

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

October 13, 2016 - 1:06 p.m.
Concord, New Hampshire

NHPUC OCT19'16 AM11:47

RE: DG 16-814
LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP. d/b/a LIBERTY
UTILITIES:
Winter 2016-2017 Cost of Gas.

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

Sandy Deno, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth
Natural Gas) Corp. d/b/a Liberty
Utilities:
Michael J. Sheehan, Esq.

Reptg. PUC Staff:
John S. Clifford, Esq.
Stephen Frink, Asst. Dir./Gas & Water
Al-Azad Iqbal, Gas & Water Division

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

**CERTIFIED
ORIGINAL TRANSCRIPT**

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
1	Winter 2016-2017 Cost of Gas filing, consisting of testimonies, Tariff Page changes, Summary and Schedules, etc. (09-01-16) {CONFIDENTIAL & PROPRIETARY}	5
2	Winter 2016-2017 Cost of Gas filing, consisting of testimonies, Tariff Page changes, Summary and Schedules, etc. (09-01-16) <i>[REDACTED - for public use]</i>	5
3	Revised pages to the Winter 2016-2017 Cost of Gas filing (10-10-16)	5

P R O C E E D I N G

1
2 CHAIRMAN HONIGBERG: We're here in
3 Docket DG 16-814, which is Liberty Utilities
4 (EnergyNorth Natural Gas) Corp.'s Winter Cost
5 of Gas filing for 2016-2017. We had a -- we
6 got a filing in our in-boxes yesterday, stamped
7 in on the 12th, at 1:12, at the Clerk's office.
8 It's dated October 10th, which changed some of
9 the filing and some of the numbers. So, I
10 assume that there will be some discussion of
11 that.

12 But, before we do anything else,
13 let's take appearances.

14 MR. SHEEHAN: Good morning,
15 Commissioners. Mike Sheehan, for Liberty
16 Utilities. Present with me are the three
17 witnesses, Mary Casey, Chico DaFonte, and David
18 Simek. At counsel's table with me is Debbie
19 Gilbertson. And in the back of the courtroom
20 are a couple more employees of Liberty who have
21 come to watch the hearing.

22 MR. CLIFFORD: Good afternoon. John
23 Clifford, Staff Attorney of the New Hampshire
24 Public Utilities Commission. With me at

1 counsel's table is Assistant Director of the
2 Gas and Water Division, Stephen Frink, and
3 Al-Azad Iqbal, a Staff Analyst in the Gas and
4 Water Division.

5 CHAIRMAN HONIGBERG: All right. Are
6 there preliminary matters we need to deal with
7 before starting?

8 Mr. Sheehan.

9 MR. SHEEHAN: A couple, Commissioner.
10 First, we'd like to mark three exhibits for
11 identification. Exhibit Number 1 is the
12 confidential version of the original filing,
13 which is Tab 1 in the Commission's docket;
14 Exhibit 2 is the redacted version of that same
15 document; and Exhibit 3 will be the revised
16 filing that you just referenced in your
17 opening, which has some changes to Mr. Simek's
18 testimony and some schedules.

19 (The documents, as described,
20 were herewith marked as
21 **Exhibit 1, Exhibit 2,** and
22 **Exhibit 3,** respectively, for
23 identification.)

24 MR. SHEEHAN: And the other thing I

[WITNESS PANEL: Casey~DaFonte~Simek]

1 wanted to note is the confidentiality claim is
2 made pursuant to Puc 201.06(a)(11), which deems
3 certain routine cost of gas filings
4 confidential and subject to the disclosure
5 provisions of 201.06 and 07.

6 Thank you.

7 CHAIRMAN HONIGBERG: Okay. I don't
8 think any action is required by us under that
9 rule. So, we understand the nature of the
10 filing and the confidentiality claim. So, if
11 there's information that comes up that is part
12 of the confidential record, we'll have to have
13 that noted and deal with it through the
14 transcript.

15 Any other preliminary issues?

16 MR. SHEEHAN: None for me. Thanks.

17 MR. CLIFFORD: None from Staff.

18 CHAIRMAN HONIGBERG: All right.

19 Seeing none, Mr. Patnaude.

20 (Whereupon **Mary E. Casey,**

21 **Francisco C. DaFonte,** and

22 **David B. Simek** were duly sworn

23 by the Court Reporter.)

24 **MARY E. CASEY, SWORN**

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FRANCISCO C. DaFONTE, SWORN

DAVID B. SIMEK, SWORN

DIRECT EXAMINATION

BY MR. SHEEHAN:

Q. Now, I'm going to start with Ms. Casey. Your name and your position with the Company.

A. (Casey) My name is Mary Casey. I am the Environmental Program Manager at Liberty Utilities.

Q. And, as part of the filing in this matter, you submitted testimony, which begins at Page 17, is that correct?

A. (Casey) That's correct.

Q. And did you prepare that testimony?

A. (Casey) I did.

Q. Do you have any changes to that testimony today?

A. (Casey) I do not.

Q. And, if I were to ask you the questions in that written testimony, would your answers be the same today?

A. (Casey) Yes. They would be.

Q. Can you give us a very brief overview of what the substance of your testimony is? What

1 topics did you cover?

2 A. (Casey) I covered the activities at the
3 EnergyNorth Natural Gas former MGP sites and
4 related sites during the course of the year
5 that started on July 1st, 2015, and went until
6 June 30th, 2016.

7 Q. Thank you. Mr. DaFonte, your name and position
8 with the Company please.

9 A. (DaFonte) My name is Francisco DaFonte. I'm
10 the Vice President of Energy Procurement for
11 Liberty Utilities.

12 Q. And did you file testimony in this matter,
13 which appears at Page 3 of the initial filing?

14 A. (DaFonte) Yes, I did.

15 Q. And do you have any changes to that testimony?

16 A. (DaFonte) I do.

17 Q. And they are?

18 A. (DaFonte) Bates Page 005, Line Number 2, I
19 would like to strike the word "asset" before
20 "utilities". And Bates Page 009, Line 21,
21 strike "Repsol", and insert "ENGIE and Shell".

22 Q. With those changes, if I were to ask you the
23 questions in your written testimony, would your
24 answers today be the same?

[WITNESS PANEL: Casey~DaFonte~Simek]

1 A. (DaFonte) Yes, they would.

2 Q. Mr. Simek. Your name and position with the
3 Company please.

4 A. (Simek) David Simek, Lead Utility Analyst.

5 Q. And did you file testimony in this matter,
6 which begins at Page 25 in this case?

7 A. (Simek) Yes.

8 Q. And the revised filing, which appears as
9 "Exhibit 8" [Exhibit 3?], does that contain
10 changes to your testimony?

11 A. (Simek) Yes, it does.

12 Q. Other than the changes that are contained in
13 Exhibit 3, the revised filing, are there any
14 other changes to your testimony?

15 A. (Simek) There is not.

16 Q. And, if I were to ask you the questions in the
17 written testimony as revised, would your
18 answers be the same?

19 A. (Simek) Yes, they would.

20 Q. And can you give us a brief explanation of the
21 purpose for the revised testimony, Exhibit 3?

22 A. (Simek) Sure. Two changes were made that came
23 out of the tech session that the Company had
24 with Staff. The first change, we just updated

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 the NYMEX futures, which slightly adjusted the
2 rate. And, then, the second change had to do
3 with our proposal for one annual filing, to
4 have a winter filing that includes both a
5 winter rate and a summer rate.

6 We had originally asked to have the summer
7 rate be indicative during the winter filing,
8 and then, throughout a monthly process, we
9 would update that rate. And Staff's concern
10 with the legality of us to be able to do that,
11 we just went back to change it to be similar to
12 how Unutil does -- is proposing to do their
13 annual cost of gas, which is the rate that we
14 propose during the winter for the summer period
15 will be our actual proposed rate that we're
16 asking to go into effect May 1st.

