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P R O C E E D I N G

1
2 CHAIRWOMAN MARTIN: All right. We are
3 here this morning in Docket DE 19-064, for a
4 hearing regarding the Liberty Utilities
5 Corporation request for permanent rates. A
6 Stipulation and Settlement Agreement have been
7 filed. The purpose of today's hearing is to
8 consider that Agreement.

9 Because we are doing this hearing
10 remotely, I need to make a number of necessary
11 findings. First, I will read through the State
12 of Emergency findings.

13 As Chairwoman of the Public Utilities
14 Commission, I find that due to the State of
15 Emergency declared by the Governor as a result of
16 the COVID-19 pandemic and in accordance with the
17 Governor's Emergency Order Number 12, pursuant to
18 Executive Order 2020-04, this public body is
19 authorized to meet electronically.

20 Please note that there is no physical
21 location to observe and listen contemporaneously
22 to this hearing, which was authorized pursuant to
23 the Governor's Emergency Order. However, in
24 accordance with the Emergency Order, I am

1 confirming that we are utilizing Webex for this
2 electronic hearing. All members of the
3 Commission have the ability to communicate
4 contemporaneously during this hearing through
5 this platform, and the public has access to
6 contemporaneously listen and, if necessary,
7 participate.

8 We previously gave notice to the public
9 of the necessary information for accessing the
10 hearing in the Order of Notice. If anybody has a
11 problem during the hearing, please call
12 (603)271-2431 and we will try to get you back,
13 back online. Also, if we have a problem during
14 the hearing, and you're online, put your hand up
15 so that I can see that you have an issue and
16 we'll stop and try to figure it out. In the
17 event the public is unable to access the hearing,
18 the hearing will be adjourned and rescheduled.

19 Okay. A few ground rules that many of
20 you have probably heard several times -- oh, Mr.
21 Dexter.

22 MR. DEXTER: Good morning, Chairwoman.
23 I was going to report a message from Don Kreis
24 that he had lost audio. But I just received a

1 message as I raised my right hand that says "Got
2 it back. Thanks." So, apologies for the
3 interruption.

4 CHAIRWOMAN MARTIN: No worries. That's
5 what it takes when we do it this way. No problem
6 at all.

7 Okay. So, make sure you mute yourself
8 if you're not talking. Put your hand up to be
9 recognized, other than for objections, just speak
10 when you need to make them.

11 For confidential information, please be
12 careful to not talk about confidential
13 information inadvertently. To the extent
14 possible, please just point everyone to the
15 document and page number where the information is
16 contained. If it becomes absolutely necessary to
17 identify confidential information, please let me
18 know first, so that we can make sure only those
19 who should have access to that information are on
20 the line.

21 Please speak slowly, and leave time for
22 others to consider a response before proceeding.
23 And, if you need a recess, please let me know.
24 Any party who takes a recess should make sure to

1 mute themselves and turn off the video.

2 I think it goes without saying, but I
3 do want to remind everyone, this is a formal
4 proceeding. And, so, to the extent you wouldn't
5 do something in the hearing room, please don't do
6 it on the Webex.

7 Let's start by taking roll call
8 attendance of the Commission. When each
9 Commissioner states their presence, please also
10 state where you are located and, if anyone else
11 is with you, please identify them.

12 I'll start. My name is Dianne Martin.
13 I am the Chairwoman of the Public Utilities
14 Commission. I am in the Offices at the
15 Commission, and no one is in the room with me.

16 Commissioner Bailey.

17 CMSR. BAILEY: Good morning. I'm
18 Kathryn Bailey. I am in my home in Bow, and I
19 have no one with me.

20 CHAIRWOMAN MARTIN: Commissioner
21 Giaimo.

22 CMSR. GIAIMO: Good morning.
23 Commissioner Mike Giaimo. I am in my office here
24 at the PUC, in Concord.

1 CHAIRWOMAN MARTIN: Okay. And let's
2 take appearances from counsel and other
3 representatives. Please, when you enter your
4 appearance, please let us know whether anyone
5 else is with you and identify them.

6 Mr. Sheehan.

7 MR. SHEEHAN: Good morning. Mike
8 Sheehan, representing Liberty Utilities. I'm at
9 my office, in Concord, and no one is with me.

10 CHAIRWOMAN MARTIN: Thank you. I'm
11 going to ask the parties to sort of go around the
12 room, so to speak, with appearances and other
13 things that we do today. We have a lot of people
14 on the screen, so it's very hard for me to see
15 everybody all at one time.

16 So, since Mr. Kreis is right beside me,
17 how about if we go to Mr. Kreis.

18 Mr. Kreis, can you hear me?

19 MR. KREIS: Good morning, everybody.
20 Yes, I can. Can you hear me?

21 CHAIRWOMAN MARTIN: I can hear you now.
22 I think you had a bad connection or I had a bad
23 connection for a moment. I was just saying if
24 you could start with your appearance, that would

1 be great.

2 MR. KREIS: All right. Awesome. I am
3 D. Maurice Kreis, the Consumer Advocate, here on
4 behalf of residential utility customers. I'm at
5 my office, here at the Walker Building, and I am
6 not with anybody.

7 CHAIRWOMAN MARTIN: Thank you.
8 Mr. Below, you are next on my screen.

9 MR. BELOW: Good morning,
10 Commissioners. I am Assistant Mayor Clifton
11 Below, here on behalf of the City of Lebanon.
12 And I haven't figured out how to quiet that
13 phone. I'm sorry, I'll try to do that. And I'm
14 here in my office, in Lebanon.

15 CHAIRWOMAN MARTIN: And Mr. Dexter.

16 MR. DEXTER: Good morning, Chairwoman.
17 Paul Dexter, appearing on behalf of the
18 Commission Staff, from Chester, Vermont, in my
19 home office. Also appearing -- and no one is
20 with me. Also appearing for Staff today will be
21 Brian Buckley, Staff counsel.

22 CHAIRWOMAN MARTIN: Thank you. Ms.
23 Mineau, are you appearing today?

24 MS. MINEAU: Yes, I am. Madeleine

1 Mineau, Executive Director of Clean Energy New
2 Hampshire. And I am in my home, in Concord, by
3 myself.

4 CHAIRWOMAN MARTIN: Thank you. I
5 believe we have someone from DES? Is there
6 anyone on for DES?

7 MR. SKOGLUND: Yes. This is Chris
8 Skoglund. I am at my home, in Durham. I am all
9 by myself. Thanks.

10 CHAIRWOMAN MARTIN: Okay. Thank you.
11 Have I missed anybody?

12 *[No indication given.]*

13 CHAIRWOMAN MARTIN: All right. Great.
14 All right. Preliminary matters. Do we have any
15 preliminary matters to cover before we move to
16 the witnesses?

17 MR. SHEEHAN: I'll start, Chairman.
18 The Parties have agreed on a panel of witnesses
19 to present the Settlement Agreement. And those
20 are the witnesses in our Joint Witness List.
21 From the Company, Mr. Simek, Mr. Mullen, Ms.
22 Tebbetts; from Staff, Mr. Demmer, Mr. Dudley, and
23 Ms. Mullinax; and from the OCA, Dr. Chattopadhyay
24 and Mr. Nelson.

1 There is a Motion for Confidentiality
2 pending. It does not need to be addressed today.
3 It is the motion to confirm our -- just
4 confidential data responses through the course of
5 this case, and the rules require that we file a
6 motion to confirm that confidentiality prior to
7 hearing. But we don't expect any of those
8 confidential data responses to play a role in
9 this hearing, but that is out there. Most of the
10 confidential material relates to employee
11 compensation and other confidential information.

12 The Parties have also, by agreement,
13 marked Exhibits 4 through 40, and that was the
14 exhibit list we filed last week. Of course,
15 we're starting with 4, because 1, 2, 3 were
16 marked at the temporary rate hearing. It is my
17 intent to walk through most of those exhibits
18 that are Company testimony, have our witnesses
19 adopt their testimony, even those that are not on
20 the panel, then those witnesses will step back.
21 And I assume the other Parties will do the same.

22 There are four Liberty witnesses who
23 filed testimony who are not present here. They
24 are consultants. Their testimony we thought was

1 not necessary today. And there's an issue over
2 whether we need to file affidavits to confirm
3 their testimony, or whether the Commission can
4 simply accept their prefiled testimony. I have a
5 few comments on that when the Chair is ready to
6 listen.

7 That's all I have for preliminaries,
8 other than what someone else may raise will
9 raise.

10 CHAIRWOMAN MARTIN: Okay. Thank you.
11 So, for the pending Motion for Confidential
12 Treatment, we will rule on that as part of the
13 order that is part of this hearing. But we'll
14 treat any material identified in that as
15 confidential today. So, if that does come up at
16 some point, please alert me.

17 For the issue related to testimony, I
18 wonder if we should hear that now, before we get
19 rolling, or what was your thought?

20 MR. SHEEHAN: That's fine. Briefly,
21 RSA 541-A:33 is the statute that governs this
22 particular topic. Paragraph I says "All
23 testimony of parties and witnesses shall be made
24 under oath or affirmation administered by the

1 presiding officer." To our interpretation, that
2 that applies to live witness testimony. And, of
3 course, Mr. Patnaude will issue that oath to the
4 people here today.

5 The next section of that statute
6 governs other evidence, and the second sentence
7 says "Any oral or documentary evidence may be
8 received; but the presiding officer may exclude
9 irrelevant, immaterial or unduly repetitious
10 evidence." And, of course, the rules of evidence
11 do not apply. Hearsay is often admitted at
12 hearings. And we would offer those four witness
13 testimonies as essentially hearsay evidence. No
14 one is challenging their credibility. There is
15 really not a need for the affidavit process.

16 That being said, we are well aware that
17 the prior chairman's position on this was that
18 affidavits were the safe route to go. We're not
19 trying to pick a fight here, so to speak. We'd
20 like to clarify what the rule will be going
21 forward.

22 We do have the affidavits prepared.
23 And, if the Commission rules that they are
24 necessary, we will file them promptly. But I

1 think, for going forward, this is just an
2 opportunity maybe for the Commission to clarify
3 what practice you would like us to follow.

4 CHAIRWOMAN MARTIN: Okay. Thank you.
5 I assume others would like to be heard on this
6 issue?

7 Mr. Kreis.

8 MR. KREIS: Thank you, Chairwoman
9 Martin.

10 I agree with everything my learned
11 colleague, Mr. Sheehan, just said. And I would
12 also point out that this comes up in settlement
13 contexts. And, in that context, the witnesses
14 who are not here today, and are therefore not
15 going to be subjecting themselves to
16 cross-examination, are authors of written
17 documents, styled as direct testimony, that are
18 really being offered into evidence as I think
19 context for the Settlement Agreement that you're
20 actually being asked to consider.

21 It would not occur to me to ask you to
22 make factual findings based on written testimony
23 that hadn't been subject to cross-examination in
24 a situation where those asserted facts were

1 genuinely in dispute. But, in this scenario,
2 that's not what you're -- that's not the
3 situation you confront. And those written
4 documents, which I agree with Mr. Sheehan, are
5 properly considered 541-A:33, Paragraph II
6 documents, I think are admissible for the reasons
7 that Mr. Sheehan just gave.

8 And while I realize that like -- while
9 like Mr. Sheehan, I do not want to pick a fight
10 with the Commission, it is somewhat onerous and
11 inconvenient to go through the mechanics of
12 creating those affidavits, especially in a
13 pandemic scenario. And, so, I would respectfully
14 request that the Commission not elevate form over
15 substance, and interpret Section 33 of the
16 Administrative Procedure Act in the manner
17 Mr. Sheehan has suggested to you.

18 CHAIRWOMAN MARTIN: Mr. Dexter, did you
19 want to be heard on this?

20 MR. DEXTER: Yes. Staff's paramount
21 concern is that the prefiled testimony and
22 exhibits be available for the Commission to use
23 when deciding this case in whatever form they're
24 necessary. In other words, we want a complete

1 record, so that, if the Commission needs to go
2 back and look up a number or a statement, and
3 rely on that for whatever reason, whether it's
4 evaluating the Settlement or seeing where the
5 Parties came from versus their original position,
6 we -- our role, in Staff, is to produce a
7 complete record for the Commission.

8 I don't have anything to add in terms
9 of the legal interpretation of the Administrative
10 Procedure Act. But I do urge the Commission to
11 look at that issue again as raised by Liberty
12 Utilities and the OCA. I think it deserves a
13 look, a close look, and I have no doubt that you
14 will do that.

15 I will state that, to be in compliance
16 with past practices, Staff did file affidavits of
17 their three witnesses that are not going to
18 appear today via the Webex. Those were filed
19 this morning in the docket.

20 CHAIRWOMAN MARTIN: Okay. Any other
21 parties that want to be heard on this?

22 *[No indication given.]*

23 CHAIRWOMAN MARTIN: All right. I guess
24 I have a question coming out of that, because I

1 think what I heard Mr. Kreis and Mr. Sheehan say
2 was that there was no expectation that the
3 Commission would rely on the -- as you said,
4 styled as "prefiled testimony", for making its
5 factual determination that it's required to make.
6 That sounds a little bit different than what I
7 think I heard Mr. Dexter say about what the
8 Commission can rely on.

9 And, so, I want to make sure that I'm
10 understanding that there is a disagreement here.
11 And, if not, if someone can clarify for me, that
12 would be helpful.

13 MR. SHEEHAN: I'll take that. I may
14 have overstated that no one will rely on parties'
15 prefiled testimony.

16 What I was saying is that the
17 Commission has full authority to accept those
18 documents for what they are. And, in a classic
19 case of hearsay, if you find the hearsay
20 unreliable, you can reject it. And if you find
21 the hearsay reliable, you can accept it.

22 So, I do think accepting these prefiled
23 testimonies, under Subsection II of that statute,
24 makes them an exhibit in this docket, and you

1 have your discretion to rely on it completely or
2 not. And I think my reference was that we don't
3 expect anyone to challenge any particular parts.
4 We understand, for example, the ROE experts
5 disagreed on certain things, but that was a
6 disagreement, not a truth or false kind of
7 determination.

8 So, to address Mr. Dexter's concern, if
9 you accept those prefiled testimonies, that you
10 have every right to turn to Page 12 of that
11 testimony to find a number and rely on it,
12 whether the affidavit is filed or not. That's
13 our position.

14 CHAIRWOMAN MARTIN: Mr. Dexter, you had
15 your hand up before?

16 MR. DEXTER: Yes, I did. My point is
17 simply that, if the underlying exhibits that are
18 attached to the Settlement were excluded for
19 whatever reason, the Commission would be in a
20 position where they couldn't, for example,
21 include in the order a statement like "Liberty
22 Utilities has approximately 40,000 customers" or
23 "Liberty Utility" -- "Liberty Utilities' test
24 year rate base was, you know, X, \$15 million."

1 None of those simple undisputed facts are
2 contained in the Settlement Agreement. The
3 Settlement Agreement basically covers the rate
4 increase and other relevant clauses, but it
5 references and relies on the underlying exhibits.

6 So, my point was that, in Staff's view,
7 the outcome that should not be -- that should not
8 happen is that those underlying testimony and
9 attachments end up not being part of the record.
10 We are fully supportive of those being part of
11 the record. And, if the Commission can do that
12 through live witnesses or affidavits, or accept
13 them as documents, or any other interpretation
14 that's provided for in the Administrative
15 Procedures Act, we're all for that, because we
16 believe that the record should reflect those
17 initial prefiled testimonies and attachments.

18 CHAIRWOMAN MARTIN: Okay. So, this is,
19 obviously, a new issue to me, as the new Chair.
20 And I think it sounds like historically has been
21 an issue that was addressed in a certain manner
22 by a prior Chair. So, I would like to take the
23 time to be able to consider the issue, and -- as
24 requested, and to make a new decision for future

1 cases.

2 However, I think that leaves us in a
3 little bit of a bind for today, because I think,
4 if we don't have the affidavits that were
5 required, what I don't want to have happen is we
6 don't get the evidence that we need and we don't
7 have the record that we need to make the
8 determinations that we need to make.

9 And, so, I guess my decision for this
10 hearing today would be that we will be able to
11 admit all of the exhibits as full exhibits based
12 upon your agreement. But I do want to let you
13 know that the use of those exhibits may be more
14 limited than what you're describing. I think
15 it's more in line with what Mr. Kreis said. And,
16 so, to the extent you don't have a witness
17 present today, and you need their testimony as
18 sworn testimony to be able to make -- permit the
19 Commission to make the determinations it needs to
20 make, that that is something you should consider
21 now for this hearing. And, if we need to recess
22 so that you can make that happen, we can take a
23 recess.

24 I will note that I am not convinced s

1 that affidavits are a way to accomplish what the
2 statute requires. And, so, I would be more
3 interested in having either a stipulation from
4 the parties as to the facts they agree on, or the
5 witnesses that parties believe are necessary to
6 have a complete record in front of the Commission
7 available at hearing to adopt their testimony.

8 So, on that note, does anybody feel a
9 need to take a recess and discuss how to proceed
10 today?

11 To the extent you have all the
12 witnesses you need today adopting their
13 testimony, and you believe that creates a record
14 sufficient for the Commission to make its
15 determinations, then I think we're okay to
16 proceed. If that's something that you don't
17 think you're in a position here, I would
18 recommend a recess.

19 MR. SHEEHAN: Liberty believes we have
20 the witnesses present and their testimonies are
21 more than sufficient to support the Settlement
22 Agreement.

23 And there's another rule I found
24 looking this over, Puc 203.20(d), actually says

1 that when an "agreement is filed by the
2 parties" -- excuse me -- "and not contested, the
3 stipulation shall bind the commission as to the
4 facts in question."

5 So, we think that speaks to the facts
6 in the Settlement Agreement and attachments, and
7 we have all agreed -- all the Parties have agreed
8 to those facts, and no one that is here today
9 will contest them. So, at least everything in
10 the Settlement and attachments actually is
11 binding on the Commission. Certainly, the
12 Commission has the discretion to determine
13 whether the results are reasonable, but the facts
14 are there.

15 As to facts outside that document and
16 attachments, we will have live testimony for the
17 vast majority of the exhibits. And, to avoid an
18 issue, I will file the affidavits today. I'm not
19 sure that solves your question completely,
20 because you're suggesting that even that is not
21 quite sufficient. To the extent that's an issue,
22 that you think the Commission may decide that all
23 evidence should be supported by live adoption in
24 order to be considered, I would simply offer that

1 Liberty is willing to stipulate with the other
2 Parties that, for those handful of testimonies,
3 that we would so stipulate, and I can identify
4 those as we go.

5 CHAIRWOMAN MARTIN: All right. Is
6 everyone in agreement with that? I understand
7 Liberty to be saying that the Settlement
8 Agreement and attachments are all stipulated to
9 by all the Parties. And that there are other
10 witnesses who are not present, and, to the extent
11 they are not present, Liberty is willing to
12 stipulate to the facts contained in those.

13 Is that right, Mr. Sheehan?

14 MR. SHEEHAN: That's correct. With,
15 obviously, the understanding that some of those
16 testimonies have positions that disagreed with
17 each other. Again, that's the most factual as it
18 is conclusions to be drawn from. But, with that
19 small caveat, that's what we would stipulate to,
20 the admission of all the testimonies for people
21 who are not present.

