

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

May 6, 2010 - 10:11 a.m.
Concord, New Hampshire

NHPUC MAY12'10 PM 1:23

RE: DG 10-017
ENERGYNORTH NATURAL GAS d/b/a
NATIONAL GRID NH:
Notice of Intent to File Rate Schedules.
(Hearing regarding temporary rates)

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

APPEARANCES: Reptg. EnergyNorth Natural Gas d/b/a
National Grid NH:
Steven V. Camerino, Esq. (McLane, Graf...)
Patrick H. Taylor, Esq. (McLane, Graf...)
Celia O'Brien, Esq.

Reptg. Residential Ratepayers:
Rorie Hollenberg, Esq.
Meredith Hatfield, Esq., Consumer Advocate
Kenneth E. Traum, Assistant Consumer Advocate
Stephen Eckberg
Office of Consumer Advocate

Reptg. PUC Staff:
Matthew J. Fossum, Esq.

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

ORIGINAL

I N D E X

PAGE NO.

WITNESS PANEL: ANN LEARY
 FRANK LOMBARDO
 STEPHEN FRINK

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P R O C E E D I N G

CHAIRMAN GETZ: Okay. Good morning, everyone. We'll open the hearing in docket DG 10-017. On February 26, 2010, National Grid made a delivery rate filing requesting permission to implement new permanent delivery rates for natural gas service and to implement temporary delivery rates effective with service on and after June 1, 2010. On March 10, we issued an order suspending the proposed tariffs and scheduling a prehearing conference. Subsequent to the prehearing conference on April 8, a secretarial letter was issued approving motions to intervene and setting forth a procedural schedule, including a hearing on temporary rates for this morning.

We have a Settlement Agreement that was filed on April 23rd between the Company and Staff. And, I also note that there are two documents with respect to a Motion for Confidential Treatment concerning officer and director compensation filed on April 23 by the Company and May 3rd by the Office of Consumer Advocate. To the extent that there is anyone who wants to address further the issue of confidential treatment, then you'll have the opportunity to do that in closing statements.

So, let's take appearances please.

1 MR. CAMERINO: Good morning, Mr.
2 Chairman and Commissioners. Steve Camerino and Patrick
3 Taylor, from McLane, Graf, Raulerson & Middleton, on
4 behalf of National Grid NH. And, also with us is Celia
5 O'Brien, Assistant General Counsel of National Grid.

6 CHAIRMAN GETZ: Good morning.

7 MS. HOLLENBERG: Good morning,
8 Commissioners. Rorie Hollenberg, here on behalf of the
9 Office of Consumer Advocate. And, with me today is
10 Meredith Hatfield, Kenneth Traum, and Stephen Eckberg.

11 CHAIRMAN GETZ: Good morning.

12 MR. FOSSUM: And, good morning. Matthew
13 Fossum, from the Staff of the Commission. And, with me
14 today is Stephen Frink, from Commission Staff.

15 CHAIRMAN GETZ: Good morning. Is there
16 anything that we need to address before the Company
17 proceeds with its witnesses?

18 (No verbal response)

19 CHAIRMAN GETZ: Hearing nothing, then,
20 Mr. Camerino.

21 MR. CAMERINO: Thank you. The Company
22 calls Frank Lombardo and Ann Leary. And, it's my
23 understanding that Mr. Frink, as a witness for the Staff,
24 is going to also appear with them as a panel.

1 CHAIRMAN GETZ: Okay. Please proceed.
2 (Whereupon *Ann Leary*, *Frank Lombardo* and
3 *Stephen Frink* were duly sworn and
4 cautioned by the Court Reporter.)

5 MR. FOSSUM: Mr. Camerino and I have
6 worked out that I'll just be introducing Mr. Frink for the
7 record, but I have no direct exam for him. This will be
8 just to make him available for cross-examination as is
9 necessary.

10 ANN LEARY, SWORN

11 FRANK LOMBARDO, SWORN

12 STEPHEN FRINK, SWORN

13 DIRECT EXAMINATION

14 BY MR. FOSSUM:

15 Q. So, Mr. Frink, for the record, could you state your
16 name and business address please.

17 A. (Frink) My name is Stephen Frink. And, my business is
18 address is New Hampshire Public Utilities Commission,
19 at 21 South Fruit Street.

