

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

February 15, 2013 - 9:23 a.m.

Concord, New Hampshire

NHPUC MAR18'13 PM 4:22

RE: **DRM 11-077**
RULEMAKING:
Puc 500 - Rules for Gas Service.

PRESENT: Chairman Amy L. Ignatius, Presiding
Commissioner Robert R. Scott
Commissioner Michael D. Harrington

Sandy Deno, Clerk (Up to 3:30 p.m.)
Clare Howard-Pike, Clerk (After 3:30 p.m.)

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Chris LeBlanc
Mel Ciulla

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Daniel Saad
Richard MacDonald
Leo Cody

Reptg. Northeast Gas Association:
Jose M. Costa

Reptg. Amerigas Propane:
Tim Hodge

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

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P R O C E E D I N G

CHAIRMAN IGNATIUS: Good morning.

Welcome, everyone. We are a little tight quarters here, because our other larger hearing room is being used for a very large meeting. If people need, there is looks like more space there, got people perching in funny spots, please feel free to move around and find a way that works best here.

I'd like to open the hearing in Docket DRM 11-077, which is our work on the PUC Administrative Rules Chapter 500, addressing gas service. And, I know that people have been working very hard over the last few weeks to come to a common understanding and resolution, where possible, of disputed terms in the rules, and understand some of the changes that have been proposed. And, the rulemaking process can be cumbersome as we try to translate concepts into drafting requirements that are imposed on us by the administrative rules process out of the Legislature. And, so, for those of you who haven't been through rulemakings before, it may have been a little bit baffling, but we appreciate everyone sticking with it. And, I know that there are a lot of provisions in the rules that are being proposed to be changed, some just sort of ministerial and getting caught up with new

1 references, and some more significant changes conceptually
2 and the impacts on the companies. And, so, we wanted to
3 have another full hearing, an opportunity for people to
4 address any concerns that they have with the new version
5 of the rules. We know Staff's been working hard to
6 accommodate and redraft things to meet some of the
7 concerns that they have heard, and the number of open
8 questions I believe has dropped significantly in the last
9 week or two. I hope that's correct. But I think what we
10 need to do is focus on what remains as open questions,
11 what are the things that are still of concern to the
12 companies and to the Staff to really focus on today.

13 It's not an adjudicative process, we
14 don't have witnesses and people sworn in to testify. It's
15 more of like a legislative hearing, the people making
16 their concerns known, and then some give-and-take, both
17 there may be questions from Staff or responses from Staff,
18 there may be questions from the Commissioners on that.

19 I think it would make most sense to
20 focus section by section, rather than company by company,
21 so we zero in on the disputed provisions. So, we'll go
22 through a section, everyone's comments, move onto the
23 next, and work our way through it that way, if that's all
24 right.

1 Although, it's not required that we have
2 appearances in the normal sense of an adjudication, it's
3 probably helpful to know who's who and on the record who's
4 here on whose behalf. So, why don't we begin just
5 identifying participants today. If you can state your
6 name and who you're representing.

7 MR. COSTA: Sure. I'm Jose Costa. I'm
8 with the Northeast Gas Association. And, our members are
9 Unitil and Liberty Utilities.

10 CHAIRMAN IGNATIUS: And, can you give me
11 your last name again?

12 MR. COSTA: Costa, C-o-s-t-a.

13 CHAIRMAN IGNATIUS: Thank you.

14 MR. HEWITT: Good morning. My name is
15 Bill Hewitt. I'm an attorney with Pierce Atwood. I'm
16 here today on behalf of Northern Utilities. And, I have
17 to my right Chris LeBlanc, who is the Director of Gas
18 Operations for Unitil, and, then, to Mr. LeBlanc's right
19 is Mel Ciulla, who is the Manager of Distribution
20 Operations here in New Hampshire for the Company.

21 CHAIRMAN IGNATIUS: Welcome. Thank you.

22 MR. HEWITT: Thank you.

23 CHAIRMAN IGNATIUS: Ms. Knowlton.

24 MS. KNOWLTON: Good morning. My name is

1 Sarah Knowlton. I'm in-house counsel for Liberty
2 Utilities, also known as "EnergyNorth Natural Gas". And,
3 with me today from the Company to my left is Dan Saad, who
4 is our Vice President of Operations and Engineering, and
5 to his left is Rich MacDonald, who is our Director of Gas
6 Operations, and to his left is Leo Cody, who is our
7 Program Manager for Compliance and Quality.

8 CHAIRMAN IGNATIUS: Good morning.

9 MR. SAAD: Good morning.

10 MR. CODY: Good morning.

11 MS. FABRIZIO: Good morning,
12 Commissioners. Lynn Fabrizio, on behalf of Staff. And,
13 with me at the table today are Randy Knepper, the Director
14 of the Safety Division, and Joe Vercellotti, a Utility
15 Engineer in the Safety Division.

16 CHAIRMAN IGNATIUS: Good morning.

17 MS. HOLLENBERG: Good morning. Rorie
18 Hollenberg, here for the Office of Consumer Advocate.

19 CHAIRMAN IGNATIUS: And, in the back,
20 sir?

21 MR. HODGE: Tim Hodge, from Amerigas
22 Propane.

23 CHAIRMAN IGNATIUS: Thank you.

24 MR. RUOFF: Bill Ruoff, PUC Safety

1 Division.

2 CHAIRMAN IGNATIUS: Mr. Hodge, I forgot
3 already what you just told me. Who are you with?

4 MR. HODGE: Amerigas Propane.

5 CHAIRMAN IGNATIUS: Thank you. And, I
6 think we got everybody. All right. Then, is it -- can I
7 turn to Staff and ask for a sort of status update of where
8 we are and where the issues are that you think are most in
9 need of focus on this morning?

10 MS. FABRIZIO: Yes. Thank you. First,
11 I'd like to say up front that we -- Staff proposes that we
12 go over the LP gas provisions first, because there is only
13 one representative here in the room, and those issues I
14 think we can move through fairly quickly. And, then,
15 Staff has provided to the Commission and to the parties a
16 summary document of the provisions that have been in play
17 in this rulemaking, in particular, in this last time frame
18 of the rulemaking. And, we've color-coded the provisions.
19 The provisions are presented in sequential order. The
20 color-coding indicates -- green will indicate that we
21 believe that we've reached agreement on those provisions;
22 the yellow indicates that Staff believes that we're fairly
23 close, if not at consensus, but there's still further
24 discussion that may be warranted; and the red indicates

1 the provisions where Staff and the companies are still in
2 disagreement on what the final provision should read.

3 CHAIRMAN IGNATIUS: And, is that a
4 summary that you said had been made available? I don't
5 think we have it yet.

6 MS. FABRIZIO: I emailed it to the
7 Commission this morning, but we can provide copies now.
8 And, I apologize for the last -- the late arrival of these
9 comments.

10 CHAIRMAN IGNATIUS: Do the other
11 participants have it?

12 MS. FABRIZIO: Yes. And, they just
13 received it this morning.

14 CHAIRMAN IGNATIUS: Ms. Knowlton.

15 MS. KNOWLTON: At some point, before we
16 get into the substance of, you know, the issue-by-issue
17 discussions, I just have some preliminary thoughts that I
18 would like to share with the Commission, --

19 CHAIRMAN IGNATIUS: All right.

20 MS. KNOWLTON: -- if you'd be so
21 inclined to indulge me.

22 CHAIRMAN IGNATIUS: That's fine. We can
23 do that. So, let's just as sort of as a starting point,
24 this is the Staff summary you were just describing that's

1 got green and yellow on the first page. I bet there's
2 some red coming.

3 CMSR. HARRINGTON: Excuse me, could just
4 go over the classification again. Green is what?

5 MS. FABRIZIO: Green, we believe that we
6 have reached agreement with the parties on those
7 particular provisions. Yellow, we believe we have come
8 close to reaching agreement, but further discussion may be
9 warranted, and we hope to hear today any further comments.
10 And, red indicates the provisions where Staff and the
11 companies still are fairly far apart, and probably will
12 require a Commission determination of which way to go.

13 CMSR. HARRINGTON: Thank you.

14 CHAIRMAN IGNATIUS: Thank you. All
15 right. So, before we do start going into any of the
16 rules, LP or otherwise, Ms. Knowlton, what did you want to
17 address?

18 MS. KNOWLTON: Thank you. I want to
19 offer a few observations on behalf of the Company about
20 the process. And, you know, first, I want to say that,
21 you know, I know a lot of hard work has been done by
22 everybody, and, you know, we very much appreciate that.
23 But, at the same time, I think, you know, the
24 Commissioners, the three of you have really reached out to

1 the community over the past, you know, eight months or so
2 to ask us for feedback about, you know, "how are we
3 doing?" And, you've asked us to be honest and open with
4 you. And, so, I'm going to say some things today that are
5 hard things to say, especially, you know, in a setting
6 like this, but I hope, you know, that you will take them
7 into consideration.

8 And, I think that, as an example, though
9 while there's been lots of hard work, the process has
10 really not gone as it should. You know, we had -- we
11 participated in a number of technical sessions. And, you
12 know, we were here last, I think, on December 7th. You
13 know, on Monday, we got a notice of a hearing on Friday,
14 or, we got a notice that we were supposed to have
15 something filed on Wednesday, you know, which we pretty
16 much dropped everything and got it in. Wednesday, after
17 the close of business, we received a copy of the rules
18 that we're here discussing today with the changes. I can
19 tell you that I haven't personally had the chance to go
20 through them and give them the attention that they
21 deserve, and nor has the rest of our team. You know, Mr.
22 Cody has spent the most time with them.

23 But, you know, these are really serious
24 rules, that matter a lot to us, and that, you know, I

1 think they matter to everyone a lot just in this room.
2 And, I don't think that we can give them the time and the
3 attention that they merit and deserve, based on the
4 timeframes that we're facing. And, I know that Staff
5 counsel, you know, has worked valiantly to try to, you
6 know, turn things around and get stuff out the door. But,
7 I mean, this thing that was circulated this morning we
8 just received, you know. And, I mean, after, you know,
9 yesterday, my understanding was there's emails going back
10 and forth trying to, you know, sort of negotiate what's in
11 these rules. And, our team hasn't even had the chance to
12 sit down and talk about what's in here, what's different,
13 what's changed.

14 The cost information that we submitted
15 on Wednesday is based on the cost estimates that we had
16 given previously. My understanding is is that you really
17 want cost estimates on, you know, what was issued
18 Wednesday, you know, at 5:23. And, you know, we don't
19 have that for you today.

20 So, I, you know, again, really
21 appreciate all the hard work, but we're running a gas
22 utility, which is a serious business. And, you know, in
23 one day we can't, you know, turn on a dime like that and
24 take a document like this that's really serious and give

1 it what it's due. So, I just, you know, hope that you'll
2 think about that. And, you know, we are here today and we
3 have our team. You know, we want to participate. You
4 know, we're trying to review what we just got. We'll do
5 our best. But I think we could have something maybe in
6 the future that worked a little better.

7 CHAIRMAN IGNATIUS: I appreciate the
8 comments. What's the time frame that we're facing from
9 the rulemaking standards, which are imposed on us?

10 MS. FABRIZIO: Uh-huh. Thank you, madam
11 Chair. I take full responsibility for the attempt to
12 expediting the process at this stage, because we are
13 bumping up against a statutory deadline of this coming
14 Monday, or a week from Monday, I should say, when the 150
15 days from filing of the initial proposal expires. If we
16 get a final proposal approved by the Commission and submit
17 it to JLCAR before that date, then we get an automatic 30
18 day extension where we can continue to work on this. But,
19 because of the statutory deadlines in this case, we've --
20 the Staff has kind of stepped out of the normal course of
21 process, in my experience, to try to move things along.
22 And, Mr. Knepper has been communicating with both Unitil
23 and Liberty by e-mail in the last few days, to try to wrap
24 up or at least try to further the discussions on certain

1 provisions that were, you know, redlined in our minds that
2 were outstanding out there. And, I gave an informal
3 head's up that there would be a hearing scheduled today a
4 week ago. But I understand that, you know, our inability
5 to get the further revisions out until Wednesday does
6 cramp the ability of the utilities to put some meaningful
7 time into review of these.

8 But I would repeat that this is not the
9 last chance for comment from anybody. Because I envision
10 the next step would be to take the comments received
11 today, and Staff also just very recently received finally
12 comments from Office of Legislative Services, and those
13 need to be incorporated. And, those, for the most part,
14 are editorial/typo kind of changes. And, frankly, a lot
15 of them pertain to the rules that were approved eight
16 years ago, but that process also needs to be worked out
17 fairly quickly. And, I hope to circulate a revised
18 proposed final proposal next week to the parties for, you
19 know, final, I hope, round of comments and input from the
20 companies. And, at that point, we'll incorporate what we
21 can, wrap it up, and then submit it to you for adoption,
22 and then submittal to OLS and JLCAR.

23 CHAIRMAN IGNATIUS: And, the date for
24 submission to keep it within the 180 days is Monday,

1 February 25th?

2 MS. FABRIZIO: That's the expiration of
3 the 150 days. And, so, I would propose that we submit it
4 on the Friday before that.

5 CHAIRMAN IGNATIUS: And, in order to do
6 that, the Commissioners have to vote to accept a
7 particular version as the final proposal?

8 MS. FABRIZIO: Yes.

9 CHAIRMAN IGNATIUS: So, that would have
10 to be on Friday, no later than Friday morning.

11 MS. FABRIZIO: Yes.

12 CMSR. HARRINGTON: Excuse me. That's a
13 week from today then?

14 MS. FABRIZIO: Yes.

15 CHAIRMAN IGNATIUS: If you get the
16 filing made, if we're able to meet that 180 day rule, how
17 long an extension is it that's given?

18 MS. FABRIZIO: Once we've submitted the
19 final proposal to JLCAR, the schedule depends on JLCAR's
20 schedule of meetings and when they are able to put it on
21 their calendar. So, I believe, my understanding from the
22 Office of Legislative Services, is that at that point it
23 becomes JLCAR's procedural issue.

24 CHAIRMAN IGNATIUS: And, how do people

1 continue to, if they have issues with what the final
2 proposal is that's voted in next week, how can they make
3 their views known about that?

4 MS. FABRIZIO: Yes. There will be a
5 hearing at JLCAR, at which the companies are -- will
6 certainly be invited by JLCAR to participate and submit
7 further comments.

8 CHAIRMAN IGNATIUS: And, if between the
9 submission of the proposal, the final version, and the
10 JLCAR hearing date, is there an opportunity for people to
11 negotiate further and bring any revised language before
12 the JLCAR committee?

13 MS. FABRIZIO: Based on my experience,
14 yes, absolutely. And, in that case, we would appear
15 before JLCAR with the version that they received in our
16 submittal, but then prepared to address certain further
17 changes that had been reached with the companies since
18 that point.

19 CHAIRMAN IGNATIUS: And, if there is no
20 agreement on issues in dispute, any party who doesn't like
21 the version can testify in opposition to the language,
22 suggest what they should think what's wrong with it, and
23 the Committee, at times, will vote down a rule, --

24 MS. FABRIZIO: Yes.

1 CHAIRMAN IGNATIUS: -- because they're
2 troubled by what they're hearing, or they will say "no, I
3 think it looks like a good rule to us" and they will vote
4 it in?

5 MS. FABRIZIO: Exactly.

6 CHAIRMAN IGNATIUS: If we don't make the
7 180 day limit, so nothing is submitted by January --
8 excuse me, February 25th, --

9 MS. FABRIZIO: Uh-huh.

10 CHAIRMAN IGNATIUS: -- then what
11 happens?

12 MS. FABRIZIO: If it looks like we're
13 not going to meet it, I think the Commission has a couple
14 of options. One, if we could isolate the few, and I think
15 really there are only two or three provisions that really
16 we might be far apart on, we could extract those from the
17 current rulemaking, and submit what has been reached,
18 where agreement has been reached, and submit that.
19 Otherwise, if we don't submit something by that expiration
20 of that date, then this rulemaking is essentially
21 finished, and we start over from the beginning.

22 CHAIRMAN IGNATIUS: And, what's the
23 status of rules in that period of time? Are there any 500
24 rules that would be in effect?

1 MS. FABRIZIO: No, they will have
2 expired. They did expire on January 19th, I believe these
3 rules expired.

4 CHAIRMAN IGNATIUS: So, --

5 MS. FABRIZIO: But, then, we would have
6 to do an interim rulemaking to -- we could do an interim
7 rulemaking to readopt the existing rules as is, as they
8 are.

9 CHAIRMAN IGNATIUS: So, in order to keep
10 rules in effect, you could cull out anything that remains
11 contentious, keep the bulk of them repromulgated, and
12 start a new rulemaking on the issues that remain in
13 dispute?

14 MS. FABRIZIO: Yes.

15 CHAIRMAN IGNATIUS: And, the alternative
16 would be, not cull anything out, the whole thing dies, we
17 begin anew with a new rulemaking for everything, both
18 contentious and non-contentious?

19 MS. FABRIZIO: Or, submit the final
20 proposal to JLCAR, and let JLCAR decide what to do with
21 those remaining contentious issues.

22 CHAIRMAN IGNATIUS: Right. So, there's
23 sort of three options, --

24 MS. FABRIZIO: Yes.

1 CHAIRMAN IGNATIUS: -- if we're not at a
2 -- don't get to a meeting of the minds in the next week?

3 MS. FABRIZIO: Yes.

4 CHAIRMAN IGNATIUS: All right. It is a
5 really difficult process, and the 180 days, it seems like
6 a long time, but it often ends up being not enough. And,
7 I think, to the extent that we didn't make enough progress
8 along the way, and are now jammed up, I also will take
9 some responsibility for that. You know, you've got plenty
10 of time, as long as nothing else goes wrong, but something
11 else always goes wrong, in all of your businesses and all
12 of our businesses, and that has caused us to be in this
13 mad race to the end, that doesn't serve any of us very
14 well, I recognize. And, I think everyone is trying hard
15 to work within that time frame. And, I'm taking, Ms.
16 Knowlton, your view is we ought to keep on trying to work
17 hard, --

18 MS. KNOWLTON: Yes.

19 CHAIRMAN IGNATIUS: -- but to recognize
20 that this has made it -- it's not an easy thing to try to
21 go through these, when the terms are shifting and there
22 isn't time to reflect on what the changes are.

23 MS. KNOWLTON: I mean, the only thing I
24 can -- I, definitely, you know, that is our view. We are

1 here today to get as far as we can get. And, you know,
2 it's in our interest to have, you know, rules in effect,
3 so that is our goal as well. You know, driving over here
4 today, the only -- I was thinking, is there anything, you
5 know, next time, you know, anything we can learn from this
6 that we could do differently next time? And, the only
7 thing that I could come up with, and I'm not as familiar
8 with, you know, the rulemaking process, but, you know, in
9 the future, knowing that we have 180 days, you know, for
10 another docket, like I know the 300 rules are coming up,
11 could we have a procedural schedule, you know, take the
12 180 and you work back. And, you know, we just all got to
13 live by those deadlines as hard as they are. But, you
14 know, at least we then know we've got them on our
15 calendar, and, you know, we know when the drafts are
16 coming in, so, we're going to carve out the time on our
17 side. And, you know, I know there's a lot, it's hard to
18 stick to, but that's one suggestion that I had to think
19 about.

20 CHAIRMAN IGNATIUS: Yes. And, we do
21 that sort of internal calendaring, working back of which
22 event has to occur at which time, but maybe we're not
23 sharing that with others, and that would be a good idea.
24 So, you recognize the same reason why things are happening

1 the way they are, and then we've got to, all of us, be as
2 disciplined as we can to stick to those dates. All right.
3 Well, what --

4 MS. HOLLENBERG: If I may just say, --

5 CHAIRMAN IGNATIUS: Yes.

6 MS. HOLLENBERG: -- I agree with that
7 suggestion. Only because, I think, if the Commission does
8 have the ability to identify those, that schedule for
9 those of us who are not as familiar with the rulemaking
10 process, which I use the term loosely, it would be really
11 helpful. If it's being done anyway, if it could just be
12 shared with the parties, that way we all have a sense of
13 where we need to be at what point in time, that would be
14 helpful. Thank you.

15 CHAIRMAN IGNATIUS: We're juggling
16 multiple commitments this morning. So, let's then begin
17 with the propane issues.

18 MS. FABRIZIO: Yes.

19 CHAIRMAN IGNATIUS: Is that fair? And,
20 Ms. Fabrizio, maybe you can direct us to the section, put
21 a little context into it as we take that up.

22 MS. FABRIZIO: Yes. Essentially, it's
23 on, if you have the copy of the February 13 version of the
24 Draft Proposal. It begins on Page 56, with "LP and

1 Landfill Gas Pipeline Safety Standards".

2 CHAIRMAN IGNATIUS: All right. Let's
3 all get there and make sure, sometimes, depending on how
4 you print it, we get different page numbers. So, this is
5 Part 512, at least on our version starts at the bottom of
6 Page 56?

7 MS. FABRIZIO: Yes.

8 CHAIRMAN IGNATIUS: Is that lining up
9 for people's version? This was circulated, I think, on
10 Wednesday afternoon electronically. Has everybody got
11 that?

12 MR. KNEPPER: Where are we starting
13 again?

14 CHAIRMAN IGNATIUS: The Part 512, "LP
15 and Landfill Gas".

16 MR. KNEPPER: Yes.

17 CHAIRMAN IGNATIUS: Bottom of Page 56 in
18 our version. Does that line up for everyone, so that we
19 know, when he say a page number, that's going to work for
20 everyone? Is anyone's Section 512 on something other than
21 Page 56?

22 MS. FABRIZIO: Bill, are you looking at
23 Page 56?

24 MR. HEWITT: I'm sorry?

1 MR. KNEPPER: They're ignoring, because
2 there's only one LP person here.

3 CHAIRMAN IGNATIUS: Okay. But that
4 would be good if we know that our pagination is lining up
5 on the different copies people have. Yes, sir?

6 MR. HEWITT: Yes. I apologize. I was
7 tuned out, because I assumed you were on propane.

8 CHAIRMAN IGNATIUS: That's all right.
9 We like people to have little rest period now and then.
10 All right. So, the Part 512, "LP and Landfill Gas".

11 MS. FABRIZIO: Yes. And, if I may, as
12 you'll see on the summary sheet that was handed out this
13 morning, Staff proposes to add a definition of "landfill
14 gas" at 512.01.

15 CHAIRMAN IGNATIUS: Hold on. Let's get
16 to that. So, this is Page 7 of that memo?

17 MS. FABRIZIO: Page 8.

18 CHAIRMAN IGNATIUS: Sorry.

19 MS. FABRIZIO: Now, this came from a
20 preliminary suggestion from Office of Legislative Services
21 that we include a definition of "landfill gas". And, so,
22 what Staff --

23 CHAIRMAN IGNATIUS: Well, hold on. Hold
24 on, I'm sorry.

1 CMSR. SCOTT: Where are you?

2 CHAIRMAN IGNATIUS: Page --

3 MS. FABRIZIO: It may be different
4 pagination, I apologize. It's the summary document, and
5 it starts with a green coded "512.01".

6 CHAIRMAN IGNATIUS: All right. So, on
7 at least some versions, that's the middle of Page 7. And
8 it's just -- it just says "add definition of landfill
9 gas"?

10 MS. FABRIZIO: Yes.

11 CHAIRMAN IGNATIUS: Okay.

12 MS. FABRIZIO: And, if you want, we can
13 read the definition that Staff proposes based on the DES
14 rules.

15 CHAIRMAN IGNATIUS: And, make sure
16 you're using the mike. It may not be picking up. Hold
17 that closer.

18 MR. KNEPPER: Yes. Staff -- this is
19 Randy Knepper, for Staff. Staff proposes adding a Section
20 (f) that defines what "landfill gas" is, because of
21 Subsection (e), which talks about a "Landfill gas
22 operator". So, JLCAR wanted to know "what's "landfill
23 gas"?" So, we decided to put it into the definition
24 section. And, the definition that we decided to come up

1 with was "Landfill gas" is any flammable gas, which is
2 composed of methane and carbon dioxide produced by aerobic
3 and anaerobic decomposition of organic solid waste in a
4 landfill as determined in the New Hampshire Code of
5 Administrative Rules Environmental SW 103.32." So, that
6 tells you what the "landfill gas" is and it tells you what
7 the "landfill" is itself. So, it would be consistent
8 across all administrative rules of the state.

9 CHAIRMAN IGNATIUS: And, is there anyone
10 here who deals with landfill gas who would have any issues
11 with that definition of "landfill gas"?