17 Q. And that May 1st rate that the Commission --
18 you're asking the Commission to approve now
19 would be subject to the usual adjustments from
20 that time, from May forward?

21 A. (Simek) Correct.

22 MR. SHEEHAN: Thank you. I have no
23 further questions.

24 CHAIRMAN HONIGBERG: Mr. Clifford.

{DG 16-814} {10-13-16}

1 MR. CLIFFORD: Yes. Good afternoon.

2 **CROSS-EXAMINATION**

3 BY MR. CLIFFORD:

4 Q. I'd like to know how the proposed 2016-2017
5 cost of gas rate compares to last year's
6 seasonal average for both winter and summer, if
7 you can explain that to the Commission?

8 A. (Simek) Sure. The rate that we proposed is
9 0.7162 per therm, that's the non-Fixed Price
10 rate. And, compared to the rate that was
11 approved for the November 1, 2015 non-Fixed
12 Price, it was 0.7516. So, our proposal for
13 this year is 4.7 percent lower.

14 Q. And what's going to happen with the summer
15 season? What's the impact?

16 A. (Simek) Just give me one moment please.

17 Q. Okay. If I can help, I'd refer you to I think
18 it's Bates Page 093.

19 A. (Simek) It would be one of the revised pages,
20 though. I'll bring it up in a moment.

21 Q. Yes. The revised filing.

22 A. (Simek) The rate that was proposed and approved
23 for May 2015, the cost of gas rate was 0.3210.

24 I'm sorry, and then the rate for the May 2016

[WITNESS PANEL: Casey~DaFonte~Simek]

1 that was approved --

2 CMSR. SCOTT: Can you direct us to
3 where you're looking?

4 **BY THE WITNESS:**

5 A. (Simek) I'm looking at Schedule 8, on 093R.
6 I'm sorry, I need to make a correction to the
7 schedule. Again, on Bates Page 093R, the range
8 that shows for the summer, the boxes on the
9 right-hand side, --

10 BY MR. CLIFFORD:

11 Q. Right.

12 A. (Simek) -- the first box should include rates
13 from "May 2017" through "October 31st, 2017".
14 And the box below that should be showing rates
15 that are for "May 2016" through "October 31st,
16 2016".

17 So, when I'm comparing the rates here, if
18 we look at the May '16 rate that was approved
19 was 0.3210, compared to our proposed 2017 May
20 rate of 0.3976.

21 Q. So, what's going to be the impact on a typical
22 residential heating customer for the winter --

23 A. (Simek) Well, I'm sorry, for this rate here,
24 though, this was for the commercial G-41 rate.

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. Right.

2 A. (Simek) For the typical residential customer,
3 if we're looking at the May rates, the increase
4 for the total bill is 19.61 percent.

5 Q. Okay. And that's winter and summer or what
6 period is that for?

7 A. (Simek) That's comparing May '17 rates compared
8 to May '16 rates. So, that would be for the
9 month of May.

10 Q. Okay. And, then, what's your anticipated
11 capacity sendout for this winter?

12 A. (DaFonte) If I could just ask for a
13 clarification?

14 Q. Sure.

15 A. (DaFonte) You're looking for sales?

16 Q. Yes. Capacity-exempt sendout forecast you had
17 established for winter.

18 A. (DaFonte) So, you're looking specifically for
19 capacity-exempt sendout?

20 Q. Right. Your sendout forecast.

21 CHAIRMAN HONIGBERG: Before you do
22 that, can you back up to the previous question
23 and answer about the residential rates?

24 Because at least two of us up here, and I

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 haven't checked with Commissioner Bailey, but
2 at least two of us don't know what you were
3 looking at. And we're wondering if revised
4 Page 92 has the same year problem that revised
5 Page 93 had? And were you referring to
6 something on revised Page 92?

7 WITNESS SIMEK: Yes. The residential
8 is on revised Page 92. And it was the G-41
9 commercial rate that we were talking about on
10 revised 93. And both pages do have the same
11 "2017"/"2016" correction that needs to be made.

12 CHAIRMAN HONIGBERG: And, so, go back
13 to your answer to Mr. Clifford's question, and
14 tell us what you were looking at when you gave
15 him that answer.

16 WITNESS SIMEK: Sure. When he was
17 asking about the percent increase of the total
18 bill, that would have been on Line 64, on Page
19 092R. And it was 19.61 percent, which would
20 have been the difference between the May 2017
21 rate and the May 2016 rate.

22 CHAIRMAN HONIGBERG: Mr. Clifford,
23 was that the question you asked him? Or did
24 you ask him what rate he was -- they were

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 proposing for May '17, as compared to the rate
2 they proposed for May '16?

3 MR. CLIFFORD: No, I -- excuse me,
4 I'll back up. I had asked him "how the rate
5 compared to last year's seasonal average for
6 winter and summer?"

7 CHAIRMAN HONIGBERG: Okay.

8 MR. CLIFFORD: So, I asked him for a
9 comparison figure. I wanted to know percentage
10 up or percentage down.

11 CHAIRMAN HONIGBERG: He answered the
12 question you were asking him.

13 MR. CLIFFORD: Yes. He did answer
14 the question.

15 CHAIRMAN HONIGBERG: It's different
16 from the question you had asked about the
17 winter rates, because you had asked him the
18 specific winter rate, and he gave you that.
19 And then you asked for the percentages?

20 MR. CLIFFORD: Exactly.

21 CHAIRMAN HONIGBERG: Okay.

22 MR. CLIFFORD: And he gave me the
23 percentages.

24 CHAIRMAN HONIGBERG: All right.

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 MR. CLIFFORD: But then -- and, then,
2 as he was answering that question, he gave me
3 the discrepancy on the schedules.

4 CHAIRMAN HONIGBERG: We're just -- we
5 are having trouble keeping up. So, Mr. Simek,
6 if you're going to make a reference to numbers
7 that are on one of these schedules, we will
8 have a lot -- I, and I can't speak for the
9 other two, but I will have a lot easier time
10 following what you're saying and what your
11 answers mean if you tell us where you're
12 looking.

13 WITNESS SIMEK: Okay. Sure.

14 MR. CLIFFORD: And, forgive me,
15 because I was following and it made sense to
16 me. But we need to be clear about what page
17 we're on.

18 CHAIRMAN HONIGBERG: All right. So,
19 I interpreted --

20 MR. CLIFFORD: That's okay.

21 CHAIRMAN HONIGBERG: -- for a pending
22 question I think Mr. DaFonte was looking for an
23 answer to.

24 MR. CLIFFORD: Right.

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1 BY MR. CLIFFORD:

2 Q. I was looking for anticipated capacity sendout
3 forecast for this winter and the amount of --
4 and I'll continue on, and the amount of
5 capacity-exempt load expected to switch from
6 sales service this winter? If that helps
7 inform your search?

8 A. (DaFonte) Sure. When we do our forecast, we
9 don't break it out by capacity-exempt. We do
10 provide a total sendout forecast, which is
11 contained on Bates Page 101. It's
12 Schedule 10B. That schedule is inclusive of
13 sales and transportation load. So, it's all
14 anticipated load.

15 With regard to any expected reverse
16 migration of capacity-exempt customers, we
17 don't have any forecasted reverse migration.
18 However, that doesn't mean that it may not
19 happen. It really depends on market conditions
20 and each individual customer's specific
21 contract with their current supplier.

22 Q. So, your answer is you don't expect any
23 significant change?

24 A. (DaFonte) We're not expecting any right now.

[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. The next question I believe is for Ms. -- it
2 may continue to be for you, but I think, in
3 Docket DG 14-091, there's a special contract
4 involving Innovative Natural Gas. And I just
5 wanted a status update on that special
6 contract?