20 Q. And, you're employed by the Commission?

21 A. (Frink) Yes, I am.

22 Q. And in what capacity?

23 A. (Frink) I am the Assistant Director of the Gas and
24 Water Division.

1 Q. And, very briefly, what are your responsibilities in
2 that position?

3 A. (Frink) I am involved in regulating the natural gas
4 utilities.

5 MR. FOSSUM: Thank you. He is now
6 available for any cross-examination.

7 CHAIRMAN GETZ: Thank you.

8 MR. CAMERINO: Thank you, Mr. Chairman.
9 And, before I begin with Ms. Leary and Mr. Lombardo, if I
10 could, I thought I would mark all of the exhibits that
11 we're going to be referring to for identification. And,
12 for completeness of the record, it was also my intention
13 to mark the testimony and schedules from the initial
14 filing for identification. So, what I plan to do is just
15 read each of these into the record.

16 CHAIRMAN GETZ: Please.

17 MR. CAMERINO: So, the first item will
18 be the "Settlement Agreement - Temporary Rates", dated
19 April 23rd, 2010, with Attachment A to that, which was
20 actually filed on a later date. And, because that was
21 submitted as two separate documents, but we're going to
22 mark it as Exhibit -- whatever the first number is. Are
23 we starting with 1, because we don't have any yet?

24 MS. DENO: One.

1 MR. CAMERINO: I wanted to give a new
2 copy of that to the Clerk.

3 CHAIRMAN GETZ: Thank you. So, that's
4 the exhibit combining the filing from April 23 and
5 April 29?

6 MR. CAMERINO: That's correct.

7 CHAIRMAN GETZ: That will be marked for
8 identification is "Exhibit Number 1".

9 MR. CAMERINO: And, I have additional
10 copies of that, if the Bench would like them?

11 CHAIRMAN GETZ: Well, if you have them
12 combined, then let's get copies. Thank you.

13 (The document, as described, was
14 herewith marked as **Exhibit 1** for
15 identification.)

16 MR. CAMERINO: The second exhibit is a
17 copy of a letter dated May 5, from myself to Debra
18 Howland, indicating a correction to the wording of that or
19 an inconsistency in the wording of that Settlement with
20 the attachment. And, we thought it was best to make that
21 an exhibit. So, that will be Exhibit 2.

22 CHAIRMAN GETZ: So marked.

23 (The document, as described, was
24 herewith marked as **Exhibit 2** for

1 identification.)

2 MR. CAMERINO: And, so everybody has a
3 copy of the exhibit --

4 (Atty. Camerino distributing documents.)

5 MS. HOLLENBERG: Thank you.

6 MR. CAMERINO: The third exhibit is the
7 Direct Testimony of Frank Lombardo and Ann E. Leary
8 regarding the temporary rates, which was filed with the
9 initial case on February 26, 2010.

10 CHAIRMAN GETZ: That will be marked for
11 identification as "Exhibit Number 3".

12 (The document, as described, was
13 herewith marked as **Exhibit 3** for
14 identification.)

15 MR. CAMERINO: The Exhibit 4 is a
16 document entitled "National Grid NH Rate Design Filing
17 Report of Proposed Rate Changes". And, this document is
18 simply -- is the same as the attachment to the Lombardo
19 and Leary testimony that I just provided, but revised to
20 show the effects of the \$5 million settlement, rather than
21 what was initially filed by the Company.

22 CHAIRMAN GETZ: Okay. Thank you. That
23 will be marked for identification as "Exhibit Number 4".

24 (The document, as described, was

1 herewith marked as **Exhibit 4** for
2 identification.)

3 MR. CAMERINO: The next document is the
4 notice that was sent to customers of the filing of the
5 rate case, which was required in the Commission's Order of
6 Notice. And, at the procedural hearing, Commissioner
7 Below had requested that a copy of this be provided to the
8 Commission.

9 CHAIRMAN GETZ: Okay. That will be
10 marked for identification as "Exhibit Number 5".

11 (The document, as described, was
12 herewith marked as **Exhibit 5** for
13 identification.)

14 MR. CAMERINO: And, then, finally,
15 there's a series of exhibits, which are testimony from the
16 initial filing by the Company. And, just for purposes of
17 explanation, I will say all of these materials are
18 contained in Volumes 1A and 1B of the filing. But, for
19 ease of reference, when we get to the final hearing on the
20 merits, we felt it would be best to mark each witness's
21 testimony with a separate exhibit number. And, so, we'll
22 provide these as separate documents to the Clerk. I'm
23 just going to read them into the record. And, I believe
24 we're beginning with Exhibit 6?

