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**STATE OF NEW HAMPSHIRE**

**PUBLIC UTILITIES COMMISSION**

**July 16, 2024** - 9:00 a.m.  
21 South Fruit Street  
Suite 10  
Concord, NH

**RE: DRM 24-085 RULEMAKING:**  
New Hampshire Code of Administrative  
Rules, **Puc Chapter 100**, Organizational  
Rules.  
**DRM 24-086 RULEMAKING:**  
New Hampshire Code of Administrative  
Rules, **Puc Chapter 200**, Procedural  
Rules.  
*(Hearing to receive public comments  
on both rule sets)*

**PRESENT:** Sarah Fuller, Esq. & PUC Senior Advisor  
*(Presiding as Presiding Officer)*  
  
Ben Martin-McDonough, Esq./PUC Legal Adv.  
Michelle Bunnemeyer, Esq./PUC Legal Adv.  
  
Doreen Borden, Clerk

**APPEARANCES:** *(No appearances taken)*

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

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**P R O C E E D I N G**

PRESIDING OFCR. FULLER: Okay. So, I think I just said this, but everybody who wanted to talk today or is here today had a chance to sign in?

*[Multiple indications in the affirmative.]*

PRESIDING OFCR. FULLER: My name is Sarah Fuller. I'm a Senior Advisor at the Commission. I'm going to serve as the Designee of the Chairman of the Commission for this hearing. The hearing occurs in Commission Docket Number DRM 24-085, which is the 100s, and then DRM 24-086, which is the 200s.

And, again, just for the record, today is July 16th, 2024. It's 9:00 a.m.

So, with me today is Attorney Ben Martin-McDonough. Attorney Martin-McDonough is a Senior Advisor at the Commission. And then Commission Staff Counsel, Michelle Bunnemeyer.

And we're here for the public comment hearing related to the Public Utilities Commission's Chapter 100 Organizational Rules and PUC's 200 Procedural Rules.

1           Just as a background, I note that in  
2           July of 2021 the PUC, as it was always known, was  
3           split between what is now the PUC, or the "new  
4           PUC", for lack of better words, and a newly  
5           formed state agency called the "Department of  
6           Energy". Upon the creation of the Department of  
7           Energy, the Commission envisioned that updates to  
8           its procedural and organizational rules would be  
9           forthcoming. The Department held some initial  
10          stakeholder meetings in this area in late 2022.

11          The Chairman of the PUC has exclusive  
12          rulemaking authority under RSA 363:1 and RSA  
13          21-G:9. Chairman Goldner submitted the  
14          Commission's Initial Proposal for Rulemaking for  
15          both the 100s and 200s on June 7th of 2024. The  
16          Initial Proposal appeared in the June 20th, 2024,  
17          Rulemaking Register.

18          As discussed in the Rulemaking Notice  
19          Form, I'm forgetting the number of the appendix,  
20          but the Rulemaking Notice Form, the proposed  
21          rules make extensive changes both substantively  
22          and how they're organized.

23          As of this morning, we've received one  
24          written comment from the Office of the Consumer

1 Advocate. No other written comments have been  
2 received.

3 For orders of today's oral comment,  
4 everybody has had a chance to sign in, I'm going  
5 to call the names where I see that there's a  
6 desire to speak. I'll try to call the person who  
7 is going to speak first, and then who's going to  
8 speak next, to give you a heads up that you're  
9 going to go next.

10 Attorney Martin-McDonough is going to  
11 keep time. I see about ten people who want to  
12 talk. If everybody could try to keep their  
13 comments to about ten minutes, obviously, if  
14 you're a few minutes over that, that's fine. But  
15 that is what we're going to ask people to keep  
16 your comments to.

17 I think there's a desire to extend the  
18 date for the written comments to come in. So,  
19 the Commission is going to give an extra 30 days  
20 for those written comments to come in. And I  
21 believe this day, I checked it before I walked  
22 in, is going to be August 26 of 2024, and that is  
23 a Monday.

24 So, just as a preamble, I know these

1 changes are extensive, I know there's a lot of  
2 written comments that want to come in. I  
3 appreciate written comments. And, so, we are  
4 going to give an extra 30 days for those written  
5 comments to come in. Hopefully, that helps  
6 everybody.

7 The first person I see who has signed  
8 in today is Matthew Fossum, from the OCA. He's  
9 going to go first. And, then, Attorney Wiesner,  
10 you're going to go next.

11 All right. Attorney Fossum, the forum  
12 is yours.

13 MR. FOSSUM: Thank you. And good  
14 morning. Matthew Fossum, here on behalf of the  
15 Office of Consumer Advocate. I'm the Assistant  
16 Consumer Advocate. With me this morning is  
17 Michael Crouse from our Office.

18 As you noted in your initial -- well,  
19 I'll start with something sort of more general,  
20 is I'll just express my concern on behalf of the  
21 Office of Consumer Advocate that the  
22 Commissioners are not here themselves this  
23 morning. These are incredibly important rules.  
24 This issue is incredibly important not just to

1 the Consumer Advocate and whom we represent, but  
2 everybody in this room and beyond. I think it's  
3 absolutely essential that the Commissioners are  
4 here, or that they would be in a place where they  
5 could hear feedback directly, rather than through  
6 others.

7 So, I just want to put on the record my  
8 concern that they are not here for this hearing.

9 And a related concern about the timing.  
10 I appreciate the comment that we'll have an  
11 additional 30 days for written materials. But  
12 the timing of this rulemaking, the timing -- time  
13 given to prepare for comments I think is lacking.  
14 And there should be at least one more opportunity  
15 to speak to these rules, and perhaps further.

16 As you noted, there was a stakeholder  
17 session back in 2022. There's some information  
18 in that in Docket DRM 22-055. Perhaps I'm not  
19 advocating necessarily that process, but a  
20 process like that I think might be helpful for  
21 these rules.

22 I will -- also, I want to address a  
23 comment that I heard this morning about "the  
24 Chairman having exclusive rulemaking authority

1 under RSA 363:1." I'm not sure I agree with  
2 that. RSA 365:8 is specific to the rulemaking  
3 authority of the Commission, and points to "the  
4 Commission" having authority to adopt rules, and  
5 not "the Chairman".

6 Having gotten that out of the way, I'll  
7 note, yes, the Consumer Advocate, we have already  
8 filed an initial set of comments. It seems quite  
9 likely that we would file more. And I won't  
10 belabor the comments that we filed, but I will  
11 highlight a few items.

12 First, we have, as I noted already,  
13 significant procedural concerns about how this  
14 rulemaking has begun. These are very important  
15 rules. They affect procedural rights,  
16 substantive rights, regarding everybody who  
17 appears before the PUC. And those concerns are  
18 outlined in our letter and our comments, and I  
19 think should be taken very seriously.

20 There are a number of major issues that  
21 are implicated by these rules. And, as indicated  
22 in our written comments, one of the biggest ones  
23 is the change in how the Commission operates at a  
24 very fundamental level. It seems as though the



1 Commission is using these rules to move from  
2 acting as arbiter, in a neutral role, to taking a  
3 more inquisitorial role, more direct control of  
4 the establishment of the record, and creating,  
5 essentially, its own prosecution or inquiry of  
6 the cases before it.

7 We think that that is an inappropriate  
8 role for the Commission. And that the revisions  
9 to the rules that move the Commission in that  
10 direction should be revisited and revised, or  
11 deleted.

12 Adjudications under the Administrative  
13 Procedure Act in New Hampshire need to follow a  
14 particular process. We believe the Commission  
15 should likewise follow that process.

16 Lastly, as an overarching issue, and as  
17 noted in our initial comments, we have some  
18 concerns about the way that the Commission has  
19 historically treated confidential information,  
20 and its relationship to RSA 91-A and the  
21 Right-to-Know Law. And we think that this is a  
22 really important opportunity for the Commission  
23 to revisit how it handles those issues.

24 These rulemakings don't come along all

1           that often; arguably, they should. But this, I  
2           think, is a golden opportunity to revisit issues  
3           surrounding the treatment of confidential  
4           information and its availability to the public in  
5           Commission matters.

6                         So, again, I won't belabor what has  
7           already been filed in our writing. I did want to  
8           highlight those issues. We have some very  
9           specific comments throughout the materials that  
10          we've already filed advocating for particular  
11          changes or adjustments. We stand very much by  
12          those, and will -- this is really important to  
13          us. And I think, you know, we will do what we  
14          can to make sure that these rules are useful for  
15          all the litigants here and those who we  
16          represent.

17                        And I really, again, I hope that the  
18          Commission takes seriously the specific comments  
19          that we have made, and that we will supplement  
20          later, for changes and enhancements to the rules,  
21          to make sure that the Commission's role stays as  
22          it should, and that the process is fair to the  
23          litigants here at the Commission.

24                        Thank you.

1           PRESIDING OFCR. FULLER: Thank you for  
2 your comments.

3           Attorney Wiesner, you are next. And,  
4 then, the next person I have wanting to talk is  
5 Attorney Taylor.

6           MR. WIESNER: Good morning. I'm David  
7 Wiesner, representing the Eversource Energy  
8 Companies, both Public Service Company of New  
9 Hampshire, doing business as Eversource Energy,  
10 and also Aquarion Water Company of New Hampshire.

11           As frequent parties before the  
12 Commission, both of these Companies have a keen  
13 interest in updating the PUC 200 rules.  
14 Certainly, much has changed since the last  
15 meaningful update to these rules. And just as  
16 the regulatory landscape in the state has  
17 evolved, so, too, should the rules that pertain  
18 to practice before the Commission, through  
19 adjudicated dockets and otherwise.

20           The Eversource Companies appreciate the  
21 Commission's Initial Proposal. It was certainly  
22 no small undertaking. And the Companies  
23 understand the effort involved, and the value and  
24 benefit of having a starting point to work from

1           that gives insight into the Commission's vision  
2           for administrative practice in this still  
3           relatively new two-agency environment.