7 A. (DaFonte) Sure. The construction, as it
8 pertains to Liberty's work, is to be completed
9 in early November. And the construction and
10 Commissioning -- and final commissioning of the
11 station should be done prior to December 1st or
12 on December 1st of 2016.

13 Q. And any reason to believe that schedule can't
14 or won't be met at this time?

15 A. (DaFonte) It's hard to say. But I think both
16 parties are on course to have their work
17 completed and the station commissioned by
18 December 1st.

19 Q. And, so, what percentage, and I want to get
20 back to gas supplies, and we talked about this
21 this morning I think, but what percentage of
22 your gas supplies are hedged, pre-purchased or
23 otherwise, you know, tied to a predetermined
24 price?

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 A. (DaFonte) I don't have the exact number off the
2 top of my head. But I believe it would be in
3 the order of 35 percent to 40 percent, roughly.

4 Q. And is that similar to what you've hedged in
5 the past, say, for the prior years?

6 A. (DaFonte) Yes. It's exactly the same.

7 Q. Okay. And then I want to get to a question
8 about rates. Does the proposed maximum rates
9 give you enough flexibility going forward to
10 absorb price fluctuations through this monthly
11 adjustment mechanism without adjusting the rate
12 at this time?

13 A. (Simek) We believe so, yes.

14 Q. And you're relying on your forecast, right, to
15 do that?

16 A. (Simek) Correct.

17 Q. Okay. And, there's no -- any material changes
18 to your winter supply plan that we should know
19 about?

20 A. (DaFonte) Nothing of significance, other than
21 the actual suppliers themselves.

22 Q. And, in terms of remediation, I think we
23 touched upon that earlier, so this is probably
24 for Ms. Casey, can you give an account of the

[WITNESS PANEL: Casey~DaFonte~Simek]

1 changes that you've made in the environmental
2 remediation this year, compared to last,
3 particularly in your manufactured gas plant
4 area that you mentioned about in your
5 testimony?

6 A. (Casey) Yes. There was one big change, and it
7 was that we've completed the Liberty Hill Road,
8 Gilford, New Hampshire soil removal action. We
9 completed it in September of 2015, without
10 incident.

11 Q. And, so, that particular piece will come -- go
12 away? In other words, you have nothing further
13 to be done there in your --

14 A. (Casey) Just monitoring.

15 Q. Okay. And what are the total remediation costs
16 that were incurred in the last year ending
17 June 30?

18 A. (Casey) Just over \$3 million.

19 Q. So, do you expect a decline in that going
20 forward, now that that other piece is --

21 A. (Casey) We have a couple -- we have a couple of
22 projects coming up. One of which is Concord
23 Pond and the wetland cap that we have designed
24 for that area. We're still waiting for the

[WITNESS PANEL: Casey~DaFonte~Simek]

1 City on access issues to the storm water
2 conveyance system across the highway and access
3 to the property itself. We're targeting a 2018
4 construction date in the dry season, which
5 would be late summer/fall.

6 Q. And do you have any anticipated size or scope,
7 in terms of costs, of this project, or even
8 preliminary estimates?

9 A. (Casey) The Concord Pond project, I believe I
10 have estimated at approximately 7 million, for
11 the remediation and the ongoing monitoring,
12 which is usually estimated over the course of
13 30 years.

14 MR. CLIFFORD: I don't have anything
15 further right now. Thank you.

16 CHAIRMAN HONIGBERG: Commissioner
17 Scott.

18 CMSR. SCOTT: Good afternoon.

19 BY CMSR. SCOTT:

20 Q. Why don't we stay on the manufactured gas
21 plants first. In past years, there's been a
22 lot of press play here in Concord about the --
23 I'll call it the "round house". I was curious,
24 what's the status of that?

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 A. (Casey) We've done some small removals of hot
2 spots on the site, that would be represented by
3 the costs that I've filed for here for the past
4 year. The holder house itself remains
5 standing. We have a developer who has
6 approached Liberty Utilities, who's interested
7 in re-purposing the holder. And we're talking
8 with this person about the transfer -- the
9 potential sale and transfer of the holder and
10 the property, including a small piece of
11 property across Gas Street. So, we're in those
12 talks right now.

13 Q. Okay. Interesting. You mentioned, and I saw
14 in your filing, the 2018 remediation to be
15 done. What's after that? I understand there's
16 ongoing monitoring. Are there other larger
17 projects beyond the 2018 timeframe?

18 A. (Casey) We have, in Nashua, the 38 Bridge
19 Street property, we have a capping project that
20 will go on. And that will probably occur in
21 conjunction with a regular full-yard paving of
22 that site. The portion of which would be
23 remediation is about maybe a third of the area.
24 So, that will be a physical cap at Nashua. And

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 I'm just putting the finishing touches on the
2 design of that cap with the DES. As a matter
3 of fact, I just spoke with them a few minutes
4 ago?

5 In Manchester, we have an approved
6 Remedial Action Plan, but we're working out
7 some -- a couple of exceptions that the DES had
8 to our original plan. And there's nothing
9 planned there for the immediate future.

10 And that pretty much covers the four sites
11 that I'm responsible for.

12 Q. And, once we're at the "just monitoring" phase,
13 what kind of, I'm not going to hold you to a
14 particular cost, but what kind of price
15 range/cost range are we talking for just the
16 upkeep, if you will, the monitoring?

17 A. (Casey) Well, for instance, at Liberty Hill,
18 which is fully remediated, and it's just going
19 to be straight groundwater monitoring costs, on
20 an annual basis, it's between 30 and \$40,000 a
21 year.

22 Q. And, obviously, I assume, hopefully, if the
23 remediation is done right there, you're not
24 going to find anything in your monitoring,

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 hopefully, correct?

2 A. (Casey) That is correct.

3 Q. I'll move on. So, the -- you already
4 referenced the change to the filing. So, if I
5 understood right, you want to use --
6 originally, you were looking at an indicative
7 price for the summer, you're kind of mimicking
8 Unitil, as you said, it's a procedure. I just
9 wonder if you could help me, walk me through
10 how it physically works. So, you have a winter
11 cost of gas, if I understood right, you're
12 going to use that as your summer cost, and then
13 there will be monthly adjustments? Can you
14 help fill in the detail a little bit more for
15 me?

16 A. (Simek) Sure. What we are proposing here is
17 that we will make a winter proposal during the
18 winter cost of gas and a summer proposal in the
19 winter cost of gas. So, our proposal here, for
20 residential, for example, is the "0.4117"
21 that's shown on Page 092R, on Line 26.

22 Q. I see it. And where was that derived from?

23 A. (Simek) That was derived by us putting a
24 complete summer filing package together, just

[WITNESS PANEL: Casey~DaFonte~Simek]

1 like we would during the summer timeframe, just
2 using data based on the latest and best data
3 available now.

4 Q. Okay. And how do the monthly adjustments, how
5 will that work?

6 A. (Simek) The same as they do now. Meaning,
7 beginning May 1st, we would be able to make the
8 adjustment to that rate, either as low as it
9 may go, and then up to that 25 percent cap, if
10 we need to raise it.

11 Q. Okay.

12 A. (DaFonte) If I could just interject?

13 Q. Please.

14 A. (DaFonte) Each month, in the winter period, as
15 we adjust the winter rate, we will also
16 correspondingly adjust the summer rate, should
17 it change. So, we'll essentially have six --
18 or, five or six adjustments to the summer rate,
19 until we actually get to May 1st. And, so, we
20 will, obviously, monitor to make sure that that
21 revised summer rate doesn't go above that
22 25 percent cap. And, as Mr. Simek has
23 mentioned, it can obviously go as low as
24 possible.