1 CHAIRMAN GETZ: Yes.

2 MR. CAMERINO: Okay. So, Exhibit 6 will
3 be the Testimony of Nickolas Stavropoulos. Exhibit 7 is
4 the Testimony of Susan F. Tierney. Exhibit 8 is the
5 Testimony of Frank Lombardo and Michael J. Adams. Exhibit
6 9 is the Testimony of Susan L. Fleck. Exhibit 10 is the
7 Testimony of Robert V. Hevert. Exhibit 11 is the
8 Testimony of Tracey McCarthy. Exhibit 12 is the Testimony
9 of Mark Hirshey. Exhibit 13 is the Testimony of Kevin
10 Spottiswood. Exhibit 14 is the Testimony of Ann E. Leary.
11 Exhibit 15 is the Testimony of Paul M. Normand. And, I
12 just need to check for one second, because I know there
13 was a second filing. Exhibit 16 would be the Testimony of
14 Paul M. Normand regarding cash working capital and
15 Lead/Lag study, which actually came in in late April.
16 And, Exhibit 17 would be the supporting schedules and
17 exhibits, in accordance with Puc 1604.07 and Puc 1604.08.
18 And, again, just for clarity, those are the ones that are
19 listed in the table of contents under Volume 1B, Item
20 11(a) through (d).

21 CHAIRMAN GETZ: Okay. So, the
22 Exhibits 6 and on will be marked for identification as
23 described by Mr. Camerino.

24 (The documents, as described, were

1 herewith marked as **Exhibit 6** through
2 **Exhibit 17**, respectively, for
3 identification.)

4 CHAIRMAN GETZ: But there's no intention
5 to deal with any of those exhibits today?

6 MR. CAMERINO: None.

7 CHAIRMAN GETZ: Thank you.

8 MR. CAMERINO: Thank you.

9 BY MR. CAMERINO:

10 Q. All right. Mr. Lombardo, let me begin with you. Would
11 you state your name and business address for the record
12 please.

13 A. (Lombardo) Frank Lombardo. Business address One
14 MetroTech Center, Brooklyn, New York 11201.

15 Q. And, what is your position with National Grid and what
16 are your responsibilities in that regard?

17 A. (Lombardo) Position is Director of Revenue Requirement
18 -- Gas Revenue Requirements. Brief summary: Preparing
19 the revenue requirements associated with the U.S. gas
20 businesses.

21 Q. And, what are your responsibilities with regard to this
22 rate case filing by National Grid NH?

23 A. (Lombardo) We prepared the full revenue requirement in
24 support of the permanent rate filing.

1 Q. Thank you. Ms. Leary, what is your name and business
2 address?

3 A. (Leary) My name is Ann Leary. My business address is
4 40 Sylvan Road, Waltham, Mass. 02451.

5 Q. What's your position with National Grid and what are
6 your responsibilities in that regard?

7 A. (Leary) I am Manager of Gas Pricing for Massachusetts
8 and New Hampshire. And, I am responsible for the
9 various regulatory filings made in both of those
10 jurisdictions.

11 Q. And, with regard to this proceeding and the issues here
12 today, what were your -- what was your involvement and
13 what are your responsibilities?

14 A. (Leary) My responsibilities were to present the bill
15 impacts that were resulting from the \$5 million
16 temporary rate increase.

17 Q. And, you were -- you filed prefiled joint testimony
18 with Mr. Lombardo with regard to temporary rates. Is
19 that testimony true and correct to the best of your
20 knowledge and belief?

21 A. (Leary) Yes, it is.

22 Q. And, Mr. Lombardo, the same question for you.

23 A. (Lombardo) Yes, it is.

24 Q. Okay. And, also, Mr. Lombardo, you've filed written

1 testimony with regard to the Company's permanent rate
2 case, is that correct?

3 A. (Lombardo) Yes.

4 Q. And, you make some reference to the rate relief in that
5 testimony when you calculated the Company's proposed
6 temporary rate relief. Do you recall that?

7 A. (Lombardo) Yes, I do.

8 Q. And, so, I want to ask you whether your permanent rate
9 case testimony is true and correct to the best of your
10 knowledge and belief?

11 A. (Lombardo) Yes, it is.

12 Q. And, do either of you have any corrections to make to
13 either testimony at this time?

14 A. (Lombardo) No, I don't.

15 A. (Leary) No, I do not.

16 Q. Thank you. Mr. Lombardo, I would like to begin with
17 you. Would you summarize for the Commission what the
18 Company's initial temporary rate request was and how
19 you arrived at that figure?

20 A. (Lombardo) Okay. So, the initial request was for a
21 total of 5.7 -- approximately 5.7 million, which was
22 based off of the Company's proposed rate filing, full
23 rate filing. We used a historical test year of June
24 -- 12 months ended June 2007 to calculate a full rate

1 base of approximately \$169 million. We recorded or we
2 filed for a 9.09 percent -- a proposed 9.09 percent
3 rate of return, which was calculated based on a 50/50
4 debt/equity structure. Applied that 9.09 to the rate
5 base to come up with a revenue deficiency, when
6 compared to the 12 months ended June '07 income, of
7 about -- of \$11.4 million.

