'm not just talking to you, Ms. Knowlton.

14 MS. KNOWLTON: Uh-huh.

15 CHAIRMAN HONIGBERG: But I -- I don't
16 get the sense that much of what Mr. Antonuk is saying, and
17 what's happening over here, is stuff that you would really
18 disagree with, and, in fact, a lot of what you said you
19 would agree with. And, so -- and yet, that side of the
20 room is very unhappy with the level of your cooperation.
21 So, I'm missing a piece here.

22 MS. KNOWLTON: Me, too. I mean, we
23 filed our motion -- we sent our motion over and said, you
24 know, "We're happy to talk". And, we got an e-mail back

1 "There's nothing to talk about. File it."

2 I'm happy to talk. I'm happy to sit
3 down and talk.

4 CHAIRMAN HONIGBERG: Mr. Wiesner, what's
5 the status of things here with respect to discussions to
6 try and narrow the areas of dispute?

7 MR. WIESNER: I mean, perhaps Mr.
8 Antonuk can speak to this more fully than I can. But, in
9 order for this audit to have -- to be robust and serve its
10 purpose, and provide valuable information to the
11 Commission as a regulator of a New Hampshire utility, our
12 view is that the scope should not be, cannot be unduly
13 constrained, and that Liberty's proposal is just chipping
14 away at the scope of the audit, for whatever reason, which
15 undercuts/undermines that overall goal.

16 And, so, you know, with all due respect,
17 I think this is a case where we need a broad order
18 defining that scope and providing guidance as to what the
19 scope of the audit is, and what the appropriate level of
20 audit inquiry is.

21 And, I don't think there's a lot of
22 value to be had in negotiating against ourselves of what
23 the scope of audit inquiry can be. I think -- I think
24 there's a perfect example here on Bates Page 45. The

1 Company has denied an interview request where, arguably,
2 one or two of the matters noted within the scope of that
3 proposed interview might stray into some work that was
4 previously done by G3. That's the extent of it. But the
5 entire interview request, as we understand it, was denied,
6 and the Company has not backed down off of that position,
7 until perhaps just now, although I'm not convinced they
8 have even now. So, --

9 CHAIRMAN HONIGBERG: Well, let's talk
10 about -- let's talk about the interview requested on Bates
11 45. What would be okay for that interview to include, in
12 your view, Ms. Knowlton?

13 MS. KNOWLTON: Well, first of all -- so,
14 I think it's easier to say what we would not agree to,
15 because there's actually fewer things that we would not
16 agree to than more than we would.

17 So, from our perspective, what's out of
18 the scope is "Description of the IT transition from
19 National Grid", "IT security and disaster recovery
20 processes", and "IT change control processes".

21 CHAIRMAN HONIGBERG: And, so, that
22 conversation could take place. And, if it were anything
23 other, in your view, than kind of necessary background and
24 context, you'd stop questions with respect to those

1 issues, but would let the questions on all the other
2 topics go?

3 MS. KNOWLTON: Yes. And, I don't
4 participate in any of these interviews, just so you know
5 that. Mr. Mullen and Mr. Hall do, and they can -- they
6 can do that. They can say "you know what, we think that's
7 out-of-bounds, but ask everything else." And, I think
8 that's what's been happening. They went up to Oakville
9 and had interviews last week or the week before. So, --

10 CHAIRMAN HONIGBERG: I am thinking out
11 loud, and have not consulted with Commissioner Scott or
12 Commissioner Bailey. But it seems like, in light of
13 having heard each other, and having heard some of the
14 concerns and some of the questions that we've been asking,
15 a further conversation might be appropriate with counsel
16 involved, not just the people -- Mr. Antonuk and Mr. Hall
17 and Mr. Mullen, regarding how these questions, the written
18 ones, and the interview requests can be appropriately
19 dealt with, so that you don't need intervention from us.
20 And, there may -- I suspect there will be issues that you
21 need us to resolve.

22 If you don't think that would be a good
23 idea, a useful exercise for the next 45 minutes, we can
24 sit here, and having dealt with the one on Page 45, we'll

1 do the ones on Page 44 and the others, and we'll go
2 through the questions one-by-one. But it strikes me
3 anyway that you all might benefit from talking to each
4 other, with counsel involved.

5 Anyone want to react to that?

6 MR. WIESNER: With all do respect, Mr.
7 Chairman, I think this is a moving target. I mean, just
8 today, we heard about additional questions which the
9 Company is questioning, which are not included in its
10 motion.

11 And, as I say, there was a lot of
12 discussion between Staff and Liberty Consulting and the
13 Company as to the scope of the audit inquiry that was
14 being made, and their objections to it. And, their
15 position is a moving target, their objections are a moving
16 target, and we honestly don't have time for that.

