

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

December 18, 2019 - 1:34 p.m.
Concord, New Hampshire

NHPUC 15JAN20PM3:41

RE: DE 19-059
LIBERTY UTILITIES (GRANITE STATE
ELECTRIC) CORP. d/b/a LIBERTY
UTILITIES: 2019 Schedule for
Default Service Solicitations.
(Hearing regarding the period of
of February 1, 2020 through
July 31, 2020)

PRESENT: Chairwoman Dianne Martin, Presiding
Cmsr. Kathryn M. Bailey
Cmsr. Michael S. Giaimo

Jody Carmody, Clerk

APPEARANCES: Reptg. Liberty Utilities (Granite
State Electric) Corp. d/b/a
Liberty Utilities:
Michael J. Sheehan, Esq.

Reptg. Residential Ratepayers:
D. Maurice Kreis, Esq., Consumer Adv.
Office of Consumer Advocate

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.
Stephen Eckberg, Electric Division

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

CERTIFIED
ORIGINAL TRANSCRIPT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

PAGE NO.

**WITNESS PANEL: JOHN D. WARSHAW
 DAVID B. SIMEK**

| | |
|--------------------------------------|--------|
| Direct examination by Mr. Sheehan | 6 |
| Cross-examination by Mr. Kreis | 24 |
| Cross-examination by Ms. Amidon | 35 |
| Interrogatories by Cmsr. Bailey | 40, 55 |
| Interrogatories by Cmsr. Giaimo | 48 |
| Interrogatories by Chairwoman Martin | 56 |

* * *

CLOSING STATEMENTS BY:

| | |
|-------------|----|
| Mr. Kreis | 61 |
| Ms. Amidon | 65 |
| Mr. Sheehan | 66 |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|--|----------|
| 5 | Testimony of John D. Warshaw, <i>premarked</i> with attachments, and the Technical Statement of David B. Simek, with attachments (12-16-19) <i>[REDACTED - For PUBLIC Use]</i> | |
| 6 | Testimony of John D. Warshaw, <i>premarked</i> with attachments, and the Technical Statement of David B. Simek, with attachments (12-16-19) {CONFIDENTIAL & PROPRIETARY} | |
| 7 | Revised Schedules of John D. <i>premarked</i> Warshaw and revised Technical Statement and Schedules of David B. Simek <i>[REDACTED - For PUBLIC Use]</i> | |
| 8 | Revised Schedules of John D. <i>premarked</i> Warshaw and revised Technical Statement and Schedules of David B. Simek {CONFIDENTIAL & PROPRIETARY} | |
| 9 | RESERVED (Record request for bill impact information...) | 59 |
| 10 | RESERVED (Unified document including all changes identified during the hearing and as submitted) <i>[REDACTED - For PUBLIC Use]</i> | 60 |
| 11 | RESERVED (CONFIDENTIAL version of reserved Exhibit 10) | 68 |

P R O C E E D I N G

1
2 CHAIRWOMAN MARTIN: Good afternoon,
3 everybody. A little less participation today
4 so far. It's kind of nice.

5 All right. We're here this afternoon
6 in Docket DE 19-059, which is Liberty
7 Utilities' Energy Service rate proceeding for
8 the period beginning February 1, 2020.

9 Why don't we take appearances.

10 MR. SHEEHAN: Good afternoon,
11 Commissioners. Mike Sheehan, for Liberty
12 Utilities (Granite State Electric) Corp.

13 MR. KREIS: Good afternoon. Don
14 Kreis, the Consumer Advocate, here on behalf of
15 the residential utility customers.

16 MS. AMIDON: Suzanne Amidon, for
17 Commission Staff. And with me today is Steve
18 Eckberg, an Analyst with the Electric Division.

19 Thank you.

20 CHAIRWOMAN MARTIN: And I see we
21 already have witnesses up here. You're ahead
22 of me.

23 Do we have preliminary matters we
24 need to address?

1 MR. SHEEHAN: A couple. First,
2 exhibits. We propose to mark the electronic
3 filings we made December 16th as number "5" and
4 "6"; "5" being the redacted version, "6" being
5 the confidential version. Of course, we're
6 picking up with 5 because of the hearing we had
7 in this docket in the summer. We've also
8 brought today, and you have in front of you,
9 "Exhibit 7" and "8". They are the same
10 docket [document?]. "7" is the redacted
11 version, "8" is the confidential, of some
12 revised schedules that the witnesses will
13 explain in the testimony.

14 The other preliminary matter is the
15 confidentiality filings. The basis for our
16 request of confidentiality, as stated in the
17 cover letter, is Puc 201.06, which is titled
18 "Requests for Confidential Treatment of
19 Documents Submitted by Utilities in Routine
20 Filings." This rule allows the companies to
21 file the described documents, and they are
22 treated as confidential without the Commission
23 actually having to make an order, as sort of a
24 streamlined process. And, if someone requests

[WITNESS PANEL: Warshaw|Simek]

1 the documents, then it triggers a usual hearing
2 process as to whether they are confidential.

3 The rule allows us to file and ask
4 the parties to treat them as confidential,
5 pending any such hearing. So, that was the
6 basis for our assertion of confidentiality.

7 Otherwise, we're ready to go.

8 CHAIRWOMAN MARTIN: Okay. Great.
9 And we will treat that information as
10 confidential.

11 And the witnesses have taken their
12 place. So, whenever you're ready, Steve.

13 (Whereupon **John D. Warshaw** and
14 **David B. Simek** were duly sworn
15 by the Court Reporter.)

16 CHAIRWOMAN MARTIN: Mr. Sheehan.

17 MR. SHEEHAN: Thank you.

18 **JOHN D. WARSHAW, SWORN**

19 **DAVID B. SIMEK, SWORN**

20 **DIRECT EXAMINATION**

21 BY MR. SHEEHAN:

22 Q Mr. Warshaw, could you please introduce
23 yourself and your position with the Company?

24 A (Warshaw) My name is John D. Warshaw. And I am

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 the Manager of Electric Supply for Liberty
2 Utilities.

3 Q Mr. Warshaw, how long have you been with
4 Liberty Utilities?

5 A (Warshaw) Eight years.

6 Q And, generally, what has been your
7 responsibility during those eight years with
8 Liberty?

9 A (Warshaw) I have been responsible for procuring
10 the default service energy supply for our
11 customers who are not taking service from a
12 competitive supplier. I am also responsible
13 for procuring the Renewable Portfolio Standard
14 RECs to be able to meet the state's RPS
15 obligation.

16 Q And eight years brings you back to the time
17 when Liberty purchased Granite State from
18 National Grid, is that correct?

19 A (Warshaw) That is correct.

20 Q And, prior to working for Liberty, did you work
21 with National Grid?

22 A (Warshaw) Prior to Liberty, I worked for
23 Eversource for a year, and then, prior to that,
24 I had retired, an early retirement from

{DE 19-059} {12-18-19}

1 National Grid.

2 Q And did you have -- were you working in similar
3 fields during those prior engagements?

4 A (Warshaw) Yes. I worked for National Grid
5 since 2000.

6 Q In the energy procurement area?

7 A (Warshaw) Yes.

8 Q In this case, you have testimony that's been
9 filed, and it begins at Bates Page 001. Do you
10 have any changes to that testimony to bring to
11 the Commission's attention this afternoon?

12 A (Warshaw) Yes, I do. On Bates Page 013,
13 Line 14, there's a cents per kilowatt-hour of
14 "6.787". That should be replaced with "6.591
15 cents per kilowatt-hour".

16 And, then, on Line 17, just below that,
17 there's a value of "7.127", and that should be
18 replaced with a value of "7.177".

19 Q Could you explain why you need to make those
20 changes?

21 A (Warshaw) It was discovered that there was an
22 error in a formula in the calculation of the
23 forecast for the volumes that we used to
24 develop the load-weighted average prices in --

[WITNESS PANEL: Warshaw|Simek]

1 excuse me -- in this filing.

