

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

August 4, 2017 - 10:05 a.m.
Concord, New Hampshire

16 AUG '17 AM 9:34

RE: DE 17-113
EVERSOURCE ENERGY:
Petition for Approval of Energy
Services Supply Proposal.
(Prehearing conference)

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

Sandy Deno, Clerk

APPEARANCES: Reptg. Public Service Co. of New
Hampshire d/b/a Eversource Energy:
Matthew J. Fossum, Esq.

Reptg. New England Power Generators
Association (NEPGA):
James Monahan (Dupont Group)

Reptg. NextEra Energy Marketing, LLC:
Douglas L. Patch, Esq. (Orr & Reno)
Nicholas Cicale, Esq. (NextEra)
Brian Murphy, Esq. (NextEra)

Reptg. the Retail Energy Supply
Association (RESA):
Robert Munnelly, Jr., Esq. (Davis...)

Reptg. EnerNOC:
Greg Geller

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

**CERTIFIED
ORIGINAL TRANSCRIPT**

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APPEARANCES: (c o n t i n u e d)

Reptg. Residential Ratepayers:

Brian Buckley, Esq.
D. Maurice Kreis, Esq., Consumer Adv.
James Brennan, Finance Director
Office of Consumer Advocate

Reptg. PUC Staff:

Suzanne G. Amidon, Esq.
Thomas C. Frantz, Dir./Electric Div.
Richard Chagnon, Electric Division
Amanda O. Noonan, Dir./External Comm.
& Consumer Affairs

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P R O C E E D I N G

1
2 CHAIRMAN HONIGBERG: We're here in
3 Docket DE 17-113, which is Public Service
4 Company of New Hampshire doing business as
5 Eversource, a Petition for Approval of an
6 Energy Service Supply Process to be effective
7 January 1, 2018, which I contemplate to be
8 post-divestiture.

9 We're here for a prehearing
10 conference. I understand there's a technical
11 session that will follow. We have some
12 interventions. I'm not sure what else we may
13 want to deal with.

14 Before we do anything else, let's
15 take appearances.

16 MR. FOSSUM: Good morning,
17 Commissioners. Matthew Fossum, here for Public
18 Service Company of New Hampshire doing business
19 as Eversource Energy.

20 MR. MONAHAN: James Monahan, with The
21 Dupont Group. I'm here today on behalf of the
22 New England Power Generators Association.

23 MR. PATCH: Good morning,
24 Commissioners. Doug Patch, with Orr & Reno, on

1 behalf of NextEra Energy Marketing, LLC. And
2 with me at the table this morning are Brian
3 Murphy and Nick Cicale.

4 MR. MUNNELLY: Good morning. Robert
5 Munnelly, from Davis, Malm & D'Agostine, in
6 Boston, here representing the Retail Energy
7 Supply Association.

8 MR. BUCKLEY: Good morning. Brian
9 Buckley, staff attorney, with the Office of the
10 Consumer Advocate. To my left is D. Maurice
11 Kreis, the Consumer Advocate; and to his left
12 is James Brennan, Director of Finance for the
13 Office of the Consumer Advocate. And we are
14 here representing the interests of residential
15 ratepayers.

16 MR. GELLER: Good morning. I'm Greg
17 Geller, with EnerNOC, representing EnerNOC.
18 Thank you.

19 MS. AMIDON: Suzanne Amidon, for
20 Commission Staff. With me today, to my far
21 left, is Amanda Noonan, who's the Director of
22 External Communications & Consumer Affairs; to
23 her right is Tom Frantz, Director of the
24 Electric Division; to my immediate left is Rich

1 Chagnon, who is an Analyst in the Electric
2 Division. Thank you.

3 CHAIRMAN HONIGBERG: Welcome back,
4 Mr. Cicale.

5 MR. CICALÉ: Thank you, Mr. Chairman.

6 CHAIRMAN HONIGBERG: I know we have
7 interventions. Is there anything else in the
8 nature of preliminary matters that we need to
9 deal with?