12 (No verbal response)

13 CHAIRMAN IGNATIUS: All right.

14 CMSR. HARRINGTON: Excuse me. Has that
15 been circulated to everybody, that definition, or is this
16 a brand new one just we've heard today?

17 MR. KNEPPER: Yes. It was based on
18 JLCAR. So, --

19 MS. FABRIZIO: Office of Legislative
20 Services' staff indicated to us that we needed to add a
21 definition of "landfill gas" here, because it's not
22 otherwise defined in the rules. And, as Mr. Knepper
23 pointed out, we do have a definition for "Landfill Gas
24 Operator". So, this kind of closes the loop from OLS's

1 perspective.

2 CMSR. HARRINGTON: Excuse me. Is this
3 an industrywide recognized definition? What is the source
4 of this?

5 MS. FABRIZIO: This definition is based
6 on a DES rule defining "landfill gas".

7 MR. KNEPPER: Actually, DES defines
8 "landfill", they don't define "landfill gas". So, I
9 wanted to make sure that, if the Office of Legislative
10 Service, they want to know what a "landfill" is, we could
11 close the loop and make it consistent with DES.

12 CHAIRMAN IGNATIUS: All right. So, the
13 next version of the rules that are circulated would have
14 all of that text that you just read to us incorporated in
15 the rule?

16 MS. FABRIZIO: Yes.

17 CHAIRMAN IGNATIUS: Okay. Unless
18 there's anything more on that, then what's the next
19 Section 512 provision you want to discuss?

20 MS. FABRIZIO: On 512.01(e), Waste
21 Management, Inc., a landfill gas operator, has proposed
22 the change that's indicated with underlining. So, there's
23 an exception to the definition of "Landfill Gas Operator".
24 Would you like me to read the comment?

1 CHAIRMAN IGNATIUS: Is the proposal to
2 use the language that's in the version that was circulated
3 on February 13th? The underlined "except where the
4 landfill gas is transferred", etcetera?

5 MS. FABRIZIO: Yes.

6 MR. KNEPPER: Yes.

7 MS. FABRIZIO: Sorry, my pages are
8 getting --

9 MR. KNEPPER: It's Page 57.

10 CHAIRMAN IGNATIUS: So, you had offered
11 to explain the concerns that were raised from Waste
12 Management, and an attempt to be responsive to those
13 concerns is what led to this new language that's
14 underlined?

15 MS. FABRIZIO: Yes. The language came
16 directly from Waste Management and was included in the
17 February 13 version that was circulated.

18 CHAIRMAN IGNATIUS: Okay.

19 MS. FABRIZIO: And, Staff agrees with
20 that addition.

21 CMSR. HARRINGTON: And, does -- is there
22 an example where we're transporting landfill gas in a
23 vacuum?

24 MR. KNEPPER: Yes. That's done at the

1 Rochester Landfill itself. So, the federal rules don't
2 allow -- don't apply to those that are under a vacuum.
3 So, this would be consistent with that. And, they wanted
4 to make sure that they wouldn't fall under New Hampshire
5 administrative rules. So, now, as soon as you take that
6 gas in, you start going off-site with it and doing it
7 under pressure, that landfill gas would be applicable to
8 that. And, an example of that would be the UNH EcoLine
9 that runs 14 miles or, roughly, approximately 14 miles
10 from that same landfill to their facility in Durham.

11 CMSR. HARRINGTON: And, I'm just trying
12 to follow this. Where is it running in a vacuum? From
13 where to where?

14 MR. KNEPPER: It goes from one -- the
15 Rochester Landfill is quite large. So, it goes from one
16 part of the site, still on their property, under a road,
17 to another part of the site.

18 CMSR. HARRINGTON: Oh, I see. Okay.
19 All right.

20 MR. KNEPPER: You know, they're just
21 extracting the gas.

22 CMSR. HARRINGTON: This would be during
23 the extraction process. All right. Thank you.

24 CMSR. SCOTT: And, these comments you

1 feel -- your understanding is, these changes reflect and
2 address Waste Management, Incorporated, its concerns?

3 MR. KNEPPER: I do.

4 CHAIRMAN IGNATIUS: All right. Anyone
5 want to comment on that 512.01(e)?

6 (No verbal response)

7 CHAIRMAN IGNATIUS: All right, seeing
8 nothing. And, if you can move to your next one.

9 MS. FABRIZIO: 512.06(c), under
10 "Emergency Notification". Staff made what is essentially
11 a correction, a change from "two hours" telephone
12 notification, to "one hour", to be consistent with federal
13 regulations. This change also appears, and we'll see that
14 later in today's hearing, under the utility provisions.

15 CHAIRMAN IGNATIUS: Any comments on that
16 provision?

17 (No verbal response)

18 CHAIRMAN IGNATIUS: All right.

19 CMSR. SCOTT: So, can you clarify again?
20 You said that's to comport with federal requirements?

21 MS. FABRIZIO: Yes.

22 MR. KNEPPER: Yes. The federal
23 requirements changed in January of 2012. Congress passed
24 an act that said that notifications need to go, before it

1 used to be there was no official time frame on it that you
2 do notifications to the NRC, which is the Notification
3 Response Center down in Washington. And, they basically
4 had moved that and defined that, and now moved that up to
5 "one hour". So, we have to be consistent, our rules can't
6 be less stringent.

7 CMSR. SCOTT: Thank you.

8 CHAIRMAN IGNATIUS: All right.

9 MS. FABRIZIO: And, the source for that
10 change is the Pipeline Regulatory Certainty and Job
11 Creations Act of 2011, Section 9.

12 CHAIRMAN IGNATIUS: Thank you. The next
13 section?

14 MS. FABRIZIO: Next section is
15 512.09(g). This pertains to "Construction and
16 Maintenance". And, at issue here is the testing of
17 odorant in the system. And, let's see. And, the Propane
18 Gas Association of New England has proposed that stain
19 tube tests be recognized as an alternative means of
20 complying with the requirement in 512.09(g), in accordance
21 with the ASTM D5305-97 standard.

22 Staff believes that the stain tube
23 testing does not meet the requirements of federal
24 regulation in Section 192.625(f), which requires -- which

1 reads that "To assure the proper concentration of odorant
2 in accordance with this section, each operator must
3 conduct periodic sampling of combustible gases using an
4 instrument capable of determining the percentage of gas in
5 air at which the odor becomes readily detectable."

6 CHAIRMAN IGNATIUS: So, the Staff
7 proposal would be to have the section read, as it now does
8 in (g), at the bottom of Page 61, without the additional
9 sentence that's underlined in the summary sheet, "An
10 alternative means", that sentence?

11 MS. FABRIZIO: That's correct.

12 CHAIRMAN IGNATIUS: All right. So,
13 obviously, this is one of significance. It's been marked
14 red, clearly not agreed on by the different interests
15 here. So, let me just throw it to whoever would like
16 first to explain why the proposal of Eastern and Propane
17 Gas Association's, why the stain tube test should be
18 required as a -- it should be authorized as an alternate
19 means. And, I might just ask you to explain why, in your
20 view, the stain tube test meets the federal standard? I
21 assume you -- or, tell me if you think the federal
22 standard doesn't apply for some reason. But, if it
23 applies, how does the stain tube test meet that
24 requirement? Who would like to respond to that? Mr.

1 Knepper.

2 MR. KNEPPER: I believe the only
3 gentleman in the room doesn't want to make comments.

4 CHAIRMAN IGNATIUS: Okay.

5 MR. KNEPPER: So, I think he just wants
6 to listen to ours.

7 CHAIRMAN IGNATIUS: Okay. Can you
8 explain then to me, if you know the two associations --
9 or, the two proponents of this language, their theory on
10 why that should be considered an acceptable way of
11 responding to the federal standard, if you know?

12 MR. KNEPPER: Yes. If I could give you
13 a little background on it a little bit. So, we've taken
14 the opportunity to amend our rules with this, because of
15 issues that have arose in 2010, where New England,
16 particularly Massachusetts, and New Hampshire as well,
17 received some unodorized propane that came into the state.
18 It did not get into any of the jurisdictional systems
19 which we have regulatory authority over, but it could
20 have. And, so, that prompted Staff to look for better
21 ways to look at the odorant testing regime.

22 So, based on that, there's four federal
23 standards for testing odorant testing in propane. There
24 is one based on OSHA requirements, CFR 1910.110(b). There

1 is another one based on Federal Rail Authority
2 requirements, Code of Federal Regulations 173.315(b).
3 There is one based on National Fire Protection Association
4 Standard 58, Paragraph 1-4.1. And, then, the last one is
5 with the Pipeline -- PHMSA, which is the Pipeline &
6 Hazardous Material Safety Administration, which only
7 pertains to pipelines that transport pipeline, and their
8 regulation is 192.625, Subsections (a) and (f).

9 Since the last hearing, we have done
10 extensive amount of research on this as a staff, trying to
11 see if the -- if stain tube tubing -- stain tube testing
12 could work. And, because -- and, the conclusion is, you
13 know, we tried to make it work. We initially thought it
14 might work. We looked at the equipment. We met with the
15 propane people. We went and got pricing. We looked at
16 all their concerns about many things. And, the bottom
17 line is, it does not meet 192.625(f). It would meet --

18 CMSR. HARRINGTON: Excuse me, just one
19 question.

20 MR. KNEPPER: Yes.

21 CMSR. HARRINGTON: Pardon me for
22 interrupting, but I'm just trying to get this straight.
23 Maybe I misunderstood, but I thought you said that that
24 192.625(f) "applied to pipelines"? And, could you

1 differentiate from pipelines and propane gas systems?

2 MR. KNEPPER: Well, the pipelines, they
3 are applicable to the pipeline safety regulations if they
4 contain a flammable gas. And, propane is that.

5 CMSR. HARRINGTON: So, the
6 jurisdictional systems that carry propane are considered
7 "pipelines"?

8 MR. KNEPPER: Yes.

9 CMSR. HARRINGTON: Okay. Thank you.

10 MR. KNEPPER: So, in trying to determine
11 that, we looked at stain tube testing and, you know,
12 looked at the consideration, and saw and looked at if it
13 would apply. And, we've also talked with the Fire
14 Marshal's Office, which is pushing stain tubes. But the
15 difference between a stain tube and an odorometer, which
16 is an instrument that's capable, is in the second part of
17 625(f), you have to use an instrument capable of
18 determining the percent of gas in air at which, and I
19 really mean to emphasize "at which", the odor becomes
20 readily detectable. A stain tube can't do that, because
21 it's only taking a sample of propane and determining how
22 much mercaptan is in it.

23 (Court reporter interruption.)

24 MR. KNEPPER: Ethyl mercaptan is in the

1 product. Which is the requirements of OSHA, which is the
2 same requirements of the Federal Rail Authority, which is
3 the same requirements of the National Fire Protection
4 Association, and it's half the requirements of the
5 pipeline industry, PHMSA, but it doesn't meet the second
6 half. And, so, --

7 CHAIRMAN IGNATIUS: So, the stain tube
8 will show you the percentage of gas in the sample, the
9 percentage of the odorant in the sample, but will not show
10 you the point at which it becomes readily detectable?

11 MR. KNEPPER: Right. And, it's that
12 nuance in the language of the statutes that Staff can't
13 get past. And, so, that's what directed us to keep the
14 language, although I think we made a pretty earnest effort
15 to investigate and see if stain tubes would work, they
16 don't. You know, so, you know, if you don't know what
17 stain tube testing, I mean, one of the -- besides the
18 issues that you have with stain tubes, that we looked,
19 when we researched to see if the proposed regulations were
20 appropriate, you know, with stain tubes, you know, they
21 must be of the same manufacturer of the detector itself.
22 So, you can't mix and match. With stain tubes, you must
23 have the correct size or incorrect results can occur.
24 Stain tubes have a shelf life. So, there's a potential to

1 use them if the package date expires. Stain tubes have
2 got to be protected from sunlight and kept in either a
3 refrigerator or in a drawer. Stain tubes must be kept in
4 a temperature-controlled environment that can't vary more
5 than 18 degrees. Stain tubes must account for humidity
6 levels in which the sample is drawn, thus you would have
7 to purchase another type of detector, another type of
8 tube. And, if you use with the same detector to look at
9 the water vapor, so it will be done at the same time.
10 Stain tubes have to draw a sample for a specified minimum
11 of time. It might be a half minute, one minute, two
12 minute, or else you'll get incorrect measurements. So,
13 that has to be done. And, stain tubes must draw the
14 correct volume. And, if you don't do that right, you
15 know, whether it's one stroke, two strokes, or four
16 strokes, that can lead to inaccuracies.

17 But, you know, it's not our job, you
18 know, our job is to make -- even if you did all those
19 things correctly, we're not there to prohibit an operator
20 from doing that. But, even if you did all that process,
21 and operators have the right to take a more complicated
22 route than a simpler route, which is the odorometer, we
23 don't really care, it still would not comply. So, there's
24 -- we kind of feel that there's problems with the stain

1 tube process itself, but that's not our, you know, issue.
2 You know, if you have a procedure and it's done exactly
3 right, there's a lot of areas to go wrong, we're okay with
4 it. But, even if you did that, it still would not meet
5 the language.

6 One of the things, points that was
7 brought up by the industry last time was, you know,
8 "there's only one manufacturer that supplies that
9 equipment." We did research that. We know that there's
10 definitely two, because I would be opposed to just, you
11 know, having one product, if there's only one person doing
12 it, but we believe there's also three.

13 One of the comments last time was, you
14 know, "does the equipment operate below 32 degrees?" And,
15 we confirmed that that does. It's the same equipment used
16 by natural gas operations, which is what I made the
17 comment last time, and that certainly is used during
18 temperatures in the winters that we get here in New
19 Hampshire.

20 One of the questions they had was the
21 pricing of it. We did get a quote for a single unit, and
22 it ranged from \$2,300 to \$2,500. But, if you did more
23 than one unit, you would get, you know, a price reduction
24 on that. We believe somewhere that will probably come

1 down to \$1,500 a unit, if you bought them in bulk, if the
2 Propane Association bought them as a collective body or a
3 company bought more than one.

4 And, then, the last thing that we did to
5 kind of confirm things is we had informal conversations
6 with the agency within PHMSA that does interpretations of
7 the rule, to see if stain tubes would be considered an
8 acceptable alternative, because I think the industry asked
9 to see if that would be considered an industry -- an
10 acceptable alternative. And, so, we reached out to them.
11 And, PHMSA responded within about two days after our
12 conversations, and determined that unofficially, they
13 wouldn't give us an official interpretation, that it would
14 not. An official interpretation would be given only if
15 the interpretation was presented in writing and asking
16 very specific questions. And, just need to know that
17 PHMSA does not have a requirement to respond to that.

18 So, I think we did a pretty good
19 research in trying to make stain tubes work. We just
20 couldn't find it to be applicable.

21 CHAIRMAN IGNATIUS: All right.

22 MR. KNEPPER: And, so, that's --

23 CHAIRMAN IGNATIUS: All right. Before
24 we go on, I know we have questions both from Commissioner

1 Harrington and Commissioner Scott.

2 CMSR. HARRINGTON: Yes. Just so we can
3 kind of narrow this thing down. If we leave off Part
4 192.625(f) for the time being, would the stain tube meet
5 the requirements of the other applicable federal
6 regulations?

7 MR. KNEPPER: Yes. I believe stain tube
8 would meet, you know, 625(a), which is the regulation in
9 which these rules referred to. And, I believe it also
10 meets --

11 CMSR. HARRINGTON: NFPA standards?

12 MR. KNEPPER: -- the Federal Rail
13 Authority, and the OSHA ones, and the NFPA ones.

14 CMSR. HARRINGTON: Okay. So, having
15 said that then, you also stated, I believe, that the Fire
16 Marshal's Office thinks stain tubes are acceptable or you
17 said they were in favor of them?

18 MR. KNEPPER: Well, but they're not in
19 charge of the jurisdictional pipeline systems. And, so,
20 where they're taking these samples, you know -- you know,
21 you have now a pipeline that's going right to people's
22 homes, which is a difference, and businesses, and there's
23 a big difference between taking it at a bulk plant and
24 looking for just "can you smell it at the bulk plant and

1 in trucks?", and finding that acceptable there, which is
2 really the areas that they're concerned about for fire,
3 versus in the pipelines that are leading right to homes
4 and businesses.

5 CMSR. HARRINGTON: And, the Eastern
6 Propane and the Propane Gas Association of New England, it
7 offered, and I realize there is nobody here today from
8 that, they, obviously, in the course of discussions, must
9 have provided some reason why they don't think that either
10 your interpretation of 192.625(f) or the regulation itself
11 applies. What was their side of the story?

12 MR. KNEPPER: We met with the Propane
13 Gas Association of New England, I believe, Joe, when was
14 that? In December?

15 MR. VERCELLOTTI: That's correct.

16 MR. KNEPPER: In December or early
17 January. And, showed them the work that we had researched
18 and where we were coming out, and they just kind of wanted
19 to know where we were. And, at that time, they didn't
20 give any reasons.

21 CMSR. HARRINGTON: So, all we have
22 basically then is that they wish to change this to allow a
23 stain tube, in lieu of the odorometer, and we don't have
24 any specific reasons as to why that is?

1 MR. KNEPPER: That's correct. You know,
2 one of the things that Staff was thinking about that, that
3 if we wanted to amend this language even further, we could
4 probably add a clause that says, you know, effective one
5 year from whenever these rules become effective, which
6 would allow them, I think, some ample time to write in and
7 try to get an official interpretation from the federal
8 government, and that would put that issue to bed,
9 Commissioner. But that's the only thing. You know, I'd
10 rather have it that our rules are in place. And, then, if
11 the federal government says it is permissible, then we can
12 go ahead and just waive it, and they could apply for a
13 waiver and we'd just issue a waiver.

14 CMSR. HARRINGTON: Okay. Thank you.

15 CHAIRMAN IGNATIUS: And, in fairness,
16 just to be sure the record is clear, we do have a letter
17 submitted from Eastern, on October 29th, 2012, that works
18 through a couple of the issues in dispute. And, at the
19 bottom of Page 2 and through -- the bottom of Page 1, all
20 of 2, all of 3, and part of Page 4 address this issue, of
21 the way of testing the odorant level. And, everybody
22 should have that. I won't recount all of it. But it
23 describes some of the things that Mr. Knepper has just
24 described of cost. States that they haven't had incidents

1 where it was considered the cause of a problem, that other
2 states -- they're not aware of any other states that
3 require this. And, that the sort of method, even the
4 sniff testing done, even before you get into stain tube
5 testing, I think it's their view that that's a, you know,
6 that's a meaningful way to identify whether the odorant is
7 present and has continued to be.

8 I don't think it really gets into the
9 issue of how you construe the federal standard. Except at
10 the bottom of the first page, and I'd be interested in
11 your help on this, Mr. Knepper, it says that --
12 acknowledges that "Section 192.625 covers testing for
13 odorant", this is the section from PHMSA, that also the
14 National Fire Protection Standards, is that what the
15 "NFPA" is? Section 58 has it. And, says that, under the
16 federal standard 192.11(c), says, if there's a conflict
17 between the two, then the NFPA 58 is the one that should
18 prevail. Is that your understanding of how those two
19 federal standards interrelate?

20 MR. KNEPPER: Yes. But now you have to
21 get into what's a conflict. And, so, when one doesn't say
22 anything, and the other one does, that's not necessarily a
23 "conflict". So, we don't view it as a conflict. I don't
24 view 192.11 as a conflict with that. And, then, the

1 second thing is, even under NFPA 58, there's a section in
2 there that the local authority having jurisdiction over
3 the pipeline has the right to do that, and that would
4 still fall back upon the Safety Division. That would not
5 fall back upon the Fire Marshal.

6 CHAIRMAN IGNATIUS: So, you're --

7 MR. KNEPPER: If it were just the
8 pipeline, if we're just talking about the pipeline,
9 because the other ones do fall -- would fall under the
10 Fire Marshal's Office. The vast majority of the ones in
11 the state fall under the Fire Marshal's Office. Just the
12 800 jurisdictional systems that we have here in New
13 Hampshire.

14 CHAIRMAN IGNATIUS: And, your view is
15 that, because the PHMSA standards are more specific, and
16 talk about testing that would show this point at which the
17 odorant is readily detectable, is not a requirement in 58,
18 therefore, there's no conflict, because the PHMSA
19 standards are calling for something wholly different?
20 It's not that it says --

21 MR. KNEPPER: Right.

22 CHAIRMAN IGNATIUS: -- "when it's
23 readily detectable, you should use (a)." It doesn't talk
24 about when it's readily detectable.

1 MR. KNEPPER: Yes. That first part of
2 the paragraph, 625(a), basically says what's identical to
3 NFPA 58, and that part isn't in conflict. It's in Section
4 (f). So, we don't look at that as being a conflict at
5 all.

6 CHAIRMAN IGNATIUS: And, do you know how
7 it is that other states are not requiring this, and yet,
8 presumably, they're all under the same federal
9 requirements?

10 MR. KNEPPER: Well, I don't believe --
11 if your question is, "do other states have it in their
12 rules?" The answer is "we could not find that." It
13 doesn't really -- even if we didn't put it in rules, we
14 could go out and do inspections of it and require the
15 operators to currently perform under the federal rules,
16 and I believe that they wouldn't be able to.

17 And, so, we're probably the first state.
18 But, because this is the time, when we have rules open,
19 that we need to address this. And, because of the
20 experience that we've had some unodorized gas, I feel I
21 can't look the other way and not acknowledge that that
22 happened. It doesn't mean that a house exploded or a
23 business exploded because of it. But I want to make sure
24 that odorant is a very -- it's the last safety measure you

1 have, to make sure that it's working and it's available
2 for the consumers of that, we need to make sure that that
3 process is solid and verified.

4 CHAIRMAN IGNATIUS: All right.
5 Commissioner Scott.

6 MR. KNEPPER: Yes. I mean, the other
7 comment I want to make is, just because other states
8 aren't necessarily enforcing that, and the federal
9 government itself is not enforcing it, doesn't mean that
10 the State of New Hampshire should not.

11 CMSR. SCOTT: So, following that same
12 train of thought, I just want to make sure that I'm
13 understanding the federal requirement. So, is your
14 understanding that, at the federal level, not saying the
15 state and what we should do, they regulate this testing
16 down to that level?

17 MR. KNEPPER: They should be.

18 CMSR. SCOTT: But do they?

19 MS. FABRIZIO: The federal legislation
20 has two provisions, as Mr. Knepper has pointed out. (a)
21 is the existence of an odorant that can be readily
22 detectable through a sniff test. And, the stain tube
23 test, Mr. Knepper, has stated, meets that requirement.
24 But there is an additional requirement under (f), which

1 requires a proper concentration of odorant, and that's
2 what is not captured by the stain tube test.

3 CMSR. SCOTT: And, just to clarify. So
4 that, obviously, I think we're all aware that this testing
5 is done upstream also, before it gets to these
6 distribution systems, correct?

7 MR. KNEPPER: No. Currently, right now,
8 the practice is the odorant is tested at where the
9 manufacturer is, it could be like, I believe we found out
10 it was done in Illinois, and then it's transported
11 typically either by rail or truck to places in the East
12 Coast or New England here. And, all they do is just
13 looking at the bill of lading and do a current sniff test.
14 So, we're asking it to be done in New Hampshire, here at
15 the facilities. We thought we were trying to be as
16 accommodating as possible by doing it at the bulk plants,
17 which is 40 different locations, instead of 800 locations.
18 And, then, making sure that your paperwork showed -- you
19 could show the paperwork from the bulk plant to where your
20 drop-offs were, that would be sufficient for us. We
21 thought that was a very reasonable approach to do that,
22 and already kind of baked that into the rules that we
23 propose, versus we could just say "you got to go test at
24 800 locations." But the answer is, it's not necessarily

1 even being tested, other than sniff tests here. I don't
2 know, because I think they just, you know, they look for
3 bill of lading, and I assume they track it that way.

4 CMSR. SCOTT: And, that goes to the crux
5 of my question, I suppose, and I know you can't speak for
6 other states. But I'm wondering if the other states are
7 assuming "I have something showing it's been tested at the
8 source, so, therefore, that requirement's met." I'm just
9 wondering if that's what's going on?

10 MR. KNEPPER: You know, it's hard for me
11 to comment on that, Commissioner. I did -- I've had some
12 informal discussions with some of my New England
13 counterparts, and Connecticut is looking to do something
14 similar to what we are proposing. Although, Connecticut
15 doesn't really do it through rules, they just kind of
16 issue directives to the companies. So -- but they have
17 not at this point.