17 The audit was supposed to -- a draft
18 audit report is supposed to be done by March 1st; that
19 will not happen. It's probably going to be necessary to
20 go back to the Governor and Council and seek an extension
21 of this contract so that the audit can be completed, in
22 large part, because of these disputes.

23 And, I was the one who made the
24 discovery analogy, and it's perhaps not perfect. I don't

1 think the Commission wants to have a series of motions to
2 compel, which it has to decide one-by-one with respect to
3 every question that's answered, and --

4 CHAIRMAN HONIGBERG: You are correct
5 about that. And, it may be that all we can do is give you
6 a broad answer. Although, it seems fair enough that we
7 would go through each of the requests, and we can --
8 maybe, if we do that, we'll end up recognizing some broad
9 principles that are narrower than "management level audit
10 of targeted areas", which is, you know, a couple of
11 jargony words thrown together that mean one thing to the
12 left side of the room and the other thing to the right
13 side of the room.

14 MR. WIESNER: I would invite Mr. Antonuk
15 to speak, too.

16 MR. ANTONUK: I have a contract that
17 says I'm not going to charge you more than a certain, and
18 I have a schedule. I'm sitting here today, I'm not
19 auditing, but I'm spending time. We've lost a month with
20 this. The problem is that, whenever the Company decides
21 they will give us something and they won't give us
22 something else, are we supposed to go to Canada and find
23 out, when we're sitting there in Canada, after we've
24 marshaled resources, sent them up there expecting to get

1 100 percent of our agenda done, and find out they will let
2 us do 50?

3 If this is the way it goes, I have to
4 tell you, my contract is unexecutable. Either you have
5 confidence that we, who have been doing this for 30 years,
6 have audited time and time again across 40 jurisdictions
7 in the United States, all of a sudden have no sense of
8 responsibility, no sense of scope? Then, fine. Then, we
9 shouldn't be the auditors. If we're the auditors, all I'm
10 telling you is you've got to let us do what we need to do,
11 without what looks to me like probably just the first of
12 many times we're going to be back here doing this, as long
13 as the Company is going to say "I can point to an
14 exhibit", "I can point to a record in a case", "I can
15 point to a settlement agreement". I've got a scope. I
16 think the scope is reasonable. I think I'm acting within
17 the scope as defined.

18 If you have a lack of confidence in
19 that, and we need to go through this process, I'm telling
20 you, I don't have a contract against which I can
21 reasonably perform.

22 CHAIRMAN HONIGBERG: No one wants to go
23 through this process, Mr. Antonuk. Trust me, no one.

24 Let's look at Bates Page 27. So, there

1 have been two level of responses. What more information
2 would you want, Mr. Antonuk?

3 MR. ANTONUK: I'm always hesitant to
4 tell the Company what hypotheses we're working on, because
5 I think it jeopardizes the information-gathering process.
6 But, in the sake of kind of getting to the point, let me
7 do that.

8 We are finding evidence of controls
9 issues with respect to the accounting system. Those are
10 within the responsibility of the audit function, which, in
11 this Company, is done at the parent level. We want to
12 find out what the heck the internal audit is and is not
13 doing. So, we want to see the reports that go to the
14 Board. Because there is not a board in New Hampshire that
15 treats audits, it's done at the parent Board.

16 If there are no audits that relate to
17 the controls issues, we're concerned about that, in and of
18 itself is important. So, it's not necessarily what's
19 there, it's what's not there. Moreover, the reports to
20 the Board include audit plans. So, we're also interested
21 in the fact that, now that the Company appears to see some
22 of these issues, are they or are they not spending audit
23 time on them?

24 CHAIRMAN HONIGBERG: Ms. Knowlton.

1 MS. KNOWLTON: And, Mr. Gilpin, who is
2 the auditor, has been interviewed. So, they have met with
3 Mr. Gilpin.

4 MR. ANTONUK: I'm happy to listen to
5 Mr. Gilpin. But this is an audit, this isn't a series of
6 conversations. Audits are about documents. Audits are
7 about combining what you learn in interviews and what you
8 see in documents. If I'm forced to rely on what people
9 tell me, and if I'm forced to rely on representations that
10 nothing existed, then I'm not doing an audit anymore.

11 CHAIRMAN HONIGBERG: Ms. Knowlton, he's
12 won that argument, unless you can do better.

13 MS. KNOWLTON: I really believe that,
14 instead of asking for the kitchen sink, --

15 *[Court reporter interruption.]*

16 MS. KNOWLTON: I'm sorry. Steve, sorry.
17 That I still don't understand why he cannot ask about
18 categories by subject matters. He wants all the work of
19 the Audit Committee, you know, of a company that has -- I
20 mean, does he want to ask about the regulated side of the
21 business? I mean, he hasn't narrowed it in any respect
22 whatsoever.