4                       As noted by Attorney Fossum, the  
5           changes proposed by the Commission are  
6           substantial and extensive, they cut across all  
7           aspects of Commission practice. Some are long  
8           overdue and welcomed logistical updates to  
9           account for the creation of the Department of  
10          Energy, while others are significant revisions or  
11          entirely new procedures altogether that would  
12          change core regulatory processes that currently  
13          exists. And these processes are critical to the  
14          Company's operations.

15                      As regulated public utilities, the  
16          Commission's adjudicatory process is inextricably  
17          linked to the Companies' success and stability.  
18          Changes to the PUC 200 rules are certainly  
19          necessary. But, given the centrality of those  
20          rules to the regulatory operations of the  
21          Companies, both PSNH and Aquarion respectively  
22          request that a more collaborative and  
23          participatory process be implemented for this  
24          rulemaking. That approach would provide a

1 meaningful opportunity for constructive  
2 discussion with the Commissioners, to ensure that  
3 the Commission's objectives are advanced, while  
4 preserving the due process rights of all parties,  
5 consistent with the APA and other relevant laws.

6 In our view, that more deliberative  
7 approach would be enhanced by extending the  
8 deadline for submission of initial written  
9 comments by four weeks. I wrote that before I  
10 heard you were going to do that. Then, holding a  
11 further comment hearing, in the nature of a  
12 collaborative working session, with the  
13 Commissioners and interested commenters, followed  
14 by an opportunity to submit a second and final  
15 set of written comments for Commission review.

16 The Companies are most interested in  
17 having a collaborative comment session with the  
18 Commissioners, at which participants can both  
19 provide to, and receive from, the Commission  
20 critical interactive input regarding the proposed  
21 new rules. That approach is essential in our  
22 view, if both the regulators' and the regulated  
23 community's purposes are to be fulfilled through  
24 the rulemaking process.

1           We look forward to actively  
2 participating in that enhanced collaborative  
3 rulemaking process for amendment of the Puc 200  
4 Procedural Rules.

5           And I failed to mention the 100  
6 Organizational Rules, but there's an interaction  
7 there. And we will likely reference both in our  
8 written comments filed in August.

9           With that, be happy to answer any  
10 questions you may have. And thank you for the  
11 time.

12           PRESIDING OFCR. FULLER: I appreciate  
13 the comments. Thank you. There's no questions  
14 right now.

15           Okay. So, we're going to go to  
16 Attorney Taylor. And, then, Attorney Bailinson,  
17 you're next.

18           MR. TAYLOR: Thank you.

19           I don't want to be duplicative of  
20 things that Attorney Wiesner and Attorney Fossum  
21 have already said. Unutil -- and I should say  
22 that I'm here representing both Unutil Energy  
23 Systems and Northern Utilities, which are  
24 collectively the Unutil Companies operating in

1 New Hampshire.

2 Certainly appreciate the opportunity to  
3 offer comments. And, again, I reiterate much of  
4 what Attorney Fossum and Attorney Wiesner have  
5 said. I certainly agree with the more enhanced  
6 and extended process that Eversource has  
7 proposed. I agree with the folks who have gone  
8 before me that this is a process that the  
9 Commissioners should be directly involved in, and  
10 should hear from the -- from the commenters.

11 I think it would also be helpful to  
12 understand some of the thinking behind some of  
13 the rules, so we have a good understanding of  
14 what it is that the Commission is looking for,  
15 and whether there may, in some instances,  
16 opportunities to refine or perhaps eliminate some  
17 unnecessary rules.

18 And, so, you know, I think there is  
19 something of a concern that the issuance of these  
20 rules in the form that they're in seems a little  
21 bit like a *fait accompli*, and I do think there  
22 needs to be a more collaborative process.

23 I did have some concerns about specific  
24 rules, and I certainly am going to address those

1 more in written comments. So, I won't go through  
2 all of them. I do have an overarching concern  
3 that the cumulative effect of some of these rules  
4 is additional administrative burden upon the  
5 utilities, or any participants, really, without  
6 any real defined or clear need for them.

7 In particular, there are requirements  
8 now for initial pleadings, that they involve --  
9 or, initial petitions, that they involve  
10 statements of financial impact. "Financial  
11 impact" is a rather vague term, in my opinion.  
12 It's not clear what that's intended for, or  
13 what's intended by that phrase. It's also the  
14 case that there may not be financial impacts in  
15 every case brought before the Commission, and  
16 participants shouldn't have to seek to waive  
17 those every time.

18 That's something that is -- resurfaces  
19 in the rule regarding "automatic disclosures".  
20 Again, it's unclear why automatic disclosures are  
21 being required. Why it's necessary in every  
22 single case? And, as I said, I think it does  
23 introduce an administrative burden. And I think  
24 it also places unnecessary restrictions on



1 potential barriers to process before the  
2 Commission.

3 Utilities typically do provide rate  
4 impacts in filings, involving changes to rates.  
5 But it's unclear why it needs to be mandated by  
6 rules in every case.

7 Other concerns that we have, I think  
8 there's a -- and, again, I'm going to skip over  
9 some of my notes here in the interest of keeping  
10 this short. I think the definition of  
11 "standing", in Puc 202.22, appears to be based on  
12 a rule applied by the New Hampshire Supreme Court  
13 for standing to appeal an administrative  
14 decision. But it is far too restrictive to  
15 define "standing" for participation in PUC  
16 proceedings.

17 You know, a participant's rights may be  
18 affected, but not necessarily in an injurious  
19 way. Limiting participation to directly injured  
20 parties essentially unconstitutional, and would  
21 almost certainly impede the Commission's ability  
22 to develop a record, a thorough record in many  
23 cases.

24 In terms of, with respect to Puc

1           203.10, which is the date of filing, this  
2           requires that filings be submitted by 4:30. The  
3           Commission appears to be going to a system now  
4           where parties can file electronically, instead of  
5           filing paper, which we very much appreciate.  
6           That's been the practice for several years now.  
7           We think it's certainly an improvement.

8                         We would recommend that -- well, it's  
9           our belief that the 4:30 deadline is a relic of a  
10          time when physical filings were required. We  
11          recommend that the Commission allow filings to be  
12          received on a day up until midnight of that day,  
13          or the day that they're actually filed  
14          irrespective of the time.

15                        I do share some of the concerns that  
16          Attorney Fossum had articulated regarding  
17          Commission record requests. I'm not going to go  
18          back into those. We'll address those in written  
19          filings. But I think that is a good example of a  
20          rule where some communication between the  
21          Commission and the parties would be helpful, to  
22          better understand what is intended there, and  
23          what the Commission sees its role as going  
24          forward.

1           Rule 203:26, which is "Control of  
2           Hearing", I really think this rule is unnecessary  
3           and vague. And I know that the Consumer Advocate  
4           touched on this in their written comments.

5           The Commission has the ability to  
6           control hearings. So-called "bitter exchanges"  
7           is really very, obviously, a subjective term. I  
8           think effective advocacy usually involves, and  
9           sometimes requires, a sharp tone, and a tart  
10          back-and-forth with the parties. And I think  
11          that this rule, as drafted, which I really think  
12          the rule in its entirety should be struck, I  
13          don't think it's necessary. But I think it  
14          really has the ability to chill speech in the  
15          hearing room and impede parties' abilities to  
16          advocate for their clients. So, would recommend  
17          that that be deleted.

18          204.02 appears to reinstitute the rule  
19          that notices be published in newspapers. That  
20          has not been the practice for many years. And we  
21          don't think that the costs and the burden of that  
22          should be revisited or revived. It's  
23          unnecessary. The practice of publishing on the  
24          Commission website and the utility websites I

1 think has been effective. And I'm not aware that  
2 there's been any prejudice with the elimination  
3 of publishing in newspapers.

4 So, to the extent that this rule is  
5 intended to bring that back, I think that that  
6 should be reconsidered by the Commission.

7 And 204.09 and 204.11 impose 15  
8 business day filing requirements. 204.09  
9 requires 15 business days prior to a hearing for  
10 a settlement to be filed. I would say that  
11 often -- I think I understand, I can understand  
12 why the Commission would like more time, and  
13 there may be -- there may be a different period  
14 of time that would work. But, often, settlements  
15 are subject to intense negotiations over many  
16 weeks, and may not be ready three weeks in  
17 advance of a hearing. I think the rule could  
18 potentially impede settlement, which ultimately  
19 is good for the Commission, it's good for the  
20 parties, and it's good for ratepayers. And, so,  
21 I think that that rule should be reconsidered.

22 Similarly, 204.11(b) requires that  
23 premarked exhibits be filed 15 business days in  
24 advance of a hearing. I think that the

1           expectation that parties will have their cases  
2           fully compiled, and all their exhibits ready to  
3           go three weeks in advance of a hearing is not  
4           reasonable. I think that parties, particularly  
5           with some dockets that have fairly compressed or  
6           fairly streamlined timeframes, I don't think  
7           that's workable.

8                        I also think that it appears to be  
9           inconsistent with Rule Puc 204.10(a), which  
10          requires that exhibits be filed five days before  
11          a hearing. So, there's an inconsistency there  
12          that needs to be resolved, unless I'm misreading  
13          it.

14                       So, again, I do have comments regarding  
15          other rules, and we will expand those. We  
16          appreciate the additional time to submit written  
17          comments, which we are going to take advantage  
18          of.

19                       Thanks.

20                       MR. MARTIN-McDONOUGH: I have a  
21          question for you, Attorney Taylor.

22                       Other than a newspaper, is there a  
23          better way to notify the general public of our  
24          dockets, for people who might not be on the

1 utility or the Commission's website looking for  
2 the issues that might come before us?

3 MR. TAYLOR: You know, again, I'm  
4 really just basing this on our experience over  
5 the last -- I would say that I believe it was  
6 since prior to COVID that we had to publish in  
7 newspapers.

8 In my opinion, there's been really no  
9 change in participation before the Commission.  
10 You know, I've certainly participated in many,  
11 many dockets over that period of time. There is  
12 always robust participation when there needs to  
13 be. It doesn't appear that anybody is being left  
14 out in these instances.