18 CMSR. SCOTT: Okay. And, just to finish
19 this conversation from my train of thought. So, even if
20 that is happening, what you're saying is, the evidence of
21 light has been there has been times when gas -- we have
22 evidence and we've seen it, where gas without odorant has
23 made it through the system?

24 MR. KNEPPER: That's correct. And,

1 there's cases where that's okay, that you can have
2 unodorized gas. They use propane for aerosol spray cans,
3 and so you don't want to have the odorant in there. So,
4 there's reason for the product uses that they can ship
5 that unodorized.

6 But the minute it hits a pipeline
7 system, that's where it has to be there. And, I have to
8 be confident that it's going to be there all the time.

9 CMSR. SCOTT: Thank you.

10 CHAIRMAN IGNATIUS: Any comments from
11 anyone else on this issue?

12 (No verbal response)

13 CHAIRMAN IGNATIUS: Commissioner
14 Harrington.

15 CMSR. HARRINGTON: Yes. I'm just trying
16 to look at this, maybe get a little bit more practical,
17 and just to determine what's going on here. So, under
18 this 625(f) that the Staff is proposing, you would use
19 this odorometer, and it says it's "capable of determining
20 the percentage of gas in air at which the odor becomes
21 readily detectable." I assume "readily detectable" by a
22 person, right, by smelling, that's detectable?

23 MR. KNEPPER: Yes. That's correct.

24 CMSR. HARRINGTON: So, this odorometer

1 then must be able to turn around and, I'm just trying to
2 figure out how this thing works, it turns around and it
3 has some preset figure that's been determined by, I don't
4 know, analytical experiments, I guess, that says, "if
5 there's this much odorant in the air, then a human being
6 will be able to detect it"?

7 MR. KNEPPER: Yes. You know, maybe, we
8 do have people that -- we have companies in the room that
9 operate odorometers all the time, the gas -- the natural
10 gas companies do sitting behind me. You know, maybe some
11 of their questions can chip in and answer some of this.
12 But the answer, to me, an odorometer is kind of -- it's a
13 very easy way to test it. As soon as you start to smell
14 it, you hit the button, and it tells you exactly what's
15 there. There's no having to do -- no having to draw
16 samples and look at what the temperature, it's all done in
17 the box, and it makes it very easy.

18 CMSR. HARRINGTON: Okay, that's what I
19 was trying to get at. So, the way that this testing works
20 then is somebody stands there and sniffs, and then, when
21 they say "I smell" that --

22 MR. KNEPPER: Yes.

23 CMSR. HARRINGTON: -- distinctive smell
24 that we all associate with natural gas, they push the

1 button on the odorometer and it gives you a value?

2 MR. KNEPPER: Yes. And, it might be
3 "turn the dial" on some of the older models.

4 CMSR. HARRINGTON: Yes.

5 MR. KNEPPER: But, yes. The answer is
6 "yes".

7 CMSR. HARRINGTON: And, then, --

8 MR. KNEPPER: They write that number
9 down, and that's their record.

10 CMSR. HARRINGTON: Okay. So, I'm trying
11 to get -- determine what that gets you. If the person
12 just sniffs away and doesn't smell anything, then you
13 never write down the value, because it's too low?

14 MR. KNEPPER: Well, yes. If he's
15 sniffing away, and he's cranked this thing all the way up,
16 they're going to have -- they're going to go back and
17 they're going to look to see what's happening.

18 CMSR. HARRINGTON: Okay.

19 MR. KNEPPER: Is their upstream supplier
20 not giving odorant? Is there injection points not
21 functioning? Was there a lightning strike and everything
22 went out? Or, does the guy just no longer have a normal
23 sense of smell, and you need to have somebody else look at
24 it. But the person that you want smelling the gas is the

1 person who has the least -- that can smell the least.

2 CMSR. HARRINGTON: Yes.

3 MR. KNEPPER: Because we want that, you
4 know, someone who is very sensitive to it, they're going
5 to, you know, hit the button even earlier. So, you kind
6 of want the person who's got the most deadened senses.

7 CMSR. HARRINGTON: But this is the part
8 I'm trying to get to on this regulation. It says "To
9 assure the proper concentration of odorant...each operator
10 must conduct periodic sampling". Okay. I understand
11 that. So, we're trying to show that the concentration is
12 at a sufficient level. Now, is there a regulation that
13 says there's got to be so many parts per million or
14 billion of this odorant in the gas?

15 MR. KNEPPER: If you do the 5 percent
16 gas in air, you can equate that to parts per million.

17 CMSR. HARRINGTON: Okay. And, then, it
18 comes down to where we're trying to -- what we're really
19 trying to get to, which is "to assure the proper
20 concentration", and it says "using an instrument capable
21 of determining the percentage of gas in air at which the
22 odor becomes readily detectable." And, I guess I'm
23 ignorant of how this testing works. I'm trying to get
24 this a little bit straight. You smell the gas. At the

1 point you smell the gas, then you do something to the
2 odorometer, and it gives you a number?

3 MR. MacDONALD: Yes. I was just
4 mentioning to my -- to Dan earlier, when I started my
5 career in the gas company, I used to do these odorometer
6 checks once a week along the entire distribution system,
7 at the time with Gas Service, Incorporated. And, what an
8 odorometer is is, you know, you're running gas samples
9 through the odorometer, and you're sniff testing through a
10 needle valve. And, you open the needle valve up
11 gradually. This is a manual test, this is an older
12 technology, but the same principle today. You maneuver
13 the odorometer needle valve, you know, open it up as you
14 do your sniff test. And, the minute you begin to smell
15 the mercaptan, you know the point, it's a percentage scale
16 or it's, you know, there's a scale reading on that
17 odorometer that equates to the, you know, odorant level in
18 a sample of, you know, the gas sample interest that you're
19 sampling or sniffing.

20 CMSR. HARRINGTON: Okay. So, you do
21 this, and you look up and you see the sample, that level
22 is at X. Then, what do you do with that information?

23 MR. MacDONALD: It gets recorded on a
24 log sheet, a record we're required to keep. And, you

1 know, if any of those readings are, you know, below the
2 required values, you know, that triggers a response on the
3 company's part to find out why that reading is low and to,
4 you know, rectify or remedy the odorant level situation.

5 CMSR. HARRINGTON: Okay. I'm just
6 having a little trouble trying to figure what you're
7 balancing here. You're --

8 MR. SAAD: You're actually --

9 CMSR. HARRINGTON: Okay, excuse me. Go
10 ahead.

11 MR. SAAD: I think the piece, he did a
12 good job describing it --

13 (Court reporter interruption.)

14 MR. SAAD: I think the piece Rich may
15 have been -- I'm sorry, it's not on?

16 MS. KNOWLTON: It's on.

17 MR. SAAD: The piece he may have been
18 missing is you're actually -- you're mixing gas with air.
19 And, as you dial in more gas, that's when you -- when you
20 finally do smell it, you push a button, or whatever the
21 instrument requires, and then you will actually read, you
22 smell something at X percent gas in air. And, that's
23 really what you're trying to determine. And, the code
24 will say that the average person should smell it at this

1 point, and you want to make sure you're better than that,
2 which typically we -- we are, yes. So, that tells you
3 you're putting in enough odorant in the system.

4 CMSR. HARRINGTON: Okay. That's the
5 missing piece I was trying to get to.

6 MR. SAAD: Yes.

7 CMSR. HARRINGTON: Thank you. That was
8 very helpful. Getting back to Mr. Knepper. So, the stain
9 test, what does that give you then? It just --

10 MR. KNEPPER: It's going to tell you the
11 amount of mercaptan in propane. There's nothing to do
12 with air.

13 CMSR. HARRINGTON: Okay. I understand
14 what you're talking about now. That was very helpful.
15 Thank you very much.

16 CHAIRMAN IGNATIUS: All right. And,
17 thank you, Mr. MacDonald and Mr. Saad, for that extra
18 help. Other questions?

19 (No verbal response)

20 CHAIRMAN IGNATIUS: Mr. Knepper, you had
21 described that this could be -- the rule would be applied
22 to -- it could be done at the distribution level, and that
23 would be over 800 points, or it could be at the bulk
24 level, and that would involve about 40 locations. Can you

1 give me some examples of what each of those would be?
2 What's a bulk point? Whose facility is it? Where are
3 they located? Not all 40, but just a couple examples.

4 MR. KNEPPER: Bulk plants are those
5 large 30,000 gallon, 18,000 gallon tanks that are
6 pigtailed together, typically at their work centers.
7 That's where they draw their truck outfits from and fill
8 up there, then they go to people's systems. So, the
9 pipeline system is just going to be basically at the
10 smaller little propane tank that's behind a business or
11 behind the industrial park or, if you are feeding ten or
12 more homes, it would just that. So, we allowed it, we
13 basically kind of went around and said "we'll let you do
14 it at one common point, as long as you can tell me that
15 that gas, you know, that came out of this", let's just use
16 an example, "the Londonderry bulk plant, got delivered to
17 the customer in Derry." Versus the same company's bulk
18 plant that might be in Hudson, you know, that doesn't do
19 me any good. So, as long as you can track that, we're
20 good with that. If you can't, you have to go back and
21 you've got to do it at the pipeline system. So, the
22 propane industry kind of assured me that they could do
23 that. And, so, we accepted that.

24 CHAIRMAN IGNATIUS: And, are the people

1 who have the product in these bulk, sort of large tanks
2 for their trucks to draw from, are they all getting it
3 from the same location or are they drawing from various
4 different places to fill their larger tanks?

5 MR. KNEPPER: It's much like the natural
6 gas industry. You know, in general, it's all coming from
7 the same supply basins. But some people get it from
8 pipelines, some people get it from -- transported by
9 marine, at SEA-3, and some people get it from rail. So,
10 those sources of where they're getting it from are from
11 various different sources across the country.

12 But, you know, just like the natural gas
13 industry gets their supplies from pipelines, those
14 pipelines might be connected to various different shale
15 gas formations in Pennsylvania, one might be from wells in
16 Texas, one might be from wells or places up in Canada.
17 So, the sources of it can be slightly different, but
18 they're generally all drawing from the same source -- the
19 same set of sources, I guess.

20 CHAIRMAN IGNATIUS: But, for each
21 company operating in this state, they may draw from
22 multiple sources to fill their tanks, that then are used
23 to draw down the individual deliveries?

24 MR. KNEPPER: I believe so. I mean,

1 it's up to them. We don't regulate that. So, you know,
2 they will form a contract for the year based on pricing
3 where they think their, you know, the supply is going to
4 come from. Most of them are going to take probably a
5 portfolio approach, versus having all their eggs in one
6 basket.

7 CHAIRMAN IGNATIUS: And, you had said
8 that one possible way to deal with the consequences of
9 requiring something that would mean purchase of an
10 odorometer would be to delay the implementation for a year
11 of that provision?

12 MR. KNEPPER: I'm just kind of offering
13 that as one possible last thing, that we might want to
14 make an amendment to the rule that say let's put an
15 effective date in of, you know, let's say one year from
16 now. That gives the propane industry still even one more
17 shot at trying to see if they can change the federal
18 regulation. I've tried to do some, you know, preliminary
19 work up front to see, you know, what their mindset was and
20 have relayed that back to them. But this would give them
21 an official way to determine. And, who knows, maybe
22 somebody else will come on board, there will be a
23 different way of interpreting things.

24 But, you know, that -- I kind of throw

1 that out, if they wanted to do that, that might be
2 possible. They may not want to, because there is going to
3 be some, you know, the questions are going to be then
4 "what are you doing now and why aren't you in compliance?"
5 And, there will be other issues that might get arisen by
6 that.

7 CHAIRMAN IGNATIUS: All right. One
8 other factual thing, and I know you've said it, but I
9 think I've gotten lost. When you do the sniff test, you
10 just know "yes" or "no", the stuff is in there or it's not
11 in there. If you do a stain tube test, you measure "yes,
12 this" -- is it "mercaptan" is the right name? -- "is
13 present." But does it show the concentration or just the
14 fact that "yes" or "no", it's there or it's not there?

15 MR. KNEPPER: The sniff test?

16 CHAIRMAN IGNATIUS: No, the stain tube
17 test.

18 MR. KNEPPER: The stain tube test is
19 kind of -- I'm trying to draw an analogy. It would
20 probably be like trying to find the -- trying the pH test
21 on my pool. You put this in, it's going to come up and
22 it's going to show it's in this range. And, then, you
23 look at that and indicate -- extrapolate from that what
24 the percent, how much mercaptan is in there, how many

1 PPMs.

2 CHAIRMAN IGNATIUS: So, a sniff test is
3 a "yes" or "no"?

4 MR. KNEPPER: Yes.

5 CHAIRMAN IGNATIUS: It's in or it's not.
6 A stain tube is an actual reading of the amount that's in
7 -- that's present. And, so, the piece that's missing is
8 the point at which that amount is readily detectable by a
9 person?

10 MR. KNEPPER: Yes. And, if you look at
11 our rules, the proposed rules under 512.09(h), we're still
12 requiring a sniff test, we just put it under (h). And, we
13 say that that can be conducted once annually, when they go
14 -- so, they're not going out and making a special trip to
15 do it. They can do it when someone has a maintenance
16 performed, they have got to change the regulator out or
17 someone smells a leak or something, they can do that, do
18 their sniff test then. They can do it when they're
19 delivering. They can do it when they're fixing someone's
20 appliance. So, we kind of separated the two. And, again,
21 I think it was a practical way of trying to meet the
22 industry's needs on when you do the sniff test.

23 CHAIRMAN IGNATIUS: Well, apart from
24 what the federal law may require, what do you get from

1 having the odorometer that you don't get from a stain tube
2 test that shows you, if you know it's going to show you
3 the amount of mercaptan, and you know from other
4 standards, because that's what is used in the odorometer
5 of X amount of mercaptan means this level of detectability
6 by a human, then why do you need the individual testing to
7 be able to put those two things together, if you know that
8 the -- if you know that the stain tube is going to show
9 you the amount there, and you know from other research,
10 you know, you can have a chart on the wall that shows you
11 X, the presence of X amount means it's in the detectable
12 level? Why do you need that final piece that puts the two
13 things together in a piece of equipment?

14 MS. FABRIZIO: I think I'll take a stab
15 at responding to that. The stain tube test enables the
16 operator to test that there is odorant in the gas. And,
17 what that doesn't capture, because, as Mr. Knepper stated,
18 it shows a range, it's kind of a broad range, and the only
19 thing I can visualize is the pH test example. What it
20 doesn't provide is the assurance of a proper concentration
21 of the odorant in the gas as required under the Section
22 (f) of the federal regulation.

23 MR. KNEPPER: It's when you mix the gas
24 with air, that's when you have to do the read, not just

1 when it's just plain propane. That's the difference. I
2 think as it was either Rich or Dan behind me said, the air
3 is being drawn through the valve at the same time, the
4 mixture's happening automatically. That's not happening
5 with a stain tube. You're drawing propane out of the
6 tank, you're putting it in the bag, and it's just propane.
7 There's no air. You're not doing a mixture. And, because
8 -- because you have to, when you're looking for that smell
9 of gas in air, how much gas is in air, there's a
10 difference.

11 So, I guess that's all I can -- if I
12 haven't clarified it, that's -- I'll probably start
13 repeating myself.

14 CMSR. SCOTT: Could I try a different
15 tack on the same question? So, the rules, under the draft
16 rules of 512.09(f), basically say that -- they give you
17 the concentration level in air is one-fifth the lower --
18 of the LEL, lower explosive limit, correct? So you have
19 that as the minimum for the amount of air mixture?

20 MR. KNEPPER: Right.

21 CMSR. SCOTT: And, the max is known, the
22 LEL is known. You have, and, again, it sounds like, I
23 haven't seen a stain tube for a long time, but it sounds
24 like you're at -- there be some range, when you're looking

1 at the color for concentration in the gas itself, correct?
2 Based on the coloring that you see of the stain, if you
3 will?

4 MR. KNEPPER: It will tell you the
5 concentration of mercaptan in the propane.

6 CMSR. SCOTT: Correct. So, based on
7 that, why isn't there some -- again, it may result in
8 overcompliance, but why couldn't you, based on X level in
9 your stain tube, back calculate a worst case, this works?

10 MR. KNEPPER: Because the federal
11 regulations don't allow you to do that, that's my point.
12 If they had stricken 625(f) and did not put -- I guess
13 another way to put it is, what you're asking is "not have
14 625(f) at all, and we just keep 625(a) and it's good."
15 The answer to your question is, there's a reason why they
16 put 625(f) in. And, so, you're kind of asking me to
17 determine why and what the rationale was for that federal
18 rulemaking. But I'm here to enforce the federal
19 rulemaking, that's what our -- that's what our
20 responsibility here is at the Safety Division, not whether
21 it's -- well, I mean, I can't just waive it. I guess I
22 can't look the other way.

23 CMSR. SCOTT: I'll note, I'm sure the
24 room is very pleased that we decided this was the easy

1 stuff to do first.

2 CHAIRMAN IGNATIUS: Commissioner
3 Harrington.

4 CMSR. HARRINGTON: Yes. So, I guess the
5 last round of questions kind of get to my two final
6 points. One, this isn't a matter of performance, this is
7 a compliance obligation. You feel, Mr. Knepper, as though
8 this is what the federal law requires, and, therefore,
9 whether it's good, bad or indifferent, it's a matter of
10 compliance, because that's what it states. Is that
11 correct?

12 MR. KNEPPER: Well, it does two things.
13 We get rid of the word "periodic", which is in the Federal
14 Code, and we've put in "quarterly". So, we've defined
15 that and made it a little more black and white. And,
16 we've gotten rid of the word "instrument" and said an
17 "odorometer". So, we've done some clarifications.

18 And, then, we also went to the effect
19 and put some words in, based upon the way they operate,
20 the propane systems in New Hampshire. And, so, I think we
21 tried to make it as clear as we could, versus as generic
22 as the federal government does with their regulations.

23 CMSR. HARRINGTON: But, okay, so,
24 leaving the compliance and moving to the more of the

1 practical. If I go down to the hardware store where they
2 have this big tank of propane, and I fill up my gas grill,
3 like many people do, that tank that sits there is tested
4 using the stain test, not the odorometer, more than
5 likely?

6 MR. KNEPPER: No, that's not a bulk
7 supply plant.

8 CMSR. HARRINGTON: I'm sorry. It's not
9 tested at all or the gas that somewhere along the line --

10 MR. KNEPPER: It would be tested at a
11 facility much larger than that that you don't probably
12 typically go into.

13 CMSR. HARRINGTON: Right. But my point
14 is, the gas that ends up going to the tank at the hardware
15 store that ends up going to my house was never tested with
16 an odorometer, because that falls under FP -- the federal
17 fire protection codes?

18 MR. KNEPPER: Right.

19 CMSR. HARRINGTON: Okay. So, practical
20 purposes, I blow up just as easy from that gas as I would
21 from a leak in a propane pipe? Yes, okay. Well, I'm just
22 trying to separate the facts, though, from the compliance
23 here.

24 And, one other issue. In the letter

1 dated the 25th, the Propane Gas Association of New
2 England, it says, as you're talking about "512.02(b),
3 which simply clarifies from 192.7 which edition of NFPA is
4 to be used. This does not resolve the issue of deleting
5 Subsection (b)(2) under which the new rule fails to
6 address which code prevails when conflicts arise." Now,
7 why was that change made? That, according to what they're
8 saying, under (b) now, it no longer says that the NFPA 58
9 takes precedent. And, I'm assuming that's what was in the
10 previous rules or the current rules?

11 I believe it's on Page 57, the proposed
12 (b), and I don't know if this has changed or not, I can't
13 tell. But it says "All LNG operators shall comply with
14 the LP Gas Code (NFPA 58) as referenced by 49 CFR 192(f)"
15 [49 CFR 192.7?]. And, in the letter, they're at least
16 implying that, in the past, that said, where a conflict
17 arose between the two, that the NFPA 58 took precedent.

18 MR. KNEPPER: Can you bear with me, I
19 have to go to the Initial Proposal?

20 CMSR. HARRINGTON: Sure.

21 MR. KNEPPER: Because you're asking me
22 about language that's in the 2005 edition versus -- the
23 Initial Proposal versus this. So, I need to look at the
24 strike-outs.

1 (Short pause.)

2 MR. KNEPPER: Yes, I think, if you're
3 talking about the first -- are you talking about the
4 comment from their letter from Eastern or the Propane Gas
5 Association?

6 CMSR. HARRINGTON: The Propane Gas
7 Association of New England.

8 MR. KNEPPER: Okay. So, the first
9 paragraph, --

10 CMSR. HARRINGTON: Basically, the first
11 paragraph of consequence, yes.

12 MR. KNEPPER: Right. And, I think we
13 had -- we touched upon this before, is, first of all, we
14 don't think there's a conflict.

15 CMSR. HARRINGTON: Right. But I'm just
16 trying to find out, did the previous rules say, as they
17 implied, that, when there was a conflict, that NFPA 58
18 took precedent?

19 MR. KNEPPER: That's correct.

20 CMSR. HARRINGTON: Okay. And, that was
21 deleted?

22 MR. KNEPPER: That's correct.

23 CMSR. HARRINGTON: Okay. And, why was
24 that deleted?

1 MR. KNEPPER: Because we don't think --
2 well, first of all, two things. One is, I believe it's
3 going to get deleted anyways at the federal level, but
4 that hasn't happened. And, the second thing is, we don't
5 need -- there's no need, there's no reason to put that in
6 our state rule if it's already in the federal rule. So,
7 we didn't want -- why be redundant, I guess.

8 CMSR. HARRINGTON: But we had it in the
9 state rules before and we chose to take it out.

10 MR. KNEPPER: Yes. Because, like, you
11 know, I could put in -- I could copy lots of federal
12 language and put it in our state rules, lots of states
13 tend to do that with all their rules, some of them rewrite
14 the entire Federal Code and give them their state number
15 and things like that and try to keep up with it. We try
16 to minimize the things that were repetitive or redundant,
17 and that's why we struck it out.

18 CHAIRMAN IGNATIUS: So, it wasn't any
19 interpretation that the 58 superseding 192, that wasn't
20 your intent? It was just for --

21 MR. KNEPPER: Yes. There's no reason
22 for it to be there.

23 CHAIRMAN IGNATIUS: You don't disagree
24 that, when there's a conflict, NFPA 58 wins out?

1 MR. KNEPPER: That's what the current
2 federal regulations are. And, then, you got to get into
3 "what is the conflict?" "Is there really a conflict?"

4 CHAIRMAN IGNATIUS: Okay.

5 MR. KNEPPER: But you have to remember,
6 as part of NFPA 58, we're going to be the -- the same
7 division here is going to be answering for questions on
8 58, as well as 192. So, we're trying to be consistent
9 with our approach.

10 CHAIRMAN IGNATIUS: Okay. I just want
11 to be clear that it's not because of a disagreement about
12 the way those two statutes interact? It's not being
13 removed because you think anything other -- think
14 differently about 58 governing when there's a conflict?

15 MR. KNEPPER: That's right. I'm trying
16 to, as we go through the rules, one of the -- part of the
17 process, and maybe the more mundane or tedious part is to
18 eliminate things that we don't need there that are already
19 -- if it's just a replicate of the federal regulations.

20 CMSR. HARRINGTON: So, in a nutshell,
21 the issue is, does Part 192.625(f) apply to jurisdictional
22 propane gas pipelines? Your position is "it does"?

23 MR. KNEPPER: Oh, I'm clear that it
24 does.

1 CMSR. HARRINGTON: Okay.

2 MR. KNEPPER: I've had multiple
3 conversations with people at the federal government.

4 CMSR. HARRINGTON: Okay. Which is your
5 position is "yes", and the Propane Gas Association's
6 position is "no". That's the issue, I believe. Thank
7 you.

8 CHAIRMAN IGNATIUS: Anything else on
9 this Section 09(g)?

10 (No verbal response)

11 CHAIRMAN IGNATIUS: If not, let's go to
12 the final one in 512, 09(i).

13 MS. FABRIZIO: I'm sorry.

14 CHAIRMAN IGNATIUS: Are we at the point
15 of 512.09(i)?

16 MS. FABRIZIO: Yes.

17 CMSR. HARRINGTON: Is that the next
18 page?

19 MS. FABRIZIO: And, in this provision,
20 Staff has accepted language provided by the Androscoggin
21 Valley facility, that clarification be added that odorant
22 levels be tested at "the furthest end point of the system
23 that can be readily accessible." Because our
24 understanding is that there is actually an end point that

1 is not accessible, and this was designed to ensure that
2 they meet the requirements of the rule.