22 CHAIRWOMAN MARTIN: Mr. Kreis? Mr.
23 Kreis, are you able to hear us?

24 *[No verbal response.]*

1 CHAIRWOMAN MARTIN: Just pause for a
2 moment and wait and see if Mr. Kreis can -- Mr.
3 Kreis?

4 *[No verbal response.]*

5 CHAIRWOMAN MARTIN: Steve, you can go
6 off the record for a minute.

7 *[Brief off-the-record discussion*
8 *ensued.]*

9 CHAIRWOMAN MARTIN: Mr. Kreis, go
10 ahead.

11 MR. KREIS: I can't tell if you all can
12 hear me now?

13 CHAIRWOMAN MARTIN: We can. All right.
14 Let's go off the record and --

15 MR. KREIS: Yes, I hear you fine. Am I
16 coming through?

17 CHAIRWOMAN MARTIN: Can you hear us?

18 MR. KREIS: Yes.

19 CHAIRWOMAN MARTIN: Let's go off the
20 record and take a five-minute recess.

21 (Recess taken at 10:40 a.m. and the
22 hearing resumed at 11:05 a.m.)

23 CHAIRWOMAN MARTIN: Okay. I think we
24 are at a point where Mr. Kreis was attempting to

1 speak.

2 MR. KREIS: Okay. I will attempt
3 again.

4 CHAIRWOMAN MARTIN: You're on mute, I
5 think.

6 MR. KREIS: I'm not on mute. Okay.
7 I'm not on mute. So, I don't know what to do.
8 Can people hear me?

9 MR. SHEEHAN: I can hear you.

10 MR. KREIS: All right. So, I'm not on
11 mute. And --

12 MR. DEXTER: I can hear you, Don.

13 MR. KREIS: All right. All I was
14 trying to explain --

15 CHAIRWOMAN MARTIN: Why don't I hear
16 Mr. Kreis?

17 MR. SHEEHAN: Most of us can.

18 CHAIRWOMAN MARTIN: I have to turn up
19 my volume then.

20 Okay. Go ahead.

21 MR. KREIS: All right. I'm sorry about
22 that.

23 I was simply trying to explain that the
24 only witness that I do not have present here at

1 the virtual hearing, and whose testimony is not
2 supported by an affidavit, is the Testimony of
3 Mr. Ostrander. His testimony concerns revenue
4 requirements. We've compromised all of the
5 revenue requirements issues. And, so, I'm not
6 asking the Commission to rely on any of the
7 factual assertions or expert opinions that he
8 expresses in his testimony. I do think the
9 Commission can, if it wants to look at his
10 testimony for the purpose of figuring out how
11 incredibly compromise-oriented the OCA has been,
12 and how far we came from our original set of
13 positions, that's fine.

14 But that movement, from where we
15 originally were to where we settled, is not a
16 matter of dispute between or among the OCA and
17 any of the other Parties. And, so, I think, for
18 that very limited purpose, I think the Commission
19 can rely on it, without having Mr. Ostrander go
20 through the motion of appearing here, in person,
21 to take the oath, or by submitting an affidavit.

22 I think that's all I have to say.

23 CHAIRWOMAN MARTIN: Fair enough. Thank
24 you for that.

1 And Mr. Dexter?

2 MR. DEXTER: Well, I think, just before
3 we broke, we were discussing whether or not we
4 agreed with a stipulation that Attorney Sheehan
5 had made. And, as I understand the stipulation,
6 that is that we would all stipulate that the
7 attached exhibits and attachments that are -- I'm
8 sorry, that the exhibits and attachments that are
9 connected to the Settlement be admitted as
10 exhibits.

11 CHAIRWOMAN MARTIN: May I interrupt you
12 for a second and ask you to clarify what you
13 meant by that? We have a Settlement Agreement
14 and we have attachments to that Agreement. Is
15 there a stipulation by all Parties that all of
16 those facts contained in there are undisputed?

17 MR. DEXTER: In the Settlement and
18 attachments?

19 CHAIRWOMAN MARTIN: Yes.

20 MR. DEXTER: Yes. We will stipulate to
21 that.

22 CHAIRWOMAN MARTIN: Okay. So, I think
23 you were about to go a step farther and talk
24 about all the other exhibits, is that right?

1 MR. DEXTER: I thought that's what
2 Mr. Sheehan's stipulation was all about.

3 CHAIRWOMAN MARTIN: Well, I guess I
4 want to raise the point, which is I believe you
5 all already did stipulate to admission of the
6 exhibits as full exhibits.

7 My point was that, to the extent that
8 happens, I think this is an issue that just will
9 -- appreciating that it may not necessarily be
10 able to be looked to for factual determinations
11 that need to be made, despite being full
12 exhibits.

13 And, so, that's a distinction that I
14 wanted you to appreciate for purposes of today's
15 hearing. To the extent you need facts that are
16 contained in those, the Settlement Agreement
17 specifically says that you -- I think it said
18 something along the lines, though, that you "do
19 not agree to the accuracy of that". And, so, the
20 Commission wouldn't be in a position to rely on
21 the facts contained in them.

22 To the extent you need facts that are
23 contained in those, you should get your witness
24 on this.

1 MR. DEXTER: Okay. Well, I'm going to
2 then rely on the witnesses that are live. And
3 I've submitted the affidavits for the witnesses
4 who aren't live. If that turns out to be not a
5 suitable solution to this conundrum, then I will
6 live with that.

7 CHAIRWOMAN MARTIN: Mr. Sheehan, do you
8 have a further response based upon that
9 clarification?

10 MR. SHEEHAN: I will take the same
11 position as Mr. Dexter, that to rely on the live
12 witnesses here. To the extent -- and I will file
13 the affidavits, to the extent that helps some.
14 To the extent that doesn't help enough for those
15 witnesses, we'll just rest with that.

16 I would ask the Commission to consider
17 the inefficiencies of requiring people, like
18 those witnesses we chose not to have here today,
19 that it would be at great cost to have these four
20 consultants sit by their computer for several
21 hours that we didn't think was necessary and we
22 didn't think would advance the ball too much.

23 So, I again would turn to the
24 Commission's discretion to accept the document as

1 evidence, and to accept any facts in that
2 document it chooses to rely on. I don't think
3 you need a live person to attest their testimony,
4 to say "Yes, that testimony is true."

5 So, I will follow the same practice
6 that Mr. Dexter just laid out for today's
7 hearing.

8 CHAIRWOMAN MARTIN: Okay. Thank you.

9 Anyone else want to be heard on that
10 issue before we move forward?

11 *[No indication given.]*

12 CHAIRWOMAN MARTIN: Okay. Thank you.

13 All right. I think we have no other outstanding
14 preliminary issues that I'm aware of. Let's move
15 to the witnesses please.

16 Oh, Mr. Dexter.

17 MR. DEXTER: Unfortunately, Madam

18 Chair, I do have to raise something.

19 On the exhibits that we've been talking
20 about, it came to my attention this morning that,
21 in the process of filing Exhibits 21 through 26
22 for Staff, and 39 as well, I believe, that there
23 was some misnumbering in the filing of the
24 exhibits for the purposes of the remote hearing.

1 Each of those exhibits is correctly
2 identified by number, and each one is correctly
3 Bates stamped. However, there are attachments
4 that were not consistent -- attachment numbers
5 that are not consistent with the underlying
6 attachment numbers when the testimony was
7 originally filed. And, so, that could get
8 confusing.

9 For example, Mr. Dudley's original
10 testimony had about eleven or twelve
11 attachments. However, in the remote hearing
12 version that was filed a few days ago, they're
13 all listed as "Attachment" -- they're all labeled
14 as "Attachment 1". So, I apologize for that
15 error.

16 I think, for purposes of today's
17 hearing, the exhibit number is correct and the
18 Bates stamp number is correct. So, we can go
19 forward. And I would ask permission to refile
20 those sometime this week, after the hearing, with
21 the attachment numbers either removed, so that
22 the underlying attachment numbers are used, or
23 the correct attachment numbers added in. We just
24 haven't decided what's the best way to do that

1 yet.

2 CHAIRWOMAN MARTIN: Any objection to
3 that?

4 MR. SHEEHAN: None from Liberty.

5 MR. KREIS: None from the OCA.

6 CHAIRWOMAN MARTIN: Okay. Seeing none,
7 that's fine. Why don't you do that.

8 Now, let's move to the witnesses.

9 Mr. Patnaude, if you could swear them in.

10 *[Court reporter inquired as to which*
11 *witnesses to swear in and a brief*
12 *off-the-record discussion ensued.]*

13 (Whereupon **Steven E. Mullen, Heather M.**
14 **Tebbetts, David B. Simek, Pradip**
15 **Chattopadhyay, Ron Nelson, Jay E.**
16 **Dudley, Kurt Demmer, and Donna H.**
17 **Mullinax** were duly sworn by the Court
18 Reporter to participate in the
19 Settlement Witness Panel; also sworn in
20 as well by the Court Reporter were
21 **Heather Green, Joel Rivera, Anthony**
22 **Strabone, Gregg H. Therrien, and**
23 **Clifton C. Below** to attest to their
24 testimony and attachments thereto.)

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 CHAIRWOMAN MARTIN: Thank you.

2 Mr. Sheehan.

3 MR. SHEEHAN: Thank you. I will start
4 with the Liberty witnesses on the Settlement
5 panel.

6 **STEVEN E. MULLEN, SWORN**

7 **HEATHER M. TEBBETTS, SWORN**

8 **DAVID B. SIMEK, SWORN**

9 **PRADIP CHATTOPADHYAY, SWORN**

10 **RON NELSON, SWORN**

11 **JAY E. DUDLEY, SWORN**

12 **KURT DEMMER, SWORN**

13 **DONNA H. MULLINAX, SWORN**

14 **DIRECT EXAMINATION**

15 BY MR. SHEEHAN:

16 Q Mr. Mullen, could you please introduce yourself,
17 state your position with the Company, and -- just
18 that, that first?

19 A (Mullen) My name is Steven Mullen. I'm the
20 Director of Rates and Regulatory Affairs for
21 Liberty Utilities Service Corp. I have
22 responsibility for the utility affiliates in New
23 Hampshire, New York, and Georgia, including
24 Liberty Utilities (Granite State Electric) Corp.,

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 which is the subject of the hearing today.

2 Q Mr. Mullen, you were author of several pieces of
3 testimony in this docket?

4 A (Mullen) Yes, I was.

5 Q And I have them being Exhibit 8, your direct
6 testimony; Exhibit 29, your rebuttal testimony.
7 Are those the two pieces of testimony that you
8 drafted and prepared and filed in this docket?

9 A (Mullen) Yes.

10 Q And I also understand that you're going to adopt
11 the testimony of Susan Fleck in this matter,
12 which are Exhibits 4 and 30, is that correct?

13 A (Mullen) Yes, it is.

14 Q And I assume you have reviewed Ms. Fleck's
15 testimony, and you are satisfied that you can
16 attest to the facts in those testimonies as well?

17 A (Mullen) Yes.

18 Q Do you have any changes to those four testimonies
19 to highlight today?

20 A (Mullen) I do not.

21 Q And do you adopt those today as your sworn
22 testimony?

23 A (Mullen) Yes, I do.

24 Q Exhibit 37 is the Settlement Agreement, with

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 attachments, that is the primary subject of
2 today's hearing. Did you play a role in the
3 negotiations and work that led up to the document
4 as we see it today?

5 A (Mullen) Yes, I did.

6 Q Okay. Ms. Tebbetts, I'll go through the same
7 series of questions with you. Will you please
8 introduce yourself, your position with the
9 Company, and your responsibility?

10 A (Tebbetts) Yes. My name is Heather Tebbetts. I
11 am the Manager of Rates and Regulatory Affairs.
12 And I work for Liberty Utilities Service Corp.
13 And I'm responsible for all of the rate-related
14 services, things like rate cases for Granite
15 State Electric.

16 Q You were author of several pieces of testimony
17 that are filed in this docket as well, correct?

18 A (Tebbetts) Yes.

19 Q And I'm going to list them, with several others
20 who we will hear from. You were part of what's
21 Exhibit 7, the Direct Testimony of Joel Rivera,
22 Anthony Strabone, and Heather Tebbetts; of
23 Exhibit 9, the Direct Testimony of Heather Green
24 and Heather Tebbetts; Exhibit 10, the Direct

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Testimony of Heather Tebbetts; Exhibit 17, the
2 Technical Statement of Heather Tebbetts; Exhibit
3 31, the Rebuttal Testimony of Strabone and
4 Tebbetts; 32, the Rebuttal Testimony of Rivera
5 and Tebbetts; and 33, the Rebuttal Testimony of
6 Green, Rivera, and Tebbetts. Is that correct?

7 A (Tebbetts) Yes.

8 Q Do you have any corrections that you'd like to
9 bring to the Commission's attention in any of
10 those testimonies this morning?

11 A (Tebbetts) I do not.

12 Q And do you adopt those testimonies as your sworn
13 testimony today?

14 A (Tebbetts) Yes.

15 Q You will also be on the panel discussing the
16 Settlement Agreement, Exhibit 37. Did you
17 participate in the conversations that led to the
18 Settlement Agreement as it appears in front of us
19 today?

20 A (Tebbetts) Yes.

21 Q Thank you. Mr. Simek, could you introduce
22 yourself, your position with the Company, and
23 your job responsibility?

24 A (Simek) Sure. My name is David Simek. I'm a

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Manager in the Regulatory and Rates Affairs
2 Department -- or, I'm sorry, the Rates and
3 Regulatory Affairs Department. And my primary
4 responsibilities is I'm responsible for most
5 rate-related activities of the Company.

6 Q Mr. Simek, you authored several pieces of
7 testimony, beginning with Exhibit 5, the Direct
8 Testimony of Philip Greene and David Simek;
9 Exhibit 6, the Testimony -- I'm sorry, Exhibit
10 16, the Technical Statement of Mr. Greene and Mr.
11 Simek; and Exhibit 34, the Rebuttal Testimony of
12 Philip Greene and David Simek. Is that correct?

13 A (Simek) Yes, it is.

14 Q And you're also today offering to adopt the
15 testimony of Mr. Greene, Exhibit 6, related to
16 the Lead/Lag Study. Is that correct?

17 A (Simek) Yes, it is.

18 Q And, as to Exhibit 6, you have read that
19 testimony and are comfortable that you can swear
20 to the factual statements in that testimony,
21 correct?

22 A (Simek) Correct.

23 Q So, as to those exhibits that I just identified,
24 5, 6, 16, and 34, do you adopt those testimonies

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 today as your sworn testimony?

2 A (Simek) Yes, I do.

3 Q And, lastly, pursuant to the Settlement
4 Agreement, Exhibit 37, were you also involved in
5 that and the work that resulted in the Settlement
6 Agreement that appears in front of us today?

7 A (Simek) Yes.

8 MR. SHEEHAN: Thank you. Madam Chair,
9 I can either turn to the other Company witnesses,
10 get that piece done, or I can turn it over to the
11 other lawyers to have them introduce their
12 witnesses on the Settlement Agreement?

13 CHAIRWOMAN MARTIN: I think I would
14 like you to proceed with your witnesses and get
15 them done.

16 MR. SHEEHAN: Great. Thank you.

17 **HEATHER GREEN, SWORN**

18 **DIRECT EXAMINATION**

19 BY MR. SHEEHAN:

20 Q Ms. Green, could you please identify yourself,
21 your position with the Company, and what your
22 general responsibilities are? You're on mute.

23 A (Green) Had to find the button. My name is
24 Heather Green. And I am the Program Manager of

[WITNESS: Green]

1 Vegetation and Inspections.

2 Q And, generally, what are you responsible for?

3 A (Green) I'm generally responsible for the
4 Vegetation Program for clearance --

5 CHAIRWOMAN MARTIN: Excuse me. I need
6 to interrupt. Commissioner Giaimo's video has
7 gone out, and I want to make sure that he can
8 hear us. Commissioner Giaimo, can you hear us?

9 CMSR. GIAIMO: I can hear you and I can
10 see everything. The only problem is you wouldn't
11 be able to see me, or at least they could just
12 see a still picture of me, which is probably
13 fine.

14 CHAIRWOMAN MARTIN: Okay. Any
15 objection to us proceeding?

16 CMSR. GIAIMO: I'm fine with that.

17 CHAIRWOMAN MARTIN: All right. If it
18 gets worse or you can't hear us, let me know.

19 CMSR. GIAIMO: Thank you.

20 CHAIRWOMAN MARTIN: You're welcome. Go
21 ahead, Mr. Sheehan. I apologize.

22 MR. SHEEHAN: Thank you.

23 BY MR. SHEEHAN:

24 Q Heather, if you could just provide us just a few

[WITNESS: Green]

1 lines of what you do day-to-day?

2 A (Green) I'm responsible for managing the
3 Vegetation Program, both planned work and
4 unplanned work, as it relates to vegetation and
5 the inspection of assets.

6 Q You participated in testimony that was filed in
7 this docket, which have been marked as Exhibit 9,
8 the Direct Testimony of Heather Green and Heather
9 Tebbetts; Exhibit 33, the Rebuttal Testimony of
10 Heather Green, Joel Rivera, and Heather Tebbetts.
11 Is that correct?

12 A (Green) That is correct.

13 Q Do you have any changes to your portions of those
14 testimonies to mention this morning?

15 A (Green) I do not have any changes.

16 Q And do you adopt those testimonies as your sworn
17 testimony today?

18 A (Green) I do.

19 MR. SHEEHAN: Thank you.

20 WITNESS GREEN: Thank you.

21 **ANTHONY STRABONE, SWORN**

22 **DIRECT EXAMINATION**

23 BY MR. SHEEHAN:

24 Q Mr. Strabone, could you introduce yourself and

[WITNESS: Strabone]

1 your position with the Company?

2 A (Strabone) Good morning. My name is Anthony
3 Strabone. I am the Manager of Electric
4 Engineering for Liberty Utilities Service Corp.
5 I am responsible for managing engineering and
6 construction resources for Granite State
7 Electric.

8 Q And, Mr. Strabone, you participated in two
9 testimonies that are marked here today: Exhibit
10 7, the Direct Testimony of Joel Rivera, Anthony
11 Strabone, and Heather Tebbetts; and Exhibit 31,
12 Rebuttal Testimony of Anthony Strabone and
13 Heather Tebbetts. Is that correct?

14 A (Strabone) That is correct.

15 Q Do you have any changes to those testimonies that
16 you'd like to bring to the Commission's attention
17 this morning?

18 A (Strabone) I do not.

19 Q And do you adopt that testimony as your sworn
20 testimony here today?

21 A (Strabone) I do.

22 MR. SHEEHAN: Thank you.

23 **JOEL RIVERA, SWORN**

24 **DIRECT EXAMINATION**

[WITNESS: Rivera]

1 BY MR. SHEEHAN:

2 Q Mr. Rivera, please introduce yourself and your
3 position with the Company?

4 A (Rivera) Hello. My name is Joel Rivera. I am
5 employed as the Manager of GIS and Electric
6 System Planning by Liberty Utilities Service
7 Corp. I am responsible for managing Granite
8 State Electric's system capacity, reliability,
9 interconnection protection system, and associated
10 budget estimates.

11 Q Mr. Rivera, you participating in three sets of
12 testimony that have been marked this morning.
13 First being Exhibit 7, the Direct Testimony of
14 Joel Rivera, Anthony Strabone, and Heather
15 Tebbetts; Exhibit 32, the Rebuttal Testimony of
16 Joel Rivera and Heather Tebbetts; and Exhibit 33,
17 the Rebuttal Testimony of Heather Green, Joel
18 Rivera, and Heather Tebbetts. Is that correct?

19 A (Rivera) Yes, it is.

20 Q Do you have any corrections or changes to those
21 testimonies you'd like to bring to our attention
22 this morning?

23 A (Rivera) I do not.

24 Q And do you adopt those testimonies as your sworn

[WITNESS: Rivera]

1 testimony today?