15 And I would also say that, you know, I  
16 also practiced here in -- for many of the years  
17 that the newspaper publishing requirement was in  
18 place. And I did not see any material change in  
19 the amount of participation before the Commission  
20 before and after that requirement was retired  
21 briefly.

22 And there is a cost to it. That cost  
23 ultimately is borne by ratepayers. It may not be  
24 a significant one, but there is a cost there,

1           there's a burden to it. I just think it's  
2           unnecessary. I don't know that there's any  
3           benefit to it. It seems like a relic of another  
4           time.

5                       MR. MARTIN-McDONOUGH: Thank you.

6                       PRESIDING OFCR. FULLER: Thank you for  
7           your comments, Attorney Taylor.

8                       I will tell you that, with the  
9           automatic disclosures, we have exempted I think  
10          the community aggregation, approval of those  
11          plans from that process. So, as you're going  
12          through your comments, knowing that the  
13          Commission came forward with wanting to have some  
14          up-front information, what would be appreciated  
15          is, if you could figure out, in your comments, if  
16          there are other types of pleadings, maybe they're  
17          financial requests, maybe they're things that you  
18          think should not be subject to those automatic  
19          disclosures, knowing in mind that, you know, this  
20          is the desire of the Commission to have these go  
21          forward. And, as I'm sure you can appreciate,  
22          having some up-front information to review is  
23          very important to the Commission. And that is  
24          the essence of having these.

1           So, when you're going through your  
2           comments, that's a -- that would be helpful to  
3           us. You know, as you said, maybe in a rate case  
4           filing, these are appropriate, but maybe  
5           somewhere else they're not. And, so, I would  
6           appreciate that coming back in your initial  
7           comments.

8           MR. TAYLOR: Sure.

9           PRESIDING OFCR. FULLER: All right.  
10          Thank you.

11          All right. We have Attorney Bailinson.  
12          And, then, we have, I think, Attorney Sheehan  
13          next.

14          MS. BAILINSON: Good morning, Madam  
15          Chair. My name is Marie-Helene Bailinson. And I  
16          am here on behalf of the New Hampshire Department  
17          of Energy.

18          The Department has reviewed the Initial  
19          Proposal for Puc 100 and Puc 200. And we would  
20          like to offer some very high-level observations  
21          today. Please understand that this is not an  
22          inclusive list. We will follow up with detailed  
23          written comments.

24          As a preliminary matter, the Department



1 respectfully requests that the Commission  
2 withdraw its Initial Proposal from consideration,  
3 and work with the Department on complementary  
4 sets of rules of procedure before either agency  
5 adopts new rules.

6 There is built into the legislative  
7 creation of the Department of Energy an allowance  
8 of five additional years, until August 19th,  
9 2027, for both agencies to rely on existing  
10 rules, despite any inaccuracies in the rules  
11 caused by the statutory changes effectuating the  
12 Commission's reorganization and creation of the  
13 Department.

14 If the Commission is not inclined to  
15 withdraw its Initial Proposal, then the  
16 Department would require and request additional  
17 time beyond the July 26th public comment period  
18 deadline within which to provide written  
19 comments.

20 After discussing these rules  
21 internally, and considering the level of review  
22 and work needed to articulate the concerns we  
23 have thus far identified, and to make  
24 constructive suggestions for change, the

1 Department requests that the public comment  
2 period be expanded approximately two and a half  
3 months beyond the July 26th deadline.

4 PRESIDING OFCR. FULLER: Attorney  
5 Bailinson?

6 MS. BAILINSON: Yes.

7 PRESIDING OFCR. FULLER: Can you just  
8 sit back a little bit? They're having a hard  
9 time hearing you on the audio.

10 MS. BAILINSON: Oh.

11 PRESIDING OFCR. FULLER: So, I do the  
12 same thing. If I'm too close to the microphone,  
13 they can't hear me either.

14 MS. BAILINSON: I thought I was  
15 supposed to get close to the microphone?

16 PRESIDING OFCR. FULLER: I know.

17 MS. BAILINSON: Okay. So, I can --  
18 this is okay?

19 PRESIDING OFCR. FULLER: They haven't  
20 told me otherwise. Yes. I can hear you fine.  
21 But thank you.

22 MS. BAILINSON: So, this is good?

23 PRESIDING OFCR. FULLER: Yes.

24 MS. BAILINSON: All right. I'll just

1 repeat what I said.

2 PRESIDING OFCR. FULLER: I think the  
3 last thing I heard was a "request for two and a  
4 half months".

5 MS. BAILINSON: Okay.

6 PRESIDING OFCR. FULLER: Do you have a  
7 date that --

8 MS. BAILINSON: Yes. If it's expanded  
9 approximately two and a half months, beyond the  
10 existing July 26th close of the public comment  
11 period deadline, this would extend the close of  
12 the public comment period to October 14th.  
13 According to our calculations, this would provide  
14 the Commission with several months to consider  
15 the Department's comments and suggestions, and  
16 those received by other entities, and timely file  
17 the Final Proposal within the 180-day statutory  
18 deadline.

19 The Department understands, as you've  
20 stated already, Attorney Fuller, that the June  
21 20th publication -- that the rules were published  
22 in the Rulemaking Register on June 20th -- I mean  
23 the "Rulemaking Notice Form", beg your pardon, in  
24 the Rulemaking Register on June 20th. And this

1 would require filing the Final Proposal on or  
2 before December 17th, and that's according to RSA  
3 541-A:12, I.

4 We -- yes, I was listening to the  
5 building in another public comment period, and I  
6 think that would be helpful. I haven't,  
7 obviously, discussed that with folks at the  
8 Department, but that sounds like a reasonable  
9 next step.

10 Based on what we're requesting, we  
11 would ask the Commission's decision relative to  
12 any extension as soon as possible.

13 One more point, is that the  
14 Department is also in the drafting process of  
15 the Organizational En 100 and its Procedural  
16 En 200 rules, to reflect the division of the  
17 responsibilities between the Commission and the  
18 Department, with the establishment of the  
19 Department in 2021.

20 To the extent that similar terms and  
21 processes are utilized within the En and the Puc  
22 rules, we believe it will be cleaner to harmonize  
23 terminology and processes where appropriate.  
24 That way, we are finalizing the draft -- when we

1 are finalizing the draft En 100 and 200 rules, we  
2 can maintain a level of consistency.

3 This is another reason why the  
4 Department needs time to sift through the Puc 200  
5 rules with an added level of scrutiny. We want  
6 to avoid having contradictions between sister  
7 agency rule sets. We look forward to working  
8 with the Commission to achieve a good result, and  
9 hopefully agreed-upon final proposal to JLCAR.

10 The following are the major categories  
11 of issues which we've identified within the  
12 Initial Proposal of Puc 200.

13 First, are the rules that -- are rules  
14 that are being repealed, which the department  
15 currently relies upon, the Department requests  
16 that some rules, which are repealed in Puc 200,  
17 not be repealed at this time. And the reason is  
18 that, if the Commission repeals rules in this  
19 proposal, even if they are replaced within the  
20 same proposal as the new rule, the Department  
21 will not be able to rely on the new PUC rule.  
22 Please reference RSA 12-P:14, which, in relevant  
23 part, states that "Existing rules...of the public  
24 utilities commission... shall continue in

1 effect...and be enforced by the commissioner of  
2 the department of energy...until they otherwise  
3 expire, or", and this is the emphasized language,  
4 "are repealed or amended in accordance with  
5 applicable law."

6 Those repealed Puc rules of concern  
7 within the Initial Proposal of the Puc 200 rules  
8 are Puc 201.04, pertaining to "Public Records",  
9 and the method for marking and submitting  
10 confidential materials.

11 Puc 201.05, "Waiver of Rules", the  
12 Department has interpreted this provision as a  
13 rule that permits the Department to waive any  
14 Department rules. For example, you can look at  
15 the "Rule Waiver Proceedings" on the Department's  
16 website. And, first of many on that list is the  
17 "Master Meter Waivers" at Puc 303.02.

18 Puc 201.06, "Requests for Confidential  
19 Treatment of Documents Submitted by Utilities in  
20 Routine Filings"; Puc 201.07, "Requests for  
21 Release to the Public of Confidential Documents  
22 Submitted in Routine Filings". Puc 201.06 and  
23 Puc 201.07 pertain to the routine filings  
24 required to be made to the Department. Filings

1 required at Puc 201.06 are presumed to be  
2 confidential, and Puc 201.07 establishes the  
3 process by which they can be released from  
4 confidentiality.

5 Second on our list are rules that  
6 create a stricter standard upon the Department  
7 than other parties in a proceeding. For example,  
8 at Puc 203.09, the Department is required to file  
9 a position statement fourteen days prior to  
10 hearing. There are implications to requiring a  
11 position statement, because it essentially  
12 subjects the Department to cross-examination on  
13 that document, and is shared fourteen days prior  
14 to hearing, where the other parties may not be  
15 required to share their positions similarly.

16 Additionally, "position statement" is  
17 not defined as different from "technical  
18 statement" or "prefiled testimony".

19 We have identified other examples under  
20 this category, which the Department will submit  
21 in our written comments.

22 Third, are definitions, which relate to  
23 Puc 100 and Puc 200 rules. We can see that Puc  
24 100 rules contain the definitions of

1 "Commission", "Department", and "OCA". We don't  
2 see a definition for other terms, such as  
3 "discovery", "record", "rulemaking", and  
4 "technical session", some of which are in the  
5 existing Puc 100 rules.

6 To the degree that the omitted  
7 definitions end up being included, the Department  
8 requests continued collaboration and discussion,  
9 to ensure that any terms which are defined are  
10 the same as used in the En 100/200 rules.

11 Fourth, are other definitions -- that  
12 there is a need for clarification of other  
13 defined terms. Defined terms "proceeding",  
14 "pleading", and "motion". The Department will  
15 specify concerns in our written comments. But  
16 the general theme is that the way the terms are  
17 defined, and of the way the rules are structured,  
18 it is not clear if they're being used in a  
19 context of the adjudicative or non-adjudicative  
20 proceedings.