2 Q And that error, in fact, was spotted by
3 Mr. Eckberg and raised with us yesterday, is
4 that correct?

5 A (Warshaw) Yes.

6 Q And, as a result of spotting that error, what
7 work did you have to do?

8 A (Warshaw) Just corrected the error, and then,
9 as a result of that, there were a number of
10 pages in my testimony that had to be replaced.
11 And it also resulted in having to have Mr.
12 Simek replace, basically, his entire technical
13 statement.

14 Q And those replacement pages are the documents
15 we've marked as "Exhibits 7" and "8". And they
16 have the same page number with the "R" after
17 it, is that correct?

18 A (Warshaw) That is correct.

19 Q And those include the changes made as a result
20 of this error?

21 A (Warshaw) Yes.

22 Q Substantively, can you tell us what impact this
23 error had on the filing? Did it change -- what
24 did it change?

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 A (Warshaw) The only thing that it changed was
2 the calculation of the weighted average that we
3 use for developing a rate for the Residential
4 and Small Commercial customers. It had no
5 impact on the selection of the winning bidders.

6 Q And Mr. Simek will describe the actual change
7 in the rate impact, but it was a relatively
8 small one, is that correct?

9 A (Warshaw) Yes. It was relatively small.

10 Q Other than that change in your testimony, and
11 the changes in the schedules that we filed
12 revised versions of, do you adopt your
13 testimony today as your sworn testimony?

14 A (Warshaw) Yes, I do.

15 Q I shouldn't say "other than". I should say
16 "including those changes, do you adopt your
17 testimony?"

18 A (Warshaw) Yes, I do.

19 Q Thank you. Could you give the Commission just
20 a high-level description of what you did that
21 brings us here today asking for approval of
22 these rates?

23 A (Warshaw) Twice a year Liberty Utilities goes
24 out to procure a supply for Energy Service

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 customers for a six-month period. For this
2 one, it is for the period February 1st, 2020
3 through July 31st, 2020.

4 This energy service supply is used to
5 provide electric service to customers who elect
6 not to take service from a competitive supplier
7 in New Hampshire.

8 Q And to request this supply, the Company issues
9 RFPs, is that correct?

10 A (Warshaw) Yes. We will issue an RFP that is
11 fairly widely distributed. I have my own
12 distribution list that I send it out to from
13 suppliers that have contacted me or the Company
14 and had notified us that they were interested
15 in either bidding on the supply or getting the
16 information. Plus, the RFP gets distributed by
17 ISO-New England to the entire Markets
18 Committee. So, it has wide distribution.

19 Q And how do the companies -- what's the process
20 for them to respond to the RFP?

21 A (Warshaw) The companies that are interested in
22 bidding in the RFP will send us a notice with
23 background information. And, if it's a new
24 supplier, they will also provide us with

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 potential edits to the Master Power Agreement
2 that we use. We will then look at -- if it is
3 a new supplier, we will review those edits.
4 And, as long as the edits do not shift any risk
5 from the supplier to Liberty Utilities, we will
6 agree to those changes. They are reviewed by
7 both the legal and commercial staff.

8 And, then, suppliers will provide an
9 indicative bid. We use that indicative bid not
10 so much to select suppliers to negotiate with,
11 but more to get an idea if the suppliers
12 understand what it is that they're bidding on,
13 if there's any oddities in their model,
14 especially if it's a new supplier. If they're
15 way high or way low than any of the other
16 bidders, it's an indication that there is
17 basically something wrong with their model, and
18 I will let them know that. And it also is an
19 indicator if there's anything going on in the
20 marketplace that we need to address.

21 A week later the suppliers will provide us
22 with a final binding bid at ten o'clock in the
23 morning. We evaluate those bids. And we
24 will -- we choose the lowest cost supplier for

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 the three different blocks. We have -- the
2 first block is for the first three months for
3 the Large Commercial and Industrial customers,
4 and then the second block is for the outer
5 three months for the Large
6 Commercial/Industrial customers, and then the
7 third block is for the Residential and Small
8 Commercial for the entire six-month period.

9 Q Are there occasions in which the different
10 suppliers meet each of those three blocks?

11 A (Warshaw) Yes. We have had occasions where we
12 had three different suppliers for the three
13 different blocks. We've also had one supplier
14 win all three blocks.

15 Q Were there any new suppliers in this bidding
16 process?

17 A (Warshaw) Yes. I did sign up one new supplier
18 for this RFP.

19 Q Was that new supplier selected for any of the
20 blocks?

21 A (Warshaw) No, it was not selected, but they
22 were competitive.

23 Q There's also, as you testified, a need to
24 obtain compliance with the REC requirements.

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 Does that follow a similar process?

2 A (Warshaw) Yes. What we request is that
3 suppliers, if they are interested in providing
4 the RECs for the blocks that they win, they
5 will provide a adder that they're willing to --
6 that they would like to have on their prices
7 that would cover the cost of the RPS. And they
8 would then take on the responsibility of
9 providing the RECs to meet the load that they
10 served.

11 Not all suppliers will submit a RPS adder.
12 And it's set up so that a supplier would only
13 take on -- have the RPS responsibility if they
14 also win the block. I have had a number of
15 suppliers that asked "oh, does that mean that I
16 could end up with the RPS supply without
17 serving the block?" And that's not how we do
18 it.

19 At the same time that we issue the RFP for
20 energy service, I also issue an RFP for a
21 certain quantity of the RPS RECs. And I use
22 that, those responses on that RFP, to come up
23 with a estimate of what the market price is for
24 RECs, and that market price is used to develop

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 the RPS adder that we include in the Energy
2 Service rate that we charge our customers.

3 Q So, the people who -- the companies who respond
4 to these default service RFP will sometimes
5 indicate an adder they're willing to satisfy
6 the RPS obligations with, and you independently
7 do an RFP for the Company's own acquisition of
8 the RECs, is that correct?

9 A (Warshaw) That is correct.

10 Q And then that's what you balance against the
11 other, to see what the right course is for the
12 Company?

13 A (Warshaw) Right. Whether it's cheaper for
14 Liberty to procure the RPS RECs directly
15 themselves or to utilize the adder that the
16 supplier has proposed.

17 Q In this filing, what course is the Company
18 proposing?

19 A (Warshaw) We're going to not use any of the
20 adders that the suppliers proposed. And we
21 will be utilizing the adder that I calculated,
22 based on the bids that we received and also the
23 market price at the time of the RFP.

24 Q And that adder will be a component of the rate

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 ultimately charged to customers?

2 A (Warshaw) Yes. That's correct.

3 Q And is there a way to reconcile the actual RPS
4 cost with the adder that you are forecasting
5 today?

6 A (Warshaw) Yes. Both the RPS cost and the
7 energy service costs are reconciled annually,
8 to ensure that we either have over-collected or
9 under-collected, and we will adjust our
10 adjustment accordingly.

11 Q And that's a filing done in the spring?

12 A (Warshaw) That's done in the spring.

13 Q At the end of your process, I understand from
14 the filing that you essentially hand some
15 numbers to Mr. Simek to develop the rate that
16 will actually be charged to customers, is that
17 correct?

18 A (Warshaw) That is correct. Provide to Mr.
19 Simek the forecast of the retail load that's
20 used by the Company, and also the winning
21 wholesale bids.

22 Q Was there anything in this process embodied in
23 this filing that was out-of-the-ordinary from
24 prior RFPs and solicitations?

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 A (Warshaw) Other than the error that was
2 discovered by Mr. Eckberg, no. There was not.

3 Q Did you receive what you believe to be a
4 sufficient number of responses to your RFP?

5 A (Warshaw) Yes. I believe it -- I felt it was a
6 competitive RFP, competitive solicitation.

7 Q And are you satisfied that the figures that you
8 provided to Mr. Simek to develop rates are
9 reasonable and appropriate under the
10 circumstances?

11 A (Warshaw) Yes, they are, in my opinion.

12 Q Mr. Simek, could you introduce yourself and
13 your position with the Company?

14 A (Simek) Yes. I am the Manager of Rates and
15 Regulatory.

16 Q And how long have you been with Liberty
17 Utilities?

18 A (Simek) I've been with Liberty about a little
19 over six years.

20 Q And in what roles?

21 A (Simek) Always within the Regulatory
22 Department. I had started off as an analyst,
23 and worked my way up to a manager.