2 A (Rivera) Yes, I do.

3 MR. SHEEHAN: Thank you.

4 **GREGG H. THERRIEN, SWORN**

5 **DIRECT EXAMINATION**

6 BY MR. SHEEHAN:

7 Q And, last, Mr. Therrien, please introduce
8 yourself, your employer, and your role in this
9 case?

10 CHAIRWOMAN MARTIN: Mr. Therrien,
11 you're on mute.

12 WITNESS THERRIEN: I think I hit the
13 button too quick.

14 **BY THE WITNESS:**

15 A (Therrien) Good morning, everyone. My name is
16 Gregg Therrien. I'm an Assistant Vice President
17 with Concentric Energy Advisors. I was retained
18 by Liberty to sponsor testimony on decoupling.

19 CHAIRWOMAN MARTIN: Mr. Sheehan, you're
20 on mute.

21 MR. SHEEHAN: Thank you.

22 BY MR. SHEEHAN:

23 Q Mr. Therrien, you sponsored testimony that has
24 been marked as "Exhibit 11", which is the Direct

[WITNESS: Therrien]

1 Testimony of Greggory -- Gregg Therrien, is that
2 correct?

3 A (Therrien) Yes.

4 Q And that is your testimony that addresses the
5 Company's decoupling mechanism, is that correct?

6 A (Therrien) Yes.

7 Q Do you have any changes to your testimony that
8 you'd like to mention to the Commission this
9 morning?

10 A (Therrien) No.

11 Q And do you adopt your testimony, Exhibit 11, as
12 your sworn testimony today?

13 A (Therrien) I do.

14 MR. SHEEHAN: Thank you. Madam
15 Chairwoman, those four witnesses can be, I guess,
16 demoted for the time being. Their role -- active
17 role, as we see it, has been completed.

18 And I guess now would be the time to
19 let the other counsel introduce their witnesses.

20 CHAIRWOMAN MARTIN: Okay. Thank you.
21 Mr. Wind, looks like you are demoting them out.
22 Thank you.

23 Mr. Kreis, would you like to present
24 your witnesses?

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 MR. KREIS: Thank you, Madam
2 Chairwoman. Let me start with Dr. Chattopadhyay.

3 BY MR. KREIS:

4 Q Dr. Chattopadhyay, would you identify yourself
5 with your name and your position for the record?

6 A (Chattopadhyay) Yes. Yes. My name is Pradip
7 Chattopadhyay. And I am the Assistant Consumer
8 Advocate.

9 Q And, Dr. Chattopadhyay, you prepared written
10 testimony in connection with this proceeding that
11 is dated December 6th, 2019, did you not?

12 A (Chattopadhyay) That is correct.

13 Q And that testimony, in its written form, has been
14 marked for identification purposes as
15 "Exhibit 18", correct?

16 A (Chattopadhyay) That is correct.

17 Q And the subject of that testimony is various
18 issues that relate to the Company's rate case
19 proposal as it was then on file in December of
20 2019, yes?

21 A (Chattopadhyay) That is true.

22 Q And, if I asked you all of the questions that you
23 were asked in Exhibit 18, as to that original
24 Company proposal, your answers would be the same

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 now. Is that a fair statement?

2 A (Chattopadhyay) That is a fair statement. But,
3 at this point, because that was written in
4 December, there has been changes in the market
5 realities. So that, I would certainly talk about
6 it, because it's June now, 2020.

7 Q Understood. And, in that regard, you
8 participated in the process that led to the
9 signing of the Settlement Agreement that is
10 before the Commission today, correct?

11 A (Chattopadhyay) That is correct.

12 Q And, so, you would be in a position to opine on
13 the issues that were resolved in the Settlement
14 Agreement, as they relate to your testimony that
15 you filed back in December that has been marked
16 as Exhibit 18, yes?

17 A (Chattopadhyay) Yes.

18 Q Okay. Turning to Mr. Nelson. Mr. Nelson, would
19 you please identify yourself by name, position,
20 and your relationship to the Office of the
21 Consumer Advocate?

22 CHAIRWOMAN MARTIN: Mr. Nelson, you're
23 on mute.

24 WITNESS NELSON: Can you all hear me

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 now?

2 MR. KREIS: Yes.

3 CHAIRWOMAN MARTIN: Yes.

4 WITNESS NELSON: Okay. I guess I have
5 to unmute on my phone and my computer. Thank
6 you.

7 **BY THE WITNESS:**

8 A (Nelson) Good morning. Ron Nelson, with
9 Strategen Consulting. I'm a Director at
10 Strategen. I submitted testimony on behalf of
11 the OCA in this case. And my testimony covered a
12 wide variety of topics, including
13 performance-based regulation, rate design, cost
14 of service studies, as well as DER
15 interconnection.

16 BY MR. KREIS:

17 Q And that testimony that you prepared and filed,
18 which was prepared and filed back in December,
19 has now been marked for identification as
20 "Exhibit 19", correct?

21 A (Nelson) Correct.

22 Q And, assuming that the subject were the Company's
23 original filing, if I asked you all of those
24 questions that are laid out in Exhibit 19, would

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 the answers that you gave here live on the stand
2 be the same as the ones you wrote down in
3 Exhibit 19?

4 A (Nelson) Yes.

5 Q And you participated, with the rest of the OCA
6 team, in developing and negotiating the
7 Settlement Agreement that is now pending before
8 the Commission today, did you not?

9 A (Nelson) I did.

10 Q And, so, you would be in a position to answer
11 questions from me or the other lawyers or the
12 Commissioners about the issues you took up in
13 your testimony as they relate to the terms of the
14 Settlement Agreement, correct?

15 A (Nelson) Correct.

16 MR. KREIS: Those are all of my
17 introductory questions for my two witnesses,
18 Chairwoman Martin.

19 CHAIRWOMAN MARTIN: Thank you. Mr.
20 Dexter.

21 MR. DEXTER: Thank you. I would like
22 to start with Jay Dudley, please.

23 BY MR. DEXTER:

24 Q Mr. Dudley, would you identify yourself for the

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 record?

2 A (Dudley) Yes. My name is Jay Dudley. And I'm a
3 Utilities Analyst in the Electric Division of the
4 PUC.

5 Q Would you please describe your duties in
6 connection with this proceeding?

7 A (Dudley) In this proceeding, I was assigned as
8 the lead analyst. And, as the lead analyst, I
9 have been involved in all aspects of the case,
10 including the review of testimony, issuing data
11 requests, I attended all the tech sessions,
12 provided testimony, answered data requests, and I
13 participated in all of the settlement
14 conferences.

15 Q And you indicated, I think, that you provided
16 written testimony in this proceeding, is that
17 right?

18 A (Dudley) Yes.

19 Q Is that the document that's been marked in this
20 case as "Exhibit 21"?

21 A (Dudley) Yes, it is.

22 Q And when was that testimony prepared, Mr. Dudley?

23 A (Dudley) My testimony was prepared in December
24 2019.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Q And was it prepared by you or under your direct
2 supervision?

3 A (Dudley) Yes, it was.

4 Q And, to the best of your knowledge and belief,
5 was the testimony, at the time it was filed,
6 accurate?

7 A (Dudley) Yes, it was.

8 Q I'd like to direct your attention to what's been
9 marked as "Exhibit 40" in this case, which is a
10 corrected Table of Contents to your testimony.
11 Could you describe what that is please?

12 A (Dudley) Yes. The original Table of Contents
13 that was filed with my testimony was incorrect.
14 And I have subsequently corrected that Table of
15 Contents, and has been submitted in this
16 proceeding as "Exhibit 40".

17 Q Very good. And I believe that you were going to
18 make a further correction to a date, if I'm not
19 mistaken, on a particular page in your testimony.
20 Could you do that now please?

21 A (Dudley) Yes. On Bates Page 037 of my testimony,
22 specifically Line 13, mid sentence there is a
23 date that's referenced, and that date is "July
24 23rd, 2019". The correct date is "July 23rd,

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 2018".

2 Q And, with those corrections, do you adopt that
3 testimony as your sworn testimony in this
4 proceeding?

5 A (Dudley) Yes, I do.

6 Q And, Mr. Dudley, you're familiar with the terms
7 of the Settlement in this case that's been marked
8 as "Exhibit 37", is that correct?

9 A (Dudley) Yes, I am.

10 MR. DEXTER: Thank you. That's all I
11 have for Mr. Dudley. I'd like to turn to Mr.
12 Demmer.

13 BY MR. DEXTER:

14 Q Mr. Demmer, would you identify yourself for the
15 record please?

16 CHAIRWOMAN MARTIN: Mr. Demmer, you're
17 on mute. Can't hear you yet. Off the record,
18 Steve.

19 *[Brief off-the-record discussion*
20 *ensued.]*

21 CHAIRWOMAN MARTIN: All right. Steve,
22 back on the record please. You can go ahead.

23 **BY THE WITNESS:**

24 A (Demmer) Okay. My name is Kurt Demmer. I am a

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Utility Analyst in the Electric Division for the
2 Public Utilities Commission.

3 BY MR. DEXTER:

4 Q Mr. Demmer, would you please describe your duties
5 in this proceeding?

6 A (Demmer) My testimony covers both operational and
7 engineering aspects of this rate case. The lead
8 areas include Liberty's recent LCIRP filing,
9 Liberty's planning criteria, the 2017 Salem Area
10 Planning Study, substation asset assessment,
11 substation contingency analysis assessment,
12 capital expenditures, third party attachment
13 fees, and some minor tariff modifications.

14 Q And, Mr. Demmer, you provided prefiled written
15 testimony in this case, is that correct?

16 A (Demmer) Yes.

17 Q And that's been marked as "Exhibit 22", is that
18 right?

19 A (Demmer) Yes.

20 Q When was that testimony prepared?

21 A (Demmer) December 2019.

22 Q And was it prepared by you or under your direct
23 supervision?

24 A (Demmer) Yes, it was.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Q And, to the best of your knowledge and belief,
2 was the testimony accurate at the time it was
3 filed?

4 A (Demmer) Yes, it was.

5 Q And do you have any specific corrections you'd
6 like to make to that testimony now?

7 A (Demmer) No, I do not.

8 Q And do you adopt that testimony here today as
9 your sworn testimony in this case?

10 A (Demmer) Yes, I do.

11 MR. DEXTER: Thank you. So, finally,
12 I'd like to turn to Donna Mullinax.

13 BY MR. DEXTER:

14 Q Mrs. Mullinax, would you identify yourself
15 please?

16 MR. DEXTER: And I'm not hearing
17 Mrs. Mullinax. So, perhaps she's on mute?

18 CHAIRWOMAN MARTIN: Yes. I think
19 you're on mute.

20 WITNESS MULLINAX: Okay. There, it
21 worked.

22 **BY THE WITNESS:**

23 A (Mullinax) My name is Donna Mullinax. And I'm
24 employed with Blue Ridge Consulting Services,

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Inc.

2 BY MR. DEXTER:

3 Q And would you please describe your duties with
4 respect to this case?

5 A (Mullinax) I was testifying on behalf of Staff,
6 with my focus on evaluating Liberty's revenue
7 requirements, and then also looking at the
8 effects of Staff's recommended adjustments to
9 those revenue requirements.

10 Q And did you provide written testimony in this
11 case?

12 A (Mullinax) Yes.

13 Q And I would direct you to Exhibits 23a and 23b in
14 this docket. Are those your testimonies?

15 A (Mullinax) Yes.

16 Q And is it correct that those are the same
17 substantively, but one contains a -- 23a is a
18 confidential version and Exhibit 23b is a
19 redacted version, is that right?

20 A (Mullinax) Yes.

21 Q When was that testimony prepared?

22 A (Mullinax) It was prepared in early December
23 2019.

24 Q And was that testimony accurate, to the best of

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 your knowledge and belief, when it was filed?

2 A (Mullinax) Yes.

3 Q Do you have any specific corrections that you'd
4 like to make to that testimony at this time?

5 A (Mullinax) No.

6 Q And do you adopt that testimony as your sworn
7 testimony in this proceeding?

8 A (Mullinax) Yes.

9 MR. DEXTER: Thank you. Chairwoman
10 Martin, that completes my introductory questions.
11 I would like to come back, after the Company
12 witnesses provide a summary, and ask some
13 additional questions at that time.

14 CHAIRWOMAN MARTIN: Okay. Thank you.

15 Mr. Below, did you want to adopt your
16 testimony now?

17 MR. BELOW: Yes. Sure.

18 MR. SHEEHAN: And, Madam Chair, I
19 offered to walk Mr. Below through that process,
20 if I could?

21 CHAIRWOMAN MARTIN: Yes.

22 **CLIFTON C. BELOW, SWORN**

23 **DIRECT EXAMINATION**

24 BY MR. SHEEHAN:

[WITNESS: Below]

1 Q Mr. Below, could you please identify yourself and
2 your position as an intervenor in this docket?

3 A (Below) Yes. I am Clifton C. Below. I am a City
4 Councilor and Assistant Mayor of the City of
5 Lebanon, and was delegated by the Manager -- City
6 Manager and/or City Council to represent the City
7 of Lebanon in this case. And I filed testimony
8 and attachments in December.

9 CHAIRWOMAN MARTIN: Mr. Sheehan, you're
10 on mute.

11 MR. SHEEHAN: I'm sorry.

12 BY MR. SHEEHAN:

13 Q Testimony was marked as "Exhibit 27", and an
14 additional attachment was marked as "Exhibit 28"
15 in this docket, is that correct.

16 A (Below) That's correct.

17 Q And do you have any changes to your testimony
18 that you'd like to bring to the Commission's
19 attention today?

20 A (Below) I do not.

21 Q And do you adopt your testimony as your sworn --
22 written testimony as your sworn testimony today?

23 A (Below) I do.

24 Q And, Mr. Below, you indicated you wanted to make

[WITNESS: Below]

1 a brief comment about a related docket, DE
2 19-187, which is a proposed special contract
3 between Liberty Utilities and the City of
4 Lebanon. Could you elaborate?

5 A (Below) Yes. The City proposed and Liberty
6 jointly proposed a special contract to
7 accommodate what the City wanted to do with LED
8 street lighting. But, essentially, the issues in
9 that special contract were incorporated into the
10 proposed LED-2 tariff, such that, if the
11 Commission approved the Settlement with the LED
12 tariffs, then we would be in a position to
13 withdraw that special contract request, as the
14 proposed tariff would suffice for our purposes.

15 Q And, Mr. Below, you wanted to also indicate to
16 the Commission that you are available to answer
17 any questions they may have through this
18 proceeding?

19 A (Below) I am. Which primarily concern the street
20 lighting and LED tariff, but also touched on the
21 EV tariff. And, obviously, we're supportive of
22 the Settlement as a whole.

23 MR. SHEEHAN: All right. At this time,
24 I propose that I have the Liberty witnesses walk

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 through the Settlement Agreement at a relatively
2 high level, and then offer fellow counsel
3 opportunities for similar, any questions they may
4 have. If that's appropriate?

5 CHAIRWOMAN MARTIN: Yes. That's fine.
6 I just want to check. Steve, how are you doing?

7 MR. PATNAUDE: Okay. Good.

8 CHAIRWOMAN MARTIN: All right.

9 Mr. Sheehan, you may continue.

10 MR. SHEEHAN: So, we will be,
11 obviously, walking through the Settlement
12 Agreement, which is Exhibit 37. The Moderator
13 can give me control to put the document on the
14 screen or we could simply assume that everyone
15 has it in front of them. I'll take the Chair's
16 lead on that, and proceed?

17 CHAIRWOMAN MARTIN: I think we'd prefer
18 to just have everyone look at it, to the extent
19 they have it, rather than having it --

20 MR. SHEEHAN: Okay.

21 BY MR. SHEEHAN:

22 Q Mr. Mullen, you were the lucky one nominated to
23 go through this process. If we could have you
24 look at Exhibit 37, if you begin around Page --

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Bates Page 003, where the heading is "Terms of
2 Agreement", can you just begin to just go section
3 by section and just summarize what it is the
4 Parties have agreed to as embodied in this
5 document?

6 A (Mullen) Certainly. And I'll use the old-school
7 paper version.

8 First, I just want to make a general
9 statement. You know, this case has been ongoing
10 for over a year. We all kind of entered a new
11 world toward the end of it. The Company
12 certainly appreciates the work and determination
13 and cooperation of everyone to go through this
14 new process. It certainly was a little different
15 doing everything remotely for the last few
16 months. And we appreciate also that the
17 Commission has kept the proceedings going.

18 It would be nice to get back and meet
19 people in-person again. But, anyhow, I wanted to
20 just offer those initial comments.

21 Referring to Page 3 of Exhibit 37, with
22 the "Terms of Agreement", the first part is on
23 "Revenue Requirement and Rate of Return". As you
24 heard Attorney Kreis say earlier, we did settle

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 all of the revenue requirement issues, and that
2 resulted in a agreed upon distribution revenue
3 increase of 4.15 million. Included with that is
4 a agreement on the cost of equity of 9.1 percent,
5 and a capital structure consisting of 52 percent
6 equity and 48 percent debt.

7 We've agreed with a proposed
8 implementation date of permanent rates of July
9 1st, 2020. The Company's original filing had
10 requested May 1st of 2020. But, given the
11 current situation with the COVID-19 pandemic and
12 all of that, it made sense to delay the
13 implementation of permanent rates by a couple of
14 months, and that's what we've done here.

15 Moving further down the page, there's a
16 section under the revenue requirement talking
17 about "Salem Investments". As people are aware
18 from the testimony that was filed in the case,
19 the Company has some significant load growth
20 being encountered in the Salem area, particularly
21 with the redevelopment of the former Rockingham
22 Park racetrack, in what's known as "Tuscan
23 Village".

24 This section, while the Company had

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 proposed certain future capital investments to
2 deal with serving the load in that area, as we
3 went through the proceeding, the Staff
4 particularly had some different views on some of
5 the investments, and those are going to be placed
6 in service in future years. What we have agreed
7 to, for purposes of this Agreement, is that there
8 is nothing in the rate base as of now, or
9 proposed in the step adjustments that I will be
10 describing, related to those particular
11 investments.

12 By the same token, as we go through the
13 intervening years that, you know, to the extent
14 that we do those, there is nothing in this
15 Agreement that says that we could not later seek
16 recovery or someone might be able to take a
17 different position on that.

18 So, we basically have not preordained
19 the investments in that area one way or the
20 other. We continue to do work in that area. We
21 continue to do some more studies related to the
22 need for investments in that area. And there
23 will be more information provided on those in
24 future years.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Turning to Page 4, the Agreement
2 includes three step increases. One would be
3 happening at the same time as permanent rates in
4 this case, on July 1st of this year. That
5 relates to certain investments that we made and
6 were placed in service by the end of 2019. There
7 is also a step adjustment for certain investments
8 that are placed in service by the end of 2020.
9 And then, there's an agreement for an amount, a
10 capped amount, for certain investments placed in
11 service by the end of 2021.

12 Those, the first two, the list of
13 projects are included on Bates 029 and Bates 31,
14 of Attachment 37 [Exhibit 37?]. Those were
15 investments agreed to by the Parties. They are
16 still subject to final audit of the final costs,
17 and we'll be providing that information. As for
18 the first step adjustment in this docket, we made
19 a filing, I believe, on the 26th of May in
20 support of that.

21 For the third step adjustment, if you
22 turn to Page 5, and as I mentioned, that has a
23 cap. That is the revenue requirement -- the
24 revenue increase associated with that will be

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 capped at \$1.8 million. And there's a couple of
2 conditions related to that step adjustment. One
3 of which is that we file the list of projects at
4 the time we make the prior year's step
5 adjustment, so we can review that list of
6 projects with the Staff and the OCA and the other
7 Parties to the Agreement. And there's a second
8 one, a second condition that I will get to on the
9 next page.