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. So, at the end of that process, there should,
2 in theory, be no need for some big
3 reconciliation. Is that a correct statement?

4 A. (Simek) Well, the reconciliation process really
5 doesn't change. We're still going to do a
6 summer reconciliation and a winter
7 reconciliation. And we're still going to use
8 the latest data for the filing. Meaning that
9 we already, on a monthly basis, do a
10 reconciliation, and we have an over/under
11 balance every month. That's what ties to what
12 we file in our audits and gets approved through
13 PUC Audit Staff.

14 We're just going to use it up to the date
15 that we have the actuals for and use that as
16 our beginning over/under balance when we do the
17 filing. And, then, each month that will
18 change, and we'll update our rate internally to
19 know where the summer stands.

20 Then, when we get towards the middle of
21 winter or so, and if there is a need, and we
22 see the rate needs to be much higher than what
23 we filed for the May rate, then we would begin
24 talking to Staff and figure out if we should

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 have a filing and move forward, possibly
2 schedule a filing for summer. But the goal was
3 to reduce the two filings a year down to one.

4 Q. Understood. So, this may not be much
5 different, but how do -- I'm a customer, and we
6 have these monthly adjustments, how do I -- how
7 do I know how to follow the ball and what to
8 plan for? How does that work for me?

9 A. (Simek) Well, it's the same as it is now, as
10 far as we'll have a filed rate that hopefully
11 gets approved, and that will be the rate
12 effective May 1st. If not, and we are
13 requesting to have a new hearing, it will be
14 another filing that's public information. And,
15 then, as far as once May 1st comes around,
16 everything is the same as it is now with the
17 monthly adjustments.

18 Q. So, let's say we're in July, you've made a
19 couple adjustments, and I'm a customer and I
20 want to understand what it is today, how do I
21 know that? Do I look on your Web? What
22 resources do I have?

23 A. (Simek) It's the same resources available now.
24 Which we have it on our webpage, we do bill

[WITNESS PANEL: Casey~DaFonte~Simek]

1 inserts. In the wintertime, of course, we have
2 the FPO letter that also advises the customers
3 of rates. And, then, we'll take some extra
4 steps, typically, as you're aware, when the
5 rate's higher. If it goes -- if there's a big
6 swing, we may do an additional mailing or
7 whatever the case is.

8 CMSR. SCOTT: Okay. Thank you. I
9 think that's what I have.

10 CHAIRMAN HONIGBERG: Commissioner
11 Bailey.

12 BY CMSR. BAILEY:

13 Q. Can you look at revised Page 092 again with me?

14 A. (Simek) Sure.

15 Q. And then your revised Page 041. Sorry, it's
16 not "revised Page 041". I made the changes on
17 my old Page 041, so I could see what the
18 differences were. I think it starts on revised
19 Page 040.

20 So, the question is "Explain the tariff
21 pages proposed [for the] Fourth Revised Page
22 76". And we're talking about the 2017 Summer
23 Period Cost of Gas rates?

24 A. (Simek) Yes.

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. And the average cost of gas, according to
2 Page 040 revised, is "0.4368", up from 0.3338,
3 as you originally proposed. Where is that
4 number on Page 092?

5 A. (Simek) It's not.

6 Q. So, which number is right?

7 MR. CLIFFORD: Mr. Simek?

8 WITNESS SIMEK: I'm sorry.

9 MR. CLIFFORD: Why don't you go to
10 221R.

11 **BY THE WITNESS:**

12 A. (Simek) Yes, 221R. I'm sorry. We have to keep
13 in mind that we've combined two filings. So,
14 we have certain pages that are in one format
15 for the winter cost of gas, and then the exact
16 same pages that would have been typically filed
17 in a summer cost of gas. So, we have the same
18 pages in two places; one reflective for the
19 winter and one reflective for the summer.

20 BY CMSR. BAILEY:

21 Q. But the page, Page 092, isn't that supposed to
22 be the summer?

23 A. (Simek) No. I'm going to correct what I stated
24 earlier. I'm sorry. This was -- I'm sorry, I

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 was misled. Page 221R is the proper bill
2 impacts for the summer period. And the dates
3 are correct on that page.

4 Q. So, what's on Page 092R?

5 A. (Simek) 092R had the correct dates on that page
6 as well, before I had asked for the change.
7 And that is because, in the winter filing,
8 those were what the summer rates were the prior
9 winter.

10 Q. Say that again?

11 CHAIRMAN HONIGBERG: So, is it that
12 the right side of 092 is actual numbers?

13 WITNESS SIMEK: Correct.

14 CHAIRMAN HONIGBERG: For the summer
15 period that is ending?

16 WITNESS SIMEK: Correct. That's
17 correct.

18 **BY THE WITNESS:**

19 A. (Simek) And Page 221R is the actual forecast,
20 and the correct rate that we are proposing in
21 this filing, which is the "0.4368", which, of
22 course, ties to the testimony as well.

23 BY CMSR. BAILEY:

24 Q. Okay. So, now, please explain to me why

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 there's a ten-cent, roughly, per therm increase
2 between what was in the original testimony and
3 what you are now proposing for the summer rate?

4 A. (Simek) That's driven by the update to the
5 NYMEX.

6 Q. And did NYMEX change between September 1st and
7 October 10th a lot?

8 A. (Simek) That was the driver for the change,
9 yes. That's why we, when we had our tech
10 session, we had asked if should update the
11 NYMEX, yes.

12 Q. Well, when was the tech session?

13 A. (Simek) Just last week. And there was the
14 filing of September 1st, the NYMEX was
15 actually -- that was used, I believe, was
16 August 21st.

17 Q. Is there a way that you can think of that you
18 wouldn't need to update these numbers right
19 before the hearing in the future or is that
20 just the nature of this analysis?

21 A. (Simek) Of course, if there isn't a significant
22 change, we typically wouldn't. But we were --
23 we, typically, if there's a bigger change, like
24 a ten-cent -- ten percent change, then we would

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 talk about it in the tech session. And, if
2 we're given that direction, we will change it.
3 A. (DaFonte) Yes. If I could just add? This is
4 for the summer. So, it's almost -- it's even
5 more important to get it as accurate as
6 possible, because we're trying to forecast
7 something that's now six months out, as opposed
8 to if we had filed it in March, for example,
9 when we typically file the summer rate, it
10 would only be a couple months out. So, now,
11 we're doing it six months even before that.
12 So, trying to update the NYMEX gives us, you
13 know, a better starting point for the rate,
14 because we only have that 25 percent cap. And
15 the summer rate's already low to begin with, so
16 a 25 percent increase is not a heck of a lot.
17 And, so, we wanted to try to get it as accurate
18 as possible, particularly where it had
19 increased. So, we would have already been
20 behind the eight ball, if you will, had we not
21 increased the rate, we would have been already
22 having to adjust that when we made our first
23 trigger filing in, you know, for December.
24 Q. So, does this suggest that maybe you shouldn't

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 have one annual filing?

2 A. (DaFonte) No. I don't think it suggests that.

3 I just think it just means that we have to make
4 sure that the most recent information, pricing
5 information that is, should be reflected in the
6 summer rate.

7 Q. Is it likely that the NYMEX rates will change
8 between now and May?

9 A. (DaFonte) Absolutely, they will change.

10 Q. And what happens if it changes by more than ten
11 cents?

12 A. (DaFonte) Well, it will depend on how much of
13 an impact that has on a percentage basis. So,
14 you know, a ten cent increase today is, you
15 know, *de minimus*. But, you know, if it goes up
16 50 cents, then we would likely see the summer
17 rate having exceeded that 25 percent cap.