24 Q And have you been involved in prior default

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 service proceedings like this one?

2 A (Simek) Yes, I have.

3 Q And, at a high-level, what is your function in
4 this docket?

5 A (Simek) I just take the rates that Mr. Warshaw
6 received from the bidders, the winning bidders,
7 and then I also take into account the
8 reconciliation portion of the rates that was
9 figured last spring, so that portion of the
10 rate is good for a year. I also receive what
11 Mr. Warshaw's forecast was for the RPS
12 compliance, and add that rate in, and then,
13 from there, we come up with the total retail
14 rates of what we charge the customers.

15 Q And in the filing, there's a technical
16 statement by you that begins at Bates Page 119,
17 and some schedules through the balance of the
18 filing. Is that what you prepared?

19 A (Simek) Yes.

20 Q And does that embody what you described, --

21 A (Simek) Yes.

22 Q -- the process you just described? And, then,
23 do you adopt that technical statement here
24 today?

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 A (Simek) Yes.

2 Q If you could, could you please walk us through
3 briefly the schedule of where you started with
4 some numbers and ended up with proposed rates?
5 Is there a schedule that we could follow that,
6 or two, that does that best?

7 A (Simek) Yes. Schedule -- well, actually, Bates
8 Page 122-R would be the best to start with.
9 Okay. So, if we look at Line 10, that is
10 basically the information that I had received
11 from John. Everything above that came from Mr.
12 Warshaw, and everything below is the portion
13 that I'm using to calculate the rate. So, Line
14 10 is the "Base Residential" for the Small
15 customers.

16 And then, we have the two reconciliation
17 or adjustment factors that change annually in
18 the spring. So, those are not changing in this
19 filing.

20 The first one, the "Energy Service
21 Reconciliation Adjustment Factor", that's what
22 Mr. Warshaw referred to as the reconciliation
23 for the commodity piece and the RPS piece.
24 Really, it's a comparison between actual to

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 forecast, and the true-up there.

2 Q So, that's the number that is either returning
3 to customers an over-collection or obtaining
4 from customers an under-collection from the
5 prior period?

6 A (Simek) For those pieces, yes, the commodity
7 and RPS.

8 Then, for the Line 12, the "Energy Service
9 Cost Reclassification Adjustment Factor", that
10 piece again is also approved in the spring
11 filing, and good for a year. And that relates
12 to items such as direct charge payroll, bad
13 debt, and a working capital allocation.

14 Q And, again, those are fixed from last spring?

15 A (Simek) Correct. And, from there, we add in
16 the RPS forecast from Mr. Warshaw. And, then,
17 we add all these lines up to come up with a
18 rate for each month. And, then, for the Small
19 Customer Group, for the six-month period, we
20 are requesting the rate that's on Line 18,
21 which is the "0.07193" per kilowatt-hour, would
22 be the fixed rate that goes through for the
23 next six months, February through July.

24 Q And can you tell us how much that rate changed

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 as a result of the correction we made in
2 today's filing?

3 A (Simek) Yes. The original filing had that rate
4 at "0.07127". And, so, this correction raised
5 it slightly to the "0.07193".

6 Q And, so, the request in today's proceeding is
7 for that figure in Line 18 to be the rate for
8 the residential customers for the six-month
9 period?

10 A (Simek) Correct.

11 Q And do you also calculate rates for the other
12 blocks that Mr. Warshaw described a few minutes
13 ago?

14 A (Simek) Yes. If we could switch to Bates Page
15 121-R, all the steps on this page, from Line 10
16 through 13, are the same as were done for the
17 Small Customer Group. And, then, the rates
18 that we are requesting for approval for this
19 Large Customer Group change on a monthly basis
20 throughout the six months, and they're shown on
21 Line 14.

22 So, for example, the February rate that
23 we're requesting approval for for the Large
24 Customer Group is on Line 14. And it's

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 "0.09749" per kilowatt-hour.

2 Q And following through the other months?

3 A (Simek) Correct.

4 Q During some exchanges with Staff yesterday,
5 there were some questions about the information
6 that appears on Lines 16 and 18. Do you recall
7 that?

8 A (Simek) Yes.

9 Q And what was the source of the questions that
10 we received? What was their concern?

11 A (Simek) That it's not very clear on here of
12 what really Line 16 represents, and what the
13 difference was between Line 16 and Line 18.

14 Q And that was what Staff was saying, "it isn't
15 really clear"?

16 A (Simek) Yes. That's what I'm saying. So,
17 what, on Line 16, that "0.06591", that would be
18 the weighted average of just the base
19 component, which is basically the weighted
20 average of Line 9.

21 Q And is there a solution or a resolution of this
22 lack of clarity that we could do going forward?

23 A (Simek) Yes. We're going to, during our next
24 filing, we're going to go ahead and move this

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 piece to be below the base rate piece that's
2 shown on Line 10, so it's more clear that it is
3 related to that Line 10. And keep Line 18 --
4 17 and 18 where they are, that shows that
5 they're really related to the full portfolio or
6 the full rate.

7 Q So, the solution is simply to move Line 14 to a
8 place that makes more sense? Or, is it 15?

9 A (Simek) Fifteen (15).

10 Q Fifteen (15). Okay. And, so, the rate that
11 the Company is requesting today for the
12 Residential class was the number you've
13 highlighted on Bates 122-R, on Line 18,
14 correct?

15 A (Simek) Correct.

16 Q And your technical statement also contains a
17 bill impact, is that correct?

18 A (Simek) Yes.

19 Q And what's the -- what does a bill impact tell
20 us? This is Bates 120.

21 A (Simek) Yes. For a residential customer who's
22 taking 650 kilowatt-hours per month, the total
23 bill impact for this change, compared to rates
24 that are in effect today, is a bill decrease of

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 \$3.79 per month, or 3.22 percent. So, that
2 total bill would drop from \$117.51, to \$113.72
3 per month.

4 Q The Company typically does not do such a bill
5 impact analysis for the commercial
6 companies [customers?], but would the decrease
7 be roughly the same?

8 A (Simek) Yes.

9 MR. SHEEHAN: Those are all the
10 questions I have. Thank you.

11 CHAIRWOMAN MARTIN: Mr. Kreis.

12 MR. KREIS: Thank you, Madam
13 Chairperson. Good afternoon, witnesses.
14 Hopefully, I won't take up too much of your
15 time.

16 Let me start with some general
17 questions that relate to the testimony that you
18 two gentlemen just gave.

19 **CROSS-EXAMINATION**

20 BY MR. KREIS:

21 Q My first general question is, can you explain
22 in general terms why the proposed Energy
23 Service rate for the Large Customer Group is
24 lower than the proposed rate for the Small

[WITNESS PANEL: Warshaw|Simek]

1 Customer Group?

2 A (Warshaw) I'll take that. The answer is that
3 the bid that we have received for the Large
4 Customer Group was lower than the bid we
5 received for the Small Customer Group.

6 Q Well, that would be like asking Alex Cora why
7 his team lost, and having him answer "Well,
8 that's because the other team scored more runs
9 than ours did."

10 But I guess I was hoping you would drill
11 down on it a little bit deeper. Because my
12 understanding is that large customers migrate
13 more than small customers. And, so, probably
14 serving them is a more risky proposition from
15 the supplier's standpoint. So, I tend to
16 expect the bids for the Large Customer service
17 to be higher, and yet here they're lower.

18 So, I'm wondering what I'm getting wrong?

19 A (Warshaw) It's what the suppliers look at and
20 evaluate the two different -- the different
21 blocks.

22 Q In your testimony, you were talking about how
23 you react to the indicative bids that you
24 receive. And I think you said that, if you saw

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 something weird or anomalous about an
2 indicative bid, you would call the supplier and
3 let them know that there was something wrong
4 with their bid. Am I remembering that right?

5 A (Warshaw) That is correct.

6 Q So, for example, if a indicative bid came in
7 low, you would call that bidder up and say "you
8 might want to bid higher than that when you do
9 a real bid"?