10 With respect to all of these step
11 increases, on Page 5 it lists the types of
12 documentations that are required to be submitted
13 with each of the requests for the step increase.
14 So, we have certain -- we have certain
15 documentation requirements to meet. And, to the
16 extent that, for the first two, if the actual
17 amount for the projects come to less than what is
18 in the attachments, then that is what will go
19 into the step increase, after review, and each
20 one will be subject to a separate hearing by the
21 Commission. And, to the extent they go over, we
22 have the opportunity to request recovery of
23 those, again subject to prudence and review.

24 On Page 6, in Section C, there's a

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 section on "Performance-Based Ratemaking". And
2 this was the subject of the OCA's testimony. And
3 we have agreed that, as a condition to obtaining
4 approval of the third step increase, that prior
5 to -- at least nine months prior to filing for
6 the third step increase, we would -- we, the
7 Company, would present proposals to Staff, the
8 OCA, DES, for potential I'll say "PBR",
9 performance-based ratemaking, "PBR mechanisms"
10 that we would include in our next distribution
11 rate case. Now, those -- right now, there's no
12 details on that, and we're free to come up with
13 different proposals. There's many different ways
14 you can approach PBR. Could be through
15 reliability metrics, could be through things like
16 making use of a peak reduction. But we will be
17 dividing -- we will be putting our heads
18 together, coming up with some ways to propose
19 that. And we will be making that presentation at
20 least nine months prior to the third step.

21 In Section D, on Bates 007, as stated
22 earlier, the permanent rate increase will be
23 effective on July 1st, 2020. Also, we calculated
24 the amount of recoupment between the permanent

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 rate increase of 4.15 million and the temporary
2 rate increase of 2.1 million, approximately, that
3 went into effect on July 1st of 2019. That
4 amount is stated on Bates 007, about in the
5 middle of the page, a little over \$1.8 million.
6 So, that will also be -- we will be recovering
7 that over a two-year period, and that will be
8 effective also beginning on July 1st of 2020.

9 Rate case expenses, again, will be
10 recovered over a two-year period, beginning on
11 July 1st, 2020. There's an amount in the
12 Settlement right now of a little -- of a little
13 under \$554,000. That covers the cost of Company
14 consultants, Staff and OCA consultants, as well
15 as some other administrative costs. That amount
16 will be subject to a filing to be made, actually,
17 next week now, where we will submit to Staff and
18 OCA our detail of all the invoices for the rate
19 case expenses.

20 The amount will be subject to change a
21 little bit. I know, from the time that this was
22 put together, I received another invoice from a
23 Staff consultant, I think in the amount of \$900,
24 and plus we'll have some costs from people's

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 appearance today. That will be subject to any
2 changes to that final amount, and will then,
3 after the first year, be taken into account over
4 the remaining twelve months of the recovery
5 period.

6 Section F, on Page 8, describes the --
7 how the rate design was determined for the
8 permanent rates, 4.15 million. I'm going to try
9 not to get into a lot of detail, because I could
10 be here for a while. But, essentially, if
11 someone wants to look at the rates that will be
12 in effect as of July 1st of 2020, the place to
13 look is in Attachment 6 to the Agreement, which I
14 believe begins on Bates 061.

15 Actually, before I do that. If you
16 were to turn to the attachments to the Agreement,
17 and if you go first to Attachment 5, which is on
18 Bates 034, the first few pages go through the
19 rate design and how the increases were spread
20 across the various rate classes. Once you get to
21 Bates 041, you start seeing some graphs and
22 tables. That goes through, for each rate class,
23 the annual impact, when you compare rates prior
24 to the case, the permanent rates out of the

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 proceeding, but that does not include rate case
2 expense and recoupment, which are on
3 Attachment 6.

4 So, what these -- what these comparison
5 tables do is they give an idea of "Okay, before
6 this case, here's what it was; here's what it is
7 after the case." This includes the impact of
8 temporary rates, which customers have seen in
9 their bills since July 1st of 2019.

10 So, when you get to Attachment 6, and
11 if I start on Page 2 of Attachment 6, there's a
12 series of columns there. Column (a) is the
13 permanent rates, without any recoupment or rate
14 case expense. That column is the final rates
15 that we used to do the graphs and the tables on
16 Attachment 5. If you look at Attachment 6, Pages
17 2 and 3, Column (a) starts with the permanent
18 rates coming out of the case. Then, if you add
19 Column (b), which is the rate case expenses and
20 recoupment, that gets you to Column (c), which
21 gives you the base distribution charge.

22 Now, an intervening item that happened
23 was, on May 1st, we had changes to distribution
24 rates related to our Reliability Enhancement

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Program and our Vegetation Management Program.
2 So, Column (d) then includes the increase that
3 happened there. So, what results in the Column
4 (e) is the rates in effect will be -- the rates
5 and charges that will be in effect on July 1st of
6 2020. So, those again are shown on Pages 2 and 3
7 of Attachment 6.

8 And, to give you an idea, if you turn
9 to Bates 064, which is Page 4 of Attachment 6,
10 that gives an idea of what a customer will see on
11 July 1st, as compared to the rates that are
12 currently in their bill. So, the first column
13 there says "May 1st, 2020 rates". Those are the
14 rates in effect as a result of the Reliability
15 Enhancement Program and Vegetation Management
16 Program proceeding. The next compares to the
17 July 1st, 2020 rates. And you will see that,
18 overall, the total bill would increase by \$3.63,
19 which is about a 3.16 percent increase.

20 Going back to the text of the
21 agreement, on Page -- starting on Page 9, there's
22 some more detail here about various rates and
23 charges that are included. One of the main
24 things that we did, related to the customer

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 charge for residential customers, we kept it
2 flat. And, so, it's going to be same as what
3 came out of the Reliability Enhancement Program
4 and Vegetation Management Program proceeding.
5 That customer charge will also stay flat for the
6 future step increases.

7 So, changes -- increases to the
8 residential class are being done on a -- being
9 done through the volumetric charge. That's where
10 the -- that's where the changes to that class
11 will happen, and to the extent we have any
12 decoupling in place.

13 In Section 2, on Page 9, that just
14 talks about some of the other rates, the
15 commercial rates and the street lighting rates.

16 Section 3, we have agreed to develop
17 what's called an "Advanced Rate Design Road Map",
18 which is really trying to come up with some other
19 ways to set up rates going forward. This is
20 going to be, again, something else that we file
21 around the same time as the PBR proposal. And
22 this is -- this is something that will also be
23 included in subsequent least cost integrated
24 resource plans. And we also have to do it in

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 coordination with the results of the grid
2 modernization docket. So, when this order comes
3 out, subject to the Agreement here, we'll have to
4 make sure that it all works together.

5 Section G talks about the Reliability
6 Enhancement Program and the Vegetation Management
7 Program. The Reliability Enhancement Program has
8 been in effect since 2007, I believe. What we
9 have agreed is that calendar year 2020 will be
10 the last year of the Reliability Enhancement
11 Program. There is a budget that was submitted to
12 Staff back in November of last year of \$1.6
13 million with targeted capital to be spent on
14 that. That budget, for purposes of this
15 Agreement, has been agreed upon. Again, with
16 respect to PBR proposals, there is even a
17 sentence in here that says that one thing that we
18 could do in the next case is perhaps submit a PBR
19 mechanism related to the Reliability Enhancement
20 Program in the next proceeding.

21 Turning to Section 2, on Page 11, the
22 Vegetation Management Program, the annual funding
23 will increase to \$2.2 million in base rates.
24 We're going to remain on a four-year trim cycle.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 There will still be an annual reconciliation of
2 the costs. And, if we -- to the extent that we
3 spend less than that, that will be taken into
4 account. And, to the extent that we spend more
5 than that, again, everything will be reviewed,
6 but there is also a cap of 10 percent above the
7 \$2.2 million annual spending.

8 "Planning Criteria". This is for our
9 distribution planning criteria. This was a topic
10 of discussion that's been actually bandied around
11 for the last two years at the Commission. We
12 have agreement on the terms of that. There is an
13 Attachment 8 in the document that goes through
14 the details. And I can certainly let other ones
15 speak to that. If there's any questions, I can
16 let others on the panel talk to that.

17 "Decoupling", in Section I, we will --
18 the Parties have agreed that we should implement
19 decoupling effective July 1st of 2021. We were
20 originally looking to start that at the same time
21 as permanent rates. However, due to concerns and
22 uncertainty related to the current pandemic
23 situation, the Company and the Parties agreed
24 that it would make sense to hold off on

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 implementing that until another year.

2 In the interim, we will continue the
3 Lost Revenue Adjustment Mechanism that is
4 currently place. That was originally scheduled
5 to end with -- we had proposed that it end with
6 the implementation of decoupling. But this will
7 give us some time to kind of see how the impacts
8 of the COVID-19 kind of play out, and kind of
9 give everybody a little more, hopefully, a better
10 baseline.

11 Pages 12 and 13 go through, and a
12 little on 14, go through a lot of the details of
13 the decoupling mechanism. And there's a
14 attachment, I believe it's Attachment 9, to the
15 Agreement that lays out a detailed example of how
16 this is all supposed to work. This was a subject
17 of considerable discussion and review and detail.
18 And, you know, I believe the Office of the
19 Consumer Advocate spent a lot of time going
20 through this.

21 The extra time we had in this
22 proceeding, I would say, whether on this topic or
23 on others, probably worked to everybody's
24 advantage, because we were able to spend more

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 time going through details and not -- and making
2 sure everybody was in agreement.

3 So, I won't go through all the details
4 of the decoupling mechanism. But, essentially, I
5 will go through a couple of things. We did agree
6 to a cap of 3 percent on any -- on any
7 reconciliation item at the end of the year. It
8 will reduce the impact of any significant either
9 increases or decreases relative to the total.

10 Certain classes will not be included in
11 the decoupling mechanism, either because they're
12 essentially fixed charges, like for street
13 lighting, or they're new classes, like the Rate
14 EV for electric vehicles, or D-11, which relates
15 to the Battery Storage Program. Those last two
16 we'll look at the next time around, and we'll
17 analyze it to see whether it makes sense to
18 include those going forward or not. That may be
19 subject to the level of participation, the
20 experience with those -- with those rate classes,
21 but that will be determined later on.

22 Going further, some other tariff
23 provisions. As I mentioned, Rate EV, which is a
24 new rate for electric vehicles, that will have

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 time-of-use rates, just like the Battery Storage
2 Program. So, we're hoping that that option will
3 allow for some participation on that.

4 We have some new options for LED
5 tariffs. And, as you heard Mr. Below state,
6 that, you know, as part of that, the LED-2
7 satisfies the need of the City of Lebanon. So,
8 that is now a tariff provision.

9 And, turning to Bates 015, Section 3,
10 we have some standardized interconnection fees
11 based on the size of facilities, of planned
12 facilities. So that just makes it easier for
13 others to know what the costs of the study might
14 be if they wanted to interconnect into our
15 system.

16 Section K, on Bates 015, "Lead/Lag
17 Days". That includes the Lead/Lag Study
18 that's -- and again, there's an attachment that
19 goes through that, information from the Lead/Lag
20 Study that is being used in other proceedings.
21 So, it's helpful to have it all in one place
22 where people can reference it.

23 There's a Section L and Section M., the
24 "Depreciation Reserve Imbalance" and

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 "Depreciation". Those were the result of the
2 Company's consultant, Mr. Watson. We would --
3 the Parties have agreed that there was a revenue
4 deficiency -- or, excuse me, a depreciation
5 reserve deficiency of a little under \$1.4
6 million. And we've agreed to amortize that over
7 six years. And there's an Attachment 12 that
8 goes through the depreciation rates that resulted
9 from the depreciation study, and those will be
10 used going forward.

11 Attachment N, on "Pole Attachment
12 Fees". This is just an agreement that we will
13 update those once a year, and make sure that we
14 include the updated revenue associated with
15 revenues from those attachments, whether they be
16 cable companies or whoever.

17 Attachment O. We have agreed to that
18 our next distribution rate case would be a test
19 year four years after this one, or it could be no
20 sooner than that. So, our next test year could
21 be no sooner than the twelve months ended
22 December 31st, 2022.

23 Section P is "Reporting Requirements".
24 This is something that the Company has wanted to

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 do for a while, sit down with the Staff and the
2 OCA and go through the list of the reporting
3 requirements that have kind of built up over the
4 years. And some of this has to do with the due
5 dates, because sometimes things pile on top of
6 one another. I think, if you go back to the Step
7 Adjustment section, you'll see that there's a
8 date of "April 6th" in there. While there's no
9 magic to those, that's just trying to get away a
10 little bit from having things due on the 1st, the
11 15th, or the end of the month.

12 What we'd like to do is kind of sift
13 through, where this list has grown over the
14 years, and see if some of these can be
15 consolidated, perhaps eliminated, or maybe less
16 frequent. And the Parties have agreed to do that
17 by August 31st of this year.

18 Section Q talks about a interconnection
19 standard related to distributed energy resources.
20 And what we've agreed to do is participate in a
21 collaborative process that's going to be overseen
22 by Commission Staff. So, this collaborative
23 process looks to have recommendations out by the
24 end of 2021. This is something that will help,

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 hopefully, to just allow for increased
2 distributed energy resources on our system.

3 And Section 3 -- III, that begins on
4 Page 17, is a section called "Exogenous Events".
5 This has been a common term that's been included
6 in multiyear agreements over the years at the
7 Commission. And what it really does is, there
8 will be a period of time, a period of years where
9 the Company won't be coming in for a rate case,
10 this really covers increases or decreases in
11 expenses or revenues that are outside the
12 Company's control, and they could be significant.

13 Here we have a \$150,000 annual
14 threshold, and we have an annual report that we
15 have to file or a certification as to whether
16 there were any exogenous events or not. A
17 perfect example of something like this is the tax
18 rate changes, and we know all about that.

19 So, this goes through, the language is
20 pretty standard as compared to other agreements
21 that I'm familiar with over the last, say,
22 fifteen or so years.

23 And, finally, the "Conditions" at the
24 end, Section IV, on Bates 019, the first states

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 that "Nothing in this Agreement prevents the
2 Company from recovering any COVID-19 related
3 costs that the Commission may allow in a future
4 proceeding." The Commission opened a proceeding
5 last Thursday on that, that includes all of the
6 regulated utilities in this state. I believe we
7 will be participating in that, and we will see
8 where that all goes.

9 That concludes my summary, hopefully,
10 at a high level. And I will turn it back to
11 Mr. Sheehan.

12 MR. SHEEHAN: Thank you, Mr. Mullen.
13 And I will turn it back to other counsel. I have
14 no further questions for the Liberty witnesses.

15 CHAIRWOMAN MARTIN: Okay. Mr. Kreis.

16 MR. KREIS: Thank you, Chairwoman
17 Martin. I have, I think, just a few questions
18 for my two witnesses, hopefully not duplicative
19 of what Mr. Mullen had just testified about.

20 Let me start with Dr. Chattopadhyay.

21 BY MR. KREIS:

22 Q Dr. Chattopadhyay, --

23 MR. KREIS: I'm getting a lot of
24 background noise. If somebody else could mute

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 themselves, if they're not talking.

2 BY MR. KREIS:

3 Q The Settlement Agreement calls for a return on
4 equity of 9.1 percent, based on a capital
5 structure of 52 percent equity and 48 percent
6 debt. That ROE is considerably higher than the
7 one that you proposed. Why is 9.1 percent
8 reasonable, in your opinion?

9 A (Chattopadhyay) If you recall, the original
10 testimony estimated the ROE to be 8.23 percent,
11 that was in December 2019. I had briefly talked
12 about this a while ago. I've updated the number.
13 So, I looked at the same DCF approach that I had
14 used previously. And my current estimate is 8.7
15 [sic] percent. The big jump is, of course, due
16 to the pandemic. And, indeed, the ROE number, as
17 settled in this case, which is 9.1 percent, in my
18 opinion is eminently reasonable, given the other
19 elements of the Settlement.

20 The other point I'll make, the capital
21 structure that --

22 CHAIRWOMAN MARTIN: Dr. Chattopadhyay,
23 I apologize for interrupting, but some of us did
24 not hear the number that said that you got in

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 your new analysis. Could you repeat that please?

2 WITNESS CHATTOPADHYAY: Okay. It is,
3 when I updated the number, I've used the same DCF
4 approach that I used in December, I get a number
5 right now that is 8.75 percent.

6 Was that clear?

7 CHAIRWOMAN MARTIN: Yes. Thank you.

8 WITNESS CHATTOPADHYAY: You're welcome.

9 **CONTINUED BY THE WITNESS:**

10 A (Chattopadhyay) The last point that I would make
11 is that the capital structure the Company had
12 requested was 55 equity and 45 debt. The move to
13 52/48 capital structure actually helps lower the
14 cost of capital, relatively speaking. So that is
15 also beneficial to the ratepayers.

16 BY MR. KREIS:

17 Q Dr. Chattopadhyay, the overall revenue
18 requirement or the overall revenue increase, that
19 is, of a little more than \$4 million is
20 considerably higher than what the OCA's testimony
21 had recommended. Do you have an opinion about
22 that particular compromise?

23 A (Chattopadhyay) Yes. One has to recognize that
24 part of the movement from the OCA's

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 recommendation, to the best of my recollection,
2 it was \$3.5 million in the testimony, to the
3 Settlement number, which is \$4.15 million, is
4 indeed the accommodation of the agreed higher
5 settled ROE, which is 9.1 percent.

6 But, very importantly, the overall
7 revenue requirement should only be viewed in the
8 context of an overall compromise, that also
9 include other notable elements that we view as
10 being very positive. So, if I can go over them
11 very quickly.

12 First, the Settlement accommodates a
13 customer charge for residential customers at the
14 same level as was set for the temporary rates.
15 The customer charge will remain at \$14.74 per
16 month going forward, at least until the next rate
17 case. That's my understanding. So, that's a big
18 positive.

19 The second, the Settlement, while
20 accepting the Company's decoupling mechanism,
21 with some clauses, to ensure that we are
22 representing the residential ratepayers'
23 interests adequately, especially given the
24 current economic milieu. I think part of it, as

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Steve Mullen talked about, the clauses, both
2 creating a capping mechanism for the decoupling
3 adjustment rate, and also deferring the
4 implementation of the decoupling mechanism to
5 July 2021.

6 A few other positives that I would talk
7 about is, first, the Company's agreement that the
8 next general distribution rate case shall be no
9 sooner than the twelve-month period ending
10 December 31st, 2022. Second, we are very glad
11 that the Company has agreed to develop an
12 Advanced Rate Design Road Map going forward, as
13 described in Section F of the Settlement. And we
14 are also happy that the Company has committed to
15 work towards a performance-based ratemaking
16 approach for its next distribution rate case.

17 So, all of these positives, when you
18 weigh them in the -- you know, with the movement
19 that we accepted from 8.23 percent to 9.1
20 percent, in my opinion, is completely just and
21 reasonable.

22 Q Thank you, Dr. Chattopadhyay. Now, turning to
23 Mr. Nelson.

24 Mr. Nelson, your prefiled testimony

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 made a pretty strong argument in favor of
2 so-called "performance-based" regulation or
3 "performance-based" ratemaking. Has that concern
4 been adequately addressed in the Settlement?