8 Q. And, let me just interrupt you there. You referred a
9 couple times to a test year of "June 2007". And, I'd
10 ask you to either take a look at the testimony or
11 confer with Ms. Leary, just to see if you want to
12 adjust that. The time period that we used -- that was
13 used by the Company as a test year?

14 A. (Lombardo) Oh, my apologies. Twelve -- June 2009.

15 Q. Okay.

16 A. (Lombardo) It was 12 months ended June 2009.

17 Q. Okay. And, so, you said, using the June 2009 test
18 year, you came up with a revenue deficiency of
19 approximately \$11.4 million?

20 A. (Lombardo) Yes, that's correct.

21 Q. And, then, how did the Company derive the proposed
22 temporary rate increase?

23 A. (Lombardo) The Company took 50 percent of that
24 permanent rate increase, in accordance with normal

1 Commission practice that we had found based on prior
2 cases. So, taking 50 percent of the 11.4 million
3 resulted in the approximate \$5.7 million.

4 Q. Now, the Company is here today asking for an amount
5 that's less than that, is that correct?

6 A. (Lombardo) That is correct.

7 Q. Okay. Could you explain the basis for that amount, and
8 just briefly describe the Settlement Agreement that the
9 Company has reached with the Staff regarding temporary
10 rates.

11 A. (Lombardo) Okay. So, the parties came together at a
12 technical conference on April 8th. We utilized the
13 recently filed annual PUC reports to come up with a
14 rate base, upon which we applied the authorized rate of
15 return of 8.28 percent to calculate a revenue
16 deficiency. We applied the current, out of the annual
17 report that was filed, we applied the weather
18 normalized net income to come up with a revenue
19 deficiency of approximately \$8.4 million. The Company
20 had proposed 5.7 million. The 8.3 million resulted in
21 achieving the 8.28 percent authorized ROE. All parties
22 agreed to an amount of \$5 million, which resulted in
23 the Company earning 7.04 percent, below its authorized
24 ROE. All parties agreed that this level would bridge

1 the gap between the Company -- the Company's current
2 under earning, which, based on the historical test
3 year, is in the 3 percent range. The \$5 million would
4 bridge that gap and allow all parties then go forward
5 and look at the permanent rate filing and all issues
6 associated with the permanent rate filing, so that
7 there is a gradual increase for all customers to
8 whatever is finally decided.

9 Q. So, let me ask you a couple of clarifying questions.

10 First of all, when you say "all parties", are you
11 referring to the parties to the Settlement Agreement?

12 A. (Lombardo) Yes.

13 Q. Okay. And, that's something less than all parties to
14 this case?

15 A. (Lombardo) Valid point. Yes.

16 Q. And, so, when you say "bridge the gap", can you explain
17 what you mean by that?

18 A. (Lombardo) The Company's historical test year is June
19 of 2009. The return that the Company is earning based
20 on that historical test year was approximately
21 3 percent, a little over 3 percent. The "bridging the
22 gap" is taking that \$5 million, applying it to what has
23 been recently filed, to come up with a total return of
24 7.04 percent, which is, again, below the authorized

1 rate of return of 8.28 percent.

2 Q. Okay. What is the service rendered date that the
3 Company is seeking and that the Settlement Agreement
4 recommends for implementation of this rate change?

5 A. (Lombardo) We are -- we anticipated a June 1st, 2010
6 implementation.

7 Q. And, is it the Company's understanding that whatever
8 the permanent rate result is in this case by a
9 Commission order would be reconciled with the temporary
10 rate change?

11 A. (Lombardo) Very good. Yes, absolutely.

12 Q. Okay. Ms. Leary, I'd like to ask you a couple of
13 questions regarding the impact of the proposed
14 temporary rate change. Can you explain how the Company
15 under the Settlement Agreement proposes to implement
16 that rate change and what the impact would be on
17 customers?

18 A. (Leary) Yes. The Company is proposing a \$5 million
19 rate increase that's going to be an equally
20 proportional rate increase to all customers. So, in
21 fact, what we've done is we've increased the base
22 rates, basically, the customer charge, the headblock,
23 and the tailblock by the same percentage increase.
24 For, on a total basis, this will result, if you look

1 at, well, Exhibit 4, this will result in a total
2 company increase of about 2.8 percent on a total bill.
3 That will range, however, if you look, excuse me, at
4 Exhibit 4, depending on from a low of about a
5 0.4 percent increase for our G-54 customers, and a high
6 of about a 4.8 percent increase for our residential
7 non-heating customers. That's on a total bill basis.
8 Our residential heating customers can expect about a
9 3.6 percent increase. On the distribution only
10 component of the bill, the increase was approximately
11 11 and a half percent.