21 Fifth, "General Requirement" rules, at  
22 Puc 203, we query whether this section of rules  
23 is intended to pertain to adjudicative  
24 proceedings and non-adjudicative proceedings,



1 including rulemaking.

2 Six, we note apparent substantive  
3 inconsistency in the Adjudicative Proceedings  
4 section. Puc 204.10 and Puc 204.11, further  
5 clarification is needed in those requirements  
6 surrounding pre-marking exhibits, at Puc  
7 204.10(c)(3) and Puc 204.10(e)(1).

8 We will address our remaining concerns  
9 in our written comments. We focused on the Puc  
10 200 rules today, but we'll provide written  
11 comments relative to Puc 100 when we submit those  
12 as well.

13 And we want to clarify that, if the  
14 Commission decides to expand the time to  
15 provide written comments, obviously beyond the  
16 thirty days that you talked about already, as  
17 the Department has requested, or, for that  
18 matter, at any time when providing advance  
19 notice of rulemaking proceedings, to please  
20 notify the Department via the Energy  
21 *ENGY.litigation@energy.nh.gov* inbox. That's the  
22 best way for us to receive the rulemaking  
23 notices.

24 Thank you for your consideration. And

1 we look forward to working with the Commission  
2 to reach a good result for a final proposal to  
3 JLCAR with respect to these rulemaking  
4 proposals.

5 PRESIDING OFCR. FULLER: Thank you for  
6 your comments, Attorney Bailinson. I have a  
7 couple questions, because --

8 MS. BAILINSON: Sure.

9 PRESIDING OFCR. FULLER: -- you brought  
10 it up a couple times.

11 What is the timeframe for En 100 and  
12 En 200? What is the timeframe for the Department  
13 of Energy's submission? Because you've asked  
14 that the Department -- Department's submission be  
15 at the same time as the Public Utilities  
16 Commission's submission, but I don't have a  
17 timeframe for when those are going to be filed.

18 MS. BAILINSON: I'm not sure that I  
19 asked for the En rules and the Puc rules to be on  
20 the same trajectory as what's been started in the  
21 Puc rules. I mean, my first -- or, the  
22 Department's first request is to withdraw, so  
23 then we can work together. And we both have  
24 until August 19th, 2027.

1           PRESIDING OFCR. FULLER: Okay. Then,  
2 I'm sorry. I heard you -- I thought that that  
3 was the request, to withdraw, so we can submit  
4 together?

5           MS. BAILINSON: But, then, secondarily,  
6 if you, in the alternative, if you choose not to  
7 go that route, then, and you're following the  
8 trajectory that's already been set in place, we  
9 would request an expanded -- an extension of time  
10 to submit our written comments to October 14th.

11           We can't work on our set of rules and  
12 these set of rules within this compact timeframe,  
13 even by October 14th. So, we are asking for  
14 October 14th to respond to the Puc 200 rules.

15           PRESIDING OFCR. FULLER: Okay.

16           MS. BAILINSON: And, then, you know,  
17 later on, once we've had a chance to digest and  
18 review and submit our comment on the Puc rules,  
19 if it were to follow this trajectory, then we  
20 will have the benefit of that work to go ahead  
21 and work on our En 200 rules.

22           PRESIDING OFCR. FULLER: And, if we  
23 were to withdraw our rules, which I can tell you  
24 I do not think that is going to happen, but that

1 is your request.

2 MS. BAILINSON: Thanks.

3 PRESIDING OFCR. FULLER: There's  
4 still -- there's still no timeline for  
5 submission, correct?

6 I understand -- I understand the  
7 position of the Department of Energy, that the  
8 date is five years from -- is it 2022? Or,  
9 2020 --

10 MS. BAILINSON: Two.

11 PRESIDING OFCR. FULLER: Twenty-two?  
12 So, I understand that's the position. But, you  
13 know, when you look at 12-P:14, there's a  
14 provision of 12-P:14 that allows the five years,  
15 right? But, then, there's a -- it also says "or  
16 it shall continue in effect notwithstanding any  
17 provisions of 541-A:17." And 541-A:17, you know,  
18 there's some organizational rules that I think  
19 everybody in this room understands are not  
20 effective anymore. The Public Utility  
21 Commission's rules, as they stand today, talk  
22 about things like "Executive Director", they talk  
23 about things that we just don't do anymore.

24 So, does the -- and, if you don't, it's

1 fine, but does the Department of Energy have a  
2 position, besides the five years, of the fact  
3 that there are rules that are inconsistent with  
4 541-A:17, II? And, as I read P:14, it does  
5 require some change.

6 So, I think that the overall position  
7 of the Public Utilities Commission is one of  
8 great empathy and sympathy of what a new agency  
9 takes to get up and going. And we certainly like  
10 to work collaboratively, we have a wonderful  
11 relationship working collaboratively through  
12 rules. I do think these are going to go forward.

13 Just to respond to your timeframe, I  
14 think the initial extension of 30 days is 30  
15 days, especially as I hear the other parties  
16 saying that they want time for maybe additional  
17 comments. There is no way to have 75 days, like  
18 that's two and a half months, there's no way to  
19 have 75 days, have comments come in in 75 days,  
20 have any additional hearings, have another set of  
21 comments, have OLS, because that will probably  
22 require significant updates to our Final  
23 Proposal, that will then be viewed by OLS, and  
24 then get it through in December.

1           So, we're going to go 30 days. And,  
2           then, knowing, in your comments, that there may  
3           be additional time for further comments. I think  
4           that's -- I actually think that's -- and I don't  
5           remember, Attorney Taylor or Attorney Wiesner,  
6           whose suggestion that was. But that, if there's  
7           going to be a second set of comments, we have to  
8           have the first comment within, you know, what  
9           will be, basically, two months after filing. So,  
10          you know, that's -- that is where the Public  
11          Utilities Commission is.

12                 But I do want -- and I do want it to be  
13          said that the Public Utilities Commission  
14          understands that this is difficult, and in  
15          moving -- and in forming these rules, and they  
16          have taken a great amount of time at the Public  
17          Utilities Commission getting these rules forward.

18                 We appreciate that it also takes a lot  
19          of time for the Department of Energy. In  
20          addition to these rules, you have other rules  
21          that you're doing, you have to do your daily  
22          work. So, you know, I wanted to put that  
23          forward.

24                 I also appreciate that there are

1 provisions in our current rules that the  
2 Department has expressed that they rely on. To  
3 the extent, and I think it's quite possible, to  
4 the extent that we can readopt without amendment  
5 201.04, 201.05, 201.06, and 201.07, that will be  
6 the intent of the Public Utilities Commission.

7 Now, for everybody else sitting in this  
8 room, what does that mean to you? Essentially,  
9 these were the rules that the Department of  
10 Energy, they're, I think, the waiver rules, the  
11 public record rules, and the confidentiality,  
12 they are -- they were moved into another section,  
13 but they were not substantially changed. So, all  
14 that means, when you're writing your comments,  
15 is, if you have a comment on the waiver rule, or  
16 you have a comment on the public record rule,  
17 it's just going to go back to its original  
18 numbering.

19 And, then, where it is plunked now, and  
20 I think they're all in the 203s now, where it is  
21 now will just say "Reserved", which will allow an  
22 accommodation to the Department of Energy, if  
23 they rely on these rules to allow them to  
24 function until they are able to propose their

1 rules.

2 So, and I'm happy to discuss that  
3 further, if anybody needs clarification on that.  
4 But the goal isn't to not leave the Department of  
5 Energy with the rules that they rely on.

6 So, I think that I heard, you know, the  
7 203 is a general requirement for all Commission  
8 proceedings, that includes non-adjudicative and  
9 adjudicative proceedings. And, then, the  
10 adjudicative proceedings are the 204s.

11 So, the reason there's no  
12 cross-reference, you know, the reason that the  
13 definitions in the 100s are not identical to the  
14 prior definitions is because, as going through  
15 these rulemaking proceedings, and working with  
16 the Office of Legislative Services, they're very  
17 clear that only the general provisions that are  
18 across all rule sets go into -- the definitions  
19 across all rule sets go into the 100s. That  
20 is -- that is the requirement; 100s, only  
21 definitions across all rule sets. The stuff that  
22 is in the definitions in the 200s are specific to  
23 the 200s. Just as we have definitions in the  
24 300s, and the 400s, and the 500s. That is why I



1 think the current 100s and the current 200s, all  
2 the definitions are in the 100s, and there are no  
3 definitions in the 200s. And that is not  
4 consistent with the drafting as we've been  
5 instructed.

6 And, again, many of these rules were  
7 drafted a long time ago. They're, you know,  
8 procedural rules that do not expire. So, as much  
9 as we need to update them, because our agency has  
10 changed, also, you know, the requirements and the  
11 consistency that has been required by JLCAR and  
12 Office of Legislative Services has changed. So,  
13 you know, that's some of where it was coming  
14 from.

15 But we very much appreciate the  
16 Department of Energy. And we understand that,  
17 you know, going forward there's some  
18 give-and-take. And we will do what we can to  
19 accommodate keeping those four sets of the 201s,  
20 and readopting them without amendment. So, I  
21 thank you.

22 I think we're on to Attorney Sheehan.  
23 And, then, I think, Attorney Richardson, I have a  
24 "Y", with a question mark. So, you can decide if

1           you want to be the last speaker.

2                   MR. RICHARDSON:  And I think it was a  
3           "yes", but with a question mark.

4                   PRESIDING OFCR. FULLER:  Oh.  Well,  
5           yes, a "yes" and a question mark.  So, if you  
6           would like to make a comment, you will be after  
7           Attorney Sheehan.

8                   So, Attorney Sheehan, the floor is  
9           yours.

10                   MR. SHEEHAN:  Thank you.  Mike Sheehan,  
11           I represent the two Liberty entities, EnergyNorth  
12           Natural Gas and Granite State Electric.