10 A (Warshaw) No. It would be more like, if, as an
11 example, if the average of the bids for a
12 certain block came in at, like, \$50 a
13 megawatt-hour, and I ended up receiving a bid
14 from one supplier at \$25 a megawatt-hour, I
15 would probably give them a call. Similarly, if
16 I received a bid that averaged out at \$100 a
17 megawatt-hour, I would probably -- I would tell
18 them that they are at the very upper end of the
19 bids.

20 Of course, they're usually, you know, I'm
21 looking for something that is not -- that is
22 not something that you'd expect, as far as a
23 difference in bids.

24 Q Well, I'd like to understand why this isn't a

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 *caveat emptor* situation? If the prevailing
2 price is \$50, and some bidder is foolish
3 enough, I guess, to make a \$25 bid, why would
4 call them and say "Don't do it"?

5 Why not just say "Great. If they really
6 make that a final bid, we'll take it"?

7 A (Simek) I'm not sure that he is -- Mr. Warshaw
8 is referring that they would go back and say
9 "Your bid is way too low, raise it." We would
10 say that "Your bids are not coming in similar
11 to other bids. And you may want to double look
12 at your model and tweak it", and that's --

13 Q Right. And my question is, why is it your
14 responsibility to do that?

15 A (Warshaw) We look at it as our responsibility
16 only because, one, the bidder could have a bad
17 model. And, if the bidder has a bad model, and
18 they end up finding out that they are losing a
19 significant amount of dollars every time they
20 serve our load, we could end up having a bidder
21 that decides to, you know, basically to not
22 serve load, and then we have to exercise, you
23 know, any security that they filed, possibly
24 having to go out to the market to get a

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 replacement bidder. No guarantee that that's
2 going to cover, you know, all of the costs that
3 we could incur. You know, with the security,
4 we attempt to cover virtually all of the costs
5 that we expect, but there's always a
6 possibility of costs coming in significantly
7 higher than what was even expected at the time
8 of the contract.

9 Q So, if I'm understanding the answer you just
10 gave correctly, what you're really saying is
11 that you warn bidders about anomalously low
12 bids, because you're worried that, if that bid
13 actually prevails, and you enter into a
14 contract with that bidder, the bidder won't be
15 able to perform under the contract?

16 A (Warshaw) Correct.

17 Q Okay. You mentioned, when you talked about how
18 you conduct the RFP, that you -- this is at
19 Bates Page 007 of -- I'm looking at the
20 confidential version of your filing, I forget
21 which exhibit number that is. I think it might
22 be Exhibit 6. At Bates Page 007, at the top of
23 the page, around line -- somewhere between
24 Lines 2 and 10, you mention that you make sure

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 that your RFP goes out to all the members of
2 NEPOOL. But you suggest, at the very first
3 line of that answer in Line 2, that you
4 specifically send the RFP to certain potential
5 bidders. And my question is, why isn't sending
6 the RFP out to the NEPOOL list adequate?

7 A (Warshaw) The problem is, many people have a
8 lot of emails, and there's always a potential
9 of a supplier overlooking a bid coming from a
10 notice coming from ISO-New England. That, if
11 it came directly from me, as a notice of a new
12 solicitation, they would actually act on it.

13 Q So, it's just a way of getting their attention?

14 A (Warshaw) Yup, their attention. And just
15 ensuring that we're covering as broad a base of
16 customers -- or, suppliers as possible.

17 Q Okay. At Line 10 of that page, you mention
18 that you attached a copy of your RFP. Are
19 there any changes from this edition of the RFP
20 to previous editions?

21 A (Warshaw) The only changes are specifying the
22 different -- the new blocks. And there may be
23 some grammatical corrections that get pulled in
24 as different folks read the document and have a

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 different view on the --

2 Q Oxford commas and that kind of thing?

3 A (Warshaw) Yeah, there is that.

4 Q Well, for the record, the Office of the
5 Consumer Advocate supports the Oxford comma,
6 and urge you to incorporate it in all of your
7 documents.

8 On Bates Page 009, at Line 6 through 8,
9 you note that "A copy of the Transaction
10 Confirmation between NextEra and Liberty
11 Utilities with certain confidential sections
12 redacted, is attached hereto as Schedule
13 JDW-5."

14 I think Schedule JDW-5 is actually your
15 Transaction Confirmation with the other
16 supplier. And, so, I want to make sure I know
17 where the transaction confirmation between you
18 and NextEra really is in the filing?

19 A (Warshaw) NextEra would be JDW-4. Well, let me
20 take a look.

21 Q That looks right. So, --

22 A (Warshaw) Okay. If you look on Bates Page 107,
23 which is Schedule JDW-4, that is with NextEra.
24 And, if you go to Bates Page 112, that's JDW-5,

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 and that's with Calpine.

2 Q Super. Looking at Bates Page 108, the Seller
3 Collateral Requirement is confidential. And my
4 question is, why is that confidential?

5 A (Warshaw) Sellers feel that they do not want
6 out in the public how much either letter of
7 credit or a parent guarantee they are required
8 to provide to be able to serve this load. They
9 consider that confidential information. So, as
10 a result, we then agree that, you know, to
11 provide that as confidential.

12 Q And do you agree with the implicit hypothesis
13 that the amount of collateral required in a
14 transaction like this is a competitively
15 sensitive bit of information? And, if that
16 information were public, its disclosure would
17 be harmful to Liberty and, therefore, by
18 implication, its customers?

19 A (Warshaw) Yes.

20 Q I want to make sure I understand a little
21 better the way that the Company processes bids
22 from what you call "block suppliers", who also
23 make a bid on the RPS portion of the default
24 service or the default energy service RFP.

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 And I guess my question is, in your direct
2 testimony you said, when you were asked whether
3 a block supplier could possibly end up winning
4 only the RFP for RECs, rather than the RFP for
5 energy service, you said "That's not how we do
6 it." And my question is, why not?

7 A (Warshaw) That is not how we propose that in
8 the settlements that we have covering the
9 process for solicitation.

10 Q So, your answer is that the settlement
11 basically lays that out, and you follow the
12 settlement?

13 A (Warshaw) Correct.

14 Q Is that the right way to do this?

15 A (Warshaw) Yes. Because a number of suppliers
16 would only be interested in serving the RPS
17 obligation, if they are also serving the load
18 itself. I have not had a supplier that said
19 "Oh, I would love to take on the RPS
20 obligation, even if I'm not serving the load."

21 Q Okay. Is there a scenario in which the all-in
22 bid from a supplier, which is to say energy and
23 RECs, would be not the lowest energy bid, but
24 overall still the lowest bid, when you consider

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 the all-in cost of default energy service?

2 A (Warshaw) Yes. And I believe that has happened
3 once or twice in the past.

4 Q And, in those circumstances, do you choose that
5 bidder based on that all-in bid?

6 A (Warshaw) Yes. I choose the supplier that
7 provides the lowest cost to the customer.

8 Q That's good. How do the results of this
9 solicitation compare to the results of the
10 solicitation that you conducted a year ago?

11 A (Warshaw) I believe a year ago, these rates are
12 lower.

13 Q Do you know why that is?

14 A (Warshaw) The market -- view of the market
15 futures is that the price is low, plus we have
16 had a reduction in the Forward Capacity Market,
17 and that also brings down the cost.

18 Q Okay. I think I'm done. I just want to take a
19 look here.

20 Oh. Looking at Bates Page 102 of Exhibit
21 6, there is a column on that page that reads,
22 the first very first column, it says "Bid
23 Recommendation". Can you explain what the
24 different notations in that column mean?

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 A (Warshaw) They just mean that either we're
2 going to accept a bid or, at this time, I have
3 not accepted the bid.

4 Q Right. So, the "not accepted the bid", does
5 that mean that you could, that there's a
6 scenario in which you could at some later date
7 decide you wanted to accept that bid, based on
8 this solicitation?

9 A (Warshaw) There's a possibility. But, chances
10 are, with the bids that I received, I don't --
11 were not sufficient -- there wasn't sufficient
12 competition on the RPS solicitation. So, for
13 those that are -- that the bids were much
14 closer to what the ACP is, we -- I'd have to
15 take a hard look, if I'm going to actually
16 buy -- contract and buy those RECS from that
17 supplier.