10 Ms. Amidon.

11 MS. AMIDON: The only thing I know
12 for sure is that I spoke with Mr. Allegretti,
13 and he said that he was not going to be able to
14 attend today, but he did make a timely filed
15 motion to intervene. Thank you.

16 CHAIRMAN HONIGBERG: Thank you very
17 much. We have that.

18 Anything else, before we talk
19 interventions?

20 *[No verbal response.]*

21 CHAIRMAN HONIGBERG: All right. I
22 think we received an objection to EnerNOC's
23 intervention from the Company. Are there any
24 other positions the Company wants to take

1 regarding the other interventions?

2 MR. FOSSUM: No. The Company has no
3 position on the other interventions.

4 CHAIRMAN HONIGBERG: Does Staff have
5 any position on the interventions?

6 MS. AMIDON: No. We don't take any
7 positions on the interventions.

8 CHAIRMAN HONIGBERG: Mr. Geller, have
9 you seen the objection the Company filed?

10 MR. GELLER: I just saw it this
11 morning on someone else's email. I did not
12 receive it via email. But I understand the
13 nature of it, and I can speak to it.

14 CHAIRMAN HONIGBERG: If you would
15 like to speak to it, you can.

16 MR. GELLER: Yes. So, you know, we
17 believe our Petition to Intervene should be
18 granted. And there's really, you know, three
19 issues --

20 CHAIRMAN HONIGBERG: Actually, it's
21 better if you sit and use the microphone.

22 MR. GELLER: Okay. I will do that.

23 CHAIRMAN HONIGBERG: It's better for
24 the stenographer.

1 MR. GELLER: Okay.

2 CHAIRMAN HONIGBERG: And we can see
3 you.

4 MR. GELLER: Okay. Thank you. So,
5 you know, the first issue here is this Petition
6 to Intervene in this docket is about one of the
7 issues at play are just and reasonable rates,
8 and, really, the interest of justice being
9 served.

10 And, so, Eversource in this docket
11 has proposed a method of procurement, you know,
12 the RFP method of procurement is what they are
13 proposing. My understanding of how that works
14 is it's a sealed bid approach, where utilities
15 typically send out some kind of communication
16 to suppliers inviting a response back, and then
17 they select, you know, from the most -- they
18 select the most competitive bids.

19 This is one method of procurement.
20 But there are other methods of procurement that
21 are being employed across the country. And,
22 frankly, there's significant evidence that
23 suggest that other methods are yielding more
24 competitive prices for consumers than the RFP

1 approach that is being proposed by Eversource.

2 And, so, you know, if part of this
3 docket is about looking at just reasonable
4 rates for customers and the interest of
5 justice, we think it is truly in the best
6 interest of consumers in New Hampshire for the
7 Commission to consider these alternative
8 approaches that are yielding more competitive
9 outcomes across the country.

10 CHAIRMAN HONIGBERG: Are we limited
11 by the various orders, approving the Settlement
12 Agreement being the primary one, which directs
13 the Company in some manner regarding how it's
14 to do default service? I mean, the language is
15 "the competitive process utilized shall be
16 consistent with the process determined by the
17 Commission in Docket Number IR 14-338."

18 MR. GELLER: So, I mean, Eversource
19 here has proposed the RFP method, obviously.
20 But I don't see anything that suggests that the
21 competitive process has to be limited to that
22 specific method that's chosen. We would hope,
23 as part of this docket, other methods could be
24 considered and, you know, moving forward.

1 CHAIRMAN HONIGBERG: Mr. Fossum, you
2 want to respond at all?

3 MR. FOSSUM: Only on that, the last
4 point. As we pointed out in our initial
5 testimony, the -- so, the Settlement Agreement
6 does provide that we would do something
7 consistent with what was called for in 14-338.
8 And we do point out in our initial testimony
9 that the 14-338 docket did not actually result
10 in a specific proposal. That said, the -- or,
11 a process, excuse me. That said, the processes
12 that were under review in that docket were the
13 processes used by the utilities in New
14 Hampshire, which were all RFP processes.