12 Q. And, just to clarify the significance of Exhibits 1 and
13 2 here, how they relate to each other, that's the
14 Settlement Agreement and the letter dated May 5, can
15 you explain what the language in the Settlement
16 Agreement said versus what's on the Attachment A and
17 what the parties intended, so that that's clear?

18 A. (Leary) Yes. In the actual Exhibit 1, if you turn to
19 Page 2 of 5, under Section III.B, under "Rate Design",
20 the actual language here had indicated that "The
21 increase in rates provided for by this agreement should
22 be implemented by increasing the existing", and it says
23 "volumetric rates for all customers". That's not what
24 we did. We did not just increase the volumetric

1 component of the rate, which would have been the
2 headblock and tailblock. What we did is, in Attachment
3 A, is we actually increased all components of the base
4 rates, which would be customer charges, headblocks, and
5 tailblocks.

6 Q. Thank you. Ms. Leary, finally, Mr. Lombardo indicated
7 that the Settlement Agreement provides for
8 implementation of the temporary rate change with
9 service rendered effective June 1, 2010. Can you give
10 the Commission some sense of what the Company would
11 need, in terms of the timing of an order, in order to
12 accomplish implementation for service rendered
13 effective June 1?

14 A. (Leary) We would need an order, and, unfortunately, I
15 don't have the calendar in front of me, but I would say
16 we would need an order by the Friday before Memorial
17 Day weekend to implement that on June 1st.

18 MR. CAMERINO: Thank you. That
19 completes my direct examination.

20 CHAIRMAN GETZ: Thank you. Mr. Fossum,
21 do you have questions for the witnesses?

22 MR. FOSSUM: I just have one question.

23 BY MR. FOSSUM:

24 Q. Mr. Frink, with regard to the clarification Ms. Leary

1 just provided on the Settlement Agreement, regarding
2 the difference between the use of the term "volumetric
3 rates" and what was done in Attachment A, do you agree
4 that the wording in the Settlement Agreement was
5 incorrect, and that the rates increased as they were on
6 Attachment A was what was intended by the Staff?

7 A. (Frink) I agree, yes.

8 MR. FOSSUM: Thank you. That's all I
9 have.

10 CHAIRMAN GETZ: Ms. Hollenberg.

11 MS. HOLLENBERG: Thank you.

12 CROSS-EXAMINATION

13 BY MS. HOLLENBERG:

14 Q. Mr. Frink, I believe Mr. Fass -- Fossum, excuse me,
15 established your position at the Commission earlier.
16 But could you tell me if you worked on the Settlement
17 Agreement on behalf of Staff?

18 A. (Frink) Yes, I did.

19 Q. Thank you. And, for any member of the panel, I believe
20 Mr. Lombardo indicated that the amount of the increase
21 was based on the books and records on file with the
22 Commission. Could you tell me what books and records
23 those were?

24 A. (Lombardo) Yes. The Company files an annual report

1 with the Public Service Commission for the 12 months
2 ended December of '09. It was just recently filed.

3 Q. When was that report filed?

4 A. (Lombardo) I would probably say early April, mid --
5 early to mid April of 2010.

6 Q. Okay. Thank you. Ms. Leary or Mr. Lombardo, could you
7 tell me if you -- if it's accurate to say that the
8 Company settled all but one of the issues in its last
9 rate case?

10 A. (Leary) That is correct.

11 Q. And, the only issue that was not settled was the return
12 on equity, is that correct?

13 A. (Leary) That is correct.

14 Q. And, that was in DG 08-009?

15 A. (Leary) That is correct.

16 Q. Thank you. And, the settlement was filed with the
17 Commission sometime last spring?

18 A. (Leary) That is correct.

19 Q. And, that settlement agreement was filed just before
20 the end of the proposed test year in this case, is that
21 correct?

22 A. (Leary) That is correct.

23 Q. Thank you. And, could you tell me how the Company
24 recovered the difference between temporary and

1 permanent rates after its last rate case?

2 A. (Leary) Yes. What we had done in the last case was we
3 had calculated the difference between the temporary and
4 the final rates. And, I don't have that information in
5 front of me today, but I think it was in the order of
6 \$3 million. What we then did is we netted against that
7 number our rate case expense, which was I think in the
8 order of \$800,000. We came to a net difference of
9 about \$2.1, \$2.2 million. And, we then -- I think it
10 was actually a return to customers, a credit that we
11 had to give to customers, we did it on a volumetric
12 basis, on a per therm basis to all customers, and we
13 returned it through our LDAC.

14 Q. And, would it be correct to say that the Company did
15 not return the difference between permanent and
16 temporary rates according to its newly approved rate
17 design?