18 MR. KREIS: I understand. Madam
19 Chairperson, those are all my questions.

20 CHAIRWOMAN MARTIN: Thank you.
21 Ms. Amidon.

22 MS. AMIDON: Thank you. Good
23 afternoon.

24 WITNESS WARSHAW: Good afternoon.

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 WITNESS SIMEK: Good afternoon.

2 BY MS. AMIDON:

3 Q Mr. Warshaw, since you took ownership of the
4 error, could you please just briefly explain
5 what the error was in the initial filing?

6 A (Warshaw) The error was a formula error in the
7 calculation of the forecasted load for a
8 specific month. It didn't pick up the correct
9 month. It just picked up the previous -- the
10 wrong value.

11 Q So, is it fair to say that the projected usage
12 rate for the month of April, May, and June, I
13 think, were the same?

14 A (Warshaw) They were the same. It was, again,
15 it was a formula error in the calculation.
16 And, basically, it happened when we moved from
17 one year, 2019, to 2020, some formulas were not
18 carried over correctly.

19 Q Could you explain why that would change the
20 price and the retail cost for Small Customers,
21 but not the retail price for the Large Customer
22 Group?

23 A (Simek) Yes, I can do that. For the Small
24 Customer Group, the rate is a fixed amount for

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 the six months. And it's a load-weighted
2 average rate. So, since we're changing the
3 load, it changes.

4 For the Large Customer group, it's a
5 monthly rate. And it's based on the bids that
6 we received from the competitive suppliers, and
7 then it has the different components that we
8 went through. And, then, there's a total on a
9 per month rate, it's not a load-weighted rate.
10 So, it wouldn't change based on the load itself
11 for the Large Customer Group.

12 Q So, if the error resulted in discovering that
13 actually more power would be used, say, for the
14 month of June by the Small Customer Group, and
15 the price happened to be higher, then that
16 would contribute to calculating an average rate
17 that was higher than it was in the initial
18 filing, is that correct?

19 A (Simek) Correct.

20 Q Okay. Why would that error impact the changes
21 on the indicative and final bid ranking?

22 A (Warshaw) It could create a problem, if there
23 is a -- depending upon how the bids work out.

24 Q But you provided modified exhibits for Pages

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 94, 95, 97, and 98. And I'm assuming that's
2 because there was a change in these pages with
3 respect to the Small Customer Group. And I
4 wanted to understand how this error -- what
5 this error effect had on this, on these
6 exhibits, and what change was made as a result
7 of the correction?

8 A (Warshaw) The major impact was on the columns
9 that are called "Weighted Average Price". And
10 that's where the -- because we had the wrong
11 volumes, it created an incorrect weighted
12 average price.

13 Q Right. Which is what Mr. Simek was talking
14 about?

15 A (Warshaw) Yes.

16 Q Okay. Now, does your RFP specify the
17 anticipated quantities for energy on a monthly
18 basis, when a supplier goes, say, to your
19 website and looks at the load profiles?

20 A (Warshaw) No. We do not provide a forecast to
21 the supplier of what the expected loads will
22 be. But what we do provide to them is historic
23 loads going back many years, hourly loads going
24 back many years, and they use that information

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 to develop their model.

2 We do not want suppliers to rely on our
3 forecast in any way for them to develop their
4 pricing.

5 Q Okay. So, this error didn't go back and affect
6 any of the bid evaluation or -- well, so, this
7 error did not affect the bid solicitation, I
8 should say? It wasn't part of the solicitation
9 process. So, it was -- it only occurred when
10 you were trying to record data in certain
11 fields in an Excel spreadsheet?

12 A (Warshaw) Yes. It only impacted the weighted
13 average information.

14 Q And, as you said, Mr. Simek, the Large
15 Customers don't pay a weighted average, they
16 pay a monthly rate. And that's why the rate
17 wasn't impacted, is that right?

18 A (Simek) Correct.

19 Q Okay. And this question, I don't know if it
20 was asked and answered in your exchange with
21 Attorney Sheehan, but did you change any
22 security requirements or have -- and was any of
23 that impacted in the process? In other words,
24 I think you testified there were no changes

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 made or no substantive changes made to the
2 Master Power Supply Agreement, is that right?

3 A (Warshaw) That's correct.

4 Q So, were any security requirements changed or
5 the standard for that?

6 A (Warshaw) No, there were not. There were no
7 changes.

8 Q And I think it was Attorney Kreis who asked for
9 how this price of power compared to the price
10 last year. Is it possible for the Company to
11 produce a record request document that would
12 show the difference between the price for
13 February 1, 2019 and the one for 2020?

14 A (Warshaw) Actually, I just realized, if you
15 take a look at Exhibit --

16 Q Give me a page number please.

17 A (Warshaw) I know. Take a look at Bates 106,
18 which is Schedule JDW-3, it will show what the
19 average rate was back a year ago. If you go
20 down to the very bottom of the page, --

21 Q Uh-huh.

22 A (Warshaw) -- you can see that, for the period
23 of last year, the average rate was about 9
24 cents. And, if you look at here, the average

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 rate for the Small Customer Group is about 7
2 cents.

3 Q Okay.

4 A (Warshaw) And this is before all the
5 adjustments and weighting. This is just a
6 strict average.

7 MS. AMIDON: This is great. I missed
8 this in my review of the filing. So, thank you
9 very much.

10 That's all I have. Thank you.

11 CHAIRWOMAN MARTIN: Commissioner
12 Bailey.

13 BY CMSR. BAILEY:

14 Q Can we go back to what you were just discussing
15 with Ms. Amidon? I think what she asked you
16 for was the difference in the bill impact from
17 the rate in the same period that was in effect
18 last year, which was, I believe I wrote it
19 down, I think it was, like, 8.299 cents or
20 something like that. And, so, I think what she
21 asked you for was the difference in a bill
22 between the rate that you're putting in effect
23 this year and the rate that you had in effect
24 last year. And that's not what is on this

{DE 19-059} {12-18-19}

1 Page 106.

2 That's the amount that you paid the
3 suppliers, I believe, isn't it? Not the rate?
4 Not the retail rate?

5 A (Simek) Correct. And, yes, as far as a total
6 bill impact goes, we don't have the comparison
7 in here to last year.

8 Q Right.

9 A (Simek) But I could complete that as a record
10 request.

11 CMSR. BAILEY: I would appreciate
12 that. Thank you.

13 Madam Chairwoman, we're going to take
14 that as a record request, okay?

15 CHAIRWOMAN MARTIN: Yes.

16 *[Record request taken.]*

17 CMSR. BAILEY: Thank you.

18 BY CMSR. BAILEY:

19 Q How do you estimate the forecasted load that
20 you put in the calculation for the weighting?

21 A (Warshaw) We utilize an outside consultant who
22 provides a forecast of retail sales. Then that
23 retail sales by rate class and by month is
24 adjusted, to go from retail to a wholesale

[WITNESS PANEL: Warshaw|Simek]

1 value. And then --

2 Q I'm asking about the demand. The numbers that
3 are on Line 7, on Bates Page 122-R, that you
4 had to correct. The "Projected Residential and
5 Small C&I Energy Service in Kilowatt-Hours", by
6 month.

7 A (Warshaw) Correct. Yes. If you look at
8 Line 4, that is the forecast of our entire
9 expected kilowatt-hour sales in the month of
10 February of 2020. And that information is
11 provided to us, we use an outside consultant
12 who does the actual forecast. They do --
13 annually, we do a forecast of sales going out
14 ten years -- going out five years, excuse me.

15 Q So, it's not based on what your customers used
16 last year?

17 A (Warshaw) No. It's based on a -- that
18 forecast, and the forecast is based on, among
19 other things, what they have used over the last
20 couple years. It's adjusted for the weather
21 normalization, to be able to utilize normal
22 year -- weather in that period, and any
23 additional economic factors that go into that
24 calculation. And, then, from that information,

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 we adjust it to what we expect as sales under
2 the -- for energy service customers.

3 Q Which is 86.71 percent of your total customer
4 load?

5 A (Warshaw) Correct.

6 Q Okay.

7 A (Warshaw) And that's based on the most recent
8 information that I have available to me, which
9 was from the end of September of 2019.