15 So, to the extent that we're looking
16 to remain consistent with that order -- I mean,
17 with that docket, and with the Settlement
18 Agreement, we believe the RFP process is the
19 more appropriate process. And it's the one
20 that therefore -- well, and it's the one that
21 we have proposed to go forward with in this
22 docket, consistent with what we understand is
23 the preferred process for New Hampshire
24 utilities.

1 CHAIRMAN HONIGBERG: All right.
2 We're going to grant the intervention motions
3 for the others. We're still thinking about
4 EnerNOC.

5 Do you have questions? Commissioner
6 Bailey has a question for somebody.

7 CMRS. BAILEY: For Mr. Fossum. If a
8 process like EnerNOC's had been available at
9 the time that the 14-338 investigation was
10 ongoing, would that have been precluded as a
11 consideration at the time?

12 MR. FOSSUM: I don't know that it was
13 precluded at the time. I do -- excuse me -- my
14 recollection of that docket was that there were
15 other proposals that were made that varied from
16 strictly RFP proposals. But, in the end, the
17 outcome of the docket was -- the only, as far
18 as I understand, the only substantive outcome
19 of the docket was for Liberty Utilities to
20 shift its supply period to break up high-cost
21 months.

22 But, other than that, there was no
23 indication of a shift away from an RFP process
24 that came out of that docket.

1 CMRS. BAILEY: So, do you think it
2 would be inconsistent with that docket to
3 consider another method of procuring default
4 service?

5 MR. FOSSUM: I don't think it would
6 be inconsistent to consider another method. I
7 think, you know, consideration of other methods
8 is appropriate from time to time.

9 I think, as we put in our objection,
10 however, our concern is that that consideration
11 really doesn't belong in this docket. It's --
12 the timing of the docket is such that trying to
13 consider and then potentially implement all of
14 that, I just -- I don't think it's feasible.

15 And, if there are issues about
16 potentially redesigning the way that utilities,
17 not just Eversource, but presumably other
18 utilities perhaps, if a process is found to be
19 beneficial, if that redesign is going to
20 happen, then that should be done in a more
21 generic docket that applies to all the
22 utilities.

23 MR. GELLER: May I respond to that?

24 CHAIRMAN HONIGBERG: Sure.

1 MR. GELLER: Thank you. So, on the
2 issue of timing, we understand that we're
3 seeking delivery of -- or, Eversource is
4 seeking delivery for January 1st, and we think
5 that leaves, you know, ample time for
6 alternative methods for procurement to be
7 considered and to be implemented in time for
8 that kind of delivery date.

9 You know, our kind of procurement
10 platform, it takes a matter of a couple of
11 weeks after the time that we're notified that
12 an auction would take place to actually get the
13 auction -- to actually run the auction. So, we
14 can, from a timing perspective, there is ample
15 time.

16 And, you know, even if there were a
17 timing issue, Eversource, in this docket, is
18 proposing a method of procurement, not just for
19 January 1st to July 1st of 2018, but going
20 forward on a long-term basis.

21 And, so, we think it's appropriate,
22 as part of this docket, to consider whether
23 that this method of procurement is really in
24 the best interest of New Hampshire consumers

1 moving forward on a long-term basis. And our
2 position -- I mean, our interests are that we
3 think there's technology out there, there are
4 solutions out there that are yielding more
5 competitive prices in other jurisdictions. And
6 there's not very many short-term levers to pull
7 to reduce customer bills, and this is one of
8 them. And, at the very least, it should be
9 explored as part of this docket, given that
10 Eversource has proposed a, you know, the RFP
11 approach.

12 So, thank you.

13 CHAIRMAN HONIGBERG: Okay. I think
14 we understand why you're here. I think we
15 understand the position you want to take. We
16 have concerns about the timing issues, how they
17 relate to the divestiture. It's something I
18 think you're going to have to talk about in the
19 technical session. We may have questions about
20 it as we go through the rest of this prehearing
21 conference.