18 Q. But this was ten cents.

19 A. (DaFonte) Right. But it's --

20 Q. Not *de minimus*?

21 A. (DaFonte) Well, it's not that it -- it's not *de*
22 *minimus*, but it's something that's known right
23 now. And, so, if we already know it, then we
24 should adjust it accordingly.

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. Okay.

2 A. (DaFonte) So that we're not, again, starting at
3 a, you know, at a low -- we're starting at an
4 artificially lower rate, given that we already
5 know that the NYMEX has gone up. So, we want
6 to make sure that we get it at the level it
7 should be, so that we don't have to hit that
8 25 percent trigger and come in with a filing.
9 So, that's our hope, is that that doesn't
10 happen.

11 Q. Okay. I think it was in your testimony, Mr.
12 Simek, where you talked about the LRAM?

13 A. (Simek) Yes.

14 Q. And you're going to implement that on
15 January 1st, 2017, based on the order that we
16 issued in the EERS docket?

17 A. (Simek) Correct.

18 Q. And I went back and looked at that order to
19 refresh my memory, and it was talking about a
20 performance incentive target that was supposed
21 to be reduced when the LRAM went into effect?

22 A. (Simek) Correct. Part of the EE filing, I
23 believe their incentive went down, while the
24 LRAM sort of made up the difference.

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. When you say "their filing"?

2 A. (Simek) A different filing, the EE group that's
3 not part of the cost of gas or the LDAC.

4 Q. Okay. And, so, they reduced the performance
5 incentive in that filing?

6 A. (Simek) Correct.

7 Q. And, on Bates Page 037 of, well, Mr. Simek's
8 testimony, you describe a discovery of a
9 "formulaic error" that caused an
10 over-collection of "\$790,000". Is that right?

11 A. (Simek) Just give me one moment please.

12 Q. Sure. It's on Line 8 through 11.

13 A. (Simek) Yes. This was related to the
14 manufactured gas plant environmental portion of
15 the LDAC. This was something that has been
16 carried out for several years, much before the
17 Company took over the environmental -- well,
18 took over EnergyNorth, in general, from
19 National Grid. And, previously, we had used
20 the same model and updated the same model, just
21 to be consistent with the way Grid did it.
22 This year, we actually went through all the
23 prior orders. We dug into the model itself.
24 We realized what the model is actually meant to

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 capture and how it should be calculated, and we
2 found that it reduced the amount that we're
3 collecting by \$790,000.

4 Q. Okay. Thank you. Can you explain to me what
5 the "Company Allowance" is that you're
6 discussing on Page 38?

7 A. (Simek) Sure. That's actually on Bates Page
8 186.

9 Q. Uh-huh.

10 A. (Simek) And it's the total sendout minus the
11 total throughput. And it's the Company
12 Allowance percentage of 2.48 percent.

13 Q. So, by "Company Allowance", that's just a title
14 for a mismatch between what you schedule for
15 and what you actually use? Maybe my problem is
16 I don't understand what you mean by "sendout
17 throughput". I apologize for that.

18 A. (DaFonte) Well, it's the difference between how
19 much gas was taken into the system and how much
20 gas went out of the system to serve customers.
21 So that it's customer consumption versus what
22 the Company actually brought into its system,
23 with its connections to the upstream pipelines
24 and through its LNG and propane distribution

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 sendout. So, it's really that difference,
2 which would equate to sort of your lost and
3 unaccounted for. But, when you get into the
4 lost and unaccounted for calculation, you have
5 to also include the Company use, and that gives
6 you your net lost and unaccounted for, which is
7 2.37 percent, which is shown on Bates Page 186.

8 Q. Well, you anticipated my next question. So,
9 how is it different than lost and unaccounted
10 for? You said it "includes Company use"? What
11 does? The Company Allowance?

12 A. (DaFonte) No. The lost and unaccounted for
13 calculation includes Company use. Whereas the
14 Company allowance is strictly just the
15 comparison of how much gas was brought into the
16 system and versus how much gas was consumed by
17 the customers.

18 Q. I'm sorry. So, the lost and unaccounted for
19 gas is what, besides what the -- it includes
20 what the Company uses, which isn't really lost,
21 it's consumed by the Company?

22 A. (DaFonte) Correct.

23 Q. Is that what you mean?

24 A. (DaFonte) Yes.

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. Okay. And, then, what's consumed by the
2 Company, net of what's brought in and consumed
3 by the customers, is the lost and unaccounted
4 for?

5 A. (DaFonte) If I can sort of explain it maybe in
6 a different way. The Company allowance is
7 simply a calculation that shows how much gas
8 came into one end of the pipe and how much gas
9 went out the other end of the pipe. And the
10 difference is essentially what was lost, okay?
11 Other than the fact that some of that lost gas
12 was not really lost, it was consumed by the
13 Company. And, so, when you calculate the lost
14 and unaccounted for, you have to include that
15 the Company actually used some of what was in
16 the Company Allowance calculation.

17 Q. So, the Company Allowance calculation tells you
18 how much of the gas in that lost portion was
19 used by the Company?

20 A. (DaFonte) No. It doesn't tell you what was
21 used by the Company. It's just telling you the
22 difference between what came into one end of
23 the pipe and what went out the other end.

24 All things being equal, if there was no

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 Company use, then that would be the lost and
2 unaccounted for. But, in that number, we have
3 to pull out the actual Company use.

4 Q. In the lost and unaccounted for number?

5 A. (DaFonte) Yes.

6 Q. Okay.

7 A. (DaFonte) To get the actual lost and
8 unaccounted for, which is what we would
9 consider the fuel retention on the system or
10 the full lost and unaccounted for percentage.

11 Q. Okay. On Bates Page 039, which has a revised
12 page, does your copy show -- oh, I see it. No.
13 Does your copy show what's been revised on Page
14 039?

15 MR. SHEEHAN: If I may jump in, it's
16 the very last paragraph, the removal of the
17 word "indicative", I think, if I'm correct.

18 CMSR. BAILEY: Okay. Thank you. So,
19 that didn't have anything to do with the
20 question I was going to ask.

21 BY CMSR. BAILEY:

22 Q. It's the question "Please describe the changes
23 to the tariff on Page 143", where you say that
24 you're "updating your Peaking Demand Charge" by

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 reducing it. And I was just wondering, if you
2 reduce that charge, does the revenue produced
3 get made up somewhere else or the lost revenue,
4 when you decrease that rate?

5 A. (DaFonte) What was the page you were
6 referencing?

7 Q. Thirty-nine. Bates Page 039. And it
8 references "Schedule 21", I -- yes, "21".

9 A. (Simek) Okay. I'm sorry. Could you repeat
10 your question?

11 Q. Well, maybe I should ask it a little
12 differently. What caused the reduction in the
13 Peak Demand Charge -- in the Peaking Demand
14 Charge?

15 A. (DaFonte) I believe the confusion is that the
16 testimony references the rate from last year,
17 as compared to the rate from this year. And,
18 so, there's differences in the indirect
19 production and storage capacity costs that
20 drove the rate down. And, so, that's the
21 genesis of the lower Peaking Demand Rate.

22 Q. Okay. Thanks. How are you going to notify
23 your customers about rate changes in the
24 summer? Do you send information to them?

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 A. (Simek) Yes. We still plan to do the bill
2 inserts. And, when we propose rates, we're
3 going to let them know, once these rates are
4 approved, that what was approved for May, and
5 then we'll do it two months prior to May with
6 the billing, and then we'll do it the month
7 before, and then the rates will come live on
8 May 1st.

9 Q. Okay. So, the rates that we're approving
10 today, that we talked about for residential
11 customers, that are proposed for effect on
12 May 1st?