10 Q Okay. And you don't give your suppliers or the
11 potential bidders any indication about how much
12 load they're going to be expected to supply?

13 A (Warshaw) We give historic information. We do
14 not provide them with a forecast, so that
15 the -- we do not want them to rely on our
16 forecast.

17 Q Okay. So, if you go to -- it's in the Master
18 Power Supply Agreement, I think there's a page
19 that shows average daily demand by month. You
20 know what I'm talking about?

21 A (Warshaw) Yes. We do provide that information.
22 We actually provide it on an hourly basis by
23 the block, by the customer group.

24 Q The numbers I was looking at were in JDW-4.

{DE 19-059} {12-18-19}

1 Page 108.

2 A (Warshaw) Yes. You're looking at the
3 "Calculation of Exposure". And that is
4 utilized, potentially, if we were doing a
5 mark-to-market on a daily basis. And we don't
6 do that at this time.

7 Q I didn't understand that answer.

8 A (Warshaw) Yes.

9 Q So, in "February of 2020", the number "1020",
10 if I multiply that by 28 days, that would be a
11 demand of 28,560 kilowatt-hours?

12 A (Warshaw) Right. That would have been based --
13 that would have been based on the previous
14 twelve months.

15 Q Okay.

16 A (Warshaw) The previous year.

17 Q All right.

18 A (Warshaw) As opposed to what we utilized in the
19 forecast is an econometric model going forward.

20 Q Okay. So, do you give these numbers on Bates
21 Page 108 to the suppliers before they make
22 their bids?

23 A (Warshaw) No, I do not.

24 Q Is it available to them on -- is that you said

[WITNESS PANEL: Warshaw|Simek]

1 was available on the website?

2 A (Warshaw) What's available on the website is
3 the hourly loads for each of the blocks.

4 Q The hourly loads. Historic loads?

5 A (Warshaw) Historic loads.

6 Q Okay. So, they figure out how much they think
7 they're going to need to supply you?

8 A (Warshaw) Correct.

9 Q Okay. All right. Thank you. Can we go to
10 Exhibit 5, Bates Page 103?

11 CMSR. BAILEY: And I'm going to try
12 not to reveal confidential information. But I
13 think everybody in the room is okay to receive
14 confidential information. So, if we get on a
15 number that reveals confidential information,
16 will you work with the stenographer,
17 Mr. Sheehan, to make sure that it gets
18 redacted?

19 MR. SHEEHAN: Yes. I keep notes, and
20 I talk to Steve afterwards.

21 CMSR. BAILEY: Okay. Thank you.

22 BY CMSR. BAILEY:

23 Q All right. So, why would the incremental
24 costs, on a dollar per megawatt-hour, of any of

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 the classes be zero?

2 A (Warshaw) That is because, in general, the
3 Class II RECs are -- most of the time we are
4 able to satisfy that RECs with a allocation
5 that we receive from the State of New Hampshire
6 at no cost.

7 Q Oh. Okay. All right. Thank you. That's from
8 the installed solar in the state that --

9 A (Warshaw) Correct. And they annually will
10 recalculate that value. And there have been
11 times when it is -- it is the same as the
12 requirement.

13 Q Okay.

14 A (Warshaw) And sometimes it's a little less.
15 And it just --

16 Q Okay. So, you usually don't have to buy Class
17 II RECs, that's what you're saying?

18 A (Warshaw) Or, if I do, I've bought a few, and
19 then I've ended up having to utilize them,
20 either to bank them for future use, or,
21 actually, you know, so that, before they
22 expire, I've actually used them for a different
23 class, per the regulations.

24 Q Okay. All right. If you look at Page 102, and

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 you look at the prices, I'm wondering why you
2 didn't purchase the Class I Thermal RECs that
3 were offered there? And if you compare that,
4 the price on that page, to the price -- or, to
5 the market price on Page 103?

6 A (Warshaw) I did not intend to buy that, because
7 I looked at that price as being higher than
8 market.

9 Q But that's the market price -- that's the
10 market price that you used to calculate the RPS
11 rate for that class, on Page 103?

12 A (Warshaw) For the Class I? No, I used --

13 Q Not Class -- yes. Well, Class I, yes.

14 A (Warshaw) I used a lower rate for the Class I.
15 Am I looking --

16 Q I don't know if we're talking past each other.
17 So, I'm going to -- I'm going to give you the
18 confidential number.

19 A (Warshaw) Hold up. Excuse me. Are you --

20 Q I'm talking about Class I Thermal.

21 A (Warshaw) Oh. Oh. I will be buying that. I
22 apologize. I was looking at the Class I, not
23 the Class I Thermal.

24 Q Okay.

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 A (Warshaw) I apologize.

2 Q All right. So, you are going to buy --

3 A (Warshaw) Yes. I will buy that.

4 CMSR. BAILEY: Okay. Okay, I think
5 that's all I have. Thank you.

6 CHAIRWOMAN MARTIN: Commissioner
7 Giaimo.

8 CMSR. GIAIMO: Good afternoon.

9 WITNESS WARSHAW: Good afternoon.

10 WITNESS SIMEK: Good afternoon.

11 BY CMSR. GIAIMO:

12 Q Is it fair to say that the largest driver for
13 the reduction in rates is the reduction in the
14 capacity market?

15 A (Warshaw) That's a good portion of it. The
16 other is the forward market look at what they
17 expect prices to be over that, over the period
18 that they're serving.

19 Q And, to the best of my knowledge, the FCM
20 numbers, the kilowatt-hour a month numbers go
21 from 7.03 now, they change in June of 2020 to
22 5.30 maybe. And, then, in June of 2021, they
23 go down again another 20 percent or so, is that
24 4 --

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 A (Warshaw) Four something, yes.

2 Q Four something. So, with all else equal, we
3 would see a reduction in capacity prices again
4 this time next year?

5 A (Warshaw) Correct. Now, but that doesn't mean
6 that the prices that -- the final bid prices
7 that we get will be lower than what's here.
8 The market may react to other aspects that
9 could end up with a higher price.

10 Q Fair enough. I think I caveated it by saying
11 "with all else equal". So, --

12 A (Warshaw) Yes.

13 Q But those exceptions are duly noted. This is
14 something you may not have or can't say, but
15 has Liberty figured out the over- or
16 under-collection for the past six months?

17 A (Simek) I don't have that information, no.

18 Q Okay. Do we know why that reconciliation, I'm
19 sure it's something that predates my time at
20 the Commission, but do we know why the
21 reconciliation is done yearly, as opposed to
22 being done in six-month intervals?

23 A (Simek) I do not. It predates me as well.

24 Q Okay. Does it sound like a good idea? Would

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 that create a lot of undue work for you?

2 A (Simek) Well, it goes through a lot of review
3 within the Company before we submit anything.
4 And it is a administrative burden. But, if
5 everyone felt that was the right way to go,
6 we'd make it work, of course.

7 Q Okay. But you also don't see a compelling
8 reason right now to do that? It's fine every
9 year?

10 A (Simek) Yeah. I mean, it is fixed. We just
11 went through the large reconciliation the last
12 time around, where we worked with Audit Staff.
13 And we have everything now that it should be
14 flowing very well. It should be much closer to
15 an over or under that's closer to zero. So,
16 hopefully, those numbers remain low for the 12
17 months, and then, going forward, it wouldn't
18 make a big impact.

19 Q Okay. Mr. Warshaw, you, in your testimony,
20 your written testimony, it seems to suggest
21 that you lost two bidders, one -- but then you
22 gained a bidder. So, it sounds like, on the
23 whole, you're comfortable with the number of
24 bidders. Would you classify it as a "robust

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 auction", a "competitive auction", or a "robust
2 and competitive auction"?

3 A (Warshaw) I would classify it as "competitive".
4 I have had solicitations with more bidders. I
5 have also had solicitations with fewer bidders
6 than we have here.

7 We have seen, over the last couple years,
8 a consolidation of a number of the companies,
9 that were independent bidders that are now
10 under one corporation or another.

11 Q Can you speculate, or based on some sort of
12 anecdotal information you've heard, kind of
13 enlighten the Commission as to why bidders may
14 be reluctant to bid in the RPS?