22 As I was beginning to say, we're
23 going to grant the interventions of everybody
24 else. So, they're all in. We're going to

1 reserve a ruling on EnerNOC for now, but you
2 can participate in the technical session. I
3 don't know if you'll end up with intervenor
4 status, or you'll be in a position to just
5 monitor. It may be that you're granted
6 intervenor status with some limitations as to
7 issues or what you can do to present. It may
8 be something you can talk about with the
9 parties, and maybe they will be in agreement
10 with how EnerNOC would participate, and it
11 would obviate the need for us to issue an order
12 on that.

13 Is there anything else before we ask
14 you to state your initial positions on how this
15 is going to go?

16 *[No verbal response.]*

17 CHAIRMAN HONIGBERG: All right.
18 Mr. Fossum, why don't you begin.

19 MR. FOSSUM: Thank you. The
20 Company's position is that we have put forth a
21 reasonable, appropriate proposal to move toward
22 competitive default service procurement. It's
23 a direction that many in this room, and many
24 outside this room as well, have been expecting

1 this Company to move in for years. And, given
2 that it's our position we believe we have an
3 appropriate proposal, we're hopeful that we
4 will have the support of these parties to move
5 forward through this docket and to reach an
6 efficient approval of a process that we can
7 implement in sufficient time to provide new
8 rates to customers on January 1st.

9 In making our proposal, we reviewed
10 the activities of other companies, both in New
11 Hampshire and outside. And, based on our
12 experience, we looked for a proposal that would
13 work because it met a couple of conditions.
14 One is that it would be something
15 straightforward to implement; that it would be
16 understandable to all involved; that it would
17 be a process that minimizes confusion; and it
18 would be a process that complies with the
19 expectations surrounding divestiture.

20 We believe January 1st is the most
21 sensible day to make this change, and would be
22 the least disruptive to customers and the
23 Company. And we're hopeful that we will gain
24 the support, and the Company is prepared to

1 work with those in this room to answer their
2 questions and provide data, so that we can,
3 again, our hope is we can move collectively
4 toward implementing this for our customers.

5 So, just to close up, we believe this
6 is a just and reasonable proposal. It's
7 appropriate for the Company to use. It's
8 consistent with the PUC's precedent. It's
9 beneficial to New Hampshire customers. And we
10 would ask that the Commission approve it.

11 CHAIRMAN HONIGBERG: Mr. Monahan.

12 MR. MONAHAN: So, the New England
13 Power Generators Association --

14 *[Court reporter interruption.]*

15 MR. MONAHAN: So, the New England
16 Power Generators Association has been a long
17 and strong advocate for a more competitive
18 procurement process for default service or
19 energy service for the PSNH/Eversource service
20 territory. What's proposed in this docket is
21 consistent with our expectations of that
22 change. It's also consistent with what we had
23 expected to develop as a logical next step
24 following divestiture.

1 We have not yet decided the level of
2 participation in this docket, but our
3 intervention is to generally support the
4 competitive approaches that are proposed by
5 Eversource in this docket.

6 CHAIRMAN HONIGBERG: Mr. Patch.

7 MR. PATCH: Thank you. It's really
8 early, I think, for us to state a definitive
9 position. I think it's important, particularly
10 since this is the first time that PSNH would be
11 doing this, that we get it right. And we think
12 there are -- what has been provided so far is
13 really at kind of a high level. We think
14 there's more detail that needs to be fleshed
15 out.

16 Mr. Fossum made reference to
17 "answering questions". We think discovery
18 would be very helpful here.

19 And, for example, I think, in the
20 case of Unitil and Liberty, they actually
21 provided a draft of an RFP, and I'm not sure
22 that one has been provided here.

23 So, there's a lot of detail we think
24 should be fleshed out. And, you know, we

1 obviously want to work with PSNH and the other
2 parties to come up with a schedule that meets
3 our needs.