13                   I won't go into any details.  I would  
14           like to emphasize an overarching point, that I  
15           think you've heard from everyone so far, and that  
16           is to slow down.  These rules are incredibly  
17           important.  And it's really hard writing rules,  
18           and I can speak firsthand, and I know another --  
19           other folks in this room have been in the same  
20           position.  When you're writing rules, you're  
21           trying to anticipate how they will be applied.  
22           You're trying to put your brain into us and to  
23           all the parties, and "Does this make sense to  
24           everyone?"  And, of course, it never does.  There

1 are always disconnects. And you or the rule  
2 maker are thinking "X"; we're hearing "Y". And  
3 there's a disconnect. And the only way you can  
4 avoid that disconnect is to have a conversation.

5 So, when the rule says "We want a  
6 financial disclosure with every filing", what are  
7 you guys thinking? And, then, we can provide  
8 input to say "Oh, if that's what you mean, maybe  
9 we can define it this way." What is the  
10 Commission's thinking with the "automatic  
11 disclosures"? Most filings we make, and a rate  
12 case is a perfect example, has hundreds and  
13 hundreds of pages of information. Why don't you  
14 put that in the 1600 rules to make sure it's all  
15 there from day one?

16 So, these are the kinds of -- there has  
17 to be a conversation in order to eliminate those  
18 disconnects, if will, and unintended  
19 consequences, that happens when what sounds like  
20 now a rush. What we just heard from Attorney  
21 Fuller is you have a December deadline, which I  
22 understand is built into the rulemaking process.  
23 But, if that's rushing us, then we're going to  
24 end up with rules that don't work.

1           So, that being at a high level. And,  
2 then, again, all the nuts-and-bolts, we'll flesh  
3 that out in written comments.

4           Thank you.

5           PRESIDING OFCR. FULLER: I appreciate  
6 those comments.

7           Okay. Is there -- the last person on  
8 my list is Attorney Richardson. Did anybody come  
9 in later that would like to speak?

10           *[Indications given by show of hands.]*

11           PRESIDING OFCR. FULLER: Okay. Did you  
12 guys sign in in the back? Can somebody, I have  
13 a -- if you haven't seen me, I'm walking around  
14 here with a boot, because I have a broken foot.  
15 So, could somebody bring me the list in the back?

16           FROM THE FLOOR: It's not here.

17           PRESIDING OFCR. FULLER: There wasn't a  
18 -- okay.

19           *[Atty. Bunnemeyer bringing sign-in  
20 sheet to the back for others to sign.]*

21           PRESIDING OFCR. FULLER: All right.

22           Thank you.

23           And whoever -- I'm going to let  
24 Attorney Richardson go. And, then, whoever else

1 is going to speak can sign there, and then  
2 somebody bring that back to me.

3 MS. BROWN: Can I ask, I signed in on a  
4 sheet, and I don't know where that sheet is?

5 *[Atty. Martin-McDonough handing*  
6 *document to Presiding Officer Fuller.]*

7 PRESIDING OFCR. FULLER: Attorney  
8 Brown, it's hiding.

9 Okay. So, we'll go Attorney  
10 Richardson, Attorney Brown, and then my last two.  
11 Thank you.

12 MR. RICHARDSON: Thank you for having  
13 us here today. I'm Justin Richardson. I've been  
14 practicing utility law, environmental law, on  
15 many different sides. I've been Counsel for the  
16 Public on energy projects. I can't even remember  
17 how long I've been practicing at this point,  
18 which is really embarrassing.

19 I regularly represent these days Lakes  
20 Region Water Company. So, my bent and focus is  
21 towards how things affect small water companies.  
22 But, because of the timing, I haven't really had  
23 a chance to review my comments here today with  
24 them. So, please take these comments as mine, as

1 a utility practitioner, with the understanding  
2 that, you know, we've been doing this for a while  
3 from a variety of different perspectives.

4 I think the proposed rules are a good  
5 first step, and that's often the hardest to do in  
6 a rulemaking proceeding, where you're trying to  
7 anticipate all of these things without the  
8 benefit of comments. But I really strongly agree  
9 with the comments from everyone in the room thus  
10 far, that an additional collaborative approach is  
11 needed. It's more important to get rules done  
12 well, that are workable, than it is to get rules  
13 done quickly. And there are ways to work around  
14 it. There are deadlines. And I'm sure those can  
15 be addressed.

16 I'm going to give you some high-level  
17 comments. In preparing for this meeting, I wrote  
18 six pages of notes. I don't plan on going  
19 through all those.

20 PRESIDING OFCR. FULLER: I think my  
21 timekeeper will stop you if you go through six  
22 pages.

23 MR. RICHARDSON: No. But, so, I think  
24 I've got about five different subjects.

1           The first thing that jumped right off  
2           the page for me is is the "automatic disclosure"  
3           provision is -- it's not a good first step, I  
4           think. I don't think that the rule is needed. I  
5           think there are better ways to do it. And the  
6           rules written may result in litigation and  
7           delays.

8           One of the things that jumps out, and  
9           in listening to Attorney Taylor talk, there's a  
10          difference between an "automatic disclosure",  
11          which is a "discovery" concept, and what a  
12          "petition" should include. And, if the desire of  
13          the Commission is to get things up front, it  
14          ought to look at the rule on petitions. And, in  
15          fact, there is a Rule 203.05 [203.07?], I  
16          believe, that talks about what is in a petition.  
17          You know, it says "A clear and concise statement  
18          of the authorization or other relief sought".  
19          You know, it talks about "the facts upon which  
20          it's relied", and I think it's Rule 06, or  
21          Subsection 06. All of that's there, and that's a  
22          great place for that.

23                 Putting a discovery requirement up  
24                 front creates this quandary where, "Okay, you

1           have a duty to update your initial disclosures."  
2           What happens, for example, like in Lakes Region's  
3           rate case, where, at the request of the  
4           Department of Energy, we put in requirements for  
5           new meters, which we agreed to, which the DOE  
6           wanted. That wouldn't have been in our initial  
7           disclosure. Does that mean that we have to  
8           update our disclosures? Because discovery rules  
9           require them to be updated, it's going to cause  
10          all kinds of problems.

11                        What happens when there's a party who  
12          doesn't like a proceeding, doesn't like a  
13          proposal, and then says "Oh, wait a minute,  
14          you've done something differently through the  
15          settlement process. But you didn't disclose that  
16          in your initial disclosures. We need new  
17          discovery, we need new testimony, and we have to  
18          rebut this. It can't be considered, because you  
19          didn't follow the Commission's rules by including  
20          it in the discovery."

21                        I think there's fundamental problems  
22          that will play themselves out with that rule.  
23          And, so, I think that that could be done better.  
24          And we will follow up with written comments with



1           these concepts. They are difficult, and there's  
2           cross-references.

3                        So, I'm going to jump to the next  
4           subject. This is a small one, but it's kind of  
5           weird. There's this new definition in 202.02 of  
6           applicable law. And it includes a laundry list  
7           of almost everything under the Sun. Thinking of  
8           this from the perspective of a water utility, it  
9           would include a decision by a select board to put  
10          a pipe in their highways, which they have  
11          authority over under RSA 236:9. So, you then  
12          have a provision here in 204.08, the proposed  
13          rule, where the Commission can't approve a  
14          settlement agreement if it's inconsistent with  
15          applicable law, not capitalized. So, I'm not  
16          sure if that was intended to, throughout the  
17          rules, the applicable law wasn't determined, it  
18          wasn't capitalized, it was very unclear where it  
19          was supposed to apply.

20                       I don't think the rule is needed at  
21          all. You could just say "applicable law", and  
22          the Commission can decide, based on proposals  
23          before it, what the applicable law is, without a  
24          definition that's going to lock everyone in, and

1           then require the Commission to waive it every  
2           time someone raises an issue that's tangential,  
3           but falls within this expansive definition.

4                     My next comment relates to the rule on  
5           electronic filings, and requiring *pdfs* to be  
6           searchable. It's a great concept, but I would  
7           recommend adding words such as "wherever  
8           reasonably possible". Because there are all  
9           sorts of kind of crazy things that can happen  
10          when you use original documents that are not in a  
11          good format, that can't be converted into text.

12                    I've had instances where I download the  
13          agency rules, I don't think it was the PUC, I  
14          think it was the DES, and they're not technically  
15          searchable, because of the way that the *pdf* was  
16          produced. There can be copyright issues. There  
17          can be all sorts of crazy things that happen.  
18          And I think there needs to be some wiggle-room in  
19          that concept. Don't set it in stone, and have  
20          the front desk be rejecting filings, because  
21          every single page of all attachments weren't  
22          searchable.

23                    My fourth comment is on orders *nisi*.  
24          And I think that the Commission, over the years,

1 has drifted in its use of orders *nisi*, which I  
2 believe were intended to allow the Commission to  
3 approve, essentially, uncontested cases, where a  
4 statute required a hearing.

5 But there's many kinds of cases that  
6 don't require a hearing. For example, the  
7 statute on financing says "such hearing as the  
8 Commission may require." In other words, the  
9 Commission has the discretion to hold a hearing  
10 or not.

11 And the problem that I've run into with  
12 financing cases is we go through all this work,  
13 we recently did one where some trucks had broken  
14 down, we had to get an expedited process to go  
15 through to get them approved. We get an order  
16 *nisi*, and now we have to wait 30 days. And,  
17 heavens-forbid, you know, there's a publication  
18 requirement, even though no one has intervened.  
19 The proposed rule would require publication, and  
20 then comments from the public, which could  
21 effectively undo a financing docket.

22 Typically, for a financing proceeding,  
23 you have to say to the financing authority "There  
24 are no appeals pending." So, you're kind of --

1           you're kind of caught in an unworkable solution.

2                   And I think, in the cases where there  
3           is no hearing required, the Commission could  
4           actually just approve the proceeding. There is a  
5           rehearing process if any party wants to jump in.  
6           But the way this rule codifies orders *nisi* can be  
7           unworkable in some smaller cases, and where the  
8           Commission could just approve things without an  
9           order *nisi*.