23 CHAIRMAN HONIGBERG: Since he doesn't
24 know what documents exists, he has to ask the question

1 broadly. If you need to tell him there are types of
2 documents and describe the types of documents, then maybe
3 he can tell you which ones he wants. If you tell him
4 "there are no documents", then that's an answer. I mean,
5 I get exactly the concern that he has.

6 MS. KNOWLTON: Right. But he's asked us
7 for copies of all of the quarterly audit reports. He
8 doesn't narrow it.

9 MR. ANTONUK: And, I've asked PEPCO
10 that, and I've gotten it.

11 MS. KNOWLTON: But PEPCO didn't have a
12 settlement agreement. And, that's my point. Is that why
13 would a company ever enter into a settlement here at this
14 Commission if that settlement is meaningless? And, I kid
15 you not, it is a serious issue.

16 This is not, you know, this was not a
17 situation where, you know, the Commission ordered an
18 audit, you know, because it had, you know, the authority
19 to do that *sua sponte*. This was part of a settlement.
20 And, I understand that he's an auditor, that he has work
21 to do. But why did the Company do that? The Company
22 walked away from money in the Settlement, and this was
23 one of the things that it negotiated; it was a total
24 package.

1 CHAIRMAN HONIGBERG: We're going to take
2 15 minutes. I'm going to ask the parties to have another
3 discussion about this, to see if there's a way you can
4 come to an accord. Because we're going to have to issue
5 an order that one or both of you is not going to be very
6 happy with. So, my recommendation is that you see if you
7 can narrow the issues, and we'll be back in about 15
8 minutes.

9 (Recess taken at 3:19 p.m. and the
10 hearing resumed at 3:44 p.m.)

11 CHAIRMAN HONIGBERG: What, if anything,
12 can you guys tell us? Mr. Wiesner? Ms. Knowlton? Who
13 wants to go first? Ms. Knowlton.

14 MS. KNOWLTON: Well, we tried to go
15 question-by-question. We didn't get very far. I mean,
16 Staff can speak for itself. I think Mr., you know,
17 Antonuk seems to feel quite strongly that, you know, he's
18 got a contract, and, you know, to the extent that there's
19 a question about how that contract -- that scope of work
20 in the contract relates to the Attachment 7, that's the
21 fundamental issue that needs to be resolved. So, I'm
22 not -- I was hopeful that we could go question-by-question
23 and start to make some headway, but I'm somewhat at a
24 loss.

1 CHAIRMAN HONIGBERG: Mr. Wiesner.

2 MR. WIESNER: Well, we had a vigorous
3 discussion, and I think it served to further clarify the
4 differences between the parties, and that does go to the
5 fundamental scope of the targeted audit that was agreed to
6 in the Settlement Agreement. And, I think our view is
7 that the contract with Liberty Consulting is fully
8 consistent with that scope. And, so, there is a
9 difference of opinion as to how broad the scope is that
10 was agreed to last year for this targeted audit. And, it
11 is an audit. It is styled after a management audit, as
12 Ms. Noonan testified last year. And, it should not be
13 unduly constrained. Otherwise, the consultant's not going
14 to be able to do its job, the audit will have very little
15 value. There are serious customer-impacting issues, which
16 are the key focus of the audit, as well as accounting
17 matters. But there are many other matters that are
18 addressed in the defined scope, as well as the potential
19 for related areas to be investigated as well.

20 And, I think our view is that, in order
21 for there to be a meaningful audit delivered in a timely
22 way, that there cannot be ongoing dispute over the scope
23 of the types of questions that can be asked and the
24 answers that will be provided.

1 And, with all due respect, I don't
2 believe this is the typical situation, where we can just
3 have a motion to compel of the specific questions and say
4 that's in or out. I'm not sure it will be possible to do
5 that without defining the broader scope. But, here, I
6 think it is critical that there be some guidance from the
7 Commission as to the appropriate scope of this agreed upon
8 audit.

9 CHAIRMAN HONIGBERG: All right. Thank
10 you, Mr. Kreis, do you have anything you want to add?

11 MR. KREIS: Well, I'm somewhat at a
12 disadvantage, because I was not personally involved in the
13 negotiations that led to the Settlement Agreement. I
14 listened to these two sides have their friendly
15 conversation while you folks were out of the room and --

16 CHAIRMAN HONIGBERG: I thought it was
17 "vigorous"?

18 MR. KREIS: It was vigorous and friendly
19 at the same time.

20 MS. KNOWLTON: Except for the
21 finger-pointing.

22 MR. KREIS: That was me. I was pointing
23 my fingers.

24 I guess I would make the observation

1 that there isn't going to be much in the way of agreement,
2 absent at least some indication from the three
3 Commissioners of what your overall perspective on this is,
4 and even then it might be necessary for you to simply
5 issue an order making a decision.