4 CHAIRMAN HONIGBERG: Mr. Munnelly.

5 MR. MUNNELLY: Thank you. You know,
6 this is a subject matter that -- can you hear
7 me from there?

8 CMRS. BAILEY: No. Can you pull the
9 mike a little closer please?

10 MR. MUNNELLY: This any better?

11 CHAIRMAN HONIGBERG: Doesn't sound
12 like it's on?

13 MR. MUNNELLY: Try that. Is that
14 better?

15 CHAIRMAN HONIGBERG: No.

16 MR. MUNNELLY: Sorry about that.

17 CMRS. BAILEY: There we go.

18 MR. MUNNELLY: Okay. Yes, this is --
19 the issue of an RFP in Eversource is something
20 that matters to RESA members. We don't have
21 a -- RESA does not have a position yet in this
22 case. It does want to follow the case. It
23 hasn't determined its level of participation
24 yet. But appreciates hearing the positions of

1 the parties, and looks forward to participating
2 in an appropriate manner.

3 CHAIRMAN HONIGBERG: Mr. Geller, is
4 there anything you want to add to what you've
5 already said on your positions here?

6 MR. GELLER: No. I think the only
7 thing I just want to add is is, you know,
8 regarding EnerNOC's interest here, and, you
9 know, why -- you know, why this case has impact
10 on us. And we are a provider of wholesale
11 procurement of technology that utilities are
12 leveraging for wholesale procurement. And, so,
13 our interest really is in the different kinds
14 of technology being considered as part of this
15 proceeding.

16 CHAIRMAN HONIGBERG: Mr. Buckley.

17 MR. BUCKLEY: The Office of the
18 Consumer Advocate is still evaluating the
19 issues presented in this Petition, including,
20 but not limited to, those relating to review of
21 the RFP and master supply agreement, design of
22 the procurement process itself, and strategies
23 for REC acquisition and RPS compliance.

24 That said, we are looking forward to

1 working with the parties to further examine and
2 resolve those issues on an appropriate
3 timeline.

4 CHAIRMAN HONIGBERG: Ms. Amidon.

5 MS. AMIDON: Thank you. Staff has
6 begun its review, and we agree that further
7 detail is required in a number of elements.
8 One of them is, for example, to make sure that
9 all the energy administrative costs are
10 included in the calculation of the energy
11 service rate. And we have similar issues with
12 respect to -- that were mentioned by Attorney
13 Buckley, regarding the review of the RFP, what
14 kind of qualitative and quantitative review is
15 done on the RFP, the solicitation process, and
16 other details that we understand the Company is
17 willing to discuss with us and to flesh out
18 beginning today, and probably going forward.

19 And, hopefully -- we'll have a
20 technical session after this, and hopefully
21 we'll come up with a procedural schedule that
22 works for the parties.

23 I will comment that we do find the
24 schedule to be a little ambitious, and we're

1 trying to work with the Company on that.

2 Thank you.

3 CMRS. BAILEY: Mr. Buckley, do you or
4 the OCA have a position about whether now is
5 the time to entertain EnerNOC's proposal?

6 MR. BUCKLEY: While we recognize the
7 importance of timing in this docket, the Office
8 of the Consumer Advocate generally supports
9 granting intervention to parties when doing so
10 would be in the interest of justice and not
11 disrupt the orderly conduct of the proceedings.

12 We do believe that it would be in the
13 interest of residential ratepayers to at least
14 investigate whether sealed bid offerings or
15 live reverse auctions, similar to those which
16 EnerNOC would likely advocate for, provide the
17 most competitive bidding environment.

18 Whether this docket is the most
19 appropriate docket to do so is a decision we
20 leave to the Commission.

21 CMRS. BAILEY: Okay. Mr. Fossum, why
22 do you need new rates effective January 1st?

23 MR. FOSSUM: Well, I don't know that
24 "need" is the word that I would use. I think

1 it is the most appropriate time to do it, for a
2 number of reasons. One is that Eversource has
3 historically changed its energy service rates
4 on January 1st and July 1st of every year. So,
5 to do so in this instance would be consistent
6 with that for the Company, and it would be
7 consistent with customers' expectations for
8 when they see rate changes.