5 A (Nelson) Yes, it has. Just to add, just to
6 explain why. Performance-based ratemaking is a
7 pretty complex undertaking to do holistically.
8 And, in my opinion, you have to create a holistic
9 performance-based regulatory framework to ensure
10 that risk is being balanced between the utilities
11 and shareholders and ratepayers.

12 And I think that this Settlement has
13 done a good job of creating a collaborative and
14 intentional process to begin that conversation.

15 Q Mr. Nelson, the Settlement calls for apportioning
16 the increase in the revenue requirement on an
17 equal percentage basis across all of the rates
18 and charges that are at issue here. Why is that
19 the -- why is that appropriate, from the
20 perspective of the residential utility customers
21 that we represent?

22 A (Nelson) There's currently a lot of uncertainty
23 right now with the pandemic. And, you know,
24 there's a lot of things that are going to be

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 changing on -- regarding customer class loads and
2 cost of service. So, I think to apportion the
3 rates equally acknowledges that, and it's the
4 most equitable approach to allocating rates in
5 this proceeding.

6 Q Thank you. Mr. Nelson, you've heard first Mr.
7 Mullen, and then just a minute ago
8 Dr. Chattopadhyay, talk about decoupling and the
9 decoupling provisions in the Settlement
10 Agreement. As you know, and as the Commission
11 knows, the OCA has been a strong proponent of
12 revenue decoupling for quite a while now. But we
13 actually ended up with an agreement that takes a
14 pretty cautious approach to decoupling.

15 Can you comment or add anything to what
16 Dr. Chattopadhyay and what Mr. Mullen said about
17 why the Settlement Agreement is actually more
18 cautious about decoupling than we had originally
19 proposed?

20 A (Nelson) Yes. You know, I concur with everything
21 that's already been said. But I'd also just add
22 that decoupling is not meant to --

23 *[Court reporter interruption due to*
24 *inaudible audio.]*

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 CHAIRWOMAN MARTIN: Could you pause for
2 a minute.

3 *[Brief off-the-record discussion*
4 *ensued.]*

5 **CONTINUED BY THE WITNESS:**

6 A (Nelson) All right. Decoupling is not meant
7 to -- I think I actually -- I think that was my
8 speech problem, not the recording problem.
9 Decoupling is meant to address the utility's
10 throughput incentive. It is not meant to address
11 pandemics.

12 So, the Stipulation -- or, I'm sorry,
13 the Settlement is acknowledging that. And we're
14 going to provide a process that ensures that
15 decoupling is addressing what it's meant to and
16 not what it's not meant to.

17 BY MR. KREIS:

18 Q Mr. Nelson, when the Commission looks at your
19 prefiled testimony, it will notice that you're
20 responsible for introducing this concept of an
21 "Advanced Rate Design Road Map" into this
22 proceeding. And, as we've already heard, the
23 Company has agreed to that idea.

24 And I'd like to give you an opportunity

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 to comment about why that is a valuable part of
2 the Settlement Agreement?

3 A (Nelson) Thank you. Yes. The Advanced Rate
4 Design Road Map is going to provide stakeholders
5 with important information about how the utility
6 is approaching rate design over the next, you
7 know, for example, five years. And that will be
8 helpful to basically limit disagreements in the
9 future, from my perspective. We can start
10 talking about what functionality is needed for
11 advanced rate design, and begin to have a more
12 collaborative discussion about the advanced rates
13 that are going to be in place.

14 So, the intent with the Advanced Rate
15 Design Road Map is to improve transparency and
16 ensure that we're all headed in the right
17 direction to achieve the policy goals that are
18 set out by the state.

19 Q Okay. And the last topic I want to take up with
20 you, Mr. Nelson, has to do with some terms that
21 appear at Page 16 of the Settlement Agreement,
22 which, of course, is Exhibit 37. And I'm talking
23 about the section, it's letter "Q", and the
24 section is labeled "IEEE 1547-2018". Could you

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 help the Commission understand the provisions in
2 the Settlement Agreement that concern IEEE
3 1547-2018 and why it was important to include
4 that?

5 A (Nelson) Yes. So, I'll give a brief description
6 of what IEEE 1547-2018 is, and then what it's
7 replacing, and why it's important to kind of
8 address this issue in the near term.

9 So, IEEE 1547-2018 is a
10 technology-neutral engineering standard that
11 covers DER interconnection and interoperability
12 between DERs and the utility through a smart
13 inverter.

14 It's distinct from the previous
15 standard, IEEE 1547-2003. The previous standard
16 consisted of a single set of capabilities and
17 settings. The new standard -- or, sorry, the
18 previous standard did not allow DERs to provide
19 grid support function. That's important. The
20 previous standard did not allow DERs to provide
21 support function. They were -- it was an
22 approach that said "Cause no harm with DERs."

23 Now, with IEEE 1547-28, there is a menu
24 of DER capability and setting options. And these

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 settings -- and these settings need to be
2 selected based on their technology, location, and
3 other facts that are specific to the state.
4 These capabilities and settings allow the DERs to
5 provide grid support service, improve
6 reliability, and ensure safety.

7 Now, it's impossible -- or, it's
8 important to work on implementing the standard in
9 the near term, because it will allow for
10 additional grid services to be procured from
11 DERs, and it will lower the cost of integrating
12 DERs, and it will result in higher penetrations
13 being able to be achieved at a lower cost.

14 And, you know, importantly -- or,
15 sorry, recently the NARUC Committee on
16 Electricity recognized this through a -- sorry,
17 by adopting a -- I'm spacing out on the words
18 that NARUC Annual -- or, that NARUC made so that
19 adoption -- I apologize. They adopted language,
20 for lack of a better word, on IEEE 1547-2018.
21 And the Committee on Electricity recommended that
22 they proceed in the near term to implement the
23 standard, for the reasons that I went -- that
24 I've just gone through.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 So, I'll leave it at that. I'm happy
2 to answer questions on those topics.

3 Q Okay. Perfect. And then, I already heard
4 Dr. Chattopadhyay opine to this effect, but I
5 would like to ask you, Mr. Nelson. Overall, as
6 an expert testifying on behalf of the OCA, do you
7 believe that the terms of the Settlement
8 Agreement are reasonable for residential utility
9 customers and overall will produce rates that
10 meet the statutory "just and reasonable"
11 standard?

12 A (Nelson) I do.

13 MR. KREIS: Okay. Thank you.
14 Chairwoman Martin, those are all my questions for
15 my witnesses.

16 CHAIRWOMAN MARTIN: Okay. Thank you.
17 Off the record for a second.

18 *[Brief off-the-record discussion*
19 *ensued.]*

20 CHAIRWOMAN MARTIN: Okay. We'll keep
21 going, then we'll take a break for lunch for half
22 an hour, whenever we break, and then come back.

23 Okay. Mr. Dexter.

24 MR. DEXTER: Thank you. I would like

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 to just -- I have a few questions for each of the
2 witnesses. I'd like to start with Mr. Dudley.

3 BY MR. DEXTER:

4 Q Mr. Dudley, did you listen to the summary of the
5 Settlement provided by Mr. Mullen?

6 A (Dudley) Yes, I did.

7 Q And did you have anything that you wanted to add
8 to that Settlement or do you have anything that
9 you would like to state as a disagreement or a
10 correction to Mr. Mullen's summary?

11 A (Dudley) I have no disagreement, no.

12 Q Very good. Could you briefly describe the
13 differences between, at a high level, the
14 differences between the positions taken in
15 Staff's original testimony back in December of
16 2019 versus the items as resolved in the
17 Settlement?

18 A (Dudley) Yes, I can. Again, as you point out,
19 these are areas that Mr. Mullen has already
20 covered, and Dr. Chattopadhyay as well.

21 But, just in terms of differences
22 between Staff testimony and the Settlement,
23 first, Staff agreed to a higher rate increase
24 than we had originally recommended in our

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 testimony, but lower than what Liberty had
2 requested. The Parties settled on a revenue
3 requirement of 4.15 million, whereas the Company
4 had originally requested 6.5 million.

5 Second, Liberty had originally proposed
6 a series of annual step increases through 2023.
7 The Parties agreed in Settlement to just three
8 step adjustments, 2019, 2020, and 2021, limited
9 to specific projects. As compared with the steps
10 originally proposed by Liberty, that encompassed
11 the Company's entire capital budgets for those
12 years.

13 Q Let me interrupt you for a second, if I could.
14 While we're on the subject of step adjustments, I
15 heard Mr. Mullen, in one sentence, say that the
16 step adjustment investments would be "subject to
17 audit", and then I heard him, in another
18 sentence, say that they would be "subject to
19 prudence review."

20 Would you agree that the investments
21 that are listed in the attachments for the first
22 and second step adjustments, and the third one,
23 when they come around, would be subject to both
24 audit by the Commission Staff's Audit Division

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 and prudence review by the Commission?

2 A (Dudley) Yes. I agree.

3 Q Okay. Thanks. I just wanted to touch on that
4 while you were mentioning the step adjustments.
5 But I interrupted your summary of the major
6 differences. So, I would ask you to continue
7 with that.

8 A (Dudley) Yes. Thank you. Third, Liberty has
9 committed to investigate and request to implement
10 performance-based rates, and to perform a rate
11 design review just prior to approval of the third
12 step adjustment in 2022, to be considered for
13 approval in the next rate case. And that was
14 covered pretty thoroughly by Mr. Nelson earlier.

15 Also, there is revised planning
16 criteria that was agreed to, in terms of
17 distribution infrastructure and additions by
18 Liberty, and Mr. Demmer can elaborate on that
19 further.

20 Next, the Parties have agreed to a
21 three-year stay-out provision. The next rate
22 case will have a test year of no earlier than
23 2022.

24 Also, the Parties agreed to decoupling.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Decoupling is to be implemented in 2022, based on
2 2021 results.

3 With the lost base revenue recovery
4 mechanism still in place for 2019 and 2020, in
5 terms of energy efficiency costs. And this was
6 designed to respond to COVID-19 impacts on
7 Liberty's 2020 financial results.

8 And, lastly, the Parties agreed to end
9 the existing special rate treatment for REP, the
10 Reliability Enhancement Program.

11 Q Just two follow-ups. As I'm sitting here doing
12 the math, you characterize it as a "three-year
13 stay-out provision", but I think we could
14 actually call it a "four-year stay-out
15 provision", if you look at the time period
16 between the test years, 2019, '20, '21, and '22.
17 Would you agree?

18 A (Dudley) Yes. Yes, I would.

19 Q And, in terms of the decoupling mechanism that's
20 included in the Settlement, my recollection was
21 that the Company did not originally propose a 3
22 percent cap on the decoupling mechanism, but that
23 is incorporated into the Settlement. Would you
24 agree with that?

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 A (Dudley) That is correct. Yes.

2 Q So, is it fair to say that, in your opinion, that
3 the Settlement contains some considerable
4 give-and-take on negotiated items, as compared to
5 the parties' original positions?

6 A (Dudley) Yes, I do.

7 Q And do you recommend -- or, I'm sorry, are you
8 satisfied that the Settlement, when taken as a
9 whole, will produce just and reasonable rates?

10 A (Dudley) Yes, I am. And I recommend the
11 Commission approve the Settlement as presented in
12 this case.

13 MR. DEXTER: Thank you. I'd like to
14 ask Mr. Demmer just a few questions, if I could.

15 BY MR. DEXTER:

16 Q Mr. Demmer, as Mr. Dudley just indicated, the
17 Settlement attached -- Settlement Agreement
18 includes an attachment, which are described as
19 "Revised Planning Criteria". Could you, in a few
20 sentences, describe what's different about the
21 planning criteria, and why that was important to
22 Staff in the Settlement?

23 A (Demmer) Sure. Can you hear me okay?

24 Q I can. Yes.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 A (Demmer) Okay. The Settlement's Revised Planning
2 Criteria aligns closer to what other New
3 Hampshire regulated utilities employ in their
4 determination for planned investment. The
5 revised criteria allows for a higher equipment
6 utilization and a more appropriate risk profile.
7 This requires more analysis of planned investment
8 in normal and emergency situations, rather than a
9 more conservative investment approach that Staff
10 believed was in the previous version of the
11 planning criteria.

12 Q Is it your recommendation -- let me back up a
13 little bit. Is it your opinion that the
14 Settlement appropriately resolves the issues that
15 were made the subject of your testimony in this
16 case?

17 A (Demmer) Yes, I do.

18 Q And would you recommend that the Commission
19 approve the Settlement as filed?

20 A (Demmer) Yes, I do.

21 Q And, Mrs. Mullinax, would you agree that the
22 Settlement, as presented, adequately addresses
23 the revenue requirements that you reviewed in
24 connection with this case?

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 A (Mullinax) As a whole, yes, I do.

2 Q And do you recommend its approval?

3 A (Mullinax) Yes.

4 MR. DEXTER: Thank you. That's all the
5 questions I have for Staff's witnesses.

6 CHAIRWOMAN MARTIN: Okay. Then, I
7 understand from the Settlement Agreement that
8 everyone has agreed to not have
9 cross-examination. So, when we return, we will
10 go straight to the Commissioners. It's almost
11 12:40. So, let's come back at 1:10. And that,
12 for planning purposes, I need to take a break at
13 two o'clock.

14 Okay. We're in recess.

15 *(Lunch recess taken at 12:40 p.m. and*
16 *the hearing resumed at 1:14 p.m.)*

17 CHAIRWOMAN MARTIN: Okay. We'll start
18 with Commissioner Bailey.

19 CMSR. BAILEY: Thank you. I just
20 organized and now I can't find out where they
21 start, I can't find the first page. Oh, okay.

22 BY CMSR. BAILEY:

23 Q Mr. Mullen, I'll start with you. Can you tell
24 me, has the Company invested in infrastructure to

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 serve what you think you'll need to -- as a
2 result of increased demand expected in Salem, or
3 was that a future investment that you were trying
4 to plan for?

5 A (Mullen) Well, we're planning -- the load is
6 already coming on. We're planning for it as
7 being done in a series of steps, in terms of
8 something has to happen before something else.
9 And, in the meantime, you know, we have also,
10 again, we are in the process of updating our
11 Salem area study.

12 You know, if you want some other
13 details on that, you know, you could perhaps
14 speak with either Mr. Strabone or Mr. Rivera.

15 Q Okay. Mr. Strabone or Mr. Rivera, I'm just
16 wondering if you have already invested money and
17 agreed that those investments were not prudent,
18 or if you're putting those aside for the next
19 rate case?

20 A (Mullen) Yes. I think any recovery of any costs
21 associated with that would happen in the next
22 rate case, as part of what we agreed to here.

23 Q Okay.

24 A (Mullen) And, so, there's nothing in rate base

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 now, or in the proposed step increases,
2 specifically related to that. We said that we
3 would look at some other alternatives, and we are
4 in the process of doing that. And we're
5 actually, you know, planning to have a site visit
6 with Staff.

7 Q Okay. So, you really haven't made an investment
8 that you're not earning a return on yet?

9 A (Mullen) Correct.

10 Q Okay. Thank you. For the third step adjustment,
11 you said that the amount of the investment
12 allowed for annual recovery would be limited to
13 \$1.8 million. And then, you said but you -- the
14 Settlement allows you to ask for more. Did I get
15 that -- those things don't seem to jibe. Did I
16 get that right?

17 A (Mullen) No. It's mixed up a little bit. The
18 third step is capped at \$1.8 million.

19 Q Okay.

20 A (Mullen) The first two, there's a list of
21 projects with estimated costs for them. When we
22 submit those, they could come in less or they
23 could come in more. If they come in more, then
24 we can seek recovery of those, again, subject to

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 review and audit and prudence determination.

2 Q Okay.

3 A (Mullen) But the last one, the amount is capped
4 at \$1.8 million.

5 Q Okay. Thank you very much. That's what I
6 thought I read the first time through, but then,
7 when you explained it, I wrote it down wrong.
8 Okay.

9 A (Mullen) Hopefully, I didn't explain it wrong,
10 but --

11 Q No, it was probably me. Thank you. All right.

12 On rate case expenses, has the \$554,000
13 that have already been spent for rate case
14 expenses, is that going to be allocated over two
15 years or is that amount going to be recovered in
16 year one, and then any additional amount in year
17 two?

18 A (Mullen) It's going to be split over a two-year
19 recovery. After the first year, any true-up,
20 like I say, even for like costs of today's
21 hearing, that will be added in there, that will
22 be factored into what the amount is over the last
23 12 months.

24 Q Okay.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 A (Mullen) But, yes. It's going to be -- it's
2 going to be spread out in, basically, 24 monthly
3 installments.

4 Q Okay. All right. Thanks. And you said some
5 additional rate case expenses might include
6 appearances today. Those are -- that wouldn't
7 include any appearances of Company personnel,
8 would it?

9 A (Mullen) Correct. Only consultants for the
10 Company, Staff, and OCA.

11 Q Okay. All right. Thanks. The annual funding
12 for vegetation management is \$2.2 million, and
13 you have capped it at \$2.42 million. What
14 happens if you need to spend more than \$2.4
15 million to maintain reliability?

16 A (Mullen) Then, we will have to spend it. We have
17 to do what's right for the system. But, in
18 accordance with our agreement, any recovery would
19 be limited to the 2.42 million. You know, 2.2
20 would be built into base rates. And, so, any
21 incremental recovery would be limited to an
22 additional \$220,000.

23 Q Right. And, so, if you had to -- to the extent
24 you had to spend more, that would just get

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 absorbed by other, that that --

2 A (Mullen) That would be -- that would be an impact
3 to our income statement, yes. It would hit our
4 bottom line.

5 Q Okay. So, then, there's really no incentive for
6 you to spend more than that?

7 A (Mullen) We will continue to do what's right for
8 the system. We're not going to, you know, all of
9 a sudden not do things that need to be done.
10 That's just not how we operate the system. I
11 mean, trees need to be cut. And, you know, we
12 have our certain reliability statistics we have
13 to meet, too. So, I mean, that's, you know, part
14 of the give-and-take of a settlement is we agreed
15 to limit it, so there wouldn't be some concern
16 that we would just keep spending and spending and
17 spending.

18 Q Okay. Will we still get reports on CAIDI and
19 SAIFI every year?

20 A (Mullen) I believe the -- let me go back to the
21 Settlement. I believe we file those already
22 quarterly anyhow as part of some other
23 requirements, and not specifically in the VMP
24 filing, but I think just as part of our other

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 requirements.

2 But I don't think that we will -- we
3 will stop, I mean, we're still going to be
4 keeping track of it. So, I don't think we were
5 planning to stop filing that. I'm just trying to
6 remember what it says here. The same filing and
7 reporting requirements currently in place will
8 remain in place.

9 Q Okay.

10 A (Mullen) So, to the extent that we are already
11 filing that information, we will continue to file
12 it.

13 Q Okay. Thank you. On the terms --

14 CHAIRWOMAN MARTIN: Commissioner, do
15 you mind if I ask one quick question?

16 CMSR. BAILEY: No. Not at all.

17 BY CHAIRWOMAN MARTIN:

18 Q I just -- I didn't have the number for the prior
19 vegetation management amount before it was
20 replaced in the Settlement Agreement?

21 A (Mullen) The amount that was previously in base
22 rates was 1.5 million.

23 CHAIRWOMAN MARTIN: Thank you.

24 *[Court reporter interruption.]*

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 BY CMSR. BAILEY:

2 Q Regarding the terms of exogenous costs, if those
3 terms had been in effect on January 1st, 2018,
4 what would have happened with the change in
5 taxes?