13 A. (Simek) Yes.

14 Q. Is that the rate that's going to actually be
15 the rate on May 1st?

16 A. (Simek) Yes, it is.

17 Q. And, then, you adjust it, if it goes up or down
18 25 percent? No?

19 A. (DaFonte) Can I? That's not the rate that's
20 going to be effective May 1st. I mean, it
21 would be highly unlikely that nothing would
22 have changed between now and May 1st. So, it's
23 the rate today --

24 Q. Right.

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 A. (DaFonte) -- proposed for May 1st. But the
2 actual rate may change between now and May 1st.

3 Q. But it can only change -- that it can only
4 increase by 25 percent without you coming back
5 here?

6 A. (DaFonte) Right.

7 Q. Is that right?

8 A. (DaFonte) It would be a change maxed out at
9 25 percent of the approved rate.

10 Q. Okay.

11 A. (DaFonte) But it could go lower.

12 Q. Right. Okay. Back to the --

13 *(Witness DaFonte and Witness*
14 *Simek conferring.)*

15 **BY THE WITNESS:**

16 A. (DaFonte) I stand corrected. According to Mr.
17 Simek's testimony, he does see this as the rate
18 that would be in effect on May 1st, unless, of
19 course, we hit the 25 percent cap, in which
20 case we would have to come in and refile.

21 CHAIRMAN HONIGBERG: Well, okay.
22 That's different from what you testified
23 earlier.

24 CMSR. BAILEY: Yes.

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 CHAIRMAN HONIGBERG: I don't remember
2 who was asking you questions, whether it was
3 Mr. Clifford or Commissioner Scott. But,
4 earlier in this hearing, you testified that
5 that May rate would be adjusted over the course
6 of the winter as the winter rates adjusted, and
7 then there would be, whatever's on May 1, I
8 think as you assumed to be the case, it would
9 be luck if it were the same number. So,
10 what --

11 WITNESS SIMEK: I'm sorry. I'll try
12 to explain it. How I understood the way Mr.
13 DaFonte was explaining it, obviously, is
14 different how it was interpreted by the
15 Commission.

16 Every month we are going to track it
17 and do a tracking mechanism, just like we
18 normally would for our winter cost of gas,
19 because we want to know where that rate would
20 be based on the most current data that we have.
21 It's only if that May 1st rate would have to be
22 adjusted upward, higher than 25 percent, that
23 the May 1st rate would change from this filing.
24 But we would know that, because we would have

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 to come in for an emergency hearing.

2 CHAIRMAN HONIGBERG: That's
3 inconsistent with the philosophy here. The
4 philosophy of these things is that you can
5 adjust, without coming to us, up to 25 percent,
6 and any amount down. So, if, during the course
7 of the winter, if December, January, you were
8 seeing a need to change that rate by
9 20 percent, my -- the philosophy is that you
10 should be able to do that without making any
11 filing. Why would you keep it at that low
12 number, if you knew that in -- as of January,
13 February, March that it needed to go up, but it
14 was less than 25 percent?

15 WITNESS SIMEK: Our initial proposal,
16 we asked to do exactly that. We had asked that
17 what we were going to do is make an indicative
18 May 1st rate in this filing.

19 CHAIRMAN HONIGBERG: Oh.

20 WITNESS SIMEK: And then we were
21 going to go ahead and adjust it monthly. And
22 it was Staff's concern of the legality of the
23 Commission wouldn't actually be approving a
24 rate.

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 CHAIRMAN HONIGBERG: Okay. I see --
2 I think I see the problem. Do we need to hear
3 from a Staff witness about how this is supposed
4 to work, Mr. Clifford? Or some maybe legal
5 argument about what's allowed and what's not
6 allowed? Maybe Mr. Iqbal would like to --

7 MR. CLIFFORD: I think Mr. Iqbal can
8 help and voice Staff's concerns.

9 MR. IQBAL: Yes. I think our
10 understanding from Northern filing is that they
11 can, exactly what you said and Chico said,
12 that, yes, you can, it doesn't have to be this
13 rate approved, because, if it is within the
14 25 percent range, you can adjust. But the
15 25 percent increase is based on the approved
16 rate. So, it's our understanding is what you
17 understood. That if approved rate is the
18 baseline, which will be -- with the calculating
19 the 25 percent. But, just like any other
20 adjustment, any monthly adjustment, at May 1st,
21 if it is within the 25 percent range, then
22 Northern can change it.

23 CHAIRMAN HONIGBERG: Or Liberty, in
24 this case?

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 MR. IQBAL: Yes. Northern, I
2 was comparing to --

3 CHAIRMAN HONIGBERG: Oh, you were
4 talking about Northern's proposal.

5 MR. IQBAL: -- Northern.

6 CHAIRMAN HONIGBERG: Sorry.

7 MR. IQBAL: So, that was our
8 understanding when we proposed that, yes,
9 indicative rate. Commission has to -- our
10 understanding was the Commission has to approve
11 a rate. Then, you can change on the monthly
12 basis.

13 CHAIRMAN HONIGBERG: All right. Why
14 don't up stop, Mr. Iqbal. If there's other
15 issues we can go through in testimony, I know
16 there's a few, we may suspend this hearing for
17 Staff and the Company to get on the same page
18 as to what's allowed and what this proposal
19 actually entails. But I know there's issues
20 that we still want to go through, to get
21 through as much as we can with these witnesses.

22 CMSR. BAILEY: I'm almost finished.

23 CHAIRMAN HONIGBERG: And I have a
24 couple of issues as well.

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 Mr. Simek, was there something you
2 wanted to add?

3 WITNESS SIMEK: I just wanted to
4 state that if that was Mr. Iqbal's belief that
5 we would be able to have the ability to do an
6 adjustment May 1st, although it would have
7 already been approved by the Commission, an
8 effective rate May 1st, but we could still make
9 the adjustment up to the 25 percent cap, we
10 would obviously be okay with that.

11 CHAIRMAN HONIGBERG: Yes. I don't
12 want you to do this on the fly, and I don't
13 want you to do this without having had a chance
14 to talk with your lawyer, and I don't want our
15 Staff to be making statements and
16 representations without having had a chance to
17 confer with their lawyer. We're doing this all
18 on the fly, on the record, which is -- which
19 has the potential to be -- for all of us to be
20 making a mistake.

21 So, let's get through the rest of
22 what we can get through, and then we'll take a
23 break and see where we are.

24 BY CMSR. BAILEY:

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 Q. Okay. So, assuming we know what the rate is
2 going to be in May, you're going to notify
3 customers?

4 A. (Simek) Correct.

5 Q. And you're going to send an e-mail in advance
6 of that notification to the Director of our
7 Consumer Affairs Division?

8 A. (Simek) The notification that goes out, it gets
9 emailed to the Director, yes.

10 Q. So, you don't send it to her to look at in
11 advance, you send it to her when it gets
12 mailed out?

13 A. (Simek) It's at the final stage, yes.

14 Q. Does she have an opportunity to give you any
15 input on it?

16 A. (Simek) I'm not aware of that. I'm copied on
17 the e-mail when it gets sent out. And
18 Ms. Noonan is also copied on that e-mail. And,
19 by the time that it comes to me, it's already
20 in the final stage. I'm just not sure what
21 steps are taken to get to that stage.

22 Q. So, when she gets it, does she get it at the
23 same time that customers get it?

24 A. (Simek) I believe that's at the time it's going

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 to printing, or it's getting sent out to be
2 added to the bill, or whatever the -- excuse
3 me -- is.

4 Q. Do you know who the e-mail would come from?

5 A. (Simek) It comes from our media relations
6 person, John Shore.

7 Q. So, does it look to her, in her e-mail, and
8 when you get the courtesy copy, does it look
9 like a personal e-mail to her or does it look
10 like, you know, sort of a Company marketing
11 thing, do you know?