3 MR. KNEPPER: Yes. Currently, in New
4 Hampshire, we have three landfill gas pipelines; two of
5 them are up in the Berlin/Gorham area and one is in the
6 Durham area. There may be more in the future. So, that's
7 why landfill gas lines are added since the last version of
8 the 2005 rules, because we wanted to make sure that they
9 knew that the pipeline safety regulations apply to them.
10 AVRDD's concern was the wording that said just "at the
11 end point of the system", because, physically, they have a
12 difficulty even trying to do that, because it's just a
13 short little pipeline. It transfers gas to another
14 entity, Gorham Paper & Tissue. And, so, where the -- you
15 know, their end point of the system would be underground
16 for them. And, so, it wasn't really practical. And, so,
17 Staff came up with this language to try to address that,
18 where "the furthest point is that can be readily
19 accessible". And, if the "readily accessible" part is
20 one-third of the way down the pipeline system, then, we're
21 okay with that.

22 So, that was our suggestion, so that
23 they wouldn't be in non-compliance with this.

24 CHAIRMAN IGNATIUS: So, that language

1 appears in the summary sheet distributed today, it isn't
2 yet inserted in the version that went out Wednesday, but
3 it would be?

4 MR. KNEPPER: Yes. I had sent it to
5 Androscoggin Valley Regional Refuse District. And, they
6 said "yes". And, I didn't get it into Lynn's hands, so it
7 didn't get into the version. They noted that to me, but
8 they have no objections to the language.

9 CHAIRMAN IGNATIUS: Any comments on that
10 last provision, 512.09(i)?

11 (No verbal response)

12 CHAIRMAN IGNATIUS: All right. Thank
13 you. Then, I think those are all of the issues related to
14 Section 512.

15 We're going to take a break in a few
16 minutes. But, before we do, what would be our next
17 section that you would recommend taking up, so people can
18 be thinking about organizing their thoughts? And, are
19 there any that, you think, can be dealt with in ten
20 minutes? We're going to try to take a break at 11:00 for
21 the sake of the court reporter.

22 MS. FABRIZIO:

23 (Brief off-the-record discussion
24 ensued.)

1 CHAIRMAN IGNATIUS: All right. Well,
2 let's go back on the record then. We are going to take a
3 break in about seven more minutes. But, if there's
4 anything we can do on the list that we could take up
5 quickly, I think we ought to before we break. I know that
6 there are a number of green identified ones, though some
7 parties may not be as comfortable with them or hasn't yet
8 fully digested them. So, some greens are not really fully
9 agreed to. But, hopefully, there are a few that will be
10 dispatched with quickly.

11 If we were to go through the summary
12 sheet that was handed out this morning, the first item
13 listed is "502.07". Maybe, so, Staff can explain that
14 one, and maybe we can deal with that one before we take a
15 break?

16 MS. FABRIZIO: Yes. This issue arose
17 because there's reference to incidents in provisions
18 further within the rules. And, our proposal was to adopt
19 the "incident" definition that is provided at
20 Section 192.3 in the Federal Code. And, if you wish, I
21 can read that definition into the record at this point?

22 CHAIRMAN IGNATIUS: Before you do, this
23 is -- would be something inserted into 502.08, is that
24 right?

1 MS. FABRIZIO: It will be inserted in
2 alphabetical order in the "Definition" section.

3 CMSR. HARRINGTON: 502.07.

4 MS. FABRIZIO: 502.

5 CHAIRMAN IGNATIUS: Okay. So, which
6 would be page what? And, I just want to get the right
7 document.

8 MS. FABRIZIO: It will be the new
9 502.07. I'm sorry, I'm look at the Initial Proposal.

10 CHAIRMAN IGNATIUS: All right. So, the
11 draft that included "incident", it just identifies how
12 it's defined, is what you would propose? What currently
13 shows on Page 1 of the draft circulated Wednesday?

14 MR. KNEPPER: Yes. I don't know if I
15 could summarize this. The company -- the reason we're
16 inserted it is because I think the companies get a little
17 confused as to when an event becomes notifiable to us, and
18 then when one, you know, an official report has to be
19 issued to us, and then when one has to go to the federal
20 government. And, it's kind of this "escalation of events"
21 type of thing. So, you have to be somewhat careful about
22 using the term "accident" versus "incidents" versus
23 "events", and "notifications" versus "reports". And, so,
24 I think, by inserting it, this is going from our notes of

1 the technical sessions, that it helped clarify things for
2 the utilities.

3 CHAIRMAN IGNATIUS: All right. I just
4 want to understand. The proposal is simply as it reads in
5 the version circulated Wednesday evening, which is to
6 create "502.07 - Incident" and reference the federal
7 definition, and nothing more?

8 MS. FABRIZIO: Yes.

9 CHAIRMAN IGNATIUS: All right. Any
10 problem with that?

11 MR. HEWITT: None from Unitil.

12 CHAIRMAN IGNATIUS: All right. Seeing
13 nothing, that sounds like that's pretty non-controversial
14 and a good reference.

15 The next -- then, the renumbering would
16 have to flow from that for the subsequent definitions,
17 that's just ministerial?

18 MS. FABRIZIO: That's right.

19 CHAIRMAN IGNATIUS: The next one on the
20 summary sheet is a yellow --

21 MR. CODY: Commissioner, before you move
22 on?

23 CHAIRMAN IGNATIUS: Yes.

24 MR. CODY: I'm sorry, I've got to

1 mention something here that's not on the summary sheet.
2 Leo Cody, from Liberty Utilities.

3 CHAIRMAN IGNATIUS: Yes.

4 MR. CODY: 504.02 is something which
5 Liberty Utilities mentioned in its written comments on
6 December 14, which is not addressed in this summary sheet.

7 CHAIRMAN IGNATIUS: And, remind us what
8 the concern was for 504.02?

9 MR. CODY: Yes. 504.02 speaks to
10 "Purity Requirements". And, on the 2-13-13 Draft
11 Proposal, it shows up on Page 4. There's a proposal that
12 says "Upon customer request, the utility shall provide
13 annually the monthly sulphur content for the volume
14 billed." The Company provides estimates of the cost. I
15 would propose or recommend that we do -- strike two words
16 here. And, that is strike the words "annually" and strike
17 the words "monthly". So that it would read "upon customer
18 request, the utility shall provide the sulphur content for
19 the volume billed." To provide it monthly, as we said in
20 our comments, it's an individual test every month, and the
21 number, it doesn't change every month. So, we would agree
22 and have no problem with providing the information to
23 customers, but to provide it on a monthly basis isn't
24 worthwhile.

1 CHAIRMAN IGNATIUS: And, is your concern
2 that you would have to test everyone monthly, because you
3 might get a request nine months from now for those
4 results?

5 MR. CODY: And, we would have to conduct
6 individual monthly tests, yes.

7 CHAIRMAN IGNATIUS: Whether anyone ever
8 truly asks for it or not, you'd have to have gotten all of
9 that data and stored it?

10 MR. CODY: Yes.

11 CHAIRMAN IGNATIUS: All right. Staff,
12 is there a -- I do remember we discussed this at the first
13 hearing on this. Is there a reason why it remains
14 unchanged, that you think this is appropriate to keep it
15 as is? Or, is there -- is the suggestion of Mr. Cody to
16 strike those two words a reasonable result? And, if you
17 want to think about it, we're about to take a break
18 anyway.

19 MR. KNEPPER: Let me think about it.

20 CHAIRMAN IGNATIUS: Okay.

21 MR. KNEPPER: I think it's going to be a
22 -- I think it might be a lengthy answer, but let me think
23 about it.

24 CHAIRMAN IGNATIUS: Okay. Thank you.

1 All right. Why don't we take a break then. When we
2 return, we will hear more on the 504.02 question, and then
3 go to "504.03(e)", on "Pressure Requirements", that's
4 marked as a yellow. Thank you. Let's resume at 11:15.
5 Thank you.

6 (Recess was taken at 11:01 a.m. and the
7 hearing resumed at 11:21 a.m.)

8 CHAIRMAN IGNATIUS: We're back from a
9 break. And, I think it will be our plan to go until about
10 12:40. It seems unlikely that we'll be completed by then,
11 but who knows. And, then, if need be, we will take a
12 break for lunch and resume for the afternoon.

13 So, I guess, as we left, the first
14 question was whether Staff had a response to Mr. Cody's
15 suggestion of the changes to 504.02, to remove the word
16 "annually" and the word "monthly". Do you have an answer
17 yet on that?

18 MS. FABRIZIO: Excuse me, Chairman. I
19 think it would be useful to hear from Liberty what they do
20 do, in terms of sulphur content testing.

21 CHAIRMAN IGNATIUS: Okay.

22 MS. FABRIZIO: Before we move further in
23 discussion of the provision.

24 CHAIRMAN IGNATIUS: All right. Who

1 wants to respond to that?

2 MR. CODY: I'll give it a try. It's my
3 understanding that we do get customer requests now. It's
4 mostly our larger industrial customers. And, it may come
5 down to about a dozen or so a year. And, what we provide
6 for them is sort of a snapshot in time. So, you know,
7 whenever they make the request, you know, we'll provide
8 them the information. And, it's enough information for
9 them to, if they need to, they can go back and calculate
10 the monthly portion on their own. And, this is something
11 that is done informally now.

12 So, my concern is, having language in
13 here that requires us to "provide monthly on an annual
14 basis", I don't really know what that means or what the
15 customer expectation would be then.

16 CHAIRMAN IGNATIUS: Do you ever have
17 customers who ask you to maintain monthly tests for a
18 while, if there's an issue?

19 MR. CODY: Not that I'm aware of. I'm
20 also told that the content doesn't change, it doesn't
21 change significantly each month, from month to month. So,
22 a monthly report wouldn't vary.

23 CHAIRMAN IGNATIUS: Okay. Staff
24 response?

1 MR. KNEPPER: So, I think before the
2 break -- whoops, sorry, Steve. Before the break, you,
3 National Grid -- I'm sorry, I take that back -- Liberty,
4 Liberty asked whether they could strike the word
5 "annually" and the word "monthly", and they would just --
6 the sentence would now read "Upon customer request, the
7 utility shall provide the sulphur content for the volume
8 billed." And, we're okay with that. That would work for
9 us.

10 CHAIRMAN IGNATIUS: All right.

11 MR. CODY: Thank you.

12 CHAIRMAN IGNATIUS: Thank you. Let's
13 move on then to 504.03(e), unless there's anything before
14 that someone wanted to raise?

15 (No verbal response)

16 CHAIRMAN IGNATIUS: All right.

17 Mr. Knepper or Ms. Fabrizio, you want to set that one out.

18 MR. KNEPPER: I guess I'll take a stab
19 at it. What the Staff is asking for is for those meter
20 sets that have high pressure, and "high pressure" meaning
21 more than a pound, the standard measuring through the
22 uncorrected heater factors, is usually in inches of water
23 column, that they would have some sort of identification
24 near the meter set of where that was, of what it is. That

1 someone is -- someone, like an inspector, like ourselves,
2 or the customer could be able to understand what that was.
3 And, so, this language here that we've done is kind of --
4 is somewhat of a compromise between different versions of
5 things that were submitted to us.

6 I think Unitil had language that we
7 thought was not going to be workable with JLCAR, because
8 it introduced more terms into things that vary from
9 company to company. And, so, we tried to come up with
10 language that I think was workable. Did we mark this as a
11 green?

12 CMSR. HARRINGTON: Yellow.

13 MR. KNEPPER: Yellow. Okay. So, if I
14 go to our kind of a little key here, I believe, and I'll
15 let the Company speak, and hopefully you'll ask each
16 company, that Liberty, from our -- didn't have any
17 comments on this section, Unitil did have proposed
18 language. And, you know, it said "next service line
19 inspection cycle". And, we came up with this alternative
20 language for that.

21 CHAIRMAN IGNATIUS: All right.

22 MS. FABRIZIO: So, can I just clarify a
23 little bit? That the implications of the changes that the
24 company would propose is that --

1 CHAIRMAN IGNATIUS: Can you speak up
2 please?

3 MS. FABRIZIO: -- the identification
4 requirement would not be applied to any service meters
5 that are currently in place, only to those that are
6 installed after July 1st, 2013. And, the second
7 implication is that new identification would be -- could
8 be -- it could take longer for compliance to be effective
9 with the language as written.

10 CHAIRMAN IGNATIUS: I didn't follow any
11 of that.

12 MS. FABRIZIO: Okay.

13 CHAIRMAN IGNATIUS: I'm sorry.

14 CMSR. HARRINGTON: Excuse me, could I
15 just maybe ask a question? Did you say it would only
16 apply to things installed after July 1st, '13? Are you
17 referring to the tags or the lines? Because it reads to
18 me as if Unitil's proposal is saying "shall be installed
19 at the service meter sometime after July 1st, 2013 during
20 the utility's service line inspection program."

21 MS. FABRIZIO: Yes. I'm sorry. That's
22 my fault. I'm recalling a different provision that we'll
23 get to later in the day.

24 CMSR. HARRINGTON: Maybe it would be

1 best if Unutil would describe what their position is on
2 this.

3 MS. FABRIZIO: Yes.

4 MR. HEWITT: Sure. Thank you,
5 Commissioner. We had proposed in our initial language, as
6 set forth here, would have given the company some time to
7 achieve compliance during service line inspection programs
8 that are done on a three-year cycle. And, the way we had
9 proposed our language would be to allow the company, if it
10 determines, say, if someone in the field is at a location
11 and recognizes that one of these required tags is no
12 longer there, that it would give the company until the
13 next meter inspection cycle to affix a new tag. We
14 thought that was appropriate.

15 The meter tagging issue is something
16 that we didn't really necessarily see a need for. Is it a
17 "good idea" to do it? Maybe. But we really didn't see a
18 reason for the necessity of meter tags. We understand
19 that Staff feels very, you know, strongly that meters be
20 tagged, so, we're willing to do it.

21 I think what we're struggling with at
22 this point is Staff's proposed language that would require
23 us to install a new permanent identification upon
24 discovery that one of those tags is missing. I mean, we

1 could be at the customer site for any number of reasons,
2 but the person who's there may not be the person who does
3 the tagging. So, under the proposed language, if we have
4 someone out there doing some other type of inspection work
5 or some -- they have some other reason to be on the
6 premises, but it's out of our normal cycle for meter
7 inspections, that person may recognize that there is not a
8 meter tag. Under Staff's proposed new language, they
9 would be required -- the company would be required to
10 "install a new identification tag upon discovery". It's
11 not clear to us what that means. Whether that means that
12 right then and there, that person who sees it, who
13 actually discovered it, has to have a tag with them and
14 put a tag on that?

15 So, for us, we can live with the
16 language that Staff proposed. We would just want some
17 period of time in order to replace a tag, if we find one
18 that's missing while we're on the premises.

19 CMSR. HARRINGTON: Can I just --

20 CHAIRMAN IGNATIUS: Yes, please.

21 Commissioner Harrington.

22 CMSR. HARRINGTON: I'm just trying to
23 get so I understand what the position is. In the opening
24 -- I understand that what you're saying is you want to be

1 able to find that you need it, and then go back, someone
2 make a tag, and then the next time you're out there you
3 install the tag.

4 MR. HEWITT: Yes.

5 CMSR. HARRINGTON: But, in the beginning
6 of your proposal, it appears to say, and maybe I'm reading
7 it wrong, it includes "the maximum delivery pressure shall
8 be installed at the service meter after July 1st, 2013".
9 So -- and, then, you talk about "previously installed"
10 tags. But this is open-ended. So, it just has to be done
11 sometime after July 1st, 2013.

12 MR. HEWITT: Can I stop you there,
13 Commissioner?

14 CMSR. HARRINGTON: Yes.

15 MR. HEWITT: I'm sorry. There's
16 additional language, "after July 1, 2013 during the
17 utility's service line inspection program." So, that
18 would be done, so, after July 31, 2013 [July 1, 2013?],
19 that's when the regulation would become effective. And,
20 as we do service line inspections, on a three-year rolling
21 basis, that's when we would have the obligation to begin
22 tagging those meters.

23 CMSR. HARRINGTON: Okay. So,
24 presumably, at the end of three years after that, which is

1 where I assume the Staff comes up with their "2016", you
2 would have inspected every line and installed all of these
3 tags?

4 MR. HEWITT: That's correct.

5 CMSR. HARRINGTON: So, what is your
6 problem with the way the Staff just simply put it as "no
7 later than 2016"?

8 MR. HEWITT: I apologize. We don't have
9 a problem with that provision.

10 CMSR. HARRINGTON: Okay.

11 MR. HEWITT: Our problem really is in
12 the very last few words of the Staff's proposed language,
13 where they say that, if we're on the premises, and we see
14 that one of those tags has fallen off or is missing, then
15 "the utility shall install a new permanent identification
16 upon discovery." And, "upon discovery", to us, means "as
17 soon as you see it", or it could mean "as soon as you see
18 it, you've got to fix it."

19 CMSR. HARRINGTON: And, these type of
20 tags, how are they manufactured? How are they -- is this
21 something someone can pull out of their pocket and write
22 with a magic marker or is it a metal tag with stamping on
23 it or --

24 MR. HEWITT: We would have to develop a

1 tag from permanent means. It could be done -- it could be
2 done such as that or it could be done such as a sticker or
3 a metal tag on that. But our concern with that is our
4 technicians in the field may not have the right tag. We
5 have different delivery pressures. That customer at that
6 house may have a deliver pressure at two pounds, another
7 one could have five pounds. And, just our concern with
8 that is, if it's "upon discovery", and he doesn't have the
9 tags there, is there -- are we in violation of the code?
10 Or, is there a certain amount of period that we can issue
11 a work order and send the proper technician out there to
12 actually install that.

13 And, our original language just gave us
14 a set period of time to, when we identify the condition,
15 to actually remediate the condition there. And, so, this
16 language, we would just want a clarification of what, I
17 guess, what "upon discovery", is that an immediate --
18 would it have to be rectified immediately or are we in
19 violation?

20 CHAIRMAN IGNATIUS: Mr. Knepper.

21 MR. KNEPPER: We didn't use the word
22 "immediate" and we left it open. What we object to is
23 waiting until another three years to fix it. And, so,
24 that's the problem we have the language suggested by

1 Unitil, because it says "the next service". So, that
2 gives them three more years, if something falls off, to
3 fix it. You know, if something falls off on a Friday, I
4 don't -- I'm not quite understanding how hard it is to
5 have a sticker and mark it or use a permanent marker or
6 put a metal tag on something.

7 But, if that seems to be very
8 problematic, then all we're asking is, when you are there
9 at the premises, you note it. And, you know, if you make
10 a note and say "yes, we have it scheduled to do it next
11 Wednesday", or next week or something like that, that's
12 kind of our expectation. We just don't expect it to be
13 years and years and years to fix something simple like
14 that.

15 CHAIRMAN IGNATIUS: Would language that
16 said, and I'm looking at the Staff alternate language, to
17 say "the utility shall install a new permanent
18 identification as soon as is practicable", something like
19 that? Would that be acceptable? So, it might happen that
20 moment, it might happen within a few weeks of getting
21 somebody back on site?

22 MR. HEWITT: That would be acceptable to
23 the Company.

24 MS. FABRIZIO: I think our concern with

1 that is that that leaves it wide open. But I think maybe
2 a compromise that would make both of us happy is "as soon
3 as practicable and no later than", say, "30 days" or "60
4 days", something that might be workable for the Company.

5 CMSR. HARRINGTON: Could I ask a
6 question, I don't know who would be appropriate to answer
7 this. If the technician is out there and he goes to one
8 of these valves, and he sees that the tag is not there,
9 does he know what the maximum pressure is supposed to be
10 without that tag being there? Would he know? Is it
11 marked on the valve some other way or he would have a
12 system diagram or something that would show that?

13 MR. LeBLANC: For Unitil, the
14 information would be obtained in one or two ways. He
15 could get that out of the Customer Information System, but
16 we also have identification markers on our pressure
17 regulators. Doesn't actually say the delivery pressure,
18 but it's marked that it's an elevated pressure delivery
19 point.

20 CMSR. HARRINGTON: And, they would know
21 what that meant?

22 MR. LeBLANC: They know what that means,
23 and they can find that delivery pressure through our
24 Customer Information System.

1 CMSR. HARRINGTON: Okay.

2 CHAIRMAN IGNATIUS: What about the
3 provision "as soon as is practicable, but not later than
4 60 days"?

5 MR. HEWITT: That be acceptable to us.

6 CHAIRMAN IGNATIUS: Then, I would think
7 it would be, in terms of efficiency at the company,
8 stocking those materials and not have to send somebody out
9 for another trip, would make sense. You know, you hate to
10 have people traveling to the location for that, if they
11 could just as well have done it by keeping the materials
12 on hand. But, I think, if the suggestion is, you know,
13 "as soon as" --

14 MR. MacDONALD: Commissioner, I'd like
15 to make a comment on that?

16 CHAIRMAN IGNATIUS: Yes, Mr. MacDonald.

17 MR. MacDONALD: At least at Liberty, our
18 survey technicians may not be equipped to identify
19 positively the operating pressure or the outlet pressure.
20 We may want to have the flexibility to send someone back
21 there, you know, to validate and take a measurement before
22 the tag is, you know, reassigned to that service.

23 CHAIRMAN IGNATIUS: Well, the thought
24 that people or technicians working on the system and don't

1 know the pressure is a little scary. But maybe you're
2 meaning something different than the way it sounded?

3 MR. MacDONALD: Well, there's different
4 skill sets that we have. They're out there looking for
5 determining gas leaks and a number of other things. And,
6 they're also trying to survey a number of services during
7 the day. So, we identify things and follow up as part of
8 the survey process.

9 CHAIRMAN IGNATIUS: Is the language we
10 talked about, sort of "as soon as practicable, but no
11 later than 60 days" workable for Liberty?

12 MR. MacDONALD: I think it is for us,
13 yes.

14 CHAIRMAN IGNATIUS: All right. Then,
15 unless there's anything more on that section, do we move
16 to 504.03(f)?

17 MS. FABRIZIO: Yes. And, this -- and,
18 this provision clarifies how long a customer agreement
19 shall be kept in archive. And, Unitil has proposed
20 language that, rather than retaining such records "for the
21 service life of a service meter", it "be retained until
22 the service line has been abandoned", to eliminate the
23 problem of hanging on to documents as long as something
24 continues to exist, but is actually no longer in use.

1 And, Staff agrees to the proposed language.

2 CHAIRMAN IGNATIUS: Any concern by
3 anyone about the proposed language?

4 (No verbal response)

5 CHAIRMAN IGNATIUS: All right.
6 504.05(a)(8).

7 MS. FABRIZIO: And, this provision
8 refers to reporting of gas facility-related events to the
9 Commission and Staff. And, the proposed language from
10 Unitil is intended to clarify the scope of events that
11 should be reported. And, Staff agrees with the proposed
12 language. We would note, I think, in the parenthetical
13 "e.g." examples are deleted in the Draft Proposal. But I
14 think Staff is inclined to add those back in as
15 illustrative examples, not limiting examples. Because
16 we're concerned that Office of Legislative Services could
17 raise questions about the vagueness of this provision
18 without such clarification.

19 CHAIRMAN IGNATIUS: Is the proposal
20 acceptable to the companies?

21 MR. HEWITT: Just so I'm clear. So,
22 you're proposing that the parenthetical be added back in?

23 MS. FABRIZIO: Yes.

24 MR. HEWITT: Okay. That's acceptable to

1 us.

2 MR. CODY: It's acceptable to Liberty
3 also.

4 CMSR. HARRINGTON: Flying right along
5 now.

6 CHAIRMAN IGNATIUS: Thank you.
7 504.05(a)(9)(a), subject of odorant levels again. Staff?

8 MR. KNEPPER: I'm getting there.

9 MS. FABRIZIO: I'll take a quick stab.
10 Unitil has proposed language that clarifies when the
11 utility shall notify the Safety Division regarding the
12 levels of odorants, because the previous language was
13 rather vague. And, Staff agrees to the proposed language.

14 MR. KNEPPER: Yes. So, the point is is
15 the Staff wants to know, when that unusual event happens
16 that you don't have enough odorant, and we want to be
17 notified. So, this is a rare occurrence. If all things
18 are going well and they're doing their job, we should
19 probably never ever get notified. But, in such an
20 unlikely or unusual event, we want to be notified. That's
21 all this says, if you don't meet those levels. And, so,
22 that's the purpose of it.

23 CHAIRMAN IGNATIUS: I have just a
24 drafting question. It seems like we have an extra word.

1 If you read (9), "When the utility confirms that levels of
2 odorant that do not immediate meet the requirements"?

3 MS. FABRIZIO: It's read in conjunction
4 with (a), "the utility shall notify" -- you're right.
5 It's not needed, because we've got the "when the following
6 occur".