6 A (Mullen) Those terms actually were in effect on
7 January 1st of 2018. And the Commission said "to
8 the extent that a utility has an exogenous events
9 clause, we're going to just proceed with this
10 proceeding." I believe Unitil also had an
11 exogenous events clause at the time. And what
12 would have happened, if it operated the way that
13 it's in the Settlement, after a year had gone by,
14 after that calendar year had gone by, we would
15 then make a filing, or the Staff or the OCA could
16 have made a filing. So, it would have taken
17 longer to do.

18 But, you know, it works both ways, if
19 tax rates go up. With the terms of this, we
20 would have to wait after the calendar year goes
21 by.

22 Q So, then, it wouldn't have acted differently than
23 what happened this time, because --

24 A (Mullen) Correct.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Q -- this time we were able to deal with it
2 immediately. And, if these terms were in effect
3 on January 1st, 2018, we would not have been able
4 to deal with it until the following year?

5 A (Mullen) As I say, they were in effect from our
6 last rate case settlement. The Commission
7 basically put this provision aside and proceeded
8 as it deemed it wanted to.

9 Q Okay. All right. What does it mean by "Liberty
10 may adjust rates upward or downward"? That
11 doesn't take away any jurisdiction of the
12 Commission to direct rates to go upward or
13 downward, if something like the Tax Act happened
14 again, does it?

15 A (Mullen) No. But I think, for instance, say it
16 came to \$150,000 and one -- \$150,001. We might
17 look at it and say "Is it worth going through it
18 or not?" And some of it might depend on, you
19 know, what else is happening. And, so, it
20 doesn't say "we have to".

21 Say that there was, you know, say that
22 we were close to earning our rate of return, and
23 this came up. We might say "Oh, we're not going
24 to bother with it, because it doesn't make sense

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 to do that."

2 Q Okay.

3 A (Mullen) And I hope we'd be -- I hope we'd be in
4 a spot where we're earning close to our rate of
5 return.

6 Q Yes. But it doesn't limit the Commission from
7 directing you to lower rates, if necessary?

8 A (Mullen) No.

9 Q Okay. Thank you.

10 MR. WIND: I'm sorry. It appears we
11 lost Attorney Kreis.

12 CMSR. BAILEY: Okay. I'll wait.

13 CHAIRWOMAN MARTIN: Off the record,
14 Steve.

15 *[Off the record.]*

16 *[Brief off-the-record discussion*
17 *ensued, followed by taking a recess at*
18 *1:33 p.m., and the hearing resumed at*
19 *1:45 p.m.]*

20 CHAIRWOMAN MARTIN: All right. On the
21 record.

22 CMSR. BAILEY: All right. Just a few
23 more questions for Mr. Mullen.

24 BY CMSR. BAILEY:

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Q On Exhibit 37, Page 17, the section about
2 exogenous costs. The second paragraph, Paragraph
3 B, says "To the extent that the revenue impact of
4 such event is not otherwise captured through
5 another rate mechanism." So, if, going back to
6 the 2018 example, would the Commission's
7 investigation in the IR docket and the docket
8 that followed from Liberty to deal with this tax
9 adjustment, would that be considered another rate
10 mechanism?

11 A (Mullen) In my view, no, because those were done
12 through distribution rates, which is not a
13 different mechanism.

14 Q So, is the Company then likely to argue next time
15 around that the Commission has to wait a year or
16 we're going to be changing the terms of the
17 Settlement Agreement?

18 A (Mullen) Well, we weighed whether to argue that
19 or not, and we decided not to. You know, it may
20 just depend on the circumstances and what's
21 involved, you know. But, you know, we made a
22 determination at that time to just go forth, and
23 said "Okay, we'll give the money back to
24 customers."

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Q Okay. Thank you. All right. Dr. Chattopadhyay,
2 good afternoon.

3 A (Chattopadhyay) Good afternoon.

4 Q Can you tell me when you performed your update on
5 the ROE that you indicated had increased to 8.75
6 percent? Just the month?

7 A (Chattopadhyay) Let's see. After we -- which
8 period did I update it to?

9 Q No. What month did you make that calculation?

10 A (Chattopadhyay) Okay. It was done around --
11 sometime around May 27th or May 28th.

12 Q Oh. Just very recently?

13 A (Chattopadhyay) Just very recently.

14 Q Okay. And did you do that after you had reached
15 agreement on the 9.1 ROE?

16 CMSR. BAILEY: He's looking at you,
17 Don. Can I ask that question?

18 MR. KREIS: Yes. I don't have any
19 problem with your asking that question or his
20 answering it.

21 WITNESS CHATTOPADHYAY: Can you please
22 repeat the question, because it broke up?

23 BY CMSR. BAILEY:

24 Q Okay. I want to know if -- well, let's make it

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 simple. When did you reach agreement with all
2 the Parties on the ROE that you settled on at
3 9.1, before or after that calculation?

4 A (Chattopadhyay) It was before, certainly, but I
5 can't tell you how much before.

6 Q Okay. That's fine. Did you review
7 Dr. Woolridge's testimony?

8 A (Chattopadhyay) Yes. At the time that it was
9 filed, yes.

10 Q Okay. I'm going to read a quote from that
11 testimony, and maybe you can remember it, or I'll
12 ask you a question about it. He said, on Page
13 59, since the Company's return on equity
14 testimony was filed in March of 2019, "the
15 Federal Reserve had cut the rate three times and
16 the 30-year Treasury rate had fallen 75 basis
17 points." He said that in December of 2019. Do
18 you recall that?

19 A (Chattopadhyay) Yes. I do.

20 Q And, so, his testimony -- or, his position at the
21 time was that the ROE would have dropped, his
22 estimate of ROE would have decreased between
23 March and December. And now, your calculation is
24 that -- well, do you agree with that?

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 A (Chattopadhyay) At that time, the time of when
2 Dr. Woolridge ended up filing his testimony, I
3 agree that was the predominant reality. But you
4 have to keep in mind that, even in December, you
5 didn't have the pandemic situation. And, if I go
6 back to, for example, my testimony in 2009, in
7 the EnergyNorth rate case, we had a similar
8 situation. We had a change in the economic
9 reality drastically. And my estimate actually
10 turned out to be higher than what I had indicated
11 in my original testimony.

12 So, let me explain why that makes
13 sense. So, it's really, the comparison, we
14 should not compare what we were doing in
15 December, in terms of how interest rates might
16 impact the return on equity, and how it would
17 impact currently. There's two things going on.
18 This is an unprecedented event. So, what that
19 does is the risk really goes up. So, again, this
20 is a moving target. As I look at the data, and
21 I, you know, I was looking at Value Line's betas
22 for the electric companies, they have actually
23 shot up quite a bit, because their data is only
24 available quarterly, at least to me. I am --

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 and, because they have these tranches of
2 companies that they took a look at, I was able to
3 take a look at only a few of the companies. And
4 it showed me that the betas have increased quite
5 significantly for the electric utilities. So,
6 that's one piece of it.

7 And, so, even though the interest rate
8 may have dropped, and so, for example, today, the
9 30-year Treasury bond yield is somewhere around
10 80 basis points, and even that keeps fluctuating.
11 So, end of May, it was somewhere around 70 basis
12 points.

13 But, you know, the bigger picture is,
14 this is -- this is during an uncharted waters
15 territory. And, so, the risks have gone up
16 significantly. And, even for the electric
17 utilities, which generally tend to be defensive
18 stocks, I can see that the situation is murky
19 enough that, even for them, the risk has gone up
20 quite a bit.

21 So, that explains why I would -- that
22 is actually consistent with, when I run the DCF
23 analysis, which doesn't look at beta, but it sort
24 of looks at the expectations and it looks at what

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 the investors are thinking the earnings growth
2 rate might be, the book value per share growth
3 rates might be, the returns on those, or the
4 returns on dividends. Then, you also look at the
5 price, the stock price is the biggest indicator.
6 So, you have to trust what the market is telling
7 you. And, when I look at that, the return on
8 equity, using strictly my approach, has actually
9 gone up to 8.75 percent, roughly speaking,
10 because that number keeps changing a bit.

11 Q Okay. Thank you. So, in your original
12 testimony, you estimated the range of a
13 reasonable ROE to be between 7.68 and 8.98. And,
14 at that time, you said that you would recommend
15 8.23, and now you recommend 8.75.

16 A (Chattopadhyay) No.

17 Q Is that what you indicated?

18 A (Chattopadhyay) No. Actually, that was a
19 recommendation by the Company, I think. What I
20 recommended was between 8.15 to 8.35, I think.

21 Q Say that again please?

22 A (Chattopadhyay) To the best of my recollection,
23 my range was 8.15 percent to 8.35 percent.

24 Q Okay. Okay. So, has your range expanded as a

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 result of your recent analysis?

2 A (Chattopadhyay) Yes. So, given the numbers that
3 I saw, I would say the range would be somewhere
4 from 8.65 or, you know, to -- maybe even 8.6 to
5 8.8.

6 Q Okay.

7 A (Chattopadhyay) Given the approach that I use.

8 Q Okay. So, then, why is 9.1, which is above the
9 range, reasonable?

10 A (Chattopadhyay) Because that is part of the
11 compromise we have. I mean, it's not unusual.
12 We have done it before, too. I'm just sharing my
13 estimation, and the Company would disagree with
14 it. So, ultimately, that's a number that we are
15 quite comfortable with, given the bigger picture,
16 where we have other moving pieces that we also
17 worked on.

18 Q Okay. Thank you. Is there anybody from the
19 Company who could speak about this?

20 CMSR. BAILEY: I know the witness,
21 Mr. Cochrane, is not available. So, is there
22 anybody from the Company, Mr. Sheehan, that
23 might -- or, maybe I'll just ask the panel, that
24 has an opinion on any of this?

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 MR. SHEEHAN: I think that would be the
2 safest, to see if anyone on the panel can speak
3 to it.

4 **BY THE WITNESS:**

5 A (Mullen) Well, you know, I would say that, you
6 know, as Dr. Chattopadhyay just said, you know,
7 this is an overall package. And, yes, even
8 during the course of this case, you know, which
9 was filed over a year ago, things have changed
10 significantly. In the Company's perspective,
11 when it's looking at things, I mean, we filed for
12 a higher ROE that 9.1. And, you know, what it
13 comes down to here, coming to an overall package,
14 I mean, that's one of the things you weigh, among
15 all the other things. I mean, every item has a
16 dollar value associated with it. And, you know,
17 it's still 9.1, we still, you know, we have the
18 opportunity to earn it, but there's no guarantee
19 we're going to earn that.

20 You know, would the Company have liked
21 to come out with something higher? Absolutely.
22 But, you know, again, trying to reach, with all
23 the range of things it took me a while to go
24 through in this Settlement Agreement, as part of

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 the overall package, we determined that the
2 overall package, including a 9.1 percent ROE, you
3 know, with a little more thickness on the equity
4 structure than we currently have, it was, you
5 know, it was a reasonable compromise.

6 BY CMSR. BAILEY:

7 Q Okay. Thank you. Mr. Demmer, in your live
8 testimony, you said something about "planning
9 criteria", and I didn't hear what you said. Can
10 you go over that again, why I think was a benefit
11 of the Settlement?

12 A (Demmer) Sure. So, the planning criteria for --
13 that was revised for the Settlement, as far as
14 Staff is concerned, looking at it, it's
15 actually -- it's more in the way of more of an
16 analysis for -- it's less conservative, let me
17 stop right there. It's less conservative than
18 the previous planning criteria. And it does
19 allow for contingency -- emergency, contingency,
20 and normal planning to be more in line with other
21 New Hampshire regulated utilities.

22 Q So, --

23 A (Demmer) I mean, I could give you examples,
24 but --

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Q Well, does it change the LCIRP, the information
2 that was in them? Or, will they update their
3 next LCIRP to include these criteria? How do the
4 two things fit together?

5 A (Demmer) Well, the LCIRP is a package which
6 contains planning criteria, because the LCIRP is
7 also the investments themselves, and other
8 factors, such as energy efficiency, NWAs and
9 such. But the planning criteria is a small part
10 of that. But, yes. The planning criteria
11 provision would then, in turn, be reflected in a
12 new LCIRP.

13 Q Can you show me in the Settlement where that
14 information is please?

15 A (Demmer) The planning criteria?

16 Q Yes. Is it on Bates 87?

17 A (Demmer) I believe it's Attachment 8. Hold on a
18 second. Let me get to my --

19 Q Yes. It's Attachment 8.

20 A (Demmer) I'm sorry. What was that?

21 Q I think you're right. It's Attachment 8. I see
22 it. Okay.

23 A (Demmer) So, as you can see, there are multiple
24 changes in the planning criteria, if you were to

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 compare it to what was submitted in the 2019
2 LCIRP and the 2016 LCIRP.

3 Q And which criteria that changed has the greatest
4 impact on rates?

5 A (Demmer) I would say, probably, there's a --
6 there's a couple of changes that have an impact
7 on rates. First is the normal operation has gone
8 from a 75 percent "take action" criteria, to now
9 100 percent. Also, in addition, the load at
10 risk --

11 Q So, that would -- sorry. Would that change, from
12 75 percent to 100 percent, reduce the impact on
13 rates?

14 A (Demmer) For future investments, correct. For
15 future investments, now, instead of, if you're
16 doing upgrades to a substation, because
17 something -- some piece of equipment has hit 75
18 percent, for example, a station breaker or what
19 have you, now you're looking at it at 100
20 percent.

21 Q Okay.

22 A (Demmer) Which is more in line with what other
23 New Hampshire regulated utilities are doing.

24 Q Okay. All right. And, so, are the changes

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 mostly like that?

2 A (Demmer) Correct. Also, load at risk, which is a
3 contingency criteria. Where, if you were to lose
4 a substation or a substation transformer, there's
5 a certain load at risk you take. That has also
6 been increased. So, the Company is taking on a
7 little bit more risk, so they're not so
8 risk-averse, they're a little bit -- they're
9 taking on a little more risk, to a situation that
10 is less likely to happen.

11 CMSR. BAILEY: Okay. Thank you. Madam
12 Chair, it's two o'clock. Do we need to take a
13 break now or -- I'm just about finished, but --

14 CHAIRWOMAN MARTIN: Why don't you
15 finish up, and then we'll take the break.

16 CMSR. BAILEY: Okay. Thanks.

17 BY CMSR. BAILEY:

18 Q Mr. Dudley, do have anything to add? And can you
19 tell me why you believe that the Settlement is
20 the -- a good balance for ratepayers and
21 shareholders?

22 A (Dudley) I'm sorry, Commissioner Bailey. I
23 missed the last part of that question.

24 Q Why the Settlement is a good balance between the

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 interests of ratepayers and shareholders?

2 A (Dudley) Well, negotiations were lengthy. We had
3 a lot of big issues to discover. There was a lot
4 of give-and-take on both sides. My testimony
5 spelled out some concerns that I had. I still
6 have some concerns, but I will continue to review
7 those issues in future rate cases.

8 But, in terms of this case, I'm
9 satisfied that the agreed to revenue increase
10 appropriately balances the issues, those issues
11 that I raised. In addition, I'll continue to
12 review those issues in the three upcoming step
13 adjustments. As a matter of fact, we're in the
14 midst of discovery for the first step adjustment.
15 And Staff will be reporting its findings for the
16 Commission, I believe, on June 22nd.

17 Q Okay.

18 A (Dudley) But, taken as a whole, we took the
19 issues that we -- that we brought up in
20 testimony, and issues that we had compromised in
21 settlements. We quantified those in a scenario
22 that we ran through with Ms. Mullinax. And we
23 came down with a figure of 4.15 million, which we
24 thought reflect a balancing of all of those

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 issues that we had raised. And deciding whether
2 or not to settle on that figure, again, with the
3 help of Ms. Mullinax, we quantified those issues
4 in the scenario, and that's what we came up with.

5 And, although we did not share that
6 scenario with the other Parties, that was just
7 with Staff. Liberty wasn't aware of it.
8 Although, Liberty had performed their own
9 analysis, I'm not sure they had their own version
10 of the scenario that they ran, but we came down
11 very close to the same number. So, there was a
12 meeting of the minds there.

13 And, even though -- even though Staff
14 didn't get everything it wanted, Liberty didn't
15 get everything it wanted either in the
16 Settlement. And, although I would say, we could
17 have litigated some of these issues. But we had
18 no real assurance that we would prevail on those
19 issues before the Commission. However, we did
20 have some reasonable expectation that we could
21 settle. And, so, we pursued that course of
22 action.

23 CMSR. BAILEY: Okay. Thank you very
24 much. Madam Chair, that's all I have.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 CHAIRWOMAN MARTIN: Okay. Thank you.
2 Let's go off the record and take a break until
3 about 2:20.

4 *[Recess taken at 2:05 p.m. and hearing*
5 *resumed at 2:26 p.m.]*

6 CHAIRWOMAN MARTIN: So, we'll go back
7 on the record. Commissioner Giaimo.

8 CMSR. GIAIMO: Can I be heard? Just
9 to -- all right. That's great. Thanks.

10 So, I'll start with questions of
11 Mr. Chattopadhyay. And then, I think some
12 combination of Liberty witnesses can answer the
13 few questions I had with respect to the
14 Settlement.

15 BY CMSR. GIAIMO:

16 Q Mr. Chattopadhyay, over the past couple of hours,
17 I think I heard you categorize the 9.1 ROE as
18 "eminently reasonable" and "completely just and
19 reasonable", and I think you noted you are "quite
20 comfortable" with the number. You also
21 articulated that you are supportive of the
22 Settlement, because it produced what I heard was
23 a few benefits: A fixed residential charge,
24 decoupling, a three- or a four-year stay-out

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 provision, could be a three-year stay-out or a
2 four-year stay-out, if you use Mr. Dexter's math,
3 and the development of a road map for PBR.

4 Is that a fair recitation of your
5 testimony? And I hope you can kind of elaborate
6 a little further.

7 A (Chattopadhyay) Yes. I think what I would add is
8 that, at the time of the settlement discussions,
9 given the fact that I had -- I had estimated the
10 return on equity to be 8.23 percent, even with
11 that, we thought that the 9.1 percent Settlement
12 position, given all other aspects that you just
13 mentioned, was very reasonable. It took a while
14 for us to reach that point. There was a lot of
15 back-and-forth.

16 So, given that reliability, the fact
17 that the current estimate, at least in my
18 opinion, and, you know, we have different experts
19 opining differently, the number has gone up quite
20 a bit. That really makes it, to me, eminently
21 reasonable what we have.

22 And then, the other point I would make,
23 this is all done on-the-fly. You look at the
24 economy, what's going on. But, ultimately, when

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 the dust settles, personally, I would expect the
2 electric utilities to become more like defensive
3 stocks. And, so, you will again go back to the
4 previous kind of trend, which is, typically, when
5 interest rates go down, and the economy is still
6 not in major doldrums, you will find exactly what
7 Commissioner Bailey was talking about, that, you
8 know, a lower interest rate might -- would be
9 expected to reduce their return on equity. But
10 these times are not, you know, the usual times.
11 I mean, they are a completely different
12 situation.

13 Anyway, the bottom line is, I'm quite
14 happy with 9.1 percent, given where we are right
15 now.

16 Q Thank you. And thank you for explaining how what
17 may be intuitive isn't intuitive, and that the
18 COVID pandemic doesn't necessarily mean what you
19 might think it would mean, which would be a lower
20 ROE, it could actually equal a higher ROE. So,
21 thank you for that clarification.

22 Turning to Liberty, or anyone that
23 wants to answer this question. And it's just a
24 general question. But, with regard to not

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 reaching a settlement with respect to the Salem
2 investments, is it fair to suggest that the
3 contention focuses on the breadth of non-wires
4 alternatives and demand-side management tools to
5 delay and defer investments? Is that the
6 difference in the difference of opinion with
7 respect to that?