18 A. (Leary) That is correct.

19 MS. HOLLENBERG: Thank you. No other
20 questions.

21 BY CMSR. IGNATIUS:

22 Q. Good morning. Mr. Lombardo, can you just clarify
23 timing issues. You had said that, in response to Ms.
24 Hollenberg's question, that you developed the temporary

1 rate proposal based on the books and records filed with
2 the Commission in mid to late April 2010, but the
3 temporary rate filing was made in February of 2010?

4 A. (Lombardo) Good question. For the sake of simplicity,
5 and being that we would reconcile temporary rates to
6 final rates, we decided to use what was recently filed
7 with the Commission, being that was the most relevant
8 data that we had. Again, going back to the fact that
9 we would reconcile at the end, once a final order was
10 issued.

11 MR. CAMERINO: Could I just interrupt,
12 and I apologize, Commissioner Ignatius. I think the
13 witness is confused between the Company's initial -- with
14 regard to your question, between the Company's initial
15 proposal and the Settlement proposal, and that may need
16 some clarification.

17 BY CMSR. IGNATIUS:

18 Q. Why don't you just explain, in your testimony filed
19 late February, you described the methodology for
20 development of the temporary rate request. And, then,
21 as Mr. Camerino points out, in the Settlement, there is
22 also a discussion of the temporary rates that are
23 different. And, so, what is the basis for the initial
24 filing in February? What records were being reviewed?

1 And, then, for the Settlement Agreement, if it's a
2 different set of records that are being reviewed, let
3 us know that.

4 A. (Lombardo) My apologies. So, the initial settlement --
5 well, the initial filing for temporary rates were based
6 on the historical 12 months ended June 2009 data tied
7 to our permanent rate filing. So, that was the
8 Company's proposal. We had a permanent rate filing
9 that had a 12 months ended June 2009 rate base upon
10 which we had a proposed -- we applied a proposed
11 return, rate of return, based on the Company's
12 proposal. Being that that was tied to the permanent
13 rate filing, and that those issues had not been vetted
14 with everyone in the room, our approach on temporary
15 rates, in the Settlement, was to use the current --
16 what was currently filed, was recently filed with the
17 Commission, which happened after the filing of the
18 permanent rate filing, which was June -- which was
19 March, filed in April, with a December year end.

20 Q. So that the records that you were using in development
21 of the Settlement Agreement were the most recently
22 filed --

23 A. (Lombardo) Yes.

24 Q. -- the books on record most recently filed for the

1 Company?

2 A. (Lombardo) Yes.

3 Q. Okay. And, Mr. Frink, in working on the settlement
4 proposal, did you assess the Company's request against
5 those April 2010 records or something different?

6 A. (Frink) Well, the -- something different. Because in
7 the temporary rate filing, the initial filing by the
8 Company, they used a test year June 30, 2009, but they
9 say they compare it to the records on file with the
10 Commission, which at that point was really the 2008
11 year-end data. So, Staff had calculated a rate of
12 return for year end. Now, we hadn't done a --
13 obviously, we are in the early stages of discovery, so
14 we weren't in a position to comment on the June 30
15 numbers. But, based on the 2008 numbers, the proposed
16 5.7 million increase for temporary rates seemed
17 reasonable. We received the 2009 Annual Report. And,
18 looking at the 2009 numbers, again, these aren't
19 adjusted and audited, but the earnings had improved
20 some. And, so, to avoid the risk of potentially over
21 earning, the parties to the Settlement agreed that
22 5 million would allow them to get closer to their
23 allowed rate of return, while still -- while it would
24 reduce the risk of potential over earnings. So,

1 really, it's all -- the Staff's analysis is based on
2 year-end 2009 numbers.

3 CMSR. IGNATIUS: Thank you. Nothing
4 else.

5 CHAIRMAN GETZ: Redirect?

6 MR. CAMERINO: I don't have any
7 redirect. I just want to note for the record that,
8 obviously, I'm not a witness, but my recollection of the
9 date of the settlement and its filing in the last case are
10 different from what the witness said, and I am assuming
11 that, since those documents are on file with the
12 Commission, the dates are what they are. And, the
13 testimony in this case would not supersede whatever the
14 dates on those documents is. If we need that
15 clarification, we could actually get the dates and provide
16 that in the record.

17 CHAIRMAN GETZ: Yes. Why don't we do
18 that. I think a letter will be sufficient, I don't think
19 it needs to be an exhibit. But let's just nail that down
20 for the sake of certainty.

21 Did you have anything further,
22 Mr. Fossum, in terms of redirect?

23 MR. FOSSUM: No, I didn't.

24 CHAIRMAN GETZ: Anything further for

1 these witnesses?