7 CHAIRMAN IGNATIUS: Okay. So, we can
8 take the word "that" out?

9 MS. FABRIZIO: Yes.

10 CHAIRMAN IGNATIUS: Section 504.05(c).

11 MS. FABRIZIO: And, this --

12 MR. CODY: Just -- I'm sorry.

13 MS. FABRIZIO: Do you have one before
14 that?

15 MR. CODY: No, no, no. That's what I
16 was going to comment on.

17 MS. FABRIZIO: Okay.

18 MR. CODY: If you want to --

19 MS. FABRIZIO: Yes. Sure. Staff was,
20 this is based on discussions at tech sections, change the
21 word "incident", which is defined specifically in federal
22 regulations, to "event", to capture the intent of this
23 provision, 504, generally.

24 CHAIRMAN IGNATIUS: And, the "one hour"?

1 MS. FABRIZIO: Oh, I'm sorry. Yes. The
2 "one hour", as I mentioned during the LP discussions, that
3 was changed from "two hours", to be consistent with
4 federal regulations.

5 CHAIRMAN IGNATIUS: Mr. Knepper.

6 MR. KNEPPER: Yes. I think there's
7 confusion as to, from the company, sometimes what Staff's
8 looking for and what the rules are trying to imply. If we
9 have a federal incident, that means if there's a fatality,
10 a bodily injury, or property damage more than \$50,000, we
11 have to be notified by one hour. But we also get -- we
12 can get notified by a fatality -- if it's property damage
13 less than \$5,000, we can get notified and be reported.

14 But, then, we have a whole host of other
15 things that there are notifications that we ask for that
16 the federal government doesn't ever want to hear, but, at
17 the state level, we do. And, before, we didn't, we kind
18 of left it open. And, I didn't have a problem with it.
19 The companies do a pretty good job. I mean, they
20 typically call me within an hour, hour and a half, two
21 hours, whatever, I'm finding out. I'm not finding -- what
22 I do have a problem with is if I'm finding out a day later
23 on something, we want to be. So, by putting in the "one
24 hour" here, it's just to give clarity, I think one of the

1 utilities asked for it, and said it might be easier for
2 their own people to just have a specific hour requirement.

3 CHAIRMAN IGNATIUS: All right. Mr.
4 Cody.

5 MR. CODY: Well, thank you. The only
6 thing I was really going to comment on is the summary
7 sheet, and, when I first read it, I thought it was an
8 error. It should really say "incident and event", but,
9 you know, I didn't know why "incident" was struck there.

10 But, as the proposal goes, Liberty
11 doesn't have any issue with the new proposal, which we are
12 seeing for the first time. We saw it Wednesday night.
13 Prior to all the technical sessions, we were only talking
14 about "incidents". And, so, the new laundry list of
15 events is a new thing for us. However, I don't have any
16 opposition to it, because I think it, once implemented, it
17 will be best for the Safety Division and for the operator
18 to have one set of standard, one for event and one for
19 incidents.

20 CHAIRMAN IGNATIUS: We don't have a
21 definition of "event" in the rule, right?

22 MR. CODY: I think it's everything other
23 than, it's not an incidence.

24 MS. FABRIZIO: Yes. And, 504.05(a)

1 lists the events that are covered by this provision, and
2 that's where we change. But Mr. Cody is absolutely
3 correct, that we are incorporating both "events" and
4 "incidents" defined per federal regulation. Thank you,
5 Mr. Cody.

6 CMSR. HARRINGTON: And, where is the
7 term "event" defined?

8 MS. FABRIZIO: Under the provision for
9 Emergency Notification, PUC 504.05(a).

10 CMSR. HARRINGTON: All right. Thanks.

11 MS. FABRIZIO: It gives a list of events
12 covered by this provision.

13 MS. HOLLENBERG: May I ask a question
14 please?

15 CHAIRMAN IGNATIUS: Yes.

16 MS. HOLLENBERG: Let me just make sure
17 I'm referencing it. So, 504.05(b) references "incident or
18 event", but this rule refers to "events" now only. So, is
19 the -- so, I guess I'm just wondering, is that -- should
20 "incident or" be -- remain in there, now that this rule
21 doesn't cover "incidents"? Okay, just making sure. Okay.

22 MR. KNEPPER: Wait, wait, wait, wait,
23 wait, wait.

24 MS. HOLLENBERG: You've deleted all

1 other references to "incident" in this rule --

2 (Court reporter interruption.)

3 MS. HOLLENBERG: Okay. No, that's okay.
4 You've -- it appears that the word "incident" has been
5 deleted from 504.05(a). So, the things that are reported
6 are all events, not incidents. Is that incorrect? Or,
7 I'm just trying to understand.

8 MR. KNEPPER: You've got it right,
9 Rorie. It's just, you know, we're both trying to get to
10 the same conclusion.

11 MS. HOLLENBERG: Okay. So, my thought
12 was that the reference to "incident" in Section (b) may
13 not need to be there anymore?

14 MR. KNEPPER: Yes, it would be
15 redundant.

16 MS. HOLLENBERG: Okay.

17 CMSR. HARRINGTON: So, are you taking
18 "incident" out?

19 MR. KNEPPER: Well, --

20 MS. HOLLENBERG: Isn't it that 504.06
21 requires the incident reporting? I mean, I guess the
22 other thought I had would be that you could add -- may I
23 make a suggestion? I mean, the other thought I had was
24 that you could add something specifically into (a) that

1 says "report incidents per 504.06", and then you don't
2 have to delete "incidents" in (b), but -- you see what I
3 mean?

4 MS. FABRIZIO: Uh-huh.

5 MS. HOLLENBERG: It just struck me,
6 because I saw that the word "incidents" had been expressly
7 removed, and then it's mentioned again in (b), but you're
8 not requiring them to be reported in (a). That's all.

9 MS. FABRIZIO: Yes.

10 MR. KNEPPER: Okay. I guess what, and
11 maybe it's our choice of -- all events aren't incidents,
12 but all incidents are going to be definitely an event, I
13 guess. So, we've listed in the -- in the notifications
14 under "events", kind of incorporated under (1), what's an
15 "incident". And, so, that's an "incident" meaning, I
16 shouldn't be -- I've got to be careful, because it
17 incorporates both accidents and incidents. Accidents are
18 the \$5,000 property damage at the state level, and an
19 incident would mean the property damage at \$50,000 at the
20 federal level. So, if we have something, a car gets
21 damaged, the federal government would not call that an
22 "incident", unless the car was \$50,000. Here, a car got
23 damaged because of a gas, you know, a leak erupted and
24 moved it aside or somebody did something, we would -- we

1 would want to be notified. It would also trigger a report
2 later on. But, if something happened where they hit at
3 something that was only \$2,000, all we do is get the
4 notification. That's the intent of those rules. Whether
5 our wording says that, that's what our intent is.

6 CMSR. SCOTT: And, if it helps, when I
7 look at 504.06(a), it says "In addition to the
8 notification required under 504.05", which is events, "a
9 utility shall do these things in writing." So, that would
10 imply to me, I think I'm agreeing with you, that
11 everything's an event. Okay.

12 MR. KNEPPER: When I read (b), it says
13 "a utility shall not be required to determine or document
14 the presence". So, a lot of time they will get notified
15 by, I don't know, let's say a fire chief that there's an
16 issue at such and such a place. They will, in turn,
17 notify me. But, by the time they get out there, they do
18 their investigation, and they say "It wasn't even a
19 natural gas pipeline event. It ended up being a smell at
20 a landfill, the local landfill, and it wasn't related to
21 us. Or, "it was a propane operator, that's not us." But
22 they have already done the notifications to us. So, the
23 point of (b) is that they don't have to necessarily know
24 at the point in time whether it involves them or not.

1 CHAIRMAN IGNATIUS: Well, can I just
2 ask, is anyone concerned about the substantive provision
3 that these, both on anything defined as an "event" and
4 anything defined as an "incident", that they be reported
5 by phone within an hour? If there's no problem with that,
6 then we'll at least have to figure out whether you -- the
7 drafting, whether it's referred to "incident or event",
8 you know, however it's best to do it and consistently, so
9 that people are following from section to section what's
10 required. But, on the substantive matter, is there any
11 opposition to the one hour notification for the event list
12 or anything defined as an "incident"?

13 MR. CODY: Not from Liberty, no.

14 MR. HEWITT: Nor from the Company,
15 Unitil.

16 CHAIRMAN IGNATIUS: All right. Then,
17 can we ask you just to think about the clearest way to
18 draft that? Thank you.

19 MS. FABRIZIO: Yes.

20 CHAIRMAN IGNATIUS: The next section is
21 505.01(c).

22 MS. FABRIZIO: And, this refers to
23 "Meter Installations" and protection of those meters. OLS
24 attorneys have primarily commented that the words

1 "anticipated or potential" is vague. But the federal
2 regulation actually uses the words that "damage that may
3 be anticipated" or "the damage that may occur". And, my
4 understanding is that this point was raised eight years
5 ago in the prior rulemaking, and the same argument was
6 made, that the federal regulations include these words,
7 "anticipated" and "potential".

8 CMSR. HARRINGTON: Excuse me. When you
9 -- I thought I heard, when you were quoting the federal
10 regulations, you used the word "anticipated", but I didn't
11 hear "potential"?

12 MS. FABRIZIO: The "potential" is not
13 used. But what is used is "events that may occur",
14 "flooding that may occur", for example. So, our language,
15 we used "anticipated" and "potential" to capture that
16 intent.

17 CMSR. HARRINGTON: And, are the
18 companies okay with those words?

19 MR. HEWITT: I guess it strikes us that,
20 if there's been a question raised as to ambiguity of the
21 language, and the response is basically "well, we're
22 tracking the language that's in a federal reg", and I
23 guess the implication is you can look to the federal reg
24 for guidance on what those terms mean, then we should

1 probably stick with the terms that are actually used in
2 the federal reg, or else we're going to run into the
3 problem that we're trying to avoid, I'm afraid.

4 MS. FABRIZIO: Yes. A bigger problem
5 with JLCAR, though, is using the word "may". And, so,
6 that's why we chose "potential". But we can certainly
7 present that and address that at the JLCAR level.

8 CMSR. HARRINGTON: Because there is
9 quite a difference between "anticipated damage" and a
10 "potential damage". A "potential damage" is, you know, a
11 meteorite could hit, but that's certainly not anticipated.

12 MR. CODY: Liberty would prefer to have
13 some qualifier in front of the word "danger". We are
14 reluctant to see the "anticipated" or "potential" removed,
15 but we would like to see something there.

16 MS. FABRIZIO: Perhaps I could suggest,
17 and I haven't discussed this with Mr. Knepper yet, so I'm
18 just throwing this out there, is that we could do a
19 specific preference to the Federal Code that addresses the
20 obligation to protect meters from potential and
21 anticipated dangers. And, rather than use the language
22 ourselves, we would cite the rule, the federal rule?

23 MR. KNEPPER: Yes. I mean, the
24 difference between the federal rule and ours, we're

1 spelling out ice, snow, flooding, and corrosion, because
2 those are things that are specific to New Hampshire that
3 occur. The federal government leaves it even more wide
4 open. And, so, based on things that have actually
5 happened over the last eight years, these are the types of
6 things that we've tried to help the reader know what we're
7 talking about by the "anticipated or potential damages".

8 Now, there might be another one on top
9 of that. But we thought it was actually an improvement
10 from what we had from the federal government. And, so, we
11 try to use the rules to be even clearer when we can.

12 CMSR. SCOTT: So, would it be, to make
13 sense, to have something to the effect that meters shall
14 be protected from dangers as outlined in, and cite the
15 federal cite, and then leave in the examples you have
16 here?

17 MR. KNEPPER: That's a language thing.
18 You know, like what I'm trying to keep out is the guy
19 running the lawnmower over it. That's not included here.
20 So, yes.

21 CHAIRMAN IGNATIUS: All right. It
22 sounds like that's something you might be able to work out
23 with a little bit more drafting, drafting the federal
24 language as much as possible.

1 The next section noted here is
2 506.01(d)(1).

3 MS. FABRIZIO: Yes.

4 CHAIRMAN IGNATIUS: Which is on Page --

5 CMSR. HARRINGTON: Fourteen.

6 MS. FABRIZIO: And, I would note just up
7 front that 506.01(d) and --

8 CHAIRMAN IGNATIUS: Can you speak up
9 please? I'm not -- I'm having a hard time hearing.

10 MS. FABRIZIO: -- 506.01(d) and
11 506.01(e), as summarized in the summary, are what Staff
12 thinks gets us to agreement with the companies. These
13 provisions pertain to welding qualification and testing
14 requirements.

15 CHAIRMAN IGNATIUS: And, so, this is
16 changing the "preceding 27 months", becomes "63 months",
17 "but at least once every 5 years", rather than "2 years",
18 would be the changes?

19 MS. FABRIZIO: Yes. So, that would be
20 the change to that provision. But Staff agreed to that,
21 if the companies agree to the new (e) provision,
22 506.01(e), pertaining to the field radiographic testing of
23 welds on projects.

24 CHAIRMAN IGNATIUS: All right.

1 MR. CODY: Speaking for Liberty, looking
2 at 506.01(e), I'm afraid at the moment we have to put that
3 in the yellow one, and not in the green. I think it needs
4 some discussion, because we saw it for the very first time
5 on Wednesday evening.

6 CMSR. HARRINGTON: Just as a follow-up
7 question to that. If it said, instead of "non-destructive
8 field radiographic testing", would "volumetric testing" be
9 more acceptable? It would allow, say, ultrasonic, in lieu
10 of radiographic. That's something to think about.

11 MR. CODY: I'm not opposed to that type
12 of testing. I'm opposed to the practicality of the
13 frequency of it. And, my recommendation or Liberty's
14 recommendation would be to strike the last phrase "or one
15 weld on projects that include 5 to 10 welds". Because the
16 practicality of that is, you know, once we have -- this is
17 all done by an outside vendor. And, once he's there, he's
18 there for an eight-hour minimum. So, to have him come
19 out, you know, for one weld on one project isn't
20 cost-effective for us. And, so, we would prefer that the
21 sentence end at the words "at least 10 welds".

22 CMSR. HARRINGTON: And, what would you
23 propose to do for an inspection on projects that had nine
24 welds or eight welds?

1 MR. CODY: We don't think it would be
2 necessary.

3 CMSR. HARRINGTON: And, what type of
4 inspections would be done on those welds?

5 MR. CODY: Well, in addition to the
6 language here, we have an operator qualification program,
7 where this is a covered task, you know, for our welders
8 also.

9 CMSR. HARRINGTON: So, what would be the
10 inspection criteria? How would the weld be accepted?

11 MR. CODY: Well, we would do 10 percent
12 testing for greater than ten welds. But, for less than
13 ten welds, we would not.

14 CMSR. HARRINGTON: Would you do a visual
15 inspection? A LPT? Or you just simply do the welds and
16 walk away?

17 MR. CODY: Well, are talking about
18 regulations or are we talking about what is in our O&M
19 procedures?

20 CMSR. HARRINGTON: Well, let's start
21 with what you actually do.

22 MR. CODY: I believe there is some
23 language for visual inspections, but I'm not sure exactly
24 what the limit is. I just don't know offhand.

1 CMSR. HARRINGTON: I guess I'm a little
2 confused "what the limit is"?

3 MR. CODY: Well, I mean in terms of
4 when. You know, how big a project is or how many welds
5 there needs to be for the visual inspection. I'm sure
6 there's language for visual inspections.

7 CMSR. HARRINGTON: Okay. I find it
8 troubling that you seem to be implying that some welds
9 could be done with no acceptance criteria whatsoever. I
10 welded it, now I walk away. I don't look -- no one
11 inspects it? The welder doesn't inspect his own work?

12 MR. CODY: Commissioner, I don't believe
13 I'm saying that.

14 CMSR. HARRINGTON: Okay.

15 MR. CODY: Okay? What I'm talking about
16 here is, what should be in the regulations, and what
17 should be -- at what point should we have a vendor go out
18 there to radiograph test these welds.

19 CMSR. HARRINGTON: I understand. What
20 you're saying is that, when it's less than ten welds, you
21 don't think it's cost-effective to use radiograph. So,
22 what I'm trying to determine is, in the situation where
23 it's less than ten welds, where there's not going to be
24 any sampling of radiographic inspection performed, what

1 inspection actually will be done? How are those nine
2 welds being accepted? You don't want to do what's
3 proposed here, that at least one weld on a project that
4 includes five to ten welds, what would you do as an --
5 what's your proposal? How are those welds accepted?

6 MR. CODY: I would believe it would be a
7 visual inspection.

8 CMSR. HARRINGTON: Okay. Could you
9 confirm that and let me know?

10 MR. CODY: Yes.

11 CMSR. HARRINGTON: I mean, I would like
12 to -- I'm assuming, I'd certainly like to hear that every
13 weld gets at least a visual inspection. Every single
14 weld.

15 MR. HEWITT: Commissioner Harrington,
16 may we offer just one additional comment on that?

17 CMSR. HARRINGTON: Certainly.

18 MR. LeBLANC: For Unitil, every weld
19 would receive a visual inspection by a qualified welding
20 inspector. But, in addition, none of those welds would be
21 put into service without the pipe and weld strength test
22 and through a pressure test at one and a half times -- a
23 minimum one and a half times operating pressure. So, even
24 welds that aren't x-rayed, are strength tested, with a

1 pressure test, and they also receive a visual examination
2 as well.

3 CMSR. HARRINGTON: That's very good.
4 But you also know, as well I do, that a weld may withstand
5 a hydrostatic or a one and a half normal operating
6 pressure test for a certain amount of time, but they could
7 also have like visual cracks in the weld that would lead
8 to deterioration six months later.

9 MR. LeBLANC: Absolutely.

10 CMSR. HARRINGTON: And, that's why --

11 MR. LeBLANC: But that would be the
12 visual inspection that would be done during the welding
13 process.

14 CMSR. HARRINGTON: All right. I'd just
15 like to have that confirmed, that all the welds are at
16 least getting a visual inspection.

17 CHAIRMAN IGNATIUS: So, during a lunch
18 break, that might be a time to make a call and be able to
19 confirm when we return, that issue.

20 MS. FABRIZIO: And, Commissioners, if I
21 might suggest that the company also provide us an
22 indication of the volume of their installation projects
23 that would fall under this "five to ten welds" category,
24 relative to --

1 CHAIRMAN IGNATIUS: Is that something
2 that can be quickly ascertained? That sounds like that
3 may take a little more work.

4 MR. KNEPPER: I guess what I'm trying to
5 find out is, if 95 percent of the jobs are less than ten,
6 then the language we have in there really doesn't do very
7 much. So, it doesn't have to be exact, a ballpark
8 estimate, roughly, you know, "most of our projects consist
9 of, oh, we're using a welder, and we're getting, you know,
10 50 welds out -- on this project", or, "no, a lot of them
11 are just onezy/twozy replacement things."

12 CHAIRMAN IGNATIUS: Ms. Knowlton.

13 MS. KNOWLTON: Yes, I think we need more
14 time on the -- on the first question, we should be able to
15 get back to you on the lunch break about the visual
16 inspection. On the second, in terms of how many fall into
17 that "five to ten" category, I think we need more time
18 then. And, I think this is -- we were caught a little bit
19 flat-footed, where we just got this. But, you know, I
20 think, if you could give us a little time to figure that
21 out, you know, we definitely can answer that question.

22 CMSR. SCOTT: And, I don't think we're
23 asking for an exact number.

24 MS. KNOWLTON: Right. Just roughly.

1 CHAIRMAN IGNATIUS: Well, I guess that
2 would be useful to have a ballpark sense. And, the --
3 they somewhat relate to the further clarification of what
4 company procedure is to do, irrespective of whatever any
5 rule would require. So, is there anything else we can
6 talk about in this 506.01(e), until we get more
7 information? Mr. Hewitt?

8 CMSR. HARRINGTON: I had one more --
9 excuse me, let him go ahead.

10 MR. HEWITT: I'm sorry. I'll yield to
11 Commissioner Harrington.

12 CHAIRMAN IGNATIUS: Go ahead.

13 CMSR. HARRINGTON: No, no. Go ahead.

14 MR. HEWITT: Yes. We just had one
15 clarification on the weld -- since we're getting into weld
16 counts. Pressure control fittings is a device that is
17 used from time to time on the system, we would consider
18 that to be counted as one weld. And, we just need
19 clarification from Staff if they're of like mind?

20 CMSR. HARRINGTON: And, excuse me,
21 you're saying the weld on either side of an instrument
22 would be considered a singular weld, as far as that --

23 MR. LeBLANC: The installation of that,
24 we would consider that a single weld --

1 (Court reporter interruption.)

2 MR. LeBLANC: Yes. We would consider
3 that, the welds that were made to install that fitting as
4 a single welding of a component, and not counted as
5 multiple welds.

6 CHAIRMAN IGNATIUS: Mr. Knepper.

7 MR. KNEPPER: Yes. I'm getting
8 reluctant to do that. I mean, it's a lot easier -- I'm
9 getting reluctant to do that. It's a lot easier to say
10 how many welds are on this fitting. I've got two, I have
11 one that requires three, I'm putting in four, because, you
12 know, we're talking about the weld itself. That's really
13 what you're looking at. So, we're looking at -- that's a
14 method of joining. And, so, that's kind of what we're
15 asking about. You put a cross in, and you have -- you got
16 four welds on that one fitting, you might have another one
17 that only has three, you might have one that has two. It
18 starts to get -- why don't we just keep it with the ones
19 that you're actually doing, the ones that are being
20 performed.

21 MR. HEWITT: May we just respond to that
22 briefly?

23 CHAIRMAN IGNATIUS: All right.

24 MR. HEWITT: Just to give some

1 clarification as to why, with respect to this particular
2 type of fitting, we have this need for clarification.

3 MR. LeBLANC: If we counted a pressure
4 control fitting that would have actually four welds on
5 that, plus the L that branch off of that, would be five
6 welds, that would significantly increase the amount of
7 radiographic examination that we need down to the service
8 level. It would increase -- so, we'd be -- we would hit
9 that "five" threshold of having to bring an x-ray person
10 in on, I don't have exact counts, but a lot of the service
11 installations that we do and a lot of the other work as
12 well. So, it would significantly increase cost.

13 As Mr. Cody had mentioned earlier, when
14 you hire an x-ray company, it's an eight-hour minimum.
15 And, you pay them for a full day, whether they shoot one
16 weld or those welds there. So, this was -- that, if we
17 considered that type of fitting five welds, four welds,
18 plus the L, so, five, it would significantly increase our
19 construction cost for that type of installation. So, we
20 would be concerned with that.

21 CHAIRMAN IGNATIUS: What about the
22 argument, though, that, if we're concerned about the
23 soundness of the welds, then isn't it something artificial
24 to say "well, because they're all related to one

1 installation, we'll only count it as one"? It's still
2 five welds that are potentially at risk, aren't they?

3 MR. LeBLANC: But those welds can't be
4 x-rayed anyways, not with radiographic examination. Those
5 would be done with a dye-penetrant or particle, magnetic
6 particle --

7 (Court reporter interruption.)

8 MR. CIULLA: One of the things that, on
9 those particular fittings, when we do install a service,
10 we would like to see that considered, that's why we were
11 looking for clarification, is that fitting would be a
12 component. Because, when you start counting welds on that
13 fitting, and that's why we use qualified welders, that's
14 why they're periodically tested, that's why they're OQ
15 tested. And, when we have a welder that failed an x-ray,
16 there's a priority that takes place, a series of events,
17 that we find out why he was -- he failed that x-ray, and
18 then we take remediate action, if need be.

19 So, in those pressure control fittings,
20 the only weld that's actually a butt weld is the elbow or
21 transition fitting that goes onto that. The other welds
22 on those are considered fillet welds or girth welds, that
23 you can't x-ray, that you either have to do with
24 dye-penetrant or you have to do with mag particle.

1 So, what happens is, when you hire that
2 x-ray technician, he's only shooting one radiograph
3 inspection, but he's doing ultrasonic and he's doing mag
4 particle testing, and that cost would be significant for a
5 service installation, because of the count of welds that
6 are associated with that.

7 CMSR. HARRINGTON: This is a
8 clarification. So, just to make sure I understood what
9 you said. You hire someone from a NDT firm that would
10 come out, and they would do the radiograph on a butt weld,
11 for example. And, then, they're -- that firm would supply
12 someone to do the LPT testing?