6 CHAIRMAN HONIGBERG: All right. Well, I
7 think what we're prepared to do is provide you guys with
8 some guidance. We're going to try and outline something
9 to read into the record, but it's going to take us a few
10 minutes to get it right. We'll do that as quickly as we
11 can. My projected return time is four clock for that.

12 *(Recess taken at 3:47 p.m. and the*
13 *hearing resumed at 4:03 p.m.)*

14 CHAIRMAN HONIGBERG: All right. We're
15 going to do our best here to get something coherent down
16 on the record.

17 We are denying the Company's motion to
18 limit the scope of the audit as they have requested.
19 We're doing that for a few reasons. Most generally, with
20 respect to going up the chain of the Company's structure,
21 it's aware to everyone here that most of the significant
22 decisions, at least many of the significant decisions, for
23 this Company are being made in Oakdale [Oakville?]. And,
24 it is appropriate for the audit to be able to determine

1 what decisions are made being made and what resources are
2 being allocated to the New Hampshire subsidiary. If it's
3 relevant to the targeted areas that are part of this
4 audit, then it doesn't matter where it's located, with
5 respect to the information that is being sought and
6 audited.

7 We agree with the formulation that was
8 offered here and was alluded to during the testimony by
9 Ms. Noonan that this is a "management-style audit of the
10 targeted areas" that are described in Attachment 7.
11 Attachment 7, to us, is quite broad in its description of
12 the targeted areas.

13 And, as we put in our order approving
14 the Settlement back in June of 2015, "the consultant will
15 review the effectiveness and efficiency of a number of
16 items that are listed in Attachment 7, and the consultant
17 may broaden the scope of the audit, if it determines a
18 review of related areas is appropriate."

19 With respect, specifically, to the
20 questions about the IT system and the work done by G3, we
21 do not see as much of a -- we do not see much of a dispute
22 in that area. The auditor needs to understand what the IT
23 systems are supposed to be doing to determine whether they
24 are doing what they are supposed to be doing. The auditor

1 does not want to, nor should he, seek to redo G3's work.
2 But, in doing the work he does need to do, he will need to
3 understand what the systems are supposed to be -- how they
4 are supposed to be performing.

5 We believe that covers the areas that
6 were addressed broadly in the motion and the objection.
7 With that guidance, we think that the Parties will be able
8 to deal with the specific requests. If there is
9 information that is called for by a request or series of
10 questions that the Company believes is out-of-bounds and
11 beyond the relevant -- the scope of the audit and related
12 areas, it needs to identify what that information is in
13 sufficient detail for Staff and the auditor to understand
14 the nature of the objection. The example being "wind
15 farms in Michigan", or the Midwest somewhere. But there
16 are certainly other areas, we have no doubt.

17 Does that resolve the issues from the
18 Parties' perspective? Ms. Knowlton.

19 MS. KNOWLTON: So, if I understand it
20 correctly, if the Company gets a question that would
21 encompass information that pertains to the unregulated
22 side of the business, that, if the Company believes that
23 it's not within the scope to provide that information,
24 that the Company should object and state very specifically

1 the nature of the information not being produced?

2 CHAIRMAN HONIGBERG: I don't know if I
3 would sign on to the "unregulated part of the business"
4 part of that question. I think, generally, if the
5 information is relevant and responsive, it doesn't matter
6 where it's located. But, if there's a reason to withhold
7 it, then you need to describe it and give the reason for
8 withholding it.

9 Yes, Commissioner Bailey.

10 COMMISSIONER BAILEY: But that doesn't
11 mean that you don't answer the rest of the question at the
12 time that it's asked. So, you know, you don't get to
13 object because this document has some piece that's not
14 relevant. What I would expect is, you say "Here's the
15 document. We haven't included these pages, because they
16 pertain to wind farms in Michigan." And, then, if Staff
17 thinks they need to look at the information regarding wind
18 farms in Michigan, then you have a dispute that needs to
19 be resolved.

20 MS. KNOWLTON: Thank you. That's
21 helpful.

22 CHAIRMAN HONIGBERG: Mr. Wiesner.

23 MR. WIESNER: We see that as a
24 reasonable resolution of the current dispute. And, we

1 hope that there will not be future disputes, such as we
2 had to deal with today.

3 CHAIRMAN HONIGBERG: All right. Is
4 there anything else we can do for you today?

5 *[No verbal response]*

6 CHAIRMAN HONIGBERG: All right. Thank
7 you all very much.

8 ***(Whereupon the hearing was adjourned at***
9 ***4:09 p.m.)***

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