8 MR. DEXTER: I would be -- I would be
9 happy to offer Mr. Demmer to answer that. I know
10 you directed it towards "Liberty or anyone". But
11 I think Mr. Demmer could give Staff's perspective
12 on that.

13 CMSR. GIAIMO: Sure. And I think
14 Mr. Mullen wanted to speak as well. So, Madam
15 Chair, I'll let you determine who can go first.

16 CHAIRWOMAN MARTIN: I saw Mr. Mullen
17 had his hand up first. Mr. Mullen, you're
18 muted.

19 **BY THE WITNESS:**

20 A (Mullen) Sorry. I had double-muted, and I only
21 single unmuted.

22 Again, I think there's really a couple
23 of things that are still being discussed related
24 to that. One is the extent of load that we're

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 going to get there, in terms of, you know, what's
2 going to materialize. And, you know, again, this
3 case has been going on for a while. You know, I
4 just saw some more updated information last week,
5 that, based on what's already either complete or
6 what's going to be in service in 2020 should be
7 around ten megawatts. And, based on what else is
8 planned, there's potentially another eight. So,
9 again, that's updated information that I just
10 got, that I just saw last week. So, there's the
11 extent of the load and, you know, and when it's
12 going to materialize.

13 Then, I think it's also the ability of
14 and the condition of our existing substations,
15 particularly Barron Ave. and Salem Depot, that
16 have been in service since right around since the
17 '50s or '60s, and their ability to handle either,
18 you know, increased load and what kind of
19 improvements could be made there.

20 So, those are the kind of, generally,
21 the type of -- the type of issues that we're
22 talking about. Others are free to add to that,
23 if they want. And I'm sure Mr. Demmer will. And
24 others from the Company, you know, can probably

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 add, who are a little closer to it, can add some
2 more to that.

3 CHAIRWOMAN MARTIN: Mr. Demmer.

4 **BY THE WITNESS:**

5 A (Demmer) Okay. I didn't know if you wanted me to
6 just chime in. Can you hear me okay?

7 Okay. So, what Mr. Mullen had said is
8 correct, as far as the Staff position and
9 Liberty's position on a few of the items, such as
10 asset condition of the existing substations in
11 the Salem area, and also the load increase for
12 the Tuscan Village load in the Salem area. And
13 how that interconnects with some of the work
14 that's happened over at Golden Rock.

15 So, Staff and Liberty both are --
16 that's fair to say that they both are looking at
17 what the load will be. Staff is looking at it as
18 far as what has been there, and trying to look at
19 what the load should be with the existing load
20 that is already there, and how that projects out
21 to the proposed 18 megawatts. That's where Staff
22 and Liberty are probably at different points.

23 And, thirdly, it's actually the
24 planning study itself, and having Liberty go back

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 and look at the planning study that a lot of this
2 work precipitated out of. The planning study
3 was -- was started because of the proposed load
4 in the area, and because it was time for a
5 planning study, being a fifteen-year period for
6 Salem. So, Staff is also looking at what Liberty
7 will also be presenting in an updated planning
8 study with the new planning criteria that will be
9 revised per the Settlement.

10 BY CMSR. GIAIMO:

11 Q Okay. Thanks. I'm going to turn my attention to
12 the step adjustment. So, this might even be a
13 "yes" or "no" question.

14 So, with respect to the three steps,
15 the first step permits the Company to recover 1.4
16 million, maybe more, if determined to be prudent?

17 A (Tebbetts) Yes. That's correct.

18 Q Thank you, Ms. Tebbetts. And then, the second is
19 1.8, maybe a little more, if prudent?

20 A (Tebbetts) Yes.

21 Q Okay. But the third step is capped, 1.8, no
22 more?

23 A (Tebbetts) Yes.

24 Q Okay. And, for all three steps, if the actual

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 costs of the capital additions are less than the
2 budgeted amount, then the step is adjusted down?

3 A (Tebbetts) Yes. So, the way the step would work
4 is we would calculate a revenue requirement based
5 on the actual spending. And, so, let's say, for
6 example, the revenue requirement in 2020, the
7 2020 step year, so, recovery in 2021, only ended
8 up being \$1.6 million. Then, our request -- our
9 request for recovery would only be \$1.6 million.

10 Q Okay. So, is there a perverse incentive there,
11 and you could help me understand it and say it's
12 not there, but what incentive does the Company
13 have to save money and to come in under budget,
14 as opposed to spend more or hit the exact number?

15 A (Tebbetts) Sure. Sure. So, every year we have a
16 capital budget that we look to spend. It's
17 approximately \$20 million or so every year. And
18 we divide those projects up by the necessity of
19 what we're looking to do. So, as you can see on
20 Bates Page -- let me just pull it up. So, if you
21 look at Bates Page 029, that is what we filed for
22 the 2019 projects. And then, you can take a look
23 at Bates Page 031, in the Settlement Agreement
24 attachments, it's Attachment 2. And that's our

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 projected budget for 2020, which is an approved
2 budget. So, you know, regardless of the 1.8
3 million, we're certainly looking internally to
4 stick to our budgeted amount that has been
5 approved internally.

6 So, there is no -- there is no reason
7 for us to look to spend more than what we have
8 already budgeted for 2020 internally, and that's
9 been approved internally as well.

10 Q Is there any incentive to do the same thing, but
11 cheaper?

12 A (Tebbetts) I don't understand your question. I'm
13 sorry.

14 Q I just --

15 A (Tebbetts) You mean "to spend less"?

16 Q Yes.

17 A (Tebbetts) I mean, most definitely, we -- well,
18 we most certainly always look to come in under
19 budget. And, certainly, no one wants to spend
20 over budget, when we're looking to do the
21 projects internally. That requires internal
22 approvals, *etcetera*, if we go over budget on
23 projects. And we certainly want to stick to our
24 budget. But we also want to stick to our budget

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 certainly because we, you know, don't want to
2 overspend. And we want to be able to come in at
3 that approximately 1.8 million.

4 When you look at Bates Page -- sorry,
5 I'm just flipping it over. Bates Page 030, you
6 can see that those total investments that I just
7 mentioned here on Bates Page 031, comes in under
8 \$1.8 million. So, the goal here certainly is to
9 meet the budgeted requirements that we've
10 presented on Bates Page 031, which provides us a
11 rate increase of 1.783 million, which is under
12 the 1.8 million.

13 Q Okay.

14 A (Mullen) Could I add a little to that?

15 Q Please.

16 A (Mullen) I just want to say, you know, there's
17 really no incentive for us to overspend on
18 things, because these are all going to be subject
19 to review and audit and prudence determination.
20 So, to the extent we do, and we spend more than
21 we otherwise would, you know, whether, you know,
22 if things go out to bid or anything like that,
23 there's no incentive for us, because the only
24 thing that can happen is, if we spend more than

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 we should, is that we won't get recovery of it.

2 Q Okay. That's helpful. Thank you, Mr. Mullen.

3 Is there any -- is there a perspective as to how
4 much or how the 554,000 in rate case expenses
5 compare to past rate cases? And has anyone done
6 any back-of-the-envelope that says "if we
7 litigated this, it would have cost us 554,000
8 plus X"?

9 A (Mullen) Since I'm the one who has to approve all
10 the invoices, I guess I'm the most familiar with
11 the rate case expenses, plus I've been kicking
12 the number around for the last few weeks.

13 You know, each case, it depends on the
14 issues that are there. I will say, I think that,
15 in the past -- you know, that rate case expenses
16 have started to creep up. And this is just a
17 general observation, I think there's more --
18 there's more consultants. I mean, the Company
19 has always hired consultants, and that's typical
20 throughout the utilities. I think, just as a
21 general observation, and not so much as a
22 criticism, I think there have been more costs
23 involved through consultants hired by the
24 Commission Staff and the OCA to assist in their

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 proceedings -- with their cases, and that's just
2 a statement of fact more so than it is any
3 criticism.

4 Q Mr. Mullen, could you back-of-the-envelope
5 calculate what the costs might have been if it
6 was fully litigated or is that pure speculation?
7 Or, maybe you could just say "it would likely be
8 more"?

9 A (Mullen) Oh, it would likely be more. If we
10 have -- if we have -- there would be a bunch of
11 expert witnesses taking the stand, and who knows,
12 sometimes there's briefs afterwards, I mean, a
13 lot of times that's done internal with attorneys,
14 that doesn't normally add to it. But just the
15 fact that you have multi-days of hearings, you
16 have expert witnesses, who are either on the
17 stand or, in this case, online, and just, with
18 hourly rates being for all of those people, it
19 would add quite a bit to the cost.

20 Q Okay. The VMP budget, I thought I heard it was
21 somewhere in the \$150,000 range, and now it's
22 220,000. Is that a 33 percent increase? Is that
23 right? Do I have those numbers at least close to
24 right?

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 A (Mullen) I'll just continue. It was 1.5 million,
2 and then it became 2.2 million. The 1.5 million
3 has been in place for a few years. Part of that
4 recognizes the movement in the interim to a
5 four-year cycle. Part of that recognizes the
6 fact that we, at one point, had a multiyear
7 contract, and we were shielded from cost
8 increases. Right now, the cost to trim is
9 higher, with a lot of crews are harder to come
10 by, a lot of them have gone out to California to
11 do work out there. And, you know, it's the
12 economics of trying to continue to do the number
13 of miles, and based on the market prices that are
14 out there to get the crews.

15 Q And I apologize if I had caused any confusion by
16 dropping a zero. It was 1.5 million and 2.2.
17 So, thank you for the clarification.

18 Was there ever any consideration to
19 having the 2.2 million in some way linked to
20 inflation and CPI? Or, does that ten percent
21 window effectively provide enough wiggle room to
22 capture potential increases in inflation?

23 A (Mullen) Yes. In a way, any time you're putting
24 something like this together for multiyears,

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 there's different ways to slice it. I mean, you
2 could have done something that was indexed. But,
3 if you do that, then you have to adjust the rate
4 each year to do that. I mean, we still do a
5 little -- we still do a true-up through the VMP
6 filing. So, you know, like I say, there's
7 different ways to slice it. We try to strike a
8 reasonable middle ground and something that we
9 hope can work for us during the period of this
10 Agreement.

11 Q Mr. Mullen, you mentioned -- you had an exchange
12 with Commissioner Bailey about reporting
13 requirements. So, I have two questions. Do you
14 have any order of magnitude as to the number of
15 reporting requirements the Company is looking to
16 get rid of and on the chopping block? What I
17 thought I heard you say was that the outage and
18 interruption reports are not on the chopping
19 block. They are -- you would continue to provide
20 them?

21 A (Mullen) Correct. I don't have, you know, a lot
22 of this is going to come through having a
23 collaborative meeting. And some of it might not
24 be just eliminating, some might be changing due

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 dates, some might be reducing the frequency.
2 It's a matter of, you know, right now, I know
3 that, between the electric and gas utilities, we
4 file between five and six hundred reports a year.
5 So, and these -- typically, what happens is, new
6 requirements come in, and the old ones don't go
7 out.

8 So, after, you know, we've owned the
9 Company since the middle of 2012. And it just
10 seems like it's a good time to take a fresh look
11 to see if, you know, if there's anything that can
12 happen, even some of it trying to change the due
13 dates, I think I had in my original testimony
14 some examples of a lot of things that we have to
15 file either in mid March or April. Well, that
16 creates a, what is a burden on our end, it's also
17 a burden on the receiving end. So, it's a matter
18 of trying to look at those things.

19 For instance, the Annual Storm Fund
20 Report that we file, it's due April 1st. Well,
21 that made sense back when there was a provision
22 in our tariff for a storm recovery factor. That
23 provision has not been used for a number of
24 years. At the same time of the year, we're

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 filing our REP/VMP filing, our retail rate
2 filing, and those are all getting reviewed as
3 well on the receiving end. Since we don't use
4 the storm recovery factor anymore, you know, that
5 date can perhaps be moved out and take some of
6 the pressure off of everyone there. And also, to
7 the extent that we have storms that come at the
8 end of December, which, for reason, seems to be a
9 key time when we get major storms, then you try
10 and get all the final costs in in time to get the
11 April report out. It's the type of thing that we
12 look at -- look at and say "well, does this
13 really need to happen on April 1st?" There's a
14 lot of reasons why that could change.

15 So, again, some of that discussion will
16 be even just looking at, you know, "is there a
17 better of timing of things for everybody
18 involved?"

19 A (Tebbetts) And I just wanted to add as well that,
20 for reports that are required within the rules,
21 we're not looking to change any of that
22 information. What we are looking to do is
23 reporting requirements that are required within
24 certain orders that we received, either through

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 rate cases, Storm Fund filings, etcetera. So,
2 the SAIDI and CAIDI reporting that Commissioner
3 Bailey noted earlier, are required through your
4 PUC rules. So, we wouldn't be looking to
5 eliminate any of those.

6 CHAIRWOMAN MARTIN: Commissioner
7 Giaimo, can you hear?

8 *[No verbal response.]*

9 CHAIRWOMAN MARTIN: Let's go off the
10 record for a moment.

11 *[Brief off-the-record discussion*
12 *ensued.]*

13 CHAIRWOMAN MARTIN: Okay. Back on the
14 record.

15 CMSR. GIAIMO: Back on the record.
16 Thanks.

17 BY CMSR. GIAIMO:

18 Q I just -- I thought I heard Mr. Mullen say,
19 effectively, that the "Exogenous Events"
20 provision is pretty much boilerplate?

21 A (Mullen) Yes. Similar language has been in
22 multiyear agreements that I can remember, going
23 back to around at least the early 2000s.

24 Q Okay. So, Commissioner Bailey and I were both on

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 the Commission when the 2018 Tax Act went into
2 effect. And each utility treated it a little
3 differently, each utility had some boilerplate
4 language in their prior rate case. So, I just
5 want to play this out.

6 Tax law comes into effect -- goes into
7 affect January 1st, 2021. The Company would then
8 certify that exogenous event at the -- by
9 February 28th, 2022?

10 A (Mullen) That is correct.

11 Q For effect -- would that be for effect
12 July 2023 -- or, July 2022, or something similar?

13 A (Mullen) I'm just reviewing the date right now.
14 I believe it will be effective May 1st of, say,
15 of 2022, in your example.

16 Q Okay. And, in the past, and I wouldn't hold the
17 Company to the same requirement, but, in the
18 past, the Company determined that the federal --
19 that Congress determined that they wanted to get
20 money back to the people and to ratepayers, and
21 the Company is determined to expedite that. And
22 what I heard you say, Mr. Mullen, was, you're not
23 willing to make that promise here, but it's not
24 out of sight of the realm of possibilities that

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 you would apply that same logic?

2 A (Mullen) My first -- my first inclination would
3 be to stick with the Settlement Agreement,
4 absolutely. I believe, in 18-001, and I'd have
5 to go back and take a look, it was either an
6 order or a secretarial letter, or there was
7 something that was issued by the Commission, that
8 basically said "for those who have an exogenous
9 events clause in any multiyear agreement", I
10 don't have the right words, but it was basically
11 set aside.

12 Q Okay. I won't argue that. But I think you --
13 you must agree that a different utility might
14 have had a different read of that and decided on
15 not immediately returning the money to the
16 ratepayers?

17 A (Mullen) I did -- I do understand that I think
18 another utility took that route, yes.

19 CMSR. GIAIMO: Thank you. Madam Chair,
20 those are the questions I had. And I want to
21 thank the witnesses.

22 CHAIRWOMAN MARTIN: Okay. Thank you.
23 I want to thank the witnesses, too, because the
24 walking through of this Settlement was really

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 helpful. And, so, I only have one question left.

2 BY CHAIRWOMAN MARTIN:

3 Q That relates to the EV tariff, which I believe is
4 on Settlement Agreement, Page 14 is where it's
5 mentioned. I haven't heard too much detail about
6 that. If you could go through that, at a high
7 level, I would appreciate it?

8 A (Tebbetts) Yes, Chairwoman Martin. I can walk
9 you through that. Let me just grab the
10 agreement. Okay. So, I'm looking at Bates Page
11 009, it talks a little bit about our domestic
12 service rates.

13 So, Rate EV came about through really
14 the creation of Rate D-11. Rate D-11 is our
15 time-of-use rate for our Battery Storage Pilot,
16 that was approved in Docket 17 -- DE 17-189.
17 And, in that docket, Mr. Below, myself, and
18 Mr. Huber, who was the OCA's consultant at that
19 time in that docket, came together on a
20 time-of-use model for rates that really provided
21 the opportunity to have it be technology-neutral.

22 So, while these rates were going to be
23 utilized for time-of-use for battery storage for
24 customers, it was also known at the time we were

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 looking to create an EV rate. So, an opportunity
2 for customers to be able to charge their electric
3 vehicles on a pretty dynamic rate that would
4 provide those customers an opportunity for
5 savings, if they want to charge off-peak. And,
6 also, hopefully promote the use of electric
7 vehicles within our territory.

8 So, what we did was we used exactly the
9 same model that was, like I said, created through
10 this other docket, and incorporated that to
11 create the electric vehicle charging rate.

12 One of the things that we did look at
13 was the customer charge. And the customer charge
14 is different than what D-11 is. And the reason
15 the customer charge is different is what we were
16 looking at here is, this is really going to be a
17 second meter on the customer's home, so that they
18 could have a dedicated circuit to charge their
19 electric vehicle. The meters that we're using
20 require them to be read through the cellular
21 network, and there's a \$5.00 a month charge for
22 that. So, the customer charge is the difference.
23 And the \$11.35 is made up of a \$5.00 a month
24 charge to read that meter through the Verizon

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 network that we use, and also the revenue
2 requirement for that meter, because it is a more
3 expensive meter, because it is an interval meter,
4 and it is providing interval data for five
5 periods.

6 So, our time-of-use rate period, I
7 don't know -- do you want me to go through that
8 piece of it or were you just looking for
9 high-level information?

10 CHAIRWOMAN MARTIN: No. I think that
11 was as much as I needed on it. Thank you.

12 Then, if anyone else would like to
13 respond to that?

14 *[No verbal response.]*

15 CHAIRWOMAN MARTIN: Then, we can move
16 to asking Mr. Kreis, Mr. Dexter, and Mr. Sheehan,
17 if they have any follow-up questions for the
18 witnesses?

19 MR. DEXTER: I would like to ask the
20 panel one question, but I don't have to go first.

21 CHAIRWOMAN MARTIN: Mr. Kreis, do you
22 have any follow-up questions?

23 Mr. Kreis, can you hear us?

24 MR. KREIS: I do not, Chairperson

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Martin.

2 CHAIRWOMAN MARTIN: Okay. Thank you.

3 All right. Mr. Dexter.

4 **REDIRECT EXAMINATION**

5 BY MR. DEXTER:

6 Q Commissioner Giaimo was --

7 MR. KREIS: Yes, I can. And I do not
8 have any other questions.

9 CHAIRWOMAN MARTIN: Go ahead, Mr.
10 Dexter.

11 MR. DEXTER: Sure.

12 BY MR. DEXTER:

13 Q Commissioner Giaimo was comparing the amount of
14 vegetation management expense, which is built
15 into the Settlement of \$2.2 million, to what was
16 built into the Settlement -- what was built into
17 base rates currently through past rate case
18 settlements, which was \$1.5 million. And did a
19 comparison of a percentage increase of about 33
20 percent.

21 And I would like the panel to indicate
22 on the record, in addition to those figures, what
23 the actual amount of vegetation management
24 expenses has been over the last couple of years,

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 and how that compares to the \$2.2 million, which
2 is built into the Settlement?