10                   The other problem with the rule, as I  
11           alluded to, is that it includes a publication  
12           requirement, and, of course, the order *nisi* comes  
13           at the end. Typically, under RSA 541-A:32,  
14           Section I, there is a timely request to  
15           intervene, which is usually, under that statute,  
16           three days prior to a hearing, in which there is  
17           an intervention as a matter of right. However,  
18           after the date for a scheduled hearing, which is  
19           how a order *nisi* would arise, it's discretionary  
20           whether or not to allow, the statute in 541-A:32,  
21           says the Commission "may grant it".

22                   We shouldn't allow the order *nisi* rule  
23           to allow any party to come in, filing no -- or,  
24           any person coming in, who didn't intervene, at

1 the end of a proceeding and say "I don't like it,  
2 please hold a hearing", when that person may not  
3 really have rights that are, strictly speaking,  
4 they're not affected persons by a proceeding, and  
5 they're under the discretionary standard. So,  
6 the rule needs to reflect that distinction in RSA  
7 541-A:32.

8 And that's kind of a big, overarching  
9 concept. And we'll follow up with our written  
10 comments on that, so you can follow the logic in  
11 where we're coming from.

12 That's all I had. So, let's bring it  
13 back to, you know, I think this is a great first  
14 start, but let's begin a collaborative process.  
15 Let's consider some comments, and try to bring  
16 everyone into the room, as has happened in some  
17 of the other rulemaking proceedings, and come up  
18 with the best plan we can.

19 Thank you.

20 PRESIDING OFCR. FULLER: Thank you for  
21 your comments.

22 Okay. We have Attorney Brown. And,  
23 then, I am have Meredith Hatfield next.

24 MS. BROWN: Good morning. My name is

1 Marcia Brown, NH Brown Law, private practice, and  
2 I represent a number of small utilities. And  
3 also a former regulator, like many of the people  
4 that are in this room. And, so, as former  
5 regulators, I'm sure we all express our  
6 appreciation for what you are going through with  
7 this rulemaking. And we are all on the same page  
8 as far as we want an end goal of not having  
9 probably a dispute or battle before JLCAR, but  
10 all coming in with agreed to -- well, reasonably  
11 agreed-to 200 rules/100 rules that work, and  
12 appreciate the vetting.

13 I do share Office of Consumers *[sic]*  
14 Advocate about getting the due process  
15 constitutional t's crossed and i's dotted, that  
16 there should have been a Commission meeting  
17 commencing this. I'm not sure, I haven't seen  
18 any meeting minutes, and if the Commission is  
19 commencing rules or adopting rules, or formally  
20 -- the formal adoption at the end of the  
21 rulemaking, making adoptions without having a  
22 Commission meeting for that, I think we're on  
23 shaky ground. It's easy to fix with holding a  
24 Commission meeting and having that vote.

1           So, that does tie into whether we are  
2 here in a proper rulemaking or not. And, if it's  
3 not a proper rulemaking, we don't have the time  
4 rush that people are objecting to.

5           And, as far as having additional tech  
6 sessions, they're going to happen. They're  
7 either going to happen under the formal process  
8 here, or as us stakeholders getting together and  
9 sharing notes, sharing ideas.

10           I do have some heartburn with the "auto  
11 disclosure" as it's written right now. But thank  
12 you for putting that out there, and acknowledging  
13 that the goal is to get more information up  
14 front.

15           I do see that it's likely that the way  
16 that the PUC has its filings, it could pattern  
17 after the superior court, and having certain  
18 petitions with certain regular content more  
19 defined in the rules. I do agree with the  
20 comment that Justin Richardson had mentioned  
21 about there are content requirements, that really  
22 should probably be in the "Petition" section.  
23 And, so, if we're going to expand the information  
24 up front that's provided, maybe that's where we

1 target, look at the petition content, and then  
2 maybe have subparts of the types of petitions  
3 that normally come before the Commission.

4 There was a question about the legal  
5 notice, and whether legal publication is  
6 sufficient. Having represented small utilities,  
7 they usually go in with a waiver request of the  
8 legal publication requirement, because actual  
9 notice of a 35-customer system is cheaper just,  
10 you know, sending mail out, or sending emails  
11 out, because they've got all of their contact  
12 information.

13 Have I seen a drop-off in participation  
14 with forgoing legal notice publication? I mean,  
15 I think we all know that newspaper readership is  
16 down. I haven't seen any drop in participation  
17 in the cases that I've seen. So, I don't see the  
18 newspaper -- I see it as archaic, but I don't see  
19 newspaper publication as value-added to  
20 participation, because of social media, because  
21 there are other ways to get notice out.

22 And we're not the only agency here  
23 struggling with that legal notice component to  
24 the public, and what's best in this evolving, you



1 know, social media.

2 So, with that, I will be filing some  
3 comments. But those are my initial comments, not  
4 trying to be duplicative of what everyone else  
5 has said here.

6 Thank you.

7 PRESIDING OFCR. FULLER: Thank you.  
8 I'm just going to be up front and clear, that was  
9 no Commission meeting. Under 363:1, if you read  
10 363:1, there the second sentence is "The chair of  
11 the commission shall have the powers and the  
12 duties set forth in RSA 21-G:9." 21-G:9 gives  
13 exclusive rulemaking authority to the  
14 Commissioners, and, in the case, the Chair, under  
15 this section. So, the Chair is well within his  
16 right to put forth rules as statutorily allowed.

17 I understand 365:8 says "The commission  
18 shall adopt rules." That is comparable to any  
19 other legislation that allows a state agency to  
20 adopt rules. The Department of Labor statute  
21 says "The department of labor shall", you know,  
22 "adopt rules."

23 Our title of our agency is the "Public  
24 Utilities Commission". But, by statute, the

1 Chair has exclusive rulemaking authority.

2 So, I don't want anybody to think we're  
3 hiding things. I don't want anybody to think  
4 that we had, you know, a meeting without  
5 publishing. That, you know, the Chair put these  
6 rules forward as he is allowed by statute.

7 Doesn't mean that it wasn't in  
8 collaboration, you know, with the other  
9 Commissioners. But these were put forward, as  
10 the letter to the Office of Legislative Services  
11 said, by the Chair.

12 So, I thought I said that at the  
13 beginning. And I just -- I don't want anybody to  
14 think there was a meeting that we didn't  
15 advertise.

16 Okay. So, we have, yes, Meredith  
17 Hatfield. And, then, the last speaker today is  
18 going to be Chris Skoglund?

19 MR. SKOGLUND: Perfect. Yes.

20 PRESIDING OFCR. FULLER: All right.  
21 I'm doing good, and I've been, you know...

22 So, Ms. Hatfield, the floor is yours.

23 MS. HATFIELD: Thank you very much. I  
24 am Meredith Hatfield, and I'm representing The

1 Nature Conservancy in New Hampshire.

2 We only learned about this rulemaking  
3 last week. And we would respectfully request  
4 that you broaden your service list for notice of  
5 rulemakings.

6 I wanted to raise a couple things that  
7 haven't been raised, and then amplify two things  
8 that have been.

9 Wanted to agree with Attorney Taylor, I  
10 believe, who raised the issue with the "standing"  
11 definition in 202.22. We would urge the  
12 Commission to reconsider the way you have defined  
13 "standing".

14 204.08(c) states that "If a settlement  
15 is filed and is not contested by any party, the  
16 commission may consider the settlement as  
17 evidence in the proceeding." This is deeply  
18 concerning, and we would urge you to look at  
19 541-A:38, also the tradition of settlements  
20 before the Commission for decades, and also would  
21 urge you to look at 363:17-a, and the role of the  
22 Commission as arbiter.

23 We respectfully suggest that, as the  
24 Commission is charged with balancing the

1 interests of utility shareholders and ratepayers,  
2 when those groups come forward with a settlement,  
3 that the Commission should consider its role  
4 carefully. And this language saying "the  
5 Commission may consider a settlement" seems  
6 deeply problematic and inconsistent with the  
7 Commission's role.

8 Another I wanted to highlight is  
9 204.21, which relates to transcripts. And I  
10 think I'm reading this, that when -- well, it  
11 says "When the Commission desires a  
12 transcript...it shall order" one.

13 But, I think, and hopefully I'm wrong,  
14 but I think, if I look at 204.21, it looks like,  
15 going forward under these rules, just a sound  
16 recording would be made. And it would only be  
17 maintained for 60 days. And I wonder if that's  
18 consistent with record retention policies and  
19 requirements generally. Also, I don't think that  
20 works on an appeal, given the calendar of how  
21 long someone can file a motion for rehearing, how  
22 long the Commission has to issue an order on that  
23 motion, and then how long a party has to appeal  
24 the Commission's decision.

1           And I would just note, if anyone in  
2           this room, anyone else has ever gone to a  
3           recording and tried to create a paper record that  
4           you could then submit to a tribunal, it can be  
5           nearly impossible, and there can be silences in a  
6           recording.

7           So, I would strongly urge the  
8           Commission to continue with a transcript of every  
9           proceeding. It's absolutely critical, especially  
10          for appeals.

11          And, then, lastly, or two things, I  
12          agree wholeheartedly "slow down", this is going  
13          way too fast. And I would agree with Attorney  
14          Brown, we can either do this in this room, or we  
15          can do it at JLCAR. And, if we do this at JLCAR,  
16          then we will have to redo the entire process.

17          And I think that the number and the  
18          substance of the comments you've received today,  
19          I would respectfully suggest that it merits  
20          slowing down.

21                    Thank you.

22                    PRESIDING OFCR. FULLER: Thank you for  
23                    your comments.

24                    Just with regard to the sound

1 recording, the 60 days is -- I'm going to look  
2 back, and I think the intention is probably after  
3 the last appeal. So, we'll look at that.

4 Just -- so, the purpose of, you know,  
5 an explanation of "Well, why does it say "sound  
6 recording" and why doesn't it say  
7 "stenographer"?" For the very real fact that the  
8 requirement under 541-A is a sound recording.  
9 That is the requirement on agency hearings.

10 And, although we have loved having our  
11 stenographer present, at some point we will not  
12 be able to get a stenographer in the room. So,  
13 we, I mean, we just will not be able to have a  
14 stenographer present in our room.