12 A. (Simek) I just don't know off the top of my
13 head what the heading truly states. But the
14 attachment is a pdf, that is, if it's going to
15 be an insert, which is the actual insert. But
16 I'm not sure what the heading itself states.

17 Q. All right. Could you just produce a copy of
18 the e-mail that you have?

19 A. (Simek) Sure.

20 Q. That went to Ms. Noonan?

21 A. (Simek) Absolutely.

22 Q. Thank you.

23 CHAIRMAN HONIGBERG: Do you want to
24 do that as a record request, Commissioner? Or

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 you just want to have that?

2 CMSR. BAILEY: I don't think I need
3 it as part of the record, but I would like to
4 see it.

5 WITNESS SIMEK: Absolutely.

6 CMSR. BAILEY: Great.

7 CHAIRMAN HONIGBERG: Mr. Sheehan.

8 MR. SHEEHAN: We'll get it to the
9 Commission through Staff, if that's the best
10 way to go.

11 CHAIRMAN HONIGBERG: Okay. Thank
12 you.

13 MR. SHEEHAN: Or to the Executive
14 Director, it doesn't --

15 CHAIRMAN HONIGBERG: Why don't you
16 send it to Staff.

17 MR. SHEEHAN: Okay.

18 CMSR. BAILEY: All right. That's all
19 I have. Thank you.

20 CHAIRMAN HONIGBERG: I have a few
21 things.

22 BY CHAIRMAN HONIGBERG:

23 Q. Ms. Casey, I feel like I should know this, but
24 I don't. Where is Concord Pond?

{DG 16-814} {10-13-16}

[WITNESS PANEL: Casey~DaFonte~Simek]

1 A. (Casey) Oh, I'm sorry. It's the retention pond
2 that is east of I-93 and east of the
3 manufactured gas plant site. So, they're on
4 opposite sides of the highway.

5 Q. Okay. Mr. DaFonte, you were asked some
6 questions about updating numbers, actually
7 maybe both you and Mr. Simek were asked about
8 updated NYMEX numbers. Do you recall, in other
9 hearings and other contexts, being asked "have
10 the NYMEX futures numbers changed since the
11 filing?" And then being asked to consider
12 updating your filings as a result of those
13 numbers?

14 A. (Simek) Yes, we have.

15 Q. I'm going to now descend into trivia, but it's
16 significant to us in how we write our orders
17 and ultimately how we write other things as
18 well. The "C" in LDAC, I think you -- I think
19 the Company uses this LDAC to mean two
20 different things. Sometimes it means "Local
21 Distribution Adjustment Clause" and sometimes
22 that "C" means "Charge". Most of the time it
23 means "Charge".

24 But I will represent to you that in your

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 own tariff that we pulled up online yesterday,
2 you define "Local Distribution Adjustment
3 Clause" as "LDAC", and then use it
4 interchangeably, sometimes with the "C" meaning
5 "Clause" and sometimes with the "C" meaning
6 "Charge".

7 I will tell you that, linguistically, it
8 almost always means "Charge". And I would
9 advise you to work with Staff and your lawyers
10 to get the tariffs updated so that it works.
11 So that that page, that has a "clause" in it,
12 describes a "charge" that is defined as the
13 "LDAC", we'll all be a lot happier. Does that
14 make sense?

15 A. (Simek) Yes. I will do that.

16 CHAIRMAN HONIGBERG: All right.
17 Thank you. I appreciate that. I don't believe
18 I have any other questions. Although, I do
19 want to have a conversation with Mr. Sheehan
20 about the updated filing.

21 Put candidly, you're making us work
22 too hard, in a number of ways. It's unclear to
23 me when -- how you delivered this, but it was
24 stamped in the Clerk's office yesterday

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 afternoon. I know it's dated the 10th, but it
2 was stamped in on the 12th, at 1:12.

3 Based on the testimony -- or, just to
4 finish that, we got it this morning, just
5 before the hearing on the Keene Division's cost
6 of gas. So, we only had a chance to look at it
7 in between hearings. In all candor, we
8 couldn't figure out what was going on. We
9 didn't understand why it had been filed. It
10 was hard to find the changes. The changes
11 aren't marked. So, it would be helpful, if
12 you're going to file revised pages, to indicate
13 on the page what's different, what's new. In
14 one instance, it was the removal of the word
15 "indicative", that was the only change. And,
16 if you didn't know that, it took a long time to
17 find.

18 Another, I mean, I believe a
19 paragraph in your letter explaining the genesis
20 of the change would have been helpful. We only
21 learned once we got here that the change in
22 proposal from two filings to one filing is as
23 the result of discussions in the technical
24 session; we didn't know that. And, so, it

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 informed us as to how to, at least with me
2 anyway, how to understand the filing and
3 understand the change.

4 From a pure mechanics standpoint, the
5 letter contemplates replacing pages. That
6 doesn't work the way you gave it to us.
7 Because, just as an example, I think it's Pages
8 038 and 039. In the original filing, on the
9 back of 039 is 040. On the revised page, the
10 back of 039 is 038. And, so, you can't just
11 replace pages one-for-one unless you give them
12 in the same format.

13 So, I would ask that, in the future,
14 when this happens, give us more. We are not in
15 a position to figure that out on our own
16 without help, we're just not that good. So, if
17 you can lead us a little bit, that will be very
18 helpful.

19 MR. SHEEHAN: Sure. We did have a
20 cover letter that explained some of the reason
21 for the change. It doesn't say it came from a
22 tech session. We have, believe it or not, long
23 discussions over these revised filings, how to
24 do it, and it seems like it's never quite

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 right, because you push one way, but I get it,
2 and we will continue to fine-tune these.

3 The obvious intent was to avoid
4 refiling a 250-page document. And I think I
5 agree with you we could find a better way to do
6 that, and we will think of it.

7 CHAIRMAN HONIGBERG: I'm not at all
8 suggesting that a full refiling would have been
9 necessary. But just this one ended up having a
10 lot of problems, compounded by how close in
11 time it got to us. Some of that may not be
12 your fault, I really don't know. It's just a
13 matter of confusing us in the morning, before a
14 hearing that's going to start at one o'clock.

15 MR. SHEEHAN: Can I ask you a
16 question? When we file electronically, that
17 doesn't get to you quickly?

18 CHAIRMAN HONIGBERG: No. It does
19 not.

20 MR. SHEEHAN: Okay.

21 CHAIRMAN HONIGBERG: So, I would
22 suggest that, if there is something that you
23 need to get to us quickly and directly, there's
24 a couple things you could do. You could e-mail

[WITNESS PANEL: Casey~DaFonte~Simek]

1 whatever Staff member you're working with and
2 bring it to that person's attention and say
3 "this needs to get to the Commissioners." You
4 could put in the cover letter to the Clerk's
5 office that "This is, you know, a matter that
6 has a hearing scheduled for Thursday. We're
7 filing it. And we would ask if you could
8 expedite its processing out to the
9 Commissioners", or something like that.

10 MR. SHEEHAN: Fair enough.

11 CHAIRMAN HONIGBERG: I want Staff and
12 the Company to talk about the issue that we got
13 stuck on. I may be the only one, but I don't
14 think I am.

15 So, let's take a break and see if you
16 can get on the same page with respect to how
17 that summer period is going to work. And then
18 come back with the witnesses still available
19 for questioning, if necessary, and then we'll
20 try and wrap the hearing up.

21 I will note for the record that
22 Commissioner Scott is probably going to have to
23 leave before we come back. But he will review
24 the transcript and be in a position to

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 participate, assuming things really don't go --
2 if everything stay on track here. But
3 Commissioner Bailey and I will be back in about
4 fifteen minutes.