15 A (Warshaw) The RPS is not as liquid a market as
16 the energy and ancillary capacity market in New
17 England. It's kind of -- it's almost a boom or
18 bust market. And, if the bidder is not
19 actually in the RPS market, in other words,
20 owning or buying generation from renewable
21 resources, they probably don't want to enter
22 into that market.

23 Q Okay. That makes sense. I have to admit that
24 I think my head went to the exact same way that

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 Attorney Kreis's head went, when you said --
2 when you were discussing whether or not there
3 was a binding commitment associated with a
4 non-winning bidder's RPS obligation -- or, RPS
5 adder. Do you recall saying that?

6 A (Warshaw) Yes. The supplier is not -- a low
7 RPS adder does not mean that they could just
8 serve the RPS.

9 Q Right. There's nothing binding on the RPS, if
10 you don't win the larger obligation?

11 A (Warshaw) Correct.

12 Q So, now, my next question is, why not? Why not
13 allow that? Why is that a bad idea? To say
14 "okay, you did" -- "that part of your bid won,
15 now you're responsible for that"?

16 A (Warshaw) Most suppliers would not want to take
17 on the responsibility of providing the RPS REC
18 obligation, if they are not also getting the
19 obligation for serving the load itself.

20 Q Okay. That makes sense. I understand. Can
21 you explain why the RPS adder went up? Is it
22 simply a function of the yearly requirement
23 going up or is there market conditions
24 associated with that?

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 A (Warshaw) It's a combination of the requirement
2 going up, and the market information that I had
3 available to me.

4 Q Okay. I won't state the specific numbers, but
5 it looks like the loss factors are slightly --
6 are higher for Large C&I -- I'm sorry, is
7 larger, the loss factor is larger for Small
8 Customers than it is for Large Customers. Is
9 that a function of just being farther down in
10 the distribution chain, so there's more
11 opportunity for more line losses?

12 A (Warshaw) It's also, physically, the Small
13 Customers or the Residential are taking service
14 at a lower voltage level. So, they have gone
15 through additional transformation that a large
16 customer does not go through, so it does not
17 incur those -- the large customer will not
18 incur those losses.

19 Q Okay. So, Mr. Kreis asked you a question, and
20 then paraphrased your answer by making an
21 analogy to a baseball manager responding that
22 the reason they lost is because they scored
23 fewer runs or the other team scored more runs.
24 So, I'm going to play that out in a second.

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 But his question was "why aren't C&I rates
2 lower than Residential and Small Commercial
3 Customers?" And it sounds like he believes,
4 and this is what I would think, too, is
5 shouldn't those costs -- shouldn't they be
6 higher, because suppliers need to bid in a risk
7 premium for the mitigation risk, the flight
8 risk, associated with C&I? And, then, you
9 answered, basically, in my sports analogy, you
10 gave a Belichick answer. You said "It is what
11 it is."

12 But I guess I was hoping you might opine a
13 little more. Is it -- is it loss factors? Is
14 it credit risk? Is it line losses? Load
15 factors? Is there something else there?

16 It just seems like there's got to be a
17 reason beyond "it is what it is."

18 A (Warshaw) I have not actually asked the
19 suppliers why is it that they're bidding the
20 way they're bidding. Probably would give them
21 an indication that either they should bid
22 differently. Plus, you know, if you look at
23 like the Large Customer Group, the Large, you
24 know, that has already seen a significant

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 migration from energy service to competitive
2 supply, we don't really see a lot of migration,
3 significantly large migration back from
4 competitive supply for that group. They
5 usually, once they're there, they stay there.

6 I mean, I have seen some migration, when,
7 you know, when the market price has gone
8 significantly higher than what our price is
9 that we secured in the previous solicitation.
10 But, as soon as we have a new solicitation and
11 our price reflects the current market, the
12 suppliers will come in and say "Oh, we can do
13 better than that."

14 CMSR. GIAIMO: So, I think there's a
15 possibility that the mitigation risk that I'm
16 presupposing Mr. Kreis sees, but I also see,
17 doesn't -- isn't as large as we may think. And
18 that's consistent with what you just answered.

19 So, thank you for the answer and for
20 taking the time.

21 CHAIRWOMAN MARTIN: Commissioner
22 Bailey.

23 BY CMSR. BAILEY:

24 Q Well, if that's the case, then why not just

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 combine the C&I load and the Small Customer
2 load and get a lower rate for everybody?

3 A (Warshaw) They are very different load factors
4 and they are a very different customer. So, it
5 would be -- I think it would be difficult to go
6 and just get one price for everybody.

7 We have not looked into that. But the way
8 we've been doing the solicitations and breaking
9 it up between the two -- the three blocks has
10 worked satisfactory. That is similar to what
11 others, utilities in New Hampshire and in New
12 England, bid out their supply.

13 CMSR. BAILEY: Okay.

14 CHAIRWOMAN MARTIN: I just have one
15 quick question.

16 BY CHAIRWOMAN MARTIN:

17 Q I see, on Bates 120-R, you reference "650
18 kilowatt-hours" for the bill impact. Is that
19 reflective of your average residential customer
20 use?

21 A (Simek) It's close, yes. I don't know the
22 exact amount. I think it was, like, 644, but I
23 think we rounded it up to 650.

24 CHAIRWOMAN MARTIN: Okay. Thank you.

{DE 19-059} {12-18-19}

[WITNESS PANEL: Warshaw|Simek]

1 Mr. Sheehan, do you have any redirect?

2 MR. SHEEHAN: I do not, no.

3 CHAIRWOMAN MARTIN: Excellent. We
4 can excuse the witnesses. Or, you can stay
5 there.

6 Okay. So, can we -- I think we need
7 to address the issue of the exhibits before we
8 sum up, because I think we have a couple of
9 outstanding requests that we need to add.

10 MR. SHEEHAN: Yes. My understanding
11 is there's the four we marked before the
12 hearing, which were 5, 6, 7, and 8.

13 CHAIRWOMAN MARTIN: Yes.

14 MR. SHEEHAN: Then, the record
15 request would be "9". And if I could say it
16 out loud, to make sure Mr. Simek and I
17 understand what it was for, is to compare the
18 rate approved a year ago with the rate proposed
19 today, as far as bill impacts go. And is the
20 Commissioner looking for \$113 versus 117 or is
21 the Commissioner looking for the change, there
22 was a 2 percent increase last year and a --

23 *[Court reporter interruption.]*

24 MR. SHEEHAN: Commissioner Bailey,

{DE 19-059} {12-18-19}

1 are you looking for the percentage change that
2 happened last year, compared to the percentage
3 change this year, or both?

4 CMSR. BAILEY: Both. I think, if you
5 provide a similar analysis as what you provided
6 on 123, but use the rate from last year to show
7 the difference. And you could just use -- just
8 the energy service rate that's different.

9 MR. SHEEHAN: The Residential rate?

10 CMSR. BAILEY: Yes.

11 MR. SHEEHAN: Mr. Simek, you
12 understand that? You're the one that --

13 WITNESS SIMEK: Yes. So, we're just
14 going to use the same data for everything but
15 the Energy Service from the last February to
16 now, and then we'll have the change.

17 CMSR. BAILEY: That's my instinct.
18 But let's go through. Look at Page 123.

19 WITNESS SIMEK: Yes.

20 CMSR. BAILEY: Has the customer
21 charge changed since last year? I don't think
22 it has.

23 WITNESS SIMEK: No. I don't believe
24 so.

1 CMSR. BAILEY: Okay. And the
2 distribution charge then has not changed?

3 WITNESS SIMEK: Yes. I don't believe
4 so. Well, it would have changed for the REP
5 calculations that we did.

6 MR. SHEEHAN: We did have a temporary
7 rate change in the rate case.

8 WITNESS SIMEK: That's right. And we
9 have the temporary rate changes. So, that
10 would have changed both the customer charge and
11 the distribution.

12 CMSR. BAILEY: So, that's what is
13 listed on 123 right now, the temporary rate?

14 WITNESS SIMEK: Correct.

15 CMSR. BAILEY: Oh, okay. So, I
16 guess, use the rates that were in effect last
17 year, and do it -- do it both ways, so that we
18 can see.