15 We are diligently working on all types  
16 of recording devices, and looking at how courts  
17 do it. And trying to figure out, what does it  
18 look like, once our wonderful, wonderful,  
19 wonderful stenographer decides to retire? And  
20 we're working on that.

21 So, our goal is to have a rule set that  
22 is as required by law, and can function. But the  
23 art of having stenography in a room just isn't  
24 going to be there. But we are working on that.

1           We also prefer transcripts. I mean,  
2           we also very much prefer having a transcript.  
3           So, --

4           MR. MARTIN-McDONOUGH: Excuse me. Do  
5           you have any ideas about how it would be the best  
6           way to notify groups, such as yours, outside of  
7           posting on our website, or sounds like, you know,  
8           not newspapers, but what would be the best way to  
9           notify other groups of our dockets?

10          MS. HATFIELD: Thank you for the  
11          question.

12          I have found myself somehow on several  
13          lists that DOE keeps. So, they have, for  
14          example, just stakeholder lists, that they, I  
15          believe, that their staff has curated. For  
16          example, groups that might be interested in  
17          energy efficiency or renewable energy, or, you  
18          know, consumer issues.

19          So, I think, you know, given that the  
20          Commission is more of a court, and may not  
21          develop stakeholder lists, it might be a place  
22          where you could collaborate with DOE and ask  
23          them, because I receive regular emails from them,  
24          just sort of sharing information. So, that that

1           potentially is one avenue, that you could ask a  
2           sister agency to assist.

3                     And, then, in other -- at other times I  
4           have received email correspondence from the  
5           Commission, I think, based on having been a  
6           party, and been on a service list. I know that  
7           that could be quite cumbersome. You know, I  
8           wouldn't expect you to go through every service  
9           list.

10                    So, those are just a couple of  
11           thoughts. But I appreciate the question.

12                    PRESIDING OFCR. FULLER: I think we do  
13           keep a service list for rulemaking. So, if  
14           you and any party wants to be informed of all of  
15           our rulemaking processes, you can absolutely send  
16           an email -- or, a letter, excuse me, to the  
17           Clerks asking to be added to that service list.  
18           I will tell you you're going to get all of our  
19           rules. So, I think that's probably the only mass  
20           service list that we do keep.

21                    MR. MARTIN-McDONOUGH: I think -- I'm  
22           sorry, did you have a comment?

23                    MS. TOMBARELLO: No, and I did sign in,  
24           and said I wasn't going to speak. But it's



1           pertaining to this particular inquiry.

2                       Heidi Tombarello, from the Hampstead  
3           Area Water Company, a small water company in  
4           southern New Hampshire.

5                       And I know that I was left off the  
6           service list here for the rulemaking. Was  
7           thankfully told by a fellow colleague to jump on  
8           it.

9                       But a suggestion that I would give is  
10          that we had just finished a docket of our Step 2  
11          of a rate case. And I was the lead attorney  
12          listed there. And, for whatever reason, there  
13          was a disconnect that, you know, you guys are  
14          taking on the 100/200 rules pertaining to small  
15          water companies, and all water companies,  
16          frankly. And you guys need to, you know, check,  
17          check the water companies that are active to pull  
18          from the service lists as well.

19                      So, I'm just wondering how many other  
20          people still don't know about this, and would  
21          like to have been at this table.

22                      PRESIDING OFCR. FULLER: Attorney  
23          Taylor, I saw your hand?

24                      MR. TAYLOR: Yes. No, and I realize

1 I'm going out of turn here. And I'm going to  
2 confess that I guess maybe I didn't pay as close  
3 attention as I ought to have to the section on  
4 transcripts and sound recordings.

5 But am I to understand, and I don't  
6 have the rule in front of me, that a sound  
7 recording would be kept, say, of a hearing, but  
8 no transcript would be made?

9 PRESIDING OFCR. FULLER: I do not  
10 envision, and, again, this is -- our rule was  
11 done to match the requirements in 541-A. So, if  
12 you look at the requirements for recordkeeping of  
13 rules in 541-A, I don't have it in front of me,  
14 it talks about a "sound recording". I do not  
15 envision that there would not be a time where the  
16 Commission would not ask for a transcript. I do  
17 envision that that is going to come from some  
18 type of audio in the room, because we are not  
19 going to be able to have a stenographer.

20 It is impossible to replace our  
21 wonderful stenographer when he retires. There is  
22 not a person who -- I think it went out on an RFP  
23 a number of years ago, trying to see if we could  
24 do that. At some point, our stenographer will

1 retire. And, then, we are going to have to come  
2 up with "how do we make a transcript?"

3 The Commission is looking at every  
4 possible way you think of to have that done. So,  
5 it doesn't come strictly from, you know, an  
6 old-school tape deck, because that doesn't work,  
7 and those are not good.

8 So, with that being said, it's going to  
9 look a little different. So, I believe the rule  
10 says "When desired, there will be a transcript."  
11 And we can work on that. Obviously, I don't  
12 envision that there wouldn't be a need for a  
13 transcript in most hearings, right?

14 I could envision, in a rulemaking  
15 proceeding, where it is a non-contested issue,  
16 not like this rule, but if I'm, you know, as  
17 I'm -- if I'm bringing rules forward, essentially  
18 readopting a current rule set that works  
19 perfectly, often nobody shows up. So, in that  
20 case, the Commission is not going to pay for a  
21 transcript of nothing. Literally, it would be  
22 paying for a transcript of whoever is holding  
23 that rule, opening the proceeding, closing the  
24 proceeding. That is -- that, you know, because

1 as we pass these rules, we have to envision that  
2 they have to hold true to all of the proceedings  
3 and all of the types. So, in that type of case,  
4 there should be no requirement on the Commission  
5 to have a written transcript. It is not required  
6 by 541-A.

7 However, in 99 percent of everything  
8 else that we do, the Commission will desire a  
9 transcript. So, in those circumstances, we are  
10 trying to come up with the best possible solution  
11 to have that be done in a way that is  
12 comprehensive, with upgraded video and hearing  
13 equipment. Those types of solutions are going  
14 through right now. And we're trying to figure  
15 out how we can do that to come up with a good  
16 transcript.

17 It's important for everybody in this  
18 room to understand that the fact that there won't  
19 be a stenographer in front of us is not because  
20 we don't want one. It's a lost art, and there  
21 are not stenographers that are willing to do the  
22 work.

23 We are very, very lucky that we've  
24 had our stenographer for as long as we've had

1 him.

2 MR. TAYLOR: So, and I guess, I don't  
3 mean to jump in front of Justin, but my only  
4 suggestion would be is that, when the rule is  
5 written, my concern would be that it's  
6 discretionary that there be a transcript on the  
7 part of the Commission. And I understand the  
8 Commission would desire it 99 percent of the  
9 time. But it is an essential tool, I think, for  
10 the parties, particularly when there's briefing  
11 involved. And it's essential that there be one  
12 official record of what was actually said, so  
13 there's no dispute over what somebody might have  
14 heard on a sound recording.

15 And I guess the only other thing I  
16 would say is, when you are looking at it, and I'm  
17 sure that there are softwares and things out  
18 there, I do practice in several other  
19 justifications, and I won't particularly call out  
20 the jurisdiction that I'm mentioning here. But  
21 there was an instance where I participated in a  
22 conference, a sound recording was made, and then  
23 the transcript was issued sometime thereafter, I  
24 think it was just automatically generated. It

1 was unintelligible. It had no evidentiary value  
2 whatsoever.

3 And, so, just something to be mindful  
4 of when you're doing it.

5 PRESIDING OFCR. FULLER: Yes. We're  
6 very mindful of it. And it's -- I'm not on the  
7 committee. There are people that are working on  
8 this that have much more experience than I do,  
9 making sure that the sound recording is  
10 transcribable. Because I also worked for a state  
11 agency that used to have sound recordings that  
12 weren't transcribable.

13 Yes. Attorney Richardson.

14 MR. RICHARDSON: Yes. Thank you. Like  
15 Attorney Taylor, I missed this rule and glossed  
16 over it when I was reviewing the long list.

17 There is some ambiguity in 204.21 that  
18 I think should be resolved, because the  
19 Commission, I think, would want it to be clear.  
20 Where it says that "the transcript [sic] shall be  
21 maintained for a period of 60 days following the  
22 order or ruling by the commission on the issues  
23 presented." That, to me, sounds like "final  
24 order on the merits", and it should state that,

1 and maybe even include the later of the final  
2 order on the merits, or on rehearing.

3 The reason is is that, obviously, you  
4 don't want to have, I've been involved in -- I'll  
5 cite the Nashua case, for example, we probably  
6 had five hearings throughout the course of the  
7 proceeding over many years, and then it followed  
8 by, you know, a 15-day trial.

9 Some of the earlier hearings resolved  
10 issues. But you don't appeal until you get the  
11 final order. And, then, I think the 541-A, the  
12 provision that you're referring to, contemplates  
13 that the recording will be maintained until the  
14 end of the proceeding. A party may want to  
15 appeal, and the Commission may want to have its  
16 own attorney at the Attorney General's Office to  
17 defend the case.

18 So, you really ought to have a rule  
19 that says that "the recording is maintained until  
20 the matter is closed and final, and not subject  
21 to appeal."

22 PRESIDING OFCR. FULLER: I very much  
23 appreciate those comments. I mean, I appreciate  
24 all your comments. But those are, you know, I

1 think, obviously, as you write these things, you  
2 know, we think it means one thing, and maybe we  
3 left out a word.

4 MR. RICHARDSON: If you have a second  
5 for a funny aside, I tried a case in front of the  
6 Wetlands Council. And it was a two-day hearing.  
7 After the trial was concluded, closing arguments  
8 were made, the clerk called me and said that "The  
9 recording malfunctioned on the second day." And  
10 they asked if the parties could come back and do  
11 the second day over again.

12 Which raises an interesting question,  
13 what if a witness changes their answer, in  
14 response to what they said in the unrecorded  
15 session?