5 *(Recess taken at 2:17 p.m. and*
6 *the hearing resumed at 2:37*
7 *p.m.)*

8 CHAIRMAN HONIGBERG: All right. Who
9 wants to tell me how you all resolved this?
10 Mr. Sheehan.

11 MR. SHEEHAN: We've nominated Mr.
12 DaFonte to explain that the Commission will
13 approve one rate today and how it will be
14 calculated next spring.

15 CHAIRMAN HONIGBERG: Mr. DaFonte.

16 WITNESS DaFONTE: Well, let me give
17 it a shot. So, the Company is asking for the
18 Commission to approve a winter rate for the
19 '16-'17 Winter and a summer rate for the Summer
20 of 2017. Each of which will establish the
21 baseline for the 25 percent cap.

22 As we do today, there will be trigger
23 filings each month during the winter period.
24 Those trigger filings will be for the winter

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 rate only. However, the Company will be
2 tracking any movement on the summer rate. And,
3 if the Company determines that the summer rate
4 may be approaching the cap, it will come in
5 with a filing to adjust that summer rate.

6 Certainly, if the rate goes above the
7 25 percent cap, we will absolutely be coming in
8 for an adjustment to the rate.

9 In any event, the Company will change
10 the rate for the summer under a trigger filing
11 to be made in April, as it would normally do.
12 And, so, yes, unless, of course, it's a very *de*
13 *minimus* change to the rate. But, otherwise, we
14 will adjust the rate to reflect the current
15 market conditions for the May 1st.

16 BY CHAIRMAN HONIGBERG:

17 Q. So, that is more like what you understood the
18 situation to be in your testimony, and not the
19 way Mr. Simek understood things. Is that fair
20 to say?

21 A. (Simek) Yes.

22 A. (Witness DaFonte nodding in the affirmative).

23 Q. Will you be -- it sounds like that tracking of
24 what's likely to happen with the summer rate is

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 just going to be done internally and won't be
2 shared with the Staff, unless and until it gets
3 up to a point where you would need to do a new
4 filing, is that right?

5 A. (DaFonte) That's correct. We would certainly
6 confer with Staff.

7 Q. Is it your expectation that, if there are
8 significant changes to the winter rate, it will
9 probably mean significant changes in the summer
10 rate? Or is it less -- or, do they track less
11 well?

12 A. (DaFonte) No. I think they probably track the
13 same. But we did -- Staff did ask us a data
14 request, and it was essentially to determine
15 the volatility in the NYMEX, from the initial
16 filing for winter over the course of the last
17 five years, how much did that change relative
18 to the summer rate? And, so, in Staff Data
19 Request 1-2, we provided a five-year look-back.
20 And, across those five years, we never did get
21 to 25 percent. But it certainly fell below
22 25 percent. So, the rate did come down. But
23 it never did go above it. That doesn't mean
24 that it won't in the future. But it's just to

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1 say that, you know, the market's been pretty
2 steady, if not falling.

3 So, we feel comfortable that having this
4 annual filing is more likely than not to avoid,
5 you know, another summer filing.

6 Q. And is also, again, harkening back to a
7 question that you were ready to answer that I
8 think spurred the problems, it is possible that
9 the rate we approve for next summer will be the
10 rate, but it is more likely that some change
11 will be needed in some direction, just given
12 the way things work in this world?

13 A. (DaFonte) That's correct.

14 CHAIRMAN HONIGBERG: All right.
15 Commissioner Bailey, do you have any other
16 questions about this, or anything else, for
17 that matter?

18 CMSR. BAILEY: No, just about this.
19 Thank you.

20 BY CMSR. BAILEY:

21 Q. So, when you say "trigger filing", just so I'm
22 sure I understand what you mean, is that a
23 filing that changes the rate within the
24 25 percent cap?

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 A. (DaFonte) Correct. Each month.

2 Q. Okay.

3 A. (DaFonte) That's correct.

4 Q. Okay. So, in April, you expect to make a
5 trigger filing to adjust the rate that we've
6 approved by either no more than 25 percent
7 greater, or lower?

8 A. (DaFonte) That's correct. Yes.

9 Q. And your goal is to track the price as closely
10 as possible so that there isn't an over- or
11 under-collection?

12 A. (DaFonte) Yes. Absolutely.

13 Q. And, in the event of an over- or
14 under-collection, there's a reconciliation next
15 year?

16 A. (DaFonte) Correct.

17 CMSR. BAILEY: Okay. All right.

18 Thank you.

19 BY CHAIRMAN HONIGBERG:

20 Q. I'm going to ask you to -- I'm just going to
21 clarify something that is in Commissioner
22 Bailey's question, because I can see how that
23 question is going to read in the transcript is
24 not going to incorporate the pause that she had

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[WITNESS PANEL: Casey~DaFonte~Simek]

1 in there. Just to be clear, it can go up no
2 more than 25 percent, but it can go down in any
3 amount, correct?

4 A. (DaFonte) Yes.

5 CHAIRMAN HONIGBERG: All right. Is
6 there any need to further question the
7 witnesses?

8 MR. SHEEHAN: I have no further
9 questions. Thank you.

10 CHAIRMAN HONIGBERG: Mr. Clifford, do
11 you have anything else for the witnesses?

12 MR. CLIFFORD: No. Staff does not.

13 CHAIRMAN HONIGBERG: All right. And,
14 just to get Staff's position on the record, you
15 can do it in your submission or you can do it
16 now. Are you satisfied that -- with the
17 explanation that we just got from Mr. DaFonte
18 about how this is going to work?

19 MR. CLIFFORD: Yes. I'm going to do
20 that now.

21 CHAIRMAN HONIGBERG: Okay.

22 MR. CLIFFORD: From my understanding,
23 it's been crystal clear, based on his
24 testimony.

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1 CHAIRMAN HONIGBERG: Okay. Good.

2 Thank you.

3 All right. So, I think then we're
4 ready to strike ID on the exhibits?

5 *[No verbal response.]*

6 CHAIRMAN HONIGBERG: Is there
7 anything -- and it's Exhibit 1, 2, and 3.

8 Is there anything else we need to do,
9 before you sum up?

10 MR. SHEEHAN: No, sir.

11 CHAIRMAN HONIGBERG: All right.
12 Mr. Clifford.

13 MR. CLIFFORD: So, Staff does support
14 the Liberty Utilities EnergyNorth's 2016-2017
15 cost of gas filing and rates. And we expect
16 that the Commission would approve this. It is
17 just and reasonable. And we await a further
18 order from the Commission.

19 CHAIRMAN HONIGBERG: Thank you,
20 Mr. Clifford. Mr. Sheehan.

21 MR. SHEEHAN: Yes. Briefly, the
22 issue that caused all of this is the -- what I
23 was convinced to be the requirement that the
24 Commission set a fixed rate. And what we had

1 initially proposed was an indicative rate that,
2 come spring, it would be something different.

3 The way we resolved that problem in
4 this is the whole 25 percent cap is you are
5 setting a fixed rate, with a fixed cap. And
6 that's -- and, so, by what we just explained,
7 it accomplishes that goal, and it avoids the
8 problem of having something less specific. So,
9 we appreciate your patience in working through
10 this.

11 Otherwise, we ask that Commission
12 approve these two rates, the winter rate going
13 into effect November 1 and the summer rate
14 going into effect May 1, for the reasons stated
15 in the testimony and orally. Thank you.

16 CHAIRMAN HONIGBERG: All right.
17 Thank you all. We will take this matter under
18 advisement and issue an order as quickly as we
19 can.

20 ***(Whereupon the hearing was***
21 ***adjourned at 2:43 p.m.)***