19 WITNESS SIMEK: Okay.

20 CMSR. BAILEY: Thank you.

21 WITNESS SIMEK: Thanks.

22 *(Exhibit 9 reserved)*

23 CHAIRWOMAN MARTIN: And I'd like to
24 ask if Liberty could submit one unified

1 document, with all of your changes, including
2 the ones called out by Mr. Kreis today and the
3 changes you submitted. And we can call it --
4 reserve "Exhibit 10" for that. If you could
5 submit that, too?

6 MR. SHEEHAN: So, the entire filing?

7 CHAIRWOMAN MARTIN: Yes, please.

8 MR. SHEEHAN: Will do.

9 CHAIRWOMAN MARTIN: That way we'll
10 have the whole document. We will hold the
11 record open for Exhibit 9 and Exhibit 10.

12 *(Exhibit 10 reserved)*

13 MR. SHEEHAN: And I don't recall what
14 Mr. Kreis's changes were.

15 CHAIRWOMAN MARTIN: It was a
16 reference to J --

17 MR. SHEEHAN: Oh, okay.

18 CHAIRWOMAN MARTIN: Yes.

19 MR. KREIS: I think there was just a
20 mistake --

21 CHAIRWOMAN MARTIN: Right.

22 MR. KREIS: -- in Mr. Warshaw's
23 testimony, where he referred to "Exhibit 5",
24 when he really meant "Exhibit 4".

1 CHAIRWOMAN MARTIN: Right.

2 WITNESS WARSHAW: And also -- just to
3 interrupt. And, also, there's a change in my
4 testimony itself, on Bates Page 013.

5 MR. SHEEHAN: That's what we
6 discussed in your direct.

7 WITNESS WARSHAW: Okay.

8 CHAIRWOMAN MARTIN: Right.

9 MR. SHEEHAN: We will reflect those
10 changes.

11 CHAIRWOMAN MARTIN: Thank you. I
12 appreciate it.

13 And then, we will strike ID on the
14 Exhibits 5 through 8 as well.

15 If there are no other matters we need
16 to discuss, we can close. We'll start with Mr.
17 Kreis.

18 MR. KREIS: Thank you, Madam
19 Chairperson.

20 The short answer to the question of
21 "what should you do now?", is you should
22 approve the results of this solicitation,
23 because it appears to have been a routine
24 solicitation conducted by Liberty, in

1 essentially the same manner it has been
2 conducting these solicitations for quite a few
3 year now. There appears to have been a
4 reasonably competitive bidding. And, so, I
5 think that it's reasonable to assume that the
6 record establishes that the market price is
7 what is working its way through to the rate
8 that Liberty has proposed to start charging all
9 of its customers for default energy service
10 beginning on February 1st. And, so, the result
11 is just and reasonable rates, and you should
12 approve them.

13 Beyond that, as I said the other day
14 in the Eversource hearing, I think there is a
15 need for the Commission and the state's
16 electric utilities to reexamine this question
17 of default service procurement, because there
18 are some questions that are arising fairly
19 regularly about whether this particular method,
20 which is substantially similar for all three of
21 the electric investor-owned utilities, remains
22 the best way to do this particular thing in New
23 Hampshire.

24 Mr. Warshaw's testimony mentions

1 that, essentially, what Liberty is doing here
2 is executing on a paradigm that the Commission
3 approved in 2005 via a settlement agreement.
4 2005 was a long time ago. His testimony refers
5 to some tweaks that have been made to that
6 settlement agreement since then. I think it's
7 time to take a look at the big paradigm.

8 We see the rate coming down. And I
9 think that the record establishes that, like
10 the proverbial python that has eaten a mouse or
11 an elephant, and the resulting lump is slowly
12 working its way through the animal, there is
13 a -- the lump in regional capacity costs is
14 slowly working its way through the default
15 service animal, and we see default service
16 prices coming down as the bump in capacity
17 prices is fortunately beyond us.

18 But I think it's important for the
19 Commission to be especially vigilant, in times
20 of declining rates, to make sure that the rates
21 shouldn't be declining even more precipitously
22 than they already are, because the objective
23 here really should be default energy service to
24 customers at the lowest rate that is just and

1 reasonable. And, I worry about that.

2 I'm not a football fan. So, I can't
3 really comment on what Coach Belichick has to
4 say about anything. But I do know that the
5 sport of baseball, at least at the major league
6 level, is changing. And I think, to draw an
7 analogy to this process, it would behoove all
8 of us to make sure that the changes are good
9 changes that we like, and that they're not just
10 the result of some guy in the dugout runway
11 banging on a garbage can lid to telegraph
12 what's happening with respect to pitches to the
13 hitters on the team. In other words, we want
14 to make sure that this process is above board,
15 consistent with the public interest, and really
16 great, and reexamining it would be a really
17 great idea.

18 So, that concludes my peroration.

19 CHAIRWOMAN MARTIN: Thank you for
20 that. Lots of mental images to work through in
21 that one.

22 MR. KREIS: Excuse me. I apologize
23 for the mixed metaphors.

24 CHAIRWOMAN MARTIN: Okay.

1 Ms. Amidon.

2 MS. AMIDON: Thank you.

3 Staff has reviewed the filing. And
4 we believe the Company conducted the
5 solicitation, bid evaluation, and selection of
6 winning suppliers in a manner consistent with
7 the settlement agreement and with past
8 practice.

9 And we believe that it was
10 competitively bid, so is consistent with the
11 restructuring principles of RSA 374-F. And
12 that the resulting rates, being market-based,
13 are just and reasonable consistent with RSA
14 378. And our position is that the Petition
15 should be approved according to the timeframe
16 proposed in the filing.

17 And I want to thank the Company for
18 agreeing to work with Staff to, and the OCA, if
19 the OCA wants to participate, to improve some
20 of the aspects of the filing to make it a
21 little more easy to review within the short
22 time period that we have available.

23 Thank you.

24 CHAIRWOMAN MARTIN: Thank you.

1 Mr. Sheehan.

2 MR. SHEEHAN: Thank you.

3 First, and most important, Liberty is
4 a believer in the Oxford comma as well, and we
5 do our best to enforce it.

6 Second, Mr. Kreis's questions about
7 security of the -- financial security of
8 suppliers being confidential, that is one of
9 the itemized things in the rule that presume
10 confidential. So, the rules reflect what Mr.
11 Kreis and Mr. Warshaw expressed, that having
12 that information public could harm the Company
13 and the customers.

14 Third, the issue over a yearly
15 reconciliation versus an every six month, I
16 believe the reason for the yearly
17 reconciliation derives from all the other
18 pieces of the rates that are adjusted once a
19 year, the transmission cost and others. So, I
20 think it's more a factor of "it makes more
21 sense to do it once a year." But, again, we
22 will do what the Commission directs. But there
23 is a fairly significant reconciliation done
24 once per year for all those other elements.

1 And, last, Commissioner Bailey asked
2 about why the rate shouldn't be divided --
3 remain divided between residential and
4 commercial. And, again, this is certainly
5 something that can be debated.

6 But, if you look to, I just pulled up
7 the order from the summer, yes, from the summer
8 in this docket, the residential rate was 7.7
9 cents for the six-month period. The commercial
10 rate actually went from 5.9 in the first month
11 to 10.6 in the sixth month. So, you introduce
12 some volatility, which may not be best for
13 residential customers. But, again, if the net
14 rate is lower to expose residential customers
15 to the variation, that is something that we
16 could certainly look at.

17 So, that being said, we appreciate
18 the support of OCA and Staff. And we ask the
19 Commission approve the rates that are requested
20 in the revised technical statement of Mr.
21 Simek.

22 Thank you.

23 CHAIRWOMAN MARTIN: Thank you. We
24 will close the hearing, take the matter under

1 advisement, and issue an order as soon as we
2 can. And, we are adjourned.

3 ***(Whereupon the hearing was***
4 ***adjourned at 2:50 p.m.)***

5 *[NOTE: Post hearing, **Exhibit 11***
6 *was also reserved for a*
7 ***CONFIDENTIAL** version of reserved*
8 ***Exhibit 10.]***