13 MR. CIULLA: The same thing, the same
14 two people. When you hire that NDT crew, it's a
15 two-person crew in the truck. They would x-ray that one
16 joint. And, then, they would also perform the magnetic
17 particle testing or the dye-penetrant testing on those
18 fillet welds.

19 CMSR. HARRINGTON: And, what you're
20 trying to -- okay, I can understand maybe where some of
21 the confusion here, because they're talking about
22 "radiographic". So, you're looking at, just back this up
23 a little bit, only welds that would, say, like butt welds,
24 for example, that would be subjected to radiographic

1 testing. You don't want the three fillet welds that you
2 wouldn't RT anyways to be counted in the count towards how
3 many radiographs you perform on butt welds, for example?

4 MR. CIULLA: We do check those, okay?
5 But, to have it at five welds, when we do a service line,
6 that weld count multiplies. And, when you do that service
7 line, that's going to increase the cost of that service,
8 just because we're at five welds.

9 CMSR. HARRINGTON: But, if the wording
10 were to be changed to something like, whatever the number
11 is, instead of -- well, I guess it's ten welds, if the ten
12 welds was refined, such that it would be ten welds that
13 could be accepted by radiographic testing, then you
14 wouldn't count the fillet welds, where you do an LPT, for
15 example, in that count of ten?

16 MR. CIULLA: That's correct.

17 CMSR. HARRINGTON: So, maybe we can work
18 on some language to do that. Because, if you accept the
19 criteria as radiograph, it really doesn't have much to do
20 with the fillet welds that are going to be accepted by
21 LPT.

22 MR. CIULLA: Exactly.

23 CMSR. HARRINGTON: Maybe that's
24 something we can --

1 MR. KNEPPER: I think we can work on the
2 language. But, I guess, the overall concept we want, if
3 they're going to move from the five years -- two years to
4 five years, we want something on the inspection of the
5 welds in regulations. Because, right now, there's
6 nothing. And, it's blank. And, the federal government,
7 you know, they're doing inspections on pipes that are over
8 20 percent SMYS. That's not primarily what these
9 companies are working on. So, they're working well under
10 that. And, so, I don't know, there's a pretty big gap
11 between that and the federal regulations.

12 MS. FABRIZIO: And, I would just request
13 that Unitil provide us language that captures Staff's
14 intent, but also your concerns.

15 MR. KNEPPER: As well as we'd like
16 language from Liberty as well.

17 CHAIRMAN IGNATIUS: Well, it sounds like
18 when -- we're still looking for some confirmation from
19 Liberty about the actual practice out in the field. I
20 don't know if all of this, this really ought to go back to
21 the participants to work on and see if there's an
22 agreement that could be reached on more refined
23 requirements that pick up what's amenable to radiographic
24 testing, that sort of thing that Commissioner Harrington

1 was asking about, and resolve the "how to count welds?"
2 question. I get the feeling that this is sort of beyond
3 -- certainly beyond by ability to try and solve, and maybe
4 that a group discussion, whether it's today or early next
5 week, might make sense.

6 CMSR. HARRINGTON: Just, again, so
7 people are clear on what, personally, what I'm looking to
8 see is something beyond what we're talking about with the
9 radiographs, that all welds receive at the minimum a
10 visual inspection by a qualified weld inspector. I just
11 think that's bedrock, and we want to make sure we have
12 that. And, presumably, the Company has welders, so it
13 must have qualified weld inspectors that can do that.
14 Whether it's the welder itself or another welder doing it.
15 But I would think that's got to be bedrock in the rules.

16 CHAIRMAN IGNATIUS: All right. Let's
17 move on from that for now. Maybe, during the break, you
18 can talk about how we could pull this together in the
19 next, whether today or, ideally today, and maybe if that
20 means taking a longer break, we're certainly happy to try
21 and do that.

22 All right. The next one would be
23 506.01(g) and (h).

24 MS. FABRIZIO: Yes. And, these

1 provisions relate to inspection and calibration of
2 equipment in the field. Let's see. I think language has
3 been provided by both Unitil and Liberty, and Staff agrees
4 with the language that is proposed, as it shows in the
5 Draft Proposal dated February 13th, as well as the summary
6 document.

7 CHAIRMAN IGNATIUS: Do the companies
8 have any comments on that?

9 MR. CODY: Commissioner, for Liberty
10 Utilities, I would just suggest that we keep, under (h),
11 the provision where it says -- that ties it together to
12 (g) up above.

13 CHAIRMAN IGNATIUS: I'm sorry, help me
14 out here. Oh, that "covered under (g) above", that, in
15 the second line? So, it might read "Utilities shall have
16 the means to verify equipment covered under (g) above",
17 and then drop down to -- we need a -- we're missing a word
18 here, but somehow and then connect to the "calibrations in
19 the field"?

20 MR. KNEPPER: Well, it does say
21 "equipment calibrations in the field", so I'm not sure
22 what the confusion is. That's what (h), I'm looking under
23 (h), a "means to verify equipment calibrations in the
24 field". So, I thought that link is it. I think the link

1 to (g) is just kind of inherently there. That we're
2 talking about "equipment calibrations in the field", and
3 that's what (g) talks about.

4 CHAIRMAN IGNATIUS: Is that just to be
5 certain we're not talking about, you know, there's
6 equipment in the field, like a truck? We're not talking
7 about that. It's a particular kind of equipment in the
8 field. Is that the issue?

9 MR. KNEPPER: Well, we had listed a
10 bunch of equipment, if you see in the strike-out. And,
11 so, the companies objected to the list. And, so, they
12 kind of put more generic equipment language in there.
13 And, so, if they're worried about it being too generic,
14 then I suggest we go back to the types -- listing the
15 types of equipment that we were talking about.

16 MS. FABRIZIO: And, (g) currently reads
17 fairly wide open, because it applies to "all equipment
18 used in construction, operations, and maintenance
19 activities". So, perhaps Liberty could clarify why the
20 concern about the link?

21 MR. CODY: Liberty withdraws its
22 concern.

23 CHAIRMAN IGNATIUS: They wore you out.

24 CMSR. HARRINGTON: Good. I like that.

1 CHAIRMAN IGNATIUS: All right. Is
2 everyone okay with the language now in (g) and (h) in the
3 February 13th proposal?

4 (No verbal response)

5 CHAIRMAN IGNATIUS: All right. Seeing
6 no other opposition, I think that one's okay.

7 The next one is 506.01(m), (n) and (o).
8 And, we have multiple -- the provision in the 13th -- the
9 February 13th and the language in the summary document are
10 different. And, maybe you can just walk us through before
11 I get hopelessly lost.

12 MS. FABRIZIO: Well, I think the
13 language in the summary document is Unitil's proposed
14 language, as altered from what's in the Draft Proposal,
15 February 13th. And, perhaps Unitil would be willing to
16 explain their comments on this provision. I think that
17 might be an easier route.

18 CHAIRMAN IGNATIUS: Okay.

19 MR. HEWITT: And, really, the concern,
20 at just a very high level, what we're talking about are,
21 make sure I get this right, multi-service line
22 installations. So, say you had a building, say a condo, a
23 set of condo units, and you have multiple service lines
24 going into that complex of connected buildings. Staff's

1 Initial Proposal, as sort of a safety means or based on
2 safety concerns, is that the operator should be required
3 to identify those service lines in relation to where they
4 provide service within the building. Presumably, so that,
5 if there were gas detected in one portion of the building,
6 you could shut off that service line valve that provides
7 service to that portion of the building, and, basically,
8 to sectionalize the structure, if you will.

9 Unitil has serious concerns about that
10 from a safety perspective. Our concern is that that
11 creates perhaps a false sense of security for emergency
12 response personnel. If someone believes that gas is
13 detected in this area, and all they have to do is switch
14 one valve or close one valve, that's identified as
15 providing service to that portion of the building, then
16 there may be assumptions made that that building is then
17 safe.

18 In reality, it may not be. It may not
19 be that the source of gas is coming from that particular
20 service. There may be multiple service lines running
21 through a portion of the building, but they may be running
22 through that portion of the building to get to another
23 portion of the building, and that may be where your leak
24 is coming from.

1 So, the Company had proposed language to
2 sort of avoid providing this what we refer to as a "false
3 sense of security". We understand that Staff has a really
4 different view of this. That they think that there are
5 added safety benefits. It's just kind of two
6 philosophical views that you're being presented with.

7 CHAIRMAN IGNATIUS: Well, let me be sure
8 I understand. Your proposed language, which is in the
9 summary document, with the color-coding, on the top of
10 Page 3. If I'm right in how I'm reading this, that's your
11 language, yes? And, that --

12 MR. HEWITT: Well, I think what we need
13 to do is back up a little bit also. This may be our
14 language, but it may have been based on what we thought
15 there was an agreement on between the stakeholders. So, I
16 think our initial position in the proceeding was "this
17 really is not a good idea." And, then, what we had
18 presented here would have been a compromise position based
19 on discussions. And, I haven't chased that through, but
20 that's my -- that's my memory of what this language likely
21 is. This is probably just pulled from our December 13
22 filing or December 14 filing, which was our representation
23 of what we believed that there was agreement on and what
24 we were willing to do, based on those -- the discussions

1 that we had during the tech sessions.

2 CHAIRMAN IGNATIUS: What do you think is
3 the most sound provision?

4 MR. HEWITT: The most sound provision is
5 not to go down this road.

6 CHAIRMAN IGNATIUS: So, what would (m)
7 read? How would it read? Is (m) a brand-new provision?
8 There would be no (m)?

9 MR. KNEPPER: That's what they're
10 saying.

11 MR. HEWITT: (m) is just a marking
12 provision.

13 CHAIRMAN IGNATIUS: Okay. So, the
14 current rules in effect have nothing requiring marking a
15 designation of the building that's served when you have
16 multi-service installations?

17 MR. HEWITT: I believe that's correct.

18 CHAIRMAN IGNATIUS: All right. Does
19 Liberty have a view on how -- whether there should be an
20 (m) and, if so, how it should read?

21 MR. CODY: The language proposed by
22 Staff was acceptable to Liberty.

23 CHAIRMAN IGNATIUS: And, that was the
24 language that we see on the February 13 version, "plainly

1 marked by permanent means designating the building or part
2 of the building being served"?

3 MR. CODY: Yes. Through conversations
4 with the Safety Division by telephone, we received
5 clarification on one issue that we had. So, we're okay
6 with the language.

7 CMSR. HARRINGTON: Just as a follow-up
8 question, do you share the concerns that was raised by
9 Unitil about this "false sense of security" from this
10 or --

11 MR. CODY: Yes, we do, Commissioner.

12 CMSR. HARRINGTON: But you are willing
13 to put it in, because --

14 MR. CODY: We're hoping that we're able
15 to work with the Safety Division. It's unclear to us
16 exactly what the definition of "multi-service
17 installations" are. So, we're hoping to work with the
18 Safety Division, you know, on that definition further. We
19 have an idea as to what it means, but recognize that
20 intent.

21 CHAIRMAN IGNATIUS: Ms. Fabrizio.

22 MS. FABRIZIO: I'd like to ask the
23 companies just for their thoughts on -- or sort of
24 reconstruction of the (m), and it's in the summary

1 document, it's more clearly readable in the summary
2 document anyway. So, (m) now has two sentences. And, the
3 second sentence reads "If marking of the meter will
4 readily identify its service line valve, the meter may be
5 marked in lieu of the service line valve." In my mind,
6 that should address the "false sense of security" concern
7 raised by Unitil. Could you give us feedback on that
8 please.

9 MR. HEWITT: We just don't understand
10 what that means.

11 CHAIRMAN IGNATIUS: All right. And,
12 this may be one that some time to digest it makes some
13 sense. We may --

14 MR. CODY: If I could explain a little
15 bit how -- I'm sorry, how Liberty interpreted that
16 sentence. We have inside meters. And, if there's a
17 number of them in a row, we would have the apartment
18 number on the meter itself. And, that's how we
19 interpreted that.

20 CHAIRMAN IGNATIUS: Can I just ask, I'm
21 not following the "false security" argument? It seems --
22 it makes me think of, you go into facilities and there's
23 all sorts of pipes running back and forth and up and down,
24 and they've all got markers on them of what direction

1 they're flowing and what's contained in them. And, it's
2 just information. I guess I don't understand why
3 providing information would make us any less safe? It's
4 just information.

5 MR. HEWITT: I guess here's the concern.
6 Let me -- say you're in a shopping mall. And, you -- a
7 gas, smell of gas is detected in a store, you know,
8 Filene's. Our concern is that, what this would lead
9 people to do, say, "Oh, there's gas smelled in Filene's.
10 We need to go shut off the service lines that feeds the
11 Filene's store." Well, depending on where Filene's is
12 located in relation to other stores and in relation to
13 where the gas main is, there may be other service lines
14 that go through Filene's. Not just Filene's service. So,
15 the gas service line that feeds a smaller store that's
16 adjacent to Filene's. If that's in the Filene's store,
17 and that's the source of the leak, well, you still have a
18 leak that's in Filene's, even though someone thought "oh,
19 if I go ahead and switch the valve and turn off the valve
20 for Filene's, that will take care of the problem",
21 because, after all, gas is being smelled in Filene's.

22 CHAIRMAN IGNATIUS: Sure. But,
23 presumably, the people responding are going to take it
24 more seriously than just close it. I mean, if they see

1 that there are multiple lines running there, --

2 MR. HEWITT: But I think you're assuming
3 that they will see that. And, I'm not sure that -- I'm
4 not sure how that gas line goes through Filene's. And, it
5 may run through Filene's in a way that that's not
6 immediately apparent to someone.

7 CHAIRMAN IGNATIUS: So, maybe that, for
8 multi-line installations, there needs to be some mapping
9 to show that there's -- where all of these lines are
10 running.

11 MR. HEWITT: Yes, but --

12 CHAIRMAN IGNATIUS: To me, don't you
13 have the alternative problem, that people come in and say
14 "It's really bad in Filene's. Let's cut off the line that
15 runs to Filene's. Does anyone know which one it is?"
16 That's not a good situation either, is it?

17 MR. HEWITT: And, the Company's priority
18 is, let's secure, let's preserve sort of human life and
19 property, first of all, and then we'll worry about
20 continuation of service as sort of a secondary issue. I
21 think we'd be, as Unitil, we're much more comfortable
22 shutting service down to that entire building until this
23 gets figured out what the source of that leak is. Rather
24 than relying on someone to provide diagrams of where the

1 gas pipes run through the building. It just feeds more
2 into this, what we call a "false sense of security". You
3 know, people thinking they know that, "if I take this
4 measure and this measure, and just -- and just
5 sectionalize the building and turn gas only off to the
6 areas that I think are the source of the leak, then this
7 is going to be fine and we can go on. And, we can allow
8 people to enter that building."

9 CHAIRMAN IGNATIUS: But do you have
10 protocols for multi-service/multi-line installations, that
11 when there's a problem detected, that people are
12 instructed to shut off everything, and then start figuring
13 out what's going on?

14 MR. LeBLANC: We're not worried about
15 our own technicians, because our technicians are always
16 trained to isolate the entire building. It's emergency
17 first responders, fire departments and such that might get
18 that false sense of security for shutting off only a
19 portion of the building. And, the other aspect of this,
20 we don't see it -- we don't see an improvement to safety,
21 there's also a significant cost associated for us to meet
22 this provision. And, we have provided cost estimates for
23 that. And, the implementation of this one provision, our
24 initial cost estimates are over \$100,000. So, we look at

1 it as is -- from a cost/benefit standpoint, as well as a
2 safety standpoint. We have a significant safety concern.
3 Not with our own technicians, like I had mentioned,
4 because they would never use -- they would never --
5 they're trained not to go to an isolation valve for a
6 portion of a building. They would shut down gas to that
7 entire building. But we're more concerned with the fire
8 department or some other type of emergency first
9 responder. But then you add in the cost for
10 implementation, which is in excess of \$100,000, and we're
11 wondering the benefit of the provision.

12 CMSR. HARRINGTON: Could I follow up
13 with a question?

14 CHAIRMAN IGNATIUS: Please.

15 CMSR. HARRINGTON: So, would you then, I
16 mean, I assume there must be some interaction between the
17 gas companies and the emergency responders on something
18 like a training basis or something. So, would you then
19 recommend to those people that, in any case, regardless of
20 where you think the leak may be, isolate the main gas
21 supply to the entire complex, all the time, every time, no
22 exceptions?

23 MR. LeBLANC: Absolutely. We already
24 had some internal discussions as to how we would mitigate

1 our safety concerns, with the fire departments and our
2 technicians. And, we'd provide formal notification to all
3 of our fire departments that we believe that this is an
4 unsafe act, and that we do not recommend that any fire
5 department try to isolate a portion of a building, and
6 that they would -- if they were to shut off gas, that they
7 would isolate gas in the entire building. And, we would
8 incorporate that as well within our training programs that
9 we do with fire departments.

10 MR. SAAD: I would like to add something
11 to the argument. I think I'm going to repeat some of the
12 things Unitil said in sort of a different way. If we were
13 required to mark these services as described here in the
14 proposed document, that would be one thing. We would
15 never turn around and create a procedure that would ask
16 our people to use that information to make a decision. We
17 would certainly just shut the area off and figure it out
18 later.

19 And, the other thing that's important
20 here is, once you go into a control document, where the
21 actual meter data resides, that says "this meter number is
22 this storefront", and you reproduce it in the field,
23 there's an update problem. So, a first responder could
24 say "this meter says "Storefront A"." And, there is no

1 Storefront A. They changed the business over and we
2 weren't able to update it or the update got lost. So,
3 we're not big fans of reproducing control data. We want
4 to go to the control source of data. We're not going to
5 rely on and transcribe someplace else. So, we would never
6 make a decision based on those marks in the field or tags
7 in the field, because they can get outdated very quickly.

8 So, if we do do it, if we do mark these,
9 we will not use it. And, I agree with Unitil that, if
10 first responders, non-gas company first responders started
11 to use it, I think there's a potential risk, because we
12 would immediately shut it off and figure out the details
13 later. So, --

14 CHAIRMAN IGNATIUS: Staff, do you have a
15 response to that?

16 MR. KNEPPER: Yes. I don't agree with
17 most of those comments that are made.

18 CHAIRMAN IGNATIUS: Can you explain why?

19 MR. KNEPPER: Well, this is really just
20 a sectionalizing provision. And, to -- I mean, you can
21 take the same logic and say "I need to shut the whole
22 street down." Or, if I have a problem at Number 56, why
23 don't we shut down 57, 58, 59, 60, whatever, and keep
24 doing that. That results in a couple things. One, it

1 results in unnecessary re-lights, it results in
2 unnecessary evacuations. I mean, some of these are in the
3 middle of the night, zero degree temperature, whatever,
4 there's inconvenience and there's disruption to
5 businesses.

6 We're talking about multi-service
7 installations. So, we're talking about a very small
8 number of their population to start with. So, this is not
9 the vast majority of their base. This is, the things that
10 come to my mind are the big things, like a mall, the large
11 -- the large buildings along -- the brick buildings along
12 the rivers that we have, those type of things. So, it's a
13 small number.

14 But there's nothing worse for, I think,
15 -- I think there's a lot of benefit out of it. And, not
16 just from an emergency standpoint, because it's not just
17 for under emergencies. Just a person trying to figure out
18 and adding equipment to his building or whatever, they
19 then have to go out there and meet onsite with a customer,
20 with Unitil again. If you can start to figure out where
21 this pipe goes, I see no downside to that.

22 So, I don't see tagging being very
23 expensive. We didn't envision this being very expensive.
24 We didn't envision this being -- leading to more risk. I

1 think adding more information out there is better. What
2 they're arguing is is that "you're just going to overload
3 people with information and they'll be making wrong
4 decisions." And, so, the alternative is, "don't give out
5 anything." I just don't agree with that concept.

6 MS. FABRIZIO: And, could I add just
7 with regard to the estimated cost data that has been
8 provided. \$75,000 of the \$100,000 figure that Unitil has
9 provided covers labor and travel. And, Staff is -- you
10 know, recognizes that there is a cost to new regulations
11 such as this. But we would note that, in provision (o),
12 we have given a three-year compliance period, with the
13 understanding and intent that the tagging will be done in
14 conjunction with the regular line inspections that the
15 companies do. So, this wasn't intended to send out a new
16 troop of personnel into the field specifically to do this,
17 but to do it in conjunction with existing obligations.

18 MR. KNEPPER: Yes. I mean, I didn't
19 envision that they were at full capacity that they can't
20 absorb any of this. These costs that are in here are for
21 people to program and things like that. I look at it as,
22 at the start of -- a new petition comes in, we have to go
23 out and hire somebody here at the PUC? No, we work it
24 into our workload, and it's the same cost. We're not

1 asking to go out and require new people. Yes, it's a new
2 regulation, but those costs are already embedded in their
3 organization. I just have some reservations upon the cost
4 estimates.

5 CHAIRMAN IGNATIUS: Commissioner Scott.

6 CMSR. SCOTT: I just want to clarify,
7 even if this extra marking doesn't happen at these
8 multi-service installations, the gas lines themselves, in
9 the mall example, as it travels through the mall, is
10 marked, so it's identifiable as it carries gas, is that
11 correct?

12 MR. KNEPPER: Like a mall might have
13 eight meters around it. Let's say you're looking at the
14 Mall of New Hampshire in Manchester or the Steeplegate
15 Mall here in Concord. So, they have certain sections.
16 That would be eight, that would be a multi-service thing
17 to feed that one complex. So, they're not marked.
18 They're not -- you don't know where this one's going and
19 where it's at. That's all we're asking is those types of
20 installations. And, we think that's a very small number
21 of their total installation base. But it would certainly
22 be helpful, so that we don't have to evacuate the entire
23 mall if there's a section at the far end of it.

24 CHAIRMAN IGNATIUS: What about the

1 argument, though, that sometimes you may have multiple
2 lines running, one is going to terminate at that location,
3 another may be passing through to a point further beyond?
4 And, by turning off the one to the location is not really
5 the problem, it's the one that's continuing on to the next
6 location.

7 MR. KNEPPER: I mean, there's nothing
8 that says you can't shut the whole thing down. This
9 wouldn't limit that thing. This would just, I think, for
10 those situations when that doesn't happen. And, so, I
11 look at that and say "this is just an enhancement to
12 things." They look at it as a detriment. And, we just --
13 I think we're at philosophical odds.

14 CMSR. HARRINGTON: But it seems as
15 though what the companies are saying is that, if their
16 personnel show up, they're going to isolate the entire
17 facility. In their training of first responders, they're
18 saying "isolate the entire facility." So, whether we have
19 this provision or not, the entire facility is going to be
20 isolated. And, I'm not sure what benefit this is going to
21 get, unless we're going to try to get down to the point of
22 saying, "well, you should make consideration as to when
23 you isolate the entire facility or not." And, I don't
24 think we want to get to that level of telling the Company

1 what to do.

2 MR. KNEPPER: Most the time,
3 Commissioner, the buildings are evacuated by the fire
4 chiefs, because they're there in minutes. The companies
5 are not. They get there usually later. Sometimes the gas
6 company will evacuate when they find something. But,
7 traditionally, most people are calling 9-1-1, they will go
8 to the fire department. And, then, the fire departments
9 either have evacuate or are in the process of, and let the
10 gas companies come. So, most of that initial response
11 does fall to the local communities. You know --

12 CMSR. HARRINGTON: But can I interrupt
13 for one second?

14 MR. KNEPPER: Yes.

15 CMSR. HARRINGTON: What they have told
16 us is that, in their training or interaction with the
17 first responders, with the fire departments or the police,
18 they're telling, apparently, "if they do anything at all,
19 isolate the entire building. Don't try to pick and choose
20 which one to go to." So, regardless of who shows up, it
21 looks like the main valve is going to be closed and the
22 whole facility is going to be cut off from gas. I'm just
23 not sure what we're accomplishing by this, if that's going
24 to be what happens all the time.

1 MR. KNEPPER: Well, the main valve,
2 that's probably underground, is going to be shut off by
3 the gas company anyways. So, the only ones that first
4 responders shut off are the valves on the risers, and
5 that's what we're talking about. So, I don't quite
6 understand the companies. They haven't convinced me or
7 persuaded me that this wouldn't be a benefit at all.

8 MR. SAAD: I think, just -- I'm sorry.

9 CHAIRMAN IGNATIUS: Mr. Saad, go ahead.

10 MR. SAAD: I think, just because a meter
11 says "Storefront A", and there's an odor in Storefront A,
12 could very well be the gas piping from Storefront C or
13 Storefront D. And, that just takes way too long to figure
14 out. And, similar to what Unitil said, I wouldn't
15 instruct anyone to rely on that. Because no one knows
16 what the inside piping looks like, it wasn't put in by the
17 utility. And, it would be too risky to assume that,
18 because there's an odor in Storefront A or Building A,
19 that Building A meter shut-off is going to make it go
20 away. It's as simple as that. And, I don't know who else
21 -- who would rely on that. It's too risky.