2 (No verbal response)

3 CHAIRMAN GETZ: Hearing nothing, then
4 you're excused. Thank you, everyone.

5 Ms. Hollenberg, did you want to present
6 a witness on this?

7 MS. HOLLENBERG: No thank you.

8 CHAIRMAN GETZ: Okay. Is there anything
9 -- well, let's do this. Any objection to striking the
10 identifications and admitting the exhibits into evidence?
11 And, I guess, let's limit that to Exhibits 1 through 5 at
12 this point.

13 (No verbal response)

14 CHAIRMAN GETZ: Hearing nothing, then
15 they will be admitted into evidence. Anything we need to
16 address before opportunity for closings, including the
17 opportunity to address the confidentiality issue I
18 discussed earlier?

19 (No verbal response)

20 CHAIRMAN GETZ: Hearing nothing, then
21 let's start with Ms. Hollenberg.

22 MS. HOLLENBERG: Thank you. The OCA
23 takes no position on the proposed Settlement Agreement
24 between the Staff and the Company. But we would note for

1 the record that the Company's last distribution rates were
2 just increased during 2009. And, in fact, the
3 Commission's order was final in that case in mid December
4 of 2009.

5 On the issue -- on the issues related to
6 the Company's Motion for Confidentiality of certain
7 compensation information, as well as their response to
8 Commissioner Ignatius's inquiry at the last hearing, and
9 the OCA's response, which it filed to the Company's
10 response, I would just indicate that I don't disagree that
11 the OCA did not file an objection to the motion. We
12 considered the Company's opportunity to respond to
13 Commissioner Ignatius's inquiry as another question, and
14 we considered that, in the interest of fairness, it was
15 appropriate for the OCA to make comments.

16 We would like to note that the Company
17 does acknowledge, in its response to Commissioner
18 Ignatius's inquiry, that it has disclosed certain
19 compensation information publicly, yet it contends that,
20 since this is neither full annual salary amounts or total
21 compensation amounts, that this information does not need
22 to be disclosed at this time. And, so, we do think that,
23 at least to the extent that the OCA responded to that
24 point in its letter, its most recent letter, it's

1 appropriate for the Commission to consider that.

2 And, I would also indicate that the
3 Commission traditionally leaves open its jurisdiction to
4 redetermine issues on 91-A. And, so, to the extent that
5 the Commission would like to consider the OCA's comments,
6 I would either ask that you waive the rule on objections
7 or that you consider this a recurring or a continuing
8 issue for your consideration at this time. Thank you.

9 CHAIRMAN GETZ: Thank you. Mr. Fossum.

10 MR. FOSSUM: Thank you. With regard to
11 the temporary rates as reached in the Settlement, while
12 the original request was, as noted, for \$5.7 million and
13 was not unreasonable, based on the records reviewed by
14 Staff, as noted by Mr. Frink, the 2009 year-end returns
15 did show some improvement. And, therefore, limiting the
16 increase to \$5 million was reasonable and limited the risk
17 that the Company might realize a rate of return in excess
18 of what is currently permitted, while still allowing the
19 Company the opportunity to earn a rate of return more in
20 line with what is allowed by the Commission. Further, as
21 has been noted, reconciliation between temporary and
22 permanent rates will happen at the end of the case, to
23 protect both customer and Company interests.

24 As to the Motion for Confidential

1 Treatment, Staff has no position on the merits of that
2 motion at this time. Thank you.

3 CHAIRMAN GETZ: Thank you. Mr.
4 Camerino.

5 MR. CAMERINO: Thank you, Mr. Chairman.
6 Let me start by saying, with regard to the issue of the
7 timing of this rate filing relative to the prior one, and
8 whether that should bear on temporary rates at all, that
9 that issue as to why the Company needed -- needs rate
10 relief again so soon on the heels of the last case is
11 something that's taken up in great detail in the permanent
12 rate filing. And, I don't believe it should be a basis
13 for rejecting temporary rates in this case, and no party,
14 nor the Staff, has suggested that. They have just noted
15 the timing of the two cases. And, so, I think it's very
16 important that the Commission allow itself and the parties
17 the opportunity to look at those issues, and not have that
18 color its view of temporary rates.

19 Equally important, as has been pointed
20 out, is that the ultimate result of this case will be
21 reconcilable back to the effective date of temporary
22 rates, so that both customers' and the Company's interests
23 will be protected. And, the Commission is well familiar
24 with that process. The evidence shows that the temporary

1 rate request is reasonable based on the reports on file
2 with the Commission. The Company believes that, if it had
3 been put to the test, it could have shown that a higher
4 level of temporary rate relief would be appropriate. But
5 the Company sought to compromise with the Staff,
6 appreciates the Staff's willingness to enter into
7 settlement negotiations on what was really a very
8 efficient basis. And, that's really the purpose of the
9 temporary rate process, is to have a very truncated
10 process, where you don't get into a lot of litigation and
11 discovery over issues that are going to be taken up in the
12 main part of the case. And, I think that everyone
13 involved in this process recognized that, and that
14 benefits everyone, including the Commission, in terms of
15 resources, both time and expense. And, so, we would ask
16 that the temporary rates be approved as submitted.