9 Another reason for it is that, as I
10 understand the schedule surrounding
11 divestiture, and I believe there was an order
12 of notice issued yesterday on the actual sale
13 process, is that, presuming that the rough
14 outline of a schedule that was in that order of
15 notice holds, the actual sale would occur
16 sometime in the middle of January. Now, I know
17 there's uncertainty around all of that for
18 whatever reason. But, to implement rates on
19 January 1st, recognizing that the sale is only
20 a short time thereafter, is very sensible to
21 us, rather than attempt to delay, to wait, to
22 hope that the schedule holds, and maybe it does
23 and maybe it doesn't, and then to end up
24 potentially implementing a new rate scheme in

1 March or April, or in some other time, it seems
2 to make less sense to us.

3 January 1st also coincides with the
4 change -- the usual change in our Stranded Cost
5 Recovery Charge. And, so, it would line up
6 with that adjustment as well. And, so, you
7 wouldn't -- you would have less volatility in
8 customer bills. They wouldn't see a chance in,
9 say, January, and then another one in March or
10 April, and then another one in July.

11 And, so, for those reasons, we think
12 January 1st is the most appropriate date.

13 CMRS. BAILEY: Okay. I have a
14 question about each one of those points.

15 So, the Settlement Agreement says "no
16 later than six months after the final financial
17 closing resulting from divestiture, PSNH will
18 transition to competitive procurement". So, in
19 this case, you're proposing to transition
20 before the financial closing?

21 MR. FOSSUM: Correct.

22 CMRS. BAILEY: And it's just because
23 your rates change on January 1st all the time?

24 MR. FOSSUM: It's not just because of

1 that. I mean, I look at the provision in the
2 Divestiture Settlement Agreement, as sort of
3 that's the very last point at which the change
4 to a competitive procurement would occur, that
5 is six months after closing. There's nothing
6 in there that says it can't happen earlier than
7 that. So, that's what we're proposing to do
8 here.

9 And we believe, and I believe we put
10 in our testimony, that doing so we think
11 removes a measure of uncertainty around what
12 would happen with the divestiture, if it moved
13 up or back in time. This way, you know, we
14 know, the Commission knows, customers know what
15 be will happen and when.

16 CMRS. BAILEY: Well, wouldn't they
17 know it if -- strike that. If you weren't
18 going to have this process in place for
19 January 1st, would you have to make a filing
20 for energy service rates that would be
21 effective January 1st anyway?

22 MR. FOSSUM: Yes.

23 CMRS. BAILEY: And the other argument
24 that you made was that January 1st coincides

1 with your usual change in the Stranded Cost
2 Recovery Charge, but that's going to change as
3 well after the financial closing, correct?

4 MR. FOSSUM: I presume that it will,
5 yes. But, rather than have a change on
6 January 1st for just the Stranded Cost -- or,
7 the Stranded Cost Charge and the Energy Service
8 Charge, then a change somewhere down the line
9 for the Energy Service Charge, and then another
10 change potentially for the Stranded Cost
11 Charge, depending on when all of those
12 processes would line up with each other or not,
13 there's a potential for a great many rate
14 changes in a relatively short time. And we
15 don't see that as being particularly beneficial
16 to anybody.

17 CHAIRMAN HONIGBERG: Why couldn't
18 they all be done on July 1?

19 MR. FOSSUM: I suppose that they
20 could be on July 1. In which case, then we
21 would also have a Transmission Cost change as
22 well.

23 CHAIRMAN HONIGBERG: I mean, I think
24 it's at least possible. I mean, we weren't

1 involved in the negotiation of the language in
2 the Agreement. But it's at least possible that
3 one could look at it and say "this Company
4 changes its rates every six months. And, so,
5 whenever we get this thing closed, and finally
6 sold, we'll make all the changes at the next
7 period." And we know that's not going to be
8 more than six months away, hence the "six
9 month" language. I don't know, I wasn't in the
10 room when that was negotiated.