22 CHAIRMAN IGNATIUS: We're about at a
23 break point. I don't -- it doesn't sound like we have an
24 agreement here on how to resolve the problem. If anyone

1 has anything else they want to say on this, go ahead. I
2 think it will probably just fall to us to make the best
3 call we can make. Anything else?

4 (No verbal response)

5 CHAIRMAN IGNATIUS: All right.

6 MS. FABRIZIO: Sorry, Chairman.

7 CHAIRMAN IGNATIUS: Yes?

8 MS. FABRIZIO: I would just note that,
9 in the language that Unitil has proposed, it would limit
10 application to customer meters installed after June 1,
11 2013.

12 CHAIRMAN IGNATIUS: Well, I think that
13 was clarified as the Company had said maybe they could
14 live with that, but really thought the best thing was to
15 not have it at all. If going back to that "installed
16 after a certain date" makes sense, I'm happy to entertain
17 that. But I think they were sort of basically saying that
18 current thinking was that the whole section should be
19 deleted.

20 MS. FABRIZIO: Okay.

21 CHAIRMAN IGNATIUS: Mr. Hewitt?

22 MR. HEWITT: Yes. And, really, our
23 language was, if there is going to need to be this sort of
24 identification, then that would merely set what the timing

1 for that would be.

2 CHAIRMAN IGNATIUS: If it's going to be
3 in there, that time frame would be helpful.

4 MR. HEWITT: Yes.

5 CHAIRMAN IGNATIUS: But you'd rather
6 not --

7 MR. HEWITT: Well, wait a minute. I'm
8 getting clarified here.

9 MR. KNEPPER: So, if I clarify that,
10 does that mean the existing meter setups would not be
11 marked, is that right? Because this says "every customer
12 meter after installed", it would only be new ones.

13 MR. LeBLANC: This provision in the
14 original format had two provisions. That (a) we would
15 mark services at multi-meter locations with the valve
16 requirements. But it also had a provision on marking
17 meters, aboveground regulator stations, and other
18 aboveground facilities with the names and contact
19 information for the utility. Our proposal in our language
20 here is to drop the section of marking valve locations for
21 multi-facilities, and modification to the language of
22 marking identification on meters, regulator stations,
23 facilities, and other aboveground locations.

24 CMSR. HARRINGTON: But installed after

1 June 1st, 2013?

2 MR. LeBLANC: That would be for the
3 customer meters.

4 CMSR. HARRINGTON: Yes.

5 MR. LeBLANC: That any meter we
6 installed after 6/01/13, the issues that we have with that
7 is, all of our meters today, that we installed as Unitil,
8 have Unitil's name or Northern Utilities' name on it. But
9 what they do not have is the language that has contact
10 information. So, we don't have a telephone number on
11 there. So, our provision for that was that would give us
12 time to implement changing the tagging of the meters at
13 the manufacturer, to contain not just the name, as well as
14 -- but as well as the -- as well as the contact telephone
15 number as well.

16 MS. KNOWLTON: Actually, Mr. Saad just
17 drew me a drawing. Sorry, I don't think that's on.
18 Mr. Saad just made a drawing for me that I thought was
19 really helpful, just to kind of show how it works in
20 real-life. And, I think it might, if you'd be inclined to
21 look at it, he could just draw it on the board quickly to
22 show you what the kind of practical concern is?

23 CHAIRMAN IGNATIUS: Sure. We've got the
24 -- what we call the "Magna-Doodle" back there. But you've

1 got to turn it on. You could just use a plain old piece
2 of paper, but that's not as much fun as the --

3 MS. DENO: I don't think it's plugged
4 in.

5 CMSR. HARRINGTON: You could just write
6 on it. That just makes copies.

7 MR. SAAD: That's probably the last time
8 I show Sarah a picture.

9 CHAIRMAN IGNATIUS: And, before you get
10 too far into it, you got anything other than hard-to-see
11 green up there?

12 MS. DENO: I think there's a red one
13 there.

14 CHAIRMAN IGNATIUS: Let's go off the
15 record while he draws.

16 (Off the record.)

17 CHAIRMAN IGNATIUS: All right. So,
18 we're back on the record. Why don't you describe,
19 Mr. Saad, your drawing and the schematic showing us how
20 this works.

21 MR. SAAD: Okay. So, these are four
22 buildings, four stores, say, in a strip mall. And,
23 there's a bank of meters A, B, C, and D, meaning Customer
24 A, B, C, and D, as you see here. And, the piping to A

1 would go like this [indicating], the piping to B could go
2 like this [indicating], the piping to C could go like that
3 [indicating], and then the last customer would be served
4 here [indicating].

5 So, if you called in an odor for B, and
6 you shut down Meter B, you still have piping from A that
7 there could be leaking. And, I think that's as simple as
8 it gets. So, we would never instruct someone to say, "if
9 you smell odor here, shut Meter B", because Meter A
10 piping, inside piping, which we don't put in, could be
11 leaking. And, it's as simple as that.

12 CMSR. HARRINGTON: So, you would have
13 them shut the valve that you're showing as the main header
14 valve down there?

15 MR. SAAD: Correct. And, we would
16 figure this out later, because you don't know what's in
17 the ceiling or the walls of the building. So, it's as
18 simple as that.

19 MR. KNEPPER: You can leave it.

20 CHAIRMAN IGNATIUS: Don't erase.

21 Mr. Knepper, did you want to comment on that?

22 MR. KNEPPER: Well, that's precisely the
23 installation that this provision does not apply to.

24 CHAIRMAN IGNATIUS: Why is that?

1 MR. KNEPPER: Because that's a single
2 service, and it just has 4 meters on it. So, it's not a
3 multi-service. You have to have two or more services.
4 So, the riser is the same riser that shuts all four down,
5 that's the one that they're going to shut down anyways.
6 We're talking about one that has multiple ways of getting
7 in the mall. So, a big area, that has, you know, it's a
8 quarter mile long. And, it's -- I got stuff at one end,
9 and I've got stuff at another end, and maybe stuff in the
10 middle. Those are the type of installations where you
11 have multiple services. And, maybe "multi" isn't the
12 right word, we use "multiple services". That's a single
13 service feeding that configuration.

14 MR. HEWITT: But, in theory, you still
15 have the same issue. Whether you have one service that's
16 coming off the main or multiple services coming off the
17 main, the issue is still "what's the safest practice?"
18 And, do you -- kind of what makes the most common sense
19 from a safety perspective? It's shutting off gas to that
20 entire structure. Because what you don't want to do is
21 you don't want to get it wrong.

22 CHAIRMAN IGNATIUS: And, in the
23 Company's materials, which may be back at the office, you
24 have all of those identifications marked in your own -- in

1 your own --

2 MR. MacDONALD: Business systems.

3 MR. SAAD: Yes.

4 CHAIRMAN IGNATIUS: -- business systems?

5 Okay.

6 MR. SAAD: And, we could -- the service
7 tech could determine that this meter number --

8 (Court reporter interruption.)

9 MR. SAAD: I'm sorry. The service tech
10 could determine that this meter number is this customer.
11 They could. They probably would not rely on a tag,
12 because the tag was transcribed from the source data,
13 which is reliable. And, once you pick it up and lift it
14 and put it someplace else, it's prone to being outdated,
15 less reliable. So, I don't think we would instruct
16 anybody to rely on the tags. We would say "go back to the
17 source data."

18 CHAIRMAN IGNATIUS: So that the person
19 would tap into, either by phone or an internet connection,
20 to be able to identify how that unit where the smell is
21 detected is being served?

22 MR. HEWITT: Correct.

23 MR. SAAD: Correct. Correct. They
24 could identify the meters. But, once again, you still

1 shut this off [indicating].

2 CHAIRMAN IGNATIUS: All right.

3 Mr. Knepper.

4 MR. KNEPPER: Well, I guess another way
5 of putting it is that the companies can accomplish it, I
6 guess for means of billing and getting the correct
7 information and knowing who's where. But, physically, in
8 the field, they can't -- they can't -- I guess it's a
9 difficult operation for them to express that same thing in
10 the field at these multiple service places.

11 MR. HEWITT: It's less of a concern for
12 company personnel than it is -- because they do have that
13 information in the field. Our concern is non-company
14 personnel, who may be on the scene before company
15 personnel are, who are trying to secure that location and
16 make it safe.

17 CHAIRMAN IGNATIUS: Anything further on
18 this?

19 (No verbal response)

20 CHAIRMAN IGNATIUS: I guess what I'd ask
21 is, don't erase it. We'll plug it in and see if we can
22 make a copy of it. And, let's take a break.

23 MR. MacDONALD: Randy, just use a
24 different color when you start drawing.

1 CHAIRMAN IGNATIUS: So, we'll take a
2 break until, it's ten of 1:00, let's take a lunch break
3 until 1:45, just under an hour, all right, and be back.
4 Thank you.

5 (Lunch recess taken at 12:53 p.m. and
6 the hearing resumed at 1:52 p.m.)

7 CMSR. HARRINGTON: Because we've got
8 about 50 different things going on today, the other two
9 Commissioners will be down shortly, but we want to get
10 going, because we've still got a lot to cover here. But,
11 before we start, we can probably go off the record on
12 this, Steve.

13 (Brief off-the-record discussion
14 ensued.)

15 CMSR. HARRINGTON: So, let's go back on
16 the record. Thanks, Steve. Okay. We're back on the
17 adoption of the gas rules. We left off, I believe, on
18 Page 3 of the Staff letter, and that was the one dated
19 1/31/2013. And, rather than get into the issues that we
20 ask people to try to work with, because the other two
21 Commissioners might want to hear those, why don't see what
22 we can clean up on some of the green ones. So, I guess
23 we're on 506.01(p), Telemetering.

24 MR. KNEPPER: I guess, at this point,

1 Commissioner, I think you just go around the room and ask
2 people if they object to it. That would be my way of
3 doing this.

4 CMSR. HARRINGTON: Okay.

5 MR. KNEPPER: Some of the ones that we
6 thought were kind of what we called "greens" haven't
7 turned out to be greens.

8 CMSR. HARRINGTON: So, this may not be a
9 green. So, we'll start with Unitil.

10 MR. HEWITT: Sure. Thank you,
11 Commissioner. This is, actually, Staff's proposal is
12 based on language that Unitil had crafted. With the
13 exception of a change in the 250 customer cut-off point
14 that Unitil had proposed, to a 150 customer cut-off point
15 I believe that Staff is proposing. The language that --
16 the language that Unitil had proposed was the result of a
17 compromise during tech sessions. As a sort of
18 philosophical matter, the Company really does not
19 necessarily agree that whether or not SCADA should be
20 installed on a single feed system should rise or fall
21 strictly on customer counts. Unitil tends to use more of
22 a, you know, an informed engineering analysis of various
23 operating conditions on that particular system. And,
24 then, based on their analysis, they make an informed

1 judgment as to whether SCADA is -- whether there's a
2 cost/benefit analysis that's performed and whether SCADA
3 comes out as being something that would be beneficial,
4 based on the cost to install the system.

5 Having said that, though, this is
6 something -- this is something we can live with, if that's
7 the direction that the Commission wants to take this. But
8 it is our view that this is really something that should
9 be less, you know, prescribed based on customer counts,
10 than really sound engineering judgments.

11 CMSR. HARRINGTON: So, when you say
12 "something you could live with", you're referring on Page
13 4, where it says "Staff would agree to language that would
14 require telemetry on single feed systems that serve more
15 than 150 customers and request the following language"?

16 MR. HEWITT: Yes, Commissioner.

17 CMSR. HARRINGTON: Okay. But you'd
18 prefer something that would be more based on engineering
19 judgment, rather than just a count?

20 MR. HEWITT: That would be our
21 preference. We understand that there are challenges
22 within the New Hampshire regulatory -- trying to get a
23 regulation passed that would --

24 CMSR. HARRINGTON: I don't think there's

1 too many engineers on JLCAR, that's the problem.

2 MR. HEWITT: Having a -- being a
3 recovering engineer myself, yes, I completely understand
4 that that may be a limitation that we have at JLCAR.

5 So, and keeping in mind those sorts of
6 realities, yes, we can live with this language. It's not
7 ideal. But, in the spirit of cooperation and moving this
8 forward, and understanding that this is something that's
9 important to your Staff, we're willing to live with that.

10 CMSR. HARRINGTON: Liberty?

11 MR. CODY: Commissioner, Liberty
12 Utilities is also in agreement with the language. We
13 recognize that we have some work to do to bring us into
14 compliance, but we will be in compliance by the due date.

15 CMSR. HARRINGTON: Does Staff have any
16 particular comment then?

17 MR. KNEPPER: No. No comments from
18 Staff.

19 CMSR. HARRINGTON: Looks like it's a
20 done deal.

21 MS. FABRIZIO: Although, I would just
22 note that, by changing it from 250 to 150 customers, we're
23 capturing two more --

24 (Court reporter interruption.)

1 MS. FABRIZIO: Right.

2 CMSR. HARRINGTON: Start from the
3 beginning, I think, with the "changing it from".

4 MS. FABRIZIO: By changing the language
5 from 250 customers as a parameter, to 150 customers, we
6 pull in two more of Unitil's systems, for example, out of
7 their 18 that would be covered with the telemetry. And,
8 so, our thinking was just we're not asking for 100 percent
9 coverage, but we wanted something that was significant.

10 CMSR. HARRINGTON: Okay. All right.
11 So, that sounds like that one's more or less resolved.
12 But why don't we just continue to move, I know we weren't
13 going to do this, but because I would like to have the
14 other Commissioners have a chance to comment on the more
15 controversial ones, if we could jump over to Page 5 and go
16 to 508.04(m)(1)(a)(5). And, apparently, Unitil -- I'll
17 give people a chance to get there.

18 Okay. So, it's on Page 6, I'm sorry. I
19 guess there's two different versions jumping around here.

20 MS. FABRIZIO: And, Commissioner, this
21 goes to a vocabulary language issue that Unitil had with
22 the original language. And, so, we're all in agreement to
23 bring that language more into conformity with the language
24 currently used by Unitil.

1 CMSR. HARRINGTON: So, we're changing
2 "confined" to "enclosed"?

3 MS. FABRIZIO: Yes.

4 CMSR. HARRINGTON: I'm trying to find
5 this. Do you have the page on the --

6 MS. FABRIZIO: It's on Page 28.

7 CMSR. HARRINGTON: This is one of those
8 sections that goes on forever. (m), okay. Just, I guess
9 this is curiosity, I always thought it was referred to as
10 "confined space", not "enclosed space", because it's just
11 a generic industry term?

12 MR. KNEPPER: Are you looking for me to
13 comment on that?

14 CMSR. HARRINGTON: Yes.

15 MR. KNEPPER: I think the industry does
16 use the term "confined". But, for Unitil, they use the
17 term "enclosed", because "confined" for them means a whole
18 bunch of OSHA requirements. But OSHA requirements aren't
19 part of this. So, I believe, you know -- so, I think
20 we're all talking the same language. So, we were saying
21 "okay, use "enclosed"."

22 CMSR. HARRINGTON: Okay. The "confined
23 space" you're referring to with OSHA requirements would be
24 like oxygen sniffing and so forth before entry?

1 MR. KNEPPER: Correct. You have to do
2 an oxygen sensor to make sure there's enough oxygen there
3 to keep the workers --

4 CMSR. HARRINGTON: So, everybody is
5 happy with "enclosed" then?

6 MR. HEWITT: Yes.

7 CMSR. HARRINGTON: Okay. We'll say that
8 one's okay. Okay. The next green one we could deal with
9 is on, let me get the right page now, Page 7,
10 508.04(m)(2)(h).

11 MS. FABRIZIO: And, that is on Page 30
12 of the rules, Draft Proposal dated February 13th.

13 CMSR. HARRINGTON: Okay. And, this is a
14 Liberty-proposed change. Would Liberty care to comment on
15 that then?

16 MR. CODY: Liberty thinks it's an
17 excellent change. There was a proposal by the Staff to
18 recheck/reevaluate Class II leaks every 30 days. And,
19 Liberty requested that that be changed to "every 30 days
20 during certain months of the year, January through March".
21 But, then, "for the months April through December, it be
22 every 60 days". And, we understand that that was
23 agreeable to Staff.

24 CMSR. HARRINGTON: And, what's the

1 reason for the seasonal variation in checking?

2 MR. SAAD: It assures that we check our
3 Grade IIIs just before we go into the winter. And, so,
4 you know, you can check it at least twice, but that
5 assures that we give it at least one check just before we
6 see the frost.

7 CMSR. HARRINGTON: Okay. Anyone else
8 have a comment on that section?

9 MR. KNEPPER: My comment is, this only
10 applies to Class IIs.

11 CMSR. HARRINGTON: Why? Did someone say
12 Class III? Oh, okay.

13 MR. SAAD: Did I say Class III?

14 CMSR. HARRINGTON: It's clearly Class II
15 on that.

16 MR. SAAD: My apologies.

17 CMSR. HARRINGTON: Okay. If we flip
18 over to --

19 MS. FABRIZIO: I think the rest of the
20 greens, Commissioner, apply to the LP provisions that we
21 discussed this morning.

22 CMSR. HARRINGTON: That's all of them?
23 Okay. Well, let's go back then and we'll start with the
24 yellows. We have to keep moving here. So, the first

1 yellow --

2 MS. FABRIZIO: Page 6 of the summary.

3 CMSR. HARRINGTON: So, this would be
4 Page 6. Okay. Cathodic protection. So, we're talking
5 about dealing with Section 506.02(v), or five. "Remedial
6 action on Cathodically Protected Pipelines". Page 6.

7 MS. FABRIZIO: And, the difference here
8 is the three months that Staff would recommend, and the
9 nine months that Unitil recommends.

10 MR. CODY: Commissioner, speaking for
11 Liberty, I don't know where we are with this. I thought
12 that we had agreed with the three months.

13 MS. FABRIZIO: Did I say "Liberty"?

14 MR. CODY: Yes.

15 MS. FABRIZIO: I'm sorry, if I stated
16 "Liberty", I meant "Unitil proposes nine months".

17 CMSR. HARRINGTON: Well, other than, you
18 know, the obvious cost involved, what's the justification
19 for going from three to nine months? Well, let me just
20 start with, what's the present requirement right now?

21 MR. CODY: I'll attempt at an answer at
22 that. 192.465 says "prompt remedial action", and "prompt
23 remedial action" is generally within the next cycle,
24 before the next cycle. And, so, here the Staff is

1 proposing three months.

2 CMSR. HARRINGTON: Excuse me, could you
3 define "within the next cycle" please?

4 MR. CODY: Within the next year,
5 generally. If you -- twelve months, if you are required
6 to inspect it every 12 months, we would call that the
7 "cycle".

8 CMSR. HARRINGTON: Okay. So, this is a
9 -- as stated right now, it doesn't give a specific time,
10 it just says "prompt" or is that this federal requirement
11 you're referring to?

12 MR. CODY: Federal requirement is
13 "prompt". The Staff is proposing a time period.

14 CMSR. HARRINGTON: Was there a time
15 period on this before this or was it just quoting the
16 federal rules? Maybe Mr. Knepper can help us with that.

17 MR. KNEPPER: This is a new provision.

18 CMSR. HARRINGTON: Is the federal law
19 new or just our attempting to quantify the time frame new?

20 MS. FABRIZIO: Could I just ask Liberty
21 to clarify what reference they are making to the "prompt"
22 language? And, then, I will -- I can read into the record
23 the federal regulation that talks about "two and a half
24 months" in the rules.

1 CMSR. HARRINGTON: Sure.

2 MR. CODY: I believe 192.465, the
3 Federal Code, uses the word "prompt".

4 MR. HEWITT: And, just to read it in the
5 record, under 49 CFR 192.465, subpart (d) requires that
6 "Each operator shall take prompt remedial action to
7 correct any deficiencies indicated by monitoring." And,
8 then, the GPTC has provided guidance on what "prompt
9 remedial action" means or should mean, how that should be
10 interpreted.

11 CMSR. HARRINGTON: Excuse me, the "GPTC"
12 is?

13 MR. HEWITT: I apologize. GPTC, which
14 is the "Gas Piping Technology Committee".

15 CMSR. HARRINGTON: Okay. And, did they
16 give any guidance as to what "prompt" meant?

17 MR. HEWITT: Yes. And, essentially,
18 what -- and we put this in our initial comments, and just
19 for the record, in Unitil's October 26, 2012 public
20 comments, starting at Page 34 through approximately 38, we
21 lay out really what the requirements are in the federal
22 regulation. And, I'll give you a moment to catch up,
23 Commissioner.

24 CMSR. HARRINGTON: I've got it.

1 MR. HEWITT: Really, and the GPTC
2 guidance that we're talking about are at Page 36 of those
3 October 26 comments that we filed. And, we placed in bold
4 face type, approximately two-thirds down the page, the
5 salient portions of the GPTC guidance. And, just for your
6 background, GPTC is an independent tech committee, that's
7 ANSI accredited. And, it's fairly common. They provide
8 guidance on gas safety regs.

9 CMSR. HARRINGTON: Mr. Knepper, could
10 comment as to -- it appears that what's on Page 36 of the
11 October 26 Unitil filing, where it says "Operators are
12 required to take prompt remedial action to correct
13 deficiencies indicated by monitoring. Remedial action
14 should correct the deficiency before the next monitoring
15 cycle required by 192.465. However, for monitoring cycles
16 greater than one year, remedial action should be completed
17 within 15 months of discovery." Which would seem to imply
18 that you could go up to a year for a monitoring cycle.
19 So, could you comment as to why -- I guess it was why
20 you're proposing three months?

21 MR. KNEPPER: Sure. I can go through
22 the logic. If you -- can I go through an example, maybe
23 that would be helpful?

24 CMSR. HARRINGTON: Whatever you feel

1 would be helpful.

2 MR. KNEPPER: So, let's say it's August
3 1st of the year and you do your inspection. And, all the
4 reads are good, so, the cathodic protection system is
5 working great. Next day, unbeknownst to you, August 2nd,
6 the cathodic protection, someone pulls the test leads off
7 the anodes, it's no longer protecting the pipe. I go to
8 the following year before I come back, do my reads again.
9 So, I've lost basically one year. And, that's when I
10 discover that it's not functioning the way it's supposed
11 to be functioning.

12 Now, the GPTC guidance says I have up to
13 15 months later to go back and do that prompt remedial.
14 So, we have, in essence, 12 plus 12 plus 3 months, it
15 could be up to 27 months is that kind of scenario. That
16 would probably be the worst-case scenario.

17 We also look at 465, which is another
18 thing. But, under the "rectifiers" section, which is a
19 type of cathodic protection, their frequency of cycles is
20 60 days that you take those reads. So, our analysis would
21 -- our logic was, you know, we think 60 days would
22 probably be good. And, then, we put on an extra 30 days,
23 to make it three months, and that would probably be
24 applicable.

1 The rationale for me is, once you
2 discover something, which is what this regulation says, we
3 don't understand why a company would want to wait to fix
4 it. Because things can start to deteriorate very quickly,
5 someone can dent a pipeline, get a corrosion cell, and it
6 can quickly start degradation of the pipe. You know, a
7 small little indent somewhere, a holiday, and things can
8 deteriorate quickly. So, we think it's prudent to not
9 wait, and three months gives them plenty of time to
10 schedule a crew and get someone out there to at least
11 remediate the situation.

12 CMSR. HARRINGTON: Okay.

13 MR. HEWITT: And, we had, through the
14 tech sessions, we had attempted to reach a resolution,
15 reach some common ground. And, so, the language that you
16 see that was proposed by Unitil, that included the nine
17 months, was basically trying to get closer to that, you
18 know, 15-month period, but working within language that we
19 felt the Staff was more comfortable with.

20 And, I guess also, Commissioner, we, as
21 an organization, have been operating under the GPTC
22 guidance. And, we just aren't seeing the types of issues
23 that Mr. Knepper's describing. You know, I suppose those
24 things are possible on the range of possibilities, but

1 it's just not an issue that we see in our distribution
2 integrity management programming and planning that we do.
3 It's not coming up, it's not being identified as a
4 significant risk on our system. And, so, that's why we're
5 particularly comfortable with either the GPTC language
6 that we had or GPTC-based language that we had initially
7 proposed that was at 15 months, or would even be willing
8 to scale it back to the nine months that is in the Staff
9 summary here.