16 In that case, we ended up agreeing and  
17 stipulating that any alleged issues of testimony  
18 would be raised in a motion for rehearing, if it  
19 was misconstrued in the deliberations.

20 It's quite a mess, that requirement to  
21 hold a -- to have a recording that, basically, is  
22 impossible. And the Supreme Court says it's  
23 worthless. If you don't give them a transcript,  
24 they won't consider any issues of facts or



1 findings, other than the legal ones.

2 PRESIDING OFCR. FULLER: No, I  
3 appreciate the flaws of sound recordings, believe  
4 me.

5 Okay. Our last speaker is  
6 Mr. Skoglund. And unless -- is there anybody  
7 else in the room that I haven't called?

8 *[No indication given.]*

9 PRESIDING OFCR. FULLER: Okay.  
10 Mr. Skoglund.

11 MR. SKOGLUND: All right. Thank you.  
12 And congratulations on getting my last name  
13 correct. It's not easily done.

14 So, Chris Skoglund, with Clean Energy  
15 New Hampshire. Just noting, and I'll undercut  
16 anything that I say, I'm the only probably  
17 non-attorney that is making remarks today. Clean  
18 Energy New Hampshire is a nonprofit representing  
19 municipalities, all three regulated utilities are  
20 our members, and then, you know, dozens of  
21 businesses are also our members. So, we  
22 literally represent the entire state, in terms of  
23 broad interest relating to the clean energy  
24 transition.

1           I've been participating in dockets for  
2           about the past ten years. And my role is to  
3           usually ask questions that maybe the other people  
4           don't see, because we work for a nonprofit, we  
5           are also non-lawyers.

6           So, I do note, and agree, that there  
7           are things that need to be changed. The PUC/DOE  
8           split just had its third birthday the beginning  
9           of July. And, so, there are things in the rules  
10          that very much need to be cleaned up because they  
11          are artifacts of previous cases. But, because of  
12          that split, I also think that the current PUC,  
13          its configuration of Commissioners, because of  
14          the changes that the Commissioners underwent, we  
15          saw, you know, an unprecedented change on the  
16          Bench. Rather than them terming out, we had  
17          actually all three Commissioners appointed in  
18          very short order, big staff changes, as many  
19          longtime lawyers went to the Department of  
20          Energy, and kind of, for lack of a better term, a  
21          "hollowing out" of PUC staff.

22                 It seems that a lot of the  
23                 institutional knowledge may have been  
24                 transferred, at a time where now the rules need

1 to be updated. And this process does not seem to  
2 have a speed that is coherent -- not "coherent",  
3 but makes sense for that level of change.

4 There's a lot of stakeholders that have  
5 engaged with the PUC, you know, twenty years,  
6 former PUC commissioners that may have an  
7 interest in this. And this rulemaking is also  
8 coming up during the summer. There's a lot of  
9 people that I see not in this room that aren't  
10 able to make today's meeting. We are hearing  
11 that some people didn't even hear about it until  
12 last week. That was one of the things that my  
13 organization was doing, was making sure that  
14 people had heard about it and were aware of it.  
15 We didn't necessarily have a stake, in terms  
16 of -- or, an interest in commenting on the  
17 particular changes. We just wanted to make sure  
18 that there were people that were participating in  
19 the process.

20 So, we think that, especially because  
21 it's summer, many people are recovering from the  
22 legislative session that just ended. There are  
23 people that are not able to put time and  
24 attention into this, within this moment, much

1 less the time scale that you've given. So, we  
2 would echo the comments to extend this  
3 considerably.

4 We also note, from our participation in  
5 numerous dockets, that the current PUC  
6 Commissioners, including the Chair, have shown an  
7 interest in engaging in PUC dockets in a way that  
8 is very much kind of like "well, we need to get  
9 involved." But what makes it unique is they're  
10 not here today. And, so, they seem to want to be  
11 more engaged, and not just kind of the  
12 "arbiters", as I think one person referred to it  
13 earlier, they want to be more participatory, but  
14 yet they're not here today to be part of this  
15 exchange and this discussion.

16 And, so, we would very much encourage  
17 the process being extended, have them be  
18 participating, and allow for that exchange, so  
19 that we can understand why they might be  
20 proposing certain changes. And, then, you know,  
21 experienced individuals can comment on why things  
22 were done in the past, and then maybe find  
23 agreement on "Is there a middle ground on how  
24 things should be changed?"

1           I also think that this could be looked  
2           at in a larger context. We have a legislative  
3           session that is coming up, and we have a new  
4           budget that is going to be proposed. And, in the  
5           2021 budget, it's my read of the situation that  
6           the formation of the Department of Energy, from  
7           the PUC, did not get quite as many hearings as it  
8           could have. And, therefore, there may be room  
9           for more PUC staff to be put into the budget and  
10          hired, and that may address some of the issues  
11          that need to be, like, the call for 15 days for a  
12          settlement to be provided, exhibits to be labeled  
13          and submitted. More staff may be able to kind of  
14          backfill what the PUC Commissioners are feeling  
15          is pressure for them to get more done with less.  
16          Do more staff kind of provide that capacity that  
17          the stakeholders can't necessarily meet by  
18          getting stuff done faster?

19                 So, might there be changes that could  
20                 be done in rules, but there are also changes that  
21                 could be done in the budget and in other  
22                 legislative cleanup, so that it's not just  
23                 everything is done in rules.

24                 I'll end there. Thank you very much.

1                   PRESIDING OFCR. FULLER: Thank you.

2                   All right. I think we've heard from  
3 everybody today. I've said this going forward  
4 all day, I appreciate everybody coming in today.  
5 These are a significant change. We understand  
6 that these are a significant change. And we  
7 appreciate these initial comments.

8                   Going forward, I will tell you that the  
9 initial comment period, written comments, has  
10 been extended to August 26th. If there's going  
11 to be an additional process and procedure, those  
12 will be outlined in a procedural order that will  
13 come out probably in the next couple weeks. So,  
14 I don't have an answer to that question as of  
15 right now. But we will address any additional  
16 process and procedure in a procedural order in  
17 the next couple weeks.

18                   As you're submitting your written  
19 comments, our Clerks Office has asked that, if  
20 possible, and I certainly don't need the Office  
21 of the Consumer Advocate, we just put -- what we  
22 did was we put that comment, which was combined,  
23 in both the 100s and the 200 docket. But, if  
24 possible, if you could submit your comments for

1 the 100s separately, I don't need two cover  
2 letters, but the 100s separately and the 200s  
3 separately, because they are separate dockets,  
4 and then they can be put into those dockets  
5 together. If not, just know that your comments  
6 for the 100s and 200s will go into both, into  
7 both dockets.

8 You know, there's a rulemaking email  
9 address that was published in the Rulemaking  
10 Register. You can also just email your comments  
11 to our Clerks Office also, as you would any  
12 normal pleading, they will go into your dockets.

13 I think that is it. Let me just check  
14 with my colleagues to make sure I haven't missed  
15 anything.

16 MR. FOSSUM: And I have a question  
17 before we close.

18 PRESIDING OFCR. FULLER: Okay.

19 MR. FOSSUM: Oh. Again, Matthew  
20 Fossum, from the Office of Consumer Advocate.

21 I'm curious to understand, because if  
22 it was said, I missed it, but I don't understand,  
23 that there has been essentially a universal  
24 request for additional time and process. And, as

1 I understand it right now, there's been 30 days  
2 added to the written comment deadline, but  
3 nothing further. And there seems to be  
4 significant resistance to extending it because of  
5 some deadline that sounds like it's in December.  
6 I don't understand what that deadline is, or why  
7 we're working toward it, and why that can't be  
8 extended?

9 I don't see any magic about December.  
10 And I would very much like to understand what the  
11 thinking is there that's compelling that  
12 schedule?

13 PRESIDING OFCR. FULLER: Okay. So, the  
14 deadline is a deadline that is set by RSA  
15 541-A:12. You have 180 days, from the date that  
16 the notice is published in the OLS Register to  
17 submit your final proposal. So that is a -- it's  
18 a date set in the statute.

19 Doesn't mean -- you know, there's no  
20 hard resistance to anything. You know, the  
21 purposes of today is to take comments. I will  
22 tell you that it is the intention to move forward  
23 with these rules. It is the intention to change  
24 our Organizational and Procedural rules.



1           Any additional, you know, written  
2           comments, any additional hearings, you know,  
3           those are going to be discussed with the Chair.  
4           And, you know, in his rulemaking authority, he  
5           can determine, you know, certainly, I'm going to  
6           express the desire of my public commenters today  
7           to have a more collaborative approach, going back  
8           and forth.

9           So -- but that is, you know, we are not  
10          going to withdraw these rules, and the 180 days  
11          is set in statute. So, that's the answer to that  
12          question. That's where it comes from. It comes  
13          from the statute.

14          MR. FOSSUM: Well, I guess, on that  
15          question then, it comes from the statute only  
16          because it's the choice to file them. And they  
17          can be withdrawn, but I'm hearing they won't be.  
18          And I'd appreciate understanding why not?

19          PRESIDING OFCR. FULLER: They're not  
20          going to be withdrawn, because the Public  
21          Utilities Commission thinks it's very important  
22          to update our rules of Organization, our rules of  
23          Procedure. We've been split from the Department  
24          of Energy for three years.

1           And, so, there is an understanding that  
2           a statute may say "five years". But I will tell  
3           you that the goal is to update our rules of  
4           Procedure and our rules of Organization in the  
5           timeframe we've put forward.

6           So, whether you agree or you don't  
7           agree, you know, everybody has their own opinions  
8           on those things. But, you know, we were asked to  
9           withdraw them, we are not going to withdraw them.

10          Okay. I appreciate everybody coming in  
11          today. This was a very helpful session for us.  
12          And I know that it's the summer, I know everybody  
13          is on vacation. So, I appreciate everybody's  
14          time today.

15          Thank you. We're adjourned.

16                 ***(Whereupon the public comment hearing***  
17                 ***was adjourned at 10:35 a.m.)***