11 But that's -- that gets you all the
12 predictability and regularity for customers in
13 terms of when rates change. It may have other
14 effects that I don't even begin to understand,
15 in how things like stranded costs would accrue,
16 what would happen if you were still offering
17 default service or somebody needed to offer
18 default service while -- after you close. How
19 would that work? Is that contemplated? Would
20 it need to be contemplated in the purchase and
21 sale agreements on the actual plants
22 themselves?

23 So, there's a lot of moving parts
24 that I don't think we have as good a handle on

1 as maybe Staff and some of the other people in
2 the room do. But I think we see some
3 complicated issues related to that.

4 MR. FOSSUM: Well, if I may, two
5 points. One was brought to my attention, I
6 believe our understanding, and I think somebody
7 in the room will correct me if I'm wrong, is
8 that I may have misspoken, when the Stranded
9 Cost Charge would need to change at the time
10 the rate reduction bonds are issued, not at
11 some later date, to ensure that we're
12 collecting the appropriate dollars that need to
13 be then transferred to the special purpose
14 entity. So, that would be sort of an off-cycle
15 change.

16 CHAIRMAN HONIGBERG: And that's true
17 regardless of what happens in this docket then.

18 MR. FOSSUM: Perhaps. You know,
19 there may be ways to not do away with that, but
20 to mitigate the potential change.

21 The other item that occurs to me is
22 that, presently, and again somebody I'm sure in
23 the room will correct me if I'm wrong,
24 competitively procured rates right now are

1 trending well below Eversource's standard
2 energy service rate, and they have been for
3 some time. The longer that we delay moving to
4 the competitively procured process, the longer
5 that difference remains for customers who are
6 on Energy Service.

7 CMRS. BAILEY: What happens between
8 the time you switch to competitively procured
9 default service and the financial closing to
10 your return on rate base? You still get that
11 on all the generation assets that aren't
12 producing anything?

13 MR. FOSSUM: I don't know. I'll let
14 Mr. Goulding speak to that. He's more familiar
15 with how we would do the accounting.

16 CMRS. BAILEY: Okay.

17 MR. GOULDING: My understanding is,
18 yes, that it would continue, because we would
19 still run the plants. And we have the prudence
20 review of the running of those plants and
21 making sure they're making economic decisions
22 to be dispatched. Because, during that
23 transition period, if it's economically
24 dispatched, then it would be dispatched into

1 the market. So, there would be no less risk
2 associated with continuing to own the plants.

3 CMRS. BAILEY: Unless you own them
4 and they're not running?

5 MR. FOSSUM: But that's the same risk
6 that exists today.

7 CMRS. BAILEY: What happens if the
8 sale is appealed?

9 MR. FOSSUM: I think everyone is
10 fairly aware that there is litigation risk.
11 And, you know, to a degree, some of that may
12 be -- you may be able to diminish that. But
13 the possibility that someone or some entity may
14 seek an appeal, it is a possibility that exists
15 there.

16 I think our proposal would still be
17 implemented. The Company is still intending to
18 go forward with divestiture, and would do so on
19 the most appropriate schedule possible.

20 I hesitate to speculate on exactly
21 what an appeal might do. That's a risk that's
22 out there, and we're aware of it. But I don't
23 see that possibility as being a reason to delay
24 implementation of the competitively procured

1 rate system.

2 CHAIRMAN HONIGBERG: Anyone else want
3 to offer thoughts to us on the timing, before
4 you have your technical session?

5 *[No verbal response.]*

6 CHAIRMAN HONIGBERG: Seems like the
7 answer is "no".

8 All right. If there's nothing else
9 for us to do, then we'll leave you to your
10 technical session. I guess I would ask you to
11 consider EnerNOC's situation and have a
12 discussion among yourselves about whether it
13 makes sense for us to deal with it here in some
14 way, through a limited intervention, or
15 something else, and then you'll let us know how
16 that works out. And you'll talk about the
17 schedule and let us know how that works out.

18 So, we will adjourn the prehearing
19 conference. Thank you.

20 ***(Whereupon the prehearing***
21 ***conference was adjourned at***
22 ***10:35 a.m., and a technical***
23 ***session was held thereafter.)***

24