17 With regard to the issue of
18 confidentiality, the Company submitted today a very short
19 response to the OCA's pleading, essentially saying we
20 think that it was an untimely objection. And, while I
21 understand that protective orders are a matter of a
22 different kind of animal, because they can be revisited,
23 we would like to see a practice where, if the Company
24 files something or anybody files something in February,

1 that the Commission rules are abided by and objections are
2 submitted within ten days.

3 That said, given that the Commission has
4 asked for arguments on the merits, I'd ask that Mr. Taylor
5 be allowed to briefly address that issue with the
6 Commission, since he's the one who has addressed this
7 previously.

8 CHAIRMAN GETZ: Please.

9 MR. TAYLOR: Thank you. Regarding the
10 confidential nature of the officer and director
11 compensation, the Commission does have a practice of
12 recognizing the privacy interests in the compensation of
13 officers and directors. That interest is actually
14 recognize in the order that Commissioner Ignatius referred
15 the Company to the temporary hearing. That particular
16 order addressed the compensation of officers whose full
17 annual compensation had been -- or, I'm sorry, full
18 salaries had been disclosed, but not full annual
19 compensation.

20 In this case, a small percentage of the
21 officers' and directors' compensation has been disclosed
22 in the annual reports to the Commission. And, that amount
23 -- so, for example, in the letter that the Company
24 submitted, it was approximately \$5,000 for the Executive

1 Vice President, and that's the amount that's allocated to
2 the company here in New Hampshire for that compensation.
3 And, the Office of Consumer Advocate noted in their letter
4 that the public has an interest in knowing what their
5 utility dollars are going to. And, for all intents and
6 purposes, that's known here. But, from that amount of --
7 that is publicly disclosed, you cannot extrapolate the
8 full amount of the officer and director compensation.
9 That is private information. It is held very close to the
10 vest, both externally and internally. And, it's not --
11 the remaining portions of the salary are not completely
12 publicly known, and we would ask that it be kept that way.

13 CMSR. IGNATIUS: Mr. Taylor, are you
14 saying that, in the case, say, of that executive vice
15 president, that the total amount of compensation coming
16 from New Hampshire ratepayers is \$5,000?

17 MR. TAYLOR: Well, I would have to, I
18 guess, double check on that. But, on, you know, my
19 information and belief, the amount of the compensation
20 that is allocated to the Company for these particular
21 individuals is disclosed in the PUC annual report. But I
22 will double check and confirm that.

23 CMSR. IGNATIUS: So, that --

24 MR. TAYLOR: Oh, I'm sorry. We do have

1 confirmation from Mr. Lombardo that that's the case.

2 CMSR. IGNATIUS: All right. So that,
3 whatever the number is as a total compensation package,
4 there is, between salary, benefits -- or, salary and other
5 forms of compensation, I won't say "benefits", not
6 including value of health care, I don't mean that, but --

7 MR. TAYLOR: I understand.

8 CMSR. IGNATIUS: -- that it's only
9 \$5,000 from New Hampshire ratepayers?

10 MR. TAYLOR: Well, that was in the
11 previous year. But, yes, that's correct. So, for that
12 particular -- yes. Yes.

13 CMSR. IGNATIUS: Thank you. Mr.
14 Camerino, I don't know if there is anything else that
15 would alter that from your conversation just now?

16 MR. CAMERINO: No. The question with
17 Mr. Lombardo was simply he doesn't recall the \$5,000
18 number, but he said whatever number is on the schedule,
19 the answer is "yes" to your question.

20 CMSR. IGNATIUS: And, for anyone -- I
21 was using that as an example, because you mentioned it.
22 For anyone else in a similar situation, I've forgotten how
23 many positions we're talking about here, it's a similar
24 magnitude, whatever it is being has been disclosed, is

1 that allocated amount is the total that is a New Hampshire
2 ratepayer obligation?

3 MR. TAYLOR: That is correct.

4 CMSR. IGNATIUS: Thank you.

5 CHAIRMAN GETZ: Okay. Anything further
6 on any of those issues?

7 (No verbal response)

8 CHAIRMAN GETZ: Hearing nothing, then we
9 will close the temporary rate hearing and take the matter
10 under advisement. Thank you, everyone.

11 (Whereupon the hearing ended at 10:53
12 a.m.)