3 A (Tebbetts) Yes. I can answer that for the
4 Company. So, in our rate case, what we had
5 originally proposed was \$1,944,000, which was our
6 actual spend in 2018, in the test year. So,
7 looking at this 2.2 million, we'd say is pretty
8 close to being in line with how much we have
9 spent in the past.

10 Q And the difference between what you spent in the
11 past, versus the 1.5 million that's been built
12 into base rates, has been collected through the
13 reconciling mechanism that's been in place, is
14 that right?

15 A (Tebbetts) Yes. That's correct.

16 MR. DEXTER: Thank you. I just wanted
17 to bring up that clarification. I don't have
18 anything else.

19 CHAIRWOMAN MARTIN: Okay. Thank you.
20 Mr. Sheehan, did you have more questions?

21 MR. SHEEHAN: Excuse me. I do not have
22 further questions. Thank you.

23 CHAIRWOMAN MARTIN: Okay. All right.
24 At this point, we should talk about the exhibits.

[WITNESSES: S.M./D.S./H.T./P.C./R.N./J.D./K.D./D.M.]

1 Based on our conversation earlier, Parties have
2 stipulated to admission of all of the exhibits as
3 full exhibits, but not to the facts contained in
4 the exhibits. We will strike the ID on Exhibits
5 4 through 40, and admit them as full exhibits
6 subject to the limitations described in our
7 earlier discussion.

8 We will also hold open the record for
9 corrected exhibits by Staff. Staff, Mr. Dexter,
10 could you just confirm the numbers for those?

11 MR. DEXTER: Yes. It's 21 through 26,
12 and potentially 39. I'm not sure about 39. I
13 don't think so. I think just 21 through 26.

14 And I would propose that what I file
15 just replace what was there, not that they be
16 given new exhibit numbers.

17 CHAIRWOMAN MARTIN: Yes. Corrected
18 exhibits.

19 MR. DEXTER: Thank you.

20 CHAIRWOMAN MARTIN: And I understood
21 that some folks may file affidavits as well. So,
22 if that is the case, we will hold the record open
23 associated with the exhibits that are currently
24 in the record.

1 MR. DEXTER: Madam Chair, I'm sorry,
2 your voice was cutting out. So, I didn't hear if
3 you were going to reserve exhibit numbers for the
4 affidavits? Because, if so, Staff filed those
5 this morning in the docket, but didn't include
6 them in their list of exhibits. So, I didn't
7 know how you wanted to handle that.

8 CHAIRWOMAN MARTIN: I don't think that
9 we need to reserve additional exhibit numbers.
10 We can just associate those with the exhibits
11 that they refer to, unless someone has an
12 objection to that?

13 *[No verbal response.]*

14 CHAIRWOMAN MARTIN: All right. Seeing
15 none.

16 I think that's everything. Is there
17 anything else we need to cover before we go to
18 closings?

19 *[No verbal response.]*

20 CHAIRWOMAN MARTIN: Okay. And the
21 witnesses can be released. To the extent they
22 don't need to stay, they don't have to.

23 All right. Let's start with Mr. Kreis
24 please.

1 MR. KREIS: All right. Can everybody
2 hear me? I think I was having the same little
3 problem that Commissioner Giaimo was a minute
4 ago. It's a little hard to get the computer to
5 unmute itself.

6 CHAIRWOMAN MARTIN: Yes. I can hear
7 you. Although, you seem to be moving around the
8 screen.

9 MR. KREIS: All right. I'll try not to
10 move around too much and tax the systems too
11 stressfully.

12 I am just going to briefly state that I
13 believe that it is appropriate for the Commission
14 to approve the Settlement Agreement that has been
15 presented to you here for all of the reasons that
16 the various witnesses have testified to. But,
17 from the standpoint of the Office of the Consumer
18 Advocate, representing the interests of
19 residential utility customers, I would highlight
20 the following issues as worthy of special
21 consideration.

22 There was a lot of very interesting
23 testimony from Dr. Chattopadhyay about the ROE in
24 the Settlement Agreement of 9.1 percent, and the

1 extent to which that falls within the range that
2 we articulated, and the extent to which it takes
3 account of the stress on the economy that the
4 pandemic has placed. And I think that, for
5 purposes of considering the Settlement Agreement,
6 I think the Commission has to keep in mind that
7 determining a precise ROE with scientific
8 accuracy is virtually impossible.

9 Dr. Chattopadhyay testified that he is perfectly
10 happy and content with the settled figure of 9.1
11 percent, even though it is slightly higher than
12 the reasonable range that his original analysis
13 or his revised analysis led him to recommend.
14 And that, overall, a ROE that is slightly higher
15 than his recommended range is still just and
16 reasonable, given all of the other issues that
17 were compromised along the way.

18 I want to commend the Company for
19 agreeing to a couple of things that I think
20 demonstrate that Liberty Utilities, particularly
21 in its electric operations, is a very
22 future-oriented utility. I refer to the
23 commitments about developing an Advanced Rate
24 Design Road Map and performance-based ratemaking.

1 We bargained pretty hard for agreements on those
2 subjects by the Commission -- by the Company, in
3 exchange for us agreeing to any step increases at
4 all. And I think that the concessions that the
5 Company has made are reflective of the right
6 attitude by this Company about how to move away
7 from the 1950s model of utility regulation, and
8 into a truly 21st century model, that will still
9 allow the Company to earn a reasonable return on
10 investment, or at least given the opportunity to
11 do that, while making sure that the Company is
12 responsive to the press of technological change
13 and evolving consumer needs.

14 And, finally, I'm really glad that
15 there weren't really any questions about the
16 smart inverter standard that we got incorporated
17 into the Settlement Agreement. That must mean
18 that we made a persuasive case that that
19 provision in itself is very important to the
20 future of the electric grid in New Hampshire,
21 because the emerging IEEE standard is designed to
22 make it possible for those customers who have
23 smart inverters on their premises to actually
24 contribute value to the grid in a meaningful way

1 and get compensated for those contributions that
2 they make.

3 So, I commend the Company for agreeing
4 to the provisions that talk about that in the
5 Settlement Agreement. And I think that, although
6 that's a very technical aspect of the Settlement
7 Agreement, it is another very compelling reason
8 for the Commission to approve the Agreement.

9 I would like to thank the Company, and
10 I would like to thank the Staff of the
11 Commission, and I would like to thank all of the
12 parties, especially Ms. Mineau and her daughter,
13 for their hard work in making this Settlement
14 Agreement possible. I think the result is just,
15 reasonable, and in the public interest. And I
16 urge the Commission to approve the agreement
17 therefore.

18 Thank you.

19 CHAIRWOMAN MARTIN: Okay. Thank you.
20 Ms. Mineau, did you want to be heard?

21 MS. MINEAU: Yes. And I apologize for
22 my daughter being in my lap, but it is the
23 reality of participating in hearings from home.

24 Clean Energy New Hampshire is

1 supportive of the Settlement Agreement.
2 Specifically, we're pleased to see the new
3 electric vehicle time-of-use rate and the new LED
4 street light rate, which we think will encourage
5 customers to modify their behavior to charge EVs
6 during off-peak times, and encourage
7 municipalities to convert outdoor lighting to
8 more efficient LED fixtures.

9 We are also supportive of the change in
10 interconnection application review fees, because
11 they give more upfront certainty on the cost than
12 the previous method used. We're also supportive
13 of the revenue decoupling and the mechanism
14 proposed in the Settlement.

15 Finally, we're eager to continue
16 working with Liberty and the other parties in
17 this docket on DER interconnection standards,
18 performance-based ratemaking, and the Advanced
19 Ratemaking [sic] Road Map, in the follow-up
20 process described in the Settlement Agreement.

21 Thank you.

22 CHAIRWOMAN MARTIN: Thank you.

23 Mr. Skoglund, did you want to be heard?

24 MR. SKOGLUND: So, New Hampshire DES

1 did not sign onto the Settlement Agreement. But
2 that was specifically because there are -- we're
3 relatively new to this process, and this was our
4 first rate case. And there are specific issues,
5 many of which were covered, which we do not have
6 the experience and expertise to put our name
7 behind. So, we opted to provide comments on the
8 Settlement and Stipulation documents that we felt
9 we had a direct interest in, and that were tied
10 directly to environmental and public health
11 outcomes.

12 Rather than take up more time, I will
13 note that much of that has been specifically just
14 addressed by both Mr. Kreis and Ms. Mineau. The
15 EV rates and the LED rates were of significant
16 interest at the beginning, but it was those
17 elements that were related to the utility
18 business model that caught our attention at the
19 end, and we spent a considerable amount of our
20 comments focused on those.

21 And we also look forward to
22 participating in the follow-up discussions, the
23 decoupling, the rate design, the
24 performance-based ratemaking, that will follow,

1 should this Settlement and Stipulation be adopted
2 by the Commission.

3 And we thank Staff for their patience
4 with our participation. And do applaud Liberty
5 on having what we think is a very
6 forward-thinking Settlement, and that is
7 consistent with the recent grid mod. order that
8 was just issued by the Commission.

9 Thank you.

10 CHAIRWOMAN MARTIN: Thank you. Mr.
11 Below.

12 MR. BELOW: Thank you, Chair Martin.

13 The City of Lebanon is supportive of
14 the Commission approving the Settlement and
15 finding that it is in the public interest. We do
16 think there are a number of progressive features
17 here that set a good example perhaps for the
18 other utilities in the state.

19 The EV rate is valuable, and uses the
20 time-of-use rates that were developed for the
21 battery pilot, that are really sort of generic in
22 nature, and gives a further opportunity to see
23 the results of that.

24 And, in particular, we appreciate the

1 utility and Staff for working with us on the
2 outdoor lighting and LED rates. It does allow
3 municipalities and the state itself to own street
4 light fixtures that they purchase and install,
5 allows them to -- communities to have dark sky
6 friendly street lighting consistent with state
7 statute, and avoid the gross up that would come
8 from having to treat them as contributions in aid
9 of construction, as well as the property tax
10 impact that would occur, if the state and
11 municipalities couldn't own their own street
12 lighting for lighting public rights-of-ways.

13 So, we think these are all very good
14 features, and appreciate the Commission, the
15 Staff, the OCA, and the other parties for working
16 with us to come to such a satisfactory Settlement
17 Agreement.

18 Thank you.

19 CHAIRWOMAN MARTIN: Okay. Thank you.
20 Mr. Dexter.

21 MR. DEXTER: Thank you.

22 Staff likewise recommends that the
23 Commission approve the Settlement as filed. And
24 we do so, because we believe, as all the

1 witnesses have stated, that it produces just and
2 reasonable rates, that it will allow the Company
3 the opportunity to earn a reasonable return, and
4 provides safe and reliable service. And, in
5 doing all that, we believe that it balances the
6 interests of the various parties that raised very
7 different positions in their testimonies that
8 were filed in 2019. And the number of the
9 settlement talks and the breadth of the
10 settlement talks, and the participation by all
11 the parties, I think is an indication that the
12 Settlement truly represents a give-and-take and a
13 balancing of the various issues.

14 Like everyone else, I wanted to
15 highlight a few things that Staff thinks is very
16 valuable in the Settlement from its standpoint.
17 You have touched upon the preservation of the
18 future review of the Salem area investments.
19 It's very important to Staff that they have a
20 full opportunity to review those, and that the
21 Commission have a full opportunity to review any
22 of the investments in the Salem area. Because of
23 the magnitude of the new load that's expecting --
24 expected, the age of the existing infrastructure,

1 and the proposed new infrastructure, none of
2 which occurred during the test year. So, it's
3 extraordinarily -- extremely important to Staff
4 that all those issues have been preserved for
5 future review.

6 We are -- Staff is very supportive of
7 the new process for reviewing the step
8 adjustments. Step adjustments, in our view, are
9 important, and important assets are included in
10 those. And the typical 45 days that has been
11 used in the past has been difficult, it's been
12 difficult to do complete reviews in that time
13 period. This Settlement doubles that review
14 time, and also requires the Company to file up
15 front a lot of the information that, in past step
16 adjustment reviews, was received during
17 discovery, and that took up half of the 45 days
18 that we used to have.

19 We're in the midst of the first one, as
20 the witnesses indicated. We have a hearing
21 scheduled on that for June 22nd. We'll be
22 looking at the assets that are listed in the
23 Settlement for 2019 investments. And believe
24 that the new review period is important, and the

1 time will be well spent.

2 Staff is very supportive of the revised
3 planning criteria. This is an issue that
4 actually goes back to the Company's last rate
5 case, in 2016. This was an issue of extensive
6 testimony by a Staff consultant in that case.
7 And we believe the revised planning criteria
8 reflect an appropriate compromise of some issues
9 that we weren't able to settle last time.

10 And, as Commissioner Bailey was asking,
11 and as Witness Demmer confirmed, this is likely
12 to save customers money through reduced plant
13 investments.

14 Staff is pleased that the REP special
15 rate mechanism is going to come to an end. In
16 the various annual REP cases that we've brought
17 before the Commission, that the Company has
18 brought before the Commission over the last few
19 years, there has been a significant demonstration
20 that the reliability indices have improved
21 significantly since this mechanism was instituted
22 many, many years ago. And we believe it is time
23 for reliability investments to be treated like
24 other investments, given the improvement in

1 reliability that the Company has shown over the
2 past several years.

3 We are likewise pleased that there is
4 now a cap on the recovery of veg. management O&M.
5 We tried to arrive at a figure, a negotiated
6 figure, that we believe was realistic, in terms
7 of recent experience. We're okay -- Staff was
8 okay with the 10 percent bandwidth around that.
9 But we are comforted by the fact that there is
10 now an absolute cap on that item, where, in the
11 past, there has not been.

12 We believe that this Settlement greatly
13 improves the outdoor lighting rates, both
14 traditional and LED. And, as Assistant Mayor
15 Below just mentioned, this does allow companies
16 to own their own lighting fixtures, and
17 presumably save them money, which we view as a
18 positive.

19 We're also looking forward to sitting
20 down with the Company on the reporting
21 requirements. We understand that requirements
22 can build up over years. And some of them may
23 have been very relevant in 2010 and 2012. And
24 it's probably something we should have done a

1 long time ago. But I think all parties could
2 benefit from a fresh look at the required
3 reporting requirements that Liberty faces. And,
4 so, we will sit down with them and see what can
5 be consolidated, rearranged, and potentially
6 eliminated, if they're no longer providing useful
7 information.

8 And I just wanted to point out the
9 obvious on the exogenous factors, that it does go
10 both ways. The clause is there to protect both
11 the Company and the ratepayers for exogenous
12 events. I think Mr. Mullen pointed out that they
13 are particularly important when the longer the
14 stay-out provision is in the Settlement. And, in
15 this case, I guess I'm still struggling whether
16 it's three or four years, I think it's four
17 years. But the fact of the matter is, there
18 won't be a base rate case from this company until
19 2023. So, given that, it's important to have an
20 exogenous factor provision that will go both
21 ways.

22 So, for all those reasons, and others
23 that the Company has and the other witnesses have
24 mentioned, Staff wholeheartedly recommends that

1 the Commission approve the Settlement that is
2 placed before it.

3 Thank you.

4 CHAIRWOMAN MARTIN: Okay. Thank you.
5 Mr. Sheehan.

6 MR. SHEEHAN: Thank you.

7 I won't repeat what's been said before
8 too much, I hope. I appreciate, the Company
9 appreciates the support all parties have given to
10 the Settlement, because, in fact, it is an
11 all-parties Settlement. I think Mr. Dexter said
12 the "breadth of the settlement talks". I turned
13 into the scribe during all the conversations as
14 we edited the document. And the other day I
15 counted up that we went through twenty-something
16 versions of the Settlement Agreement as we kept
17 refining and making it better.

18 And I do think, and I think everyone
19 agrees, having the extra time did make it a lot
20 better. All those little tiny number changes
21 will be very important a couple years from now,
22 for example, when we're implementing decoupling,
23 to be able to know exactly what it is we intended
24 to do today.

1 I'll touch a couple of topic areas very
2 briefly. On ROE, very -- on the issue of whether
3 if the agreed number is reasonable, a very
4 helpful graph is in Mr. Cochrane's rebuttal
5 testimony, at Page 4, and that's Exhibit 35. And
6 I'm not going to argue his case, because we
7 settled this. But he has a graph that plots all
8 the approved ROEs across the country over the
9 last couple years. And you can just see, as that
10 scattershot of dots on a graph, and you can see
11 that, as I think Mr. Kreis said, ROE testimony is
12 not all science, there's a fair amount of art to
13 it. So, there are many ways to genuinely
14 disagree or take different approaches.

15 And, so, a number of 9.1, which I
16 believe to be one of the lowest that this
17 Commission will ever have approved in recent
18 memory, is within the range of reasonableness.
19 And that's the legal standard for ROEs, "is it
20 within a range of reasonableness?" And
21 Mr. Cochrane's graph just kind of illustrates
22 that on one page.

23 On the Salem area investments, we
24 agreed that those -- any of those investments are

1 not in this case and will not be in the steps.
2 In the normal course, we would come in with our
3 next rate case, having made those investments and
4 sought recovery then, which we will do. The
5 difference being, in part, because of the
6 testimony by Staff and others, we will be
7 educating and having conversations as we go
8 along. We hope to educate Staff what we're
9 doing, why we're doing it. We continue to take
10 feedback from them.

11 But the expectation is, through the
12 review of our updated study, which we're happy to
13 be able to present to Staff and OCA this summer,
14 through finding out exactly what load does come
15 on in Salem. That, by the time we get to our
16 next rate case, we may very well be more or less
17 in agreement that what we have done was proper,
18 and what we have done may be changed slightly by
19 those conversations. So, we look forward to that
20 process.

21 I think Mr. Dudley summed it up best.
22 He said that "Staff didn't get everything they
23 wanted, and neither did the Company." That, by
24 definition, a good settlement is not everyone is

1 thrilled, there is a fair amount of truth to that
2 here.

3 That being said, there are many
4 progressive items in the Settlement. I think
5 that the parties have recognized that. Liberty
6 is owned by a parent company that is led by
7 nonutility people. They are forward thinkers,
8 they are energy people, they are entrepreneurs.
9 And we, as the local utilities, are constantly
10 being pushed by them to look into the 21st
11 century, to do what needs to be done to serve the
12 customers of the 21st century. And I can
13 guarantee you, it's not lip service. That's the
14 way they think, that's the way they operate.
15 And, so, that's the way we think and that's the
16 way we operate.

17 And, so, you have people, like the
18 witnesses we saw today, and the ones who adopted
19 their testimony, but didn't speak today, these
20 are all people that have totally bought into the
21 utility of the 21st century. Now, we know we
22 can't get there overnight, and sometimes we may
23 be pushing a bit harder than the system may like,
24 but we will be pushing down that road. And many

1 of the items in this Settlement Agreement are
2 important steps as we go down that road.

3 So, we appreciate the recognition of
4 that. And I do think that's the right way for
5 this utility to go.

6 So, again, I appreciate everyone's
7 work. We respectfully ask the Commission to
8 approve this Settlement as filed, as it will
9 result in just and reasonable rates, but it will
10 also put us on a good path to providing customers
11 what they expect of Liberty Utilities in future
12 years.

13 Thank you.

14 CHAIRWOMAN MARTIN: All right. Thank
15 you. I want to thank everyone, too. Because
16 it's very clear, from today's testimony, that
17 this has been an incredibly collaborative
18 process. And, so, thank you for that. And we're
19 done.

20 We will take the matter under
21 advisement, issue an order. And, if we don't
22 have anything else to cover, we are
23 adjourned. Thank you, everyone.

24 ***(Whereupon the hearing was adjourned at 3:20 p.m.)***