10 CMSR. HARRINGTON: And, does Liberty
11 have a comment on this as well?

12 MR. MacDONALD: We do, Commissioner. A
13 couple things here, when we talk about cathodic
14 protection. You know, a lot of our pipe that's
15 cathodically protected is protected through rectifiers on
16 an impressed current system. Those are monitored every
17 month. And, problems, you know, or any issues, as far as,
18 you know, the reliability or the integrity of those
19 cathodic protection systems are monitored on a 30-day
20 basis. What we're talking about here are systems that are
21 under cathodic protection by, you know, simple anode and
22 insulating systems. And, when it comes to work planning,
23 and I think this is where -- what Unitil's point was, is
24 it, you know, we do a lot of our testing in cycles. A lot

1 of the cathodic protection, you know, monitoring occurs
2 during the year. But the majority of it occurs early in
3 the year, which allows us to identify the work for the
4 entire year.

5 So, if we're -- if we go out and test
6 all of our magnesium anode systems between March, April,
7 and May, you know, we -- you know, we need all of those
8 six months to get those problems resolved or corrected,
9 because of resource issues and logistics and planning.
10 And, any cathodic -- any problems that occur or we
11 discover in October, November, December, certainly, three
12 months is not a long period of time, especially when
13 you're considering that's through the winter months. And,
14 we'd rather -- and the cities and towns would rather us
15 not be in the streets digging them up, you know, to
16 perform these maintenance activities.

17 So, you know, we support the nine
18 months, because I think, when you look at the work
19 planning and the cycle of the work and the cycle of the
20 construction season, and the winter period, nine months
21 works for us.

22 CMSR. HARRINGTON: Thank you. Does
23 Staff have any other additional comments on that?

24 MR. KNEPPER: Yes. I just don't think

1 it's, in my opinion, once a known issue is arisen, that
2 your system is not performing as designed, that you don't
3 take that remediation action within 90 days, that seems
4 like a good -- a good practice to do.

5 To let it go, it's only one thing
6 happening, it's only getting worse, because there's
7 nothing better coming of it. It's either staying the same
8 or getting worse. And, so, once you have a known known
9 issue, we think it's prompt to fix it. And, work planning
10 is -- they can adjust their work plans. There's very few
11 that, if a town says they can't dig it up because of the
12 winter, I think then they have -- I think there's language
13 in there that addresses that, that they have taken some
14 sort of action to do that. But most of this work, you
15 know, if I discover something in April, you can fix it in
16 August. There's no reason not to. If I find something in
17 August, I should be able to fix it by the end of the year.
18 Most of these things probably aren't being discovered in
19 the month of December. So, I see no benefit to have to
20 wait a construction season to start and discover these
21 things.

22 That being said, you know, they don't --
23 the problem eventually is going to go away as their coated
24 steel systems get diminished by replacement with plastic

1 pipelines. But that could be a long time in the future.

2 MR. HEWITT: And, could we just respond
3 to that briefly?

4 CMSR. HARRINGTON: Certainly.

5 MR. LeBLANC: The one point we wanted to
6 make, too, is, just because a deficiency is found in a
7 cathodically protected system, that does not necessarily
8 mean that there is no cathodic protection on that piece of
9 pipe.

10 CMSR. HARRINGTON: Excuse me. Could I
11 just stop you there for a second so we can clarify things,
12 just to make sure I'm clear we're all talking the same
13 language. When it talks about a "deficiency indicated by
14 monitoring of cathodically protected pipelines", are we
15 talking about a deficiency in the cathodic protection,
16 i.e., that it's no longer providing cathodic protection to
17 the pipe, or are we talking about a deficiency in the pipe
18 itself?

19 MR. LeBLANC: Our interpretation is that
20 any deficiency, any deficiency found in the testing of
21 that cathodic protection.

22 CMSR. HARRINGTON: Okay. So, the
23 cathodic protection system isn't working?

24 MR. LeBLANC: Not necessarily. That we

1 found a deficiency with something on that system. It
2 doesn't necessarily mean that there is no CP on that
3 system. And, I'll give an example. When we test our
4 cathodically protected systems, we have a series of test
5 points along that cathodically, and we take our readings.
6 Most of those test points are with below-ground boxes, --

7 (Court reporter interruption.)

8 MR. LeBLANC: I'm sorry. A deficiency,
9 what we would identify as a deficiency is, if we were
10 testing on a cycle, we're testing Point A, Point B, and
11 Point C. If we tested Point A, it tested fine. We went
12 to Point B, but that gate box was damaged, and we didn't
13 have access to those wires, we would identify that as a
14 "deficiency". We would then test Point C, and if Point C
15 was protected, we would infer that we have good cathodic
16 protection along that entire pipe segment. So, the CP
17 integrity, the integrity of the CP itself is not in
18 question. But we have a deficiency with our monitoring,
19 because that test station has been damaged. And, what we
20 would look to is giving more, nine months to actually go
21 correct that deficiency. So, not every deficiency that we
22 would -- would result in no CP being on that pipeline.

23 CMSR. HARRINGTON: Okay. Thank you.

24 MR. SAAD: I would just like to add that

1 we think the nine months, from a technical standpoint, is
2 sufficient, because there's not going to be much
3 difference between six and nine. Things just don't
4 corrode that quickly. And, to Chris's point, it's no
5 different than when you take your car down to get the
6 battery checked. And, they tell you that, you know, "it
7 should be reading 12 volts, but it's 11.8." It doesn't
8 mean your car won't start, it's time to change your
9 battery. So, it's not an urgent matter. A lot of times
10 you will just miss the target that the code requires to be
11 considered "cathodically protected". You will just be
12 slightly under it, by 10 percent. It's still protected.
13 There's essentially no corrosion. The pipe is fully
14 protected. And, we think nine months is more than
15 adequate. And, the three months, in our opinion, adds
16 nothing to safety.

17 CMSR. HARRINGTON: Okay. Mr. Knepper,
18 do you want to --

19 MR. KNEPPER: Yes. From a regulatory
20 standpoint, if they're not meeting the thresholds that are
21 established by PHMSA, which is 850 millivolts, if they get
22 any reading below that, and it doesn't really matter
23 whether it's 20, 50, 600, 820, is no longer considered
24 under cathodic protection. And, it's required to be under

1 cathodic protection.

2 And, so, from a regulatory standpoint,
3 you draw the line, and that becomes the deficiency. And,
4 so, if you don't have those boundaries, and they have
5 established them pretty clearly, you need to correct it.
6 You need to bring it up and boost it. You don't let it
7 say "well, I'm close, and the next reading we hope it's
8 going to be better." That's not how it works.

9 CMSR. HARRINGTON: Okay. Thank you.
10 Well, I guess we'll say we'll just leave that one as one
11 to be decided later, because there doesn't appear to be an
12 agreement, though it seems that there have been at least
13 somewhat movement on both sides towards a little bit.

14 MR. CODY: Commissioner, if I can
15 comment one more on that section. Leo Cody. What
16 confuses me a little bit about it, you know, no matter
17 what the outcome is, is having a specified time period in
18 there, nine months or three months, but then also saying
19 "pursuant to 192.465", having both statements in there I
20 would find confusing. Because 192.465 is, you know, it
21 says "prompt remedial action", and then the regulations
22 would say some month period. So, that's -- I would draw
23 your attention to that.

24 CMSR. HARRINGTON: And, if I'm following

1 this logic, the 192.465 gets you into the GPTC guidance?

2 MR. CODY: Not necessarily.

3 MR. KNEPPER: No, it does not.

4 CMSR. HARRINGTON: Okay.

5 MR. KNEPPER: The reason it says
6 "pursuant to 465" is because JLCAR wanted to know what
7 "cathodic protection" was.

8 CMSR. HARRINGTON: Oh. So, they didn't
9 know what the term meant?

10 MR. KNEPPER: Exactly.

11 CMSR. HARRINGTON: Oh. Okay.

12 MR. KNEPPER: So, that's why we added
13 that at the end. If we want to take that out, then we
14 have to somehow address it before with definitions ahead
15 of time.

16 CMSR. HARRINGTON: Oh. Okay.

17 MR. KNEPPER: That's the only reason
18 that that's there.

19 MS. FABRIZIO: Or, we could change the
20 language to as defined in that code provision.

21 CMSR. HARRINGTON: Okay. Rather than
22 "pursuant to", it just says "cathodically protected
23 pipelines as defined in". Okay. All right. That helps a
24 little bit then. Did you have fun explaining to them what

1 "cathodic protection" was?

2 MR. KNEPPER: Well, as you know, I mean,
3 this is the balance that we run as rulemakers, trying to
4 meet the needs of utilities, regulators, and other things
5 in it. We're trying to not redefine every term. And,
6 then, when we modify it, it then creates problems for
7 other people. And, this is the balance that we're always
8 struggling up against.

9 CMSR. HARRINGTON: Okay. Any other
10 comments on that section?

11 (No verbal response)

12 CMSR. HARRINGTON: If not, we'll try to
13 move onto the next yellow, which on Page 7, 508.04(p).
14 Let's see if I can find that. Which I believe is on Page
15 31 of the 2-13-13 proposed draft.

16 MS. FABRIZIO: Yes, that's correct.

17 CMSR. HARRINGTON: Okay. Did someone
18 say they wanted to start?

19 MR. HEWITT: Yes. We're happy to,
20 because the (p) and (q) somewhat go hand-in-hand, they're
21 related issues, Commissioner. So, just to kind of keep
22 that in mind. I'll give you a little bit of background
23 first. The issue has to do with downgrading of leaks.
24 And, the initial proposed language prohibited leak

1 downgrades under all circumstances. Unitil has
2 encountered situations in the field, however, where it has
3 been necessary to downgrade a leak for various reasons.
4 Say, there's a leak that's detected. And, when a tech
5 goes out to try and find the leak and do the repair, they
6 just cannot find the leak. And, although a leak was
7 documented at one point, it cannot be traced back.
8 There's no way to determine why, there's really no answer
9 to it. And, what the Company ends up having to do then
10 is, basically, if they follow the reg, kind of, you know,
11 dig a hole, excavate, and make some sort of repair, and
12 close the hole back up. It's not really where we want to
13 go, I think, with our regulatory policy.

14 What the Company has done in the past
15 is, if a leak is going to be downgraded, there has to be
16 someone with authority who signs off on an investigation
17 and getting an explanation of exactly, you know, what was
18 done to try and determine and find the leak, and what was
19 done in terms of an investigation. And, only if the
20 compliance manager signed off on that, could that leak
21 then be downgraded without any sort of a repair being
22 made. And, we had proposed that as an alternative.

23 I understand Staff had a concern with
24 that getting past the folks at JLCAR. And, so, what we

1 had proposed through the tech session discussions is the
2 language that you see at the bottom of Page 7, where we
3 included some language where "A utility shall not
4 downgrade without repair more than 5 percent of its leaks
5 in a calendar year." Staff has proposed something similar
6 in its language, although I don't -- I guess I can't track
7 exactly what the difference is.

8 MS. FABRIZIO: The difference is that it
9 adds to Unitil's language.

10 CMSR. HARRINGTON: Six total leaks.

11 MS. FABRIZIO: Yes.

12 CMSR. HARRINGTON: The "six total leaks
13 in a calendar year."

14 MR. HEWITT: Okay. Right. So, it adds
15 a number of leaks. And, I guess my concern at this point
16 is just kind of cleaning up that language. If we can get
17 that language cleaned up, I don't think 508.04(q) is
18 necessary, and that can go away. We wouldn't be pursuing
19 that language any longer.

20 CMSR. HARRINGTON: Do we -- oh, excuse
21 me.

22 MR. HEWITT: But, as I read the Staff's
23 proposed language at the top of Page 8, "A utility shall
24 not downgrade without repair the less --

1 MS. FABRIZIO: That's an auto-correct
2 typo.

3 MR. HEWITT: Yes. Okay. So, "the
4 lesser", I suppose is supposed to be it --

5 MS. FABRIZIO: "of 5 percent or six
6 total leaks in a calendar year, whichever is fewer." We
7 can work on the language.

8 CMSR. HARRINGTON: Can I just ask a
9 question here to clarify?

10 MR. HEWITT: Yes.

11 CMSR. HARRINGTON: Because we've got two
12 proposals in the memo, and then we've got what's written
13 on the Draft Proposal as well. So, I'm just going to walk
14 through (p) and make sure I understand. The first
15 sentence, "When a leak is re-evaluated, the utility shall
16 classify it using the same criteria as when the leak was
17 first discovered." Everybody is in agreement on that?
18 That's correct, I'm assuming?

19 (No verbal response)

20 CMSR. HARRINGTON: Okay. Now, there's
21 this next sentence, again, from the Draft Proposal. "A
22 utility shall not reclassify a leak to a lower risk
23 classification unless it's repaired." Now, is that
24 sentence being removed from both the Unitil proposal and

1 the Staff proposal?

2 MR. HEWITT: I'm sorry, where were you
3 reading from, Commissioner?

4 CMSR. HARRINGTON: I'm reading from the
5 2-13-13 Draft Proposal, Page 31.

6 MR. HEWITT: Okay.

7 CMSR. HARRINGTON: Because, as it reads
8 now, it has the sentence that "A utility shall not
9 reclassify a leak to a lower risk classification unless it
10 is repaired." And, then, it adds "A utility shall not
11 downgrade without repair of the lesser of 5 percent or six
12 total leaks in a calendar year." And, a downgrade is a
13 reclassification. So, it sounds like that second
14 sentence, on Page 31, is not intended to be there?

15 MR. KNEPPER: I think you're correct. I
16 think, well, -- you're correct. But we don't want to use
17 the term "downgrade", we want to use the word
18 "reclassify", because our leaks are classified. Other
19 states use the term "grade", "graded". So, we want to
20 stick with "classification".

21 CMSR. HARRINGTON: But, either way
22 then, --

23 MR. KNEPPER: So, I think the second
24 sentence could probably go.

1 CMSR. HARRINGTON: Whether it's the
2 Unitil proposal or the Staff proposal in the February
3 15th?

4 MR. KNEPPER: Yes. The second sentence
5 was the Staff's initial position. And, we have, I guess,
6 in trying to reach out to the companies, allowed to do
7 this. So, this is not talking about leaks just
8 disappearing. These are Class II leaks, to be able to
9 downgrade, you would have to go from a II to a III. So,
10 Class IIs, I already said, it has a potential to be a
11 hazard, and should be fixed in 180 days. And, we looked
12 at the number of leaks that the companies were talking
13 about, based upon what they have been -- their designated
14 Class IIs, and felt this language would work for both of
15 them. We thought we had somehow kind of come to that as a
16 potential solution in the tech sessions. And, so, that's
17 the wording that we use. So, I don't know if we're that
18 far apart.

19 MR. HEWITT: I think it's an Englishing
20 error or an Englishing issue we call this.

21 MR. KNEPPER: Okay.

22 CMSR. HARRINGTON: I'm trying to follow
23 the logic here. If we say that, and let's just make up
24 numbers to make it easy, if we say that there is 100 total

1 leaks in a calendar year, now would that refer to all
2 classes of leaks or just the class that you're talking
3 about?

4 MR. KNEPPER: I would think it's the
5 class that we're referring to talking about being
6 reclassified.

7 CMSR. HARRINGTON: So, if you have a --
8 let's take an example, a Class II leak, and let's just say
9 again there's 100 of them in a year, the utility shall not
10 downgrade leak number II, unless they have repaired a
11 total of five other leaks in that calendar year?

12 MR. KNEPPER: I think the concept is --
13 no, not that. Not that at all.

14 CMSR. HARRINGTON: Okay.

15 MR. KNEPPER: Is that we really don't
16 think you should be downgrading. And, the utilities kind
17 of said, "well, there are some occasional, occasional,
18 rare situations where it makes sense to reclassify to a
19 lower grade or to a lower classification." And, so, Staff
20 said "okay, maybe the wording shouldn't be so absolute."
21 And, so, the question is, how do you make it from absolute
22 to something a little less absolute? And, so, we came up
23 with this language to do that. So that there are, you
24 know, six of these probably occurrences that happen in a

1 year. Maybe for a company that has a larger amount of
2 leaks, it could be up to 5 percent. But, between the two
3 companies, we're not talking probably more than 10 or 12,
4 I'm guessing, for between Liberty and Unitil, from my
5 knowledge of their systems.

6 CMSR. HARRINGTON: Okay. I think maybe
7 I was having trouble reading this. But what you're saying
8 is "a utility shall not downgrade without repair", maybe a
9 comma, "more than 5 percent of its leaks in a calendar
10 year." And, we're not talking about having to repair
11 5 percent in order to downgrade. Okay. Well, maybe that
12 could be clarified a little bit, because there's at least
13 one person I know, myself, read it the other way.

14 MR. KNEPPER: I think that's a good
15 suggestion.

16 CMSR. HARRINGTON: And, the only
17 difference then I see, assuming that we agree on that
18 principle, is one is saying "you shall not downgrade
19 unless you repair that leak no more than 5 percent", and
20 then where does the "six leaks in a calendar year" come
21 from?

22 MR. KNEPPER: Just a number, so that
23 it's a hard-and-fast number.

24 CMSR. HARRINGTON: Isn't "5 percent of

1 the total leaks" a hard-and-fast number?

2 MR. KNEPPER: Well, the next year they
3 may have, let's say, 300 Class II leaks.

4 CMSR. HARRINGTON: Okay.

5 MR. KNEPPER: And, so, now you're saying
6 it could go up to, you know, 15 leaks a year or something.
7 We just did it based upon the numbers that they have been
8 reporting over the last couple of years. And, so, that's
9 what we used. And, so, right now, you know, six, six is
10 plenty, it gives them room to do that.

11 Again, it was represented to us that
12 this is a "rare occasion" that this happens, that it
13 doesn't happen very frequently. And, that there are some
14 -- if it's happening frequently that you have to
15 reclassify, that tells me you've got a training issue or a
16 piece of equipment issue or something that you're
17 constantly doing that. It was represented to us that
18 there is some unusual situations where it comes up. And,
19 so, we agreed to that.

20 CMSR. HARRINGTON: So, this -- a
21 situation then would be, if you had I think what would be
22 a Class II going to a Class III, someone went out,
23 reported as measured, or do whatever they use to determine
24 a Class II. Sometime later someone went back and said

1 "this isn't a Class II leak, it's now a Class -- that's
2 now a Class III leak, and they wanted to downgrade it to
3 Class III, they only be allowed to do that for up to
4 5 percent of its total leaks in that class, or, what the
5 Staff is proposing, "no more than six".

6 Okay. I think having -- I think we're
7 all on the same page as to what this means now. Do the
8 utilities care to comment? Because the only difference is
9 whether it's 5 percent of the total, with a minimum of --
10 with a maximum of six, or it's just 5 percent of the
11 total.

12 MR. HEWITT: Conceptually, it's fine
13 with us. And, we just need to work out language that's
14 clear.

15 CMSR. HARRINGTON: And Liberty?

16 MR. CODY: Liberty, Liberty has no
17 issues with it. We agree with that answer stated.

18 CMSR. HARRINGTON: Okay. So, we'll just
19 call that one okay. Progress.

20 Oh-oh, things are going to slow down
21 now. Can we go off the record for a second please?

22 (Chairman and Commissioners conferring.)

23 CHAIRMAN IGNATIUS: All right. So,
24 let's go back on the record. Thank you. Ms. Fabrizio.

1 MS. FABRIZIO: Yes. We just reached
2 agreement on 508.04(p). And, my understanding, from a
3 statement earlier from Unitil, is that agreement on that
4 provision alleviates the need for 508.04(q), which in the
5 Staff memo in red as Unitil proposed language to add to
6 the rules.

7 CMSR. HARRINGTON: So, we don't need
8 (q), now that we've got agreement on (p)?

9 MS. FABRIZIO: That's right.

10 CMSR. HARRINGTON: Is that --

11 MR. HEWITT: That is correct.

12 CMSR. HARRINGTON: Okay. Good.

13 CHAIRMAN IGNATIUS: Good. So, what's
14 next up?

15 MS. HOLLENBERG: 506.02(t).

16 MS. FABRIZIO: There are two key issues
17 that are left. One is the Operator Qualification manual
18 or a plan, and the other is classification of leaks.

19 MR. KNEPPER: We can take either the
20 classification (m) or the OQ.

21 MS. KNOWLTON: Let's do classification
22 -- can we do classification, that might be faster?

23 MR. KNEPPER: Okay. We'll go to
24 classification first.

1 CHAIRMAN IGNATIUS: So, that's Page 5 of
2 the summary memo, 508.04(m)?

3 MS. FABRIZIO: Yes.

4 MS. HOLLENBERG: We have it as "6".

5 CMSR. HARRINGTON: Yes. Their pages are
6 different than ours.

7 CHAIRMAN IGNATIUS: All right. Who
8 wants to walk us through this one?

9 MS. FABRIZIO: I think it would be
10 appropriate for Liberty to explain their proposed changes.

11 MR. CODY: Thank you. Let's see. I'm
12 looking at the Staff sheet, Pages 6 and 7, 508.04(m)
13 Classification of Leaks. And, I need to, I guess, set the
14 stage a little bit first. If I can draw your attention to
15 Page 7 of this sheet. And, where it says "Staff disagrees
16 with the language proposed by Liberty", we agree with --
17 we agree with that. We agree with the very first
18 sentence, which I think sets the stage of where we're
19 going to direct our comments. That "the proposed leak
20 classification criteria in the rules is based on percent
21 lower explosive limit (LEL) and the classification
22 criteria proposed by Liberty is based on percent gas in
23 air." That's a true statement. Under the way that
24 Liberty classifies its leak -- leaks right now is one way,

1 under the proposed rules there is another way. And, I
2 also need to draw your attention to existing regulations
3 on Page 31. But, if you just look at the bottom of the
4 page, this still is sheet Page 7, I can read it to you.
5 The existing regulations 508.04(p) says that "when a leak
6 is reevaluated, the utility shall classify it using the
7 same criteria as when the leak was first discovered." We
8 don't have any issue with that, that's existing
9 regulations. But what I want to point out is, when all is
10 said and done, if we were to accept the proposed 500 rules
11 today, Liberty would be in a position where our existing
12 leaks would be -- would have been classified under one
13 system, and will have to be reevaluated under that system,
14 and then new leaks coming in will have been -- need to be
15 evaluated under another system. And, that causes us
16 troubles as to how to proceed. It causes us troubles in
17 terms of scheduling the repairs, which leaks would be
18 repaired when, which leaks would need to be evaluated
19 when. So, having those two standards for leaks and two
20 categories of leaks is troublesome to us. And, I'd also
21 like to point out one thing. Again, on this same sheet 7,
22 again, where it says "Staff disagrees with the language
23 proposed by Liberty", the last sentence there, "the
24 criteria proposed by Liberty presents significantly higher

1 gas concentration thresholds for leaks to be considered a
2 repair priority." That is true, but only in some cases.
3 It's not -- it's a broad generic statement there, but it's
4 not true in all cases. It's just in a limited number of
5 cases.

6 So, I'll pause there to see if there's
7 any questions before -- sure.

8 MR. SAAD: I just want to, in case it
9 wasn't obvious, when Leo said that the two leak
10 classification methods wouldn't work for us, what it
11 really means is, if you were a first responder and you
12 were trained to classify a leak, we would expect that the
13 leak procedures are very intuitive to you. You're not
14 pulling out a manual and going through them. It's
15 instinctive.

16 And, to try to train someone to shift
17 gears, that "Oh, this is Leak A. So, use this procedure.
18 And, this is Leak B. Use this procedure." It's just too
19 risky. We would never try to impose a dual program. We
20 wouldn't try to train our people two different ways of
21 classifying leaks. There's really only one way to do it,
22 and that's the way they're trained and it's an instinctive
23 way of doing it. So, we would never roll out two
24 programs. We would train our people to do it one way and

1 only one way.

2 I hope that clarifies why we wouldn't be
3 in favor of a dual system.

4 CHAIRMAN IGNATIUS: So, can you help me
5 in understanding what the proposal is from Liberty for
6 this section? What language? Is it something proposed
7 new or just to go back to what was there before? I'm just
8 not finding it yet.

9 MR. MacDONALD: Well, what's proposed
10 are current leak classification procedures, which have
11 been in place since 1990. And, they work very, very well
12 for us. And, you know, we propose the current -- our
13 current procedures as written to -- well, I guess that's
14 to state our position of where we're at, of where we were
15 at. The real issue here is this is a big change here for
16 us. And, you know, we have an inventory of Grade III
17 leaks that close to 90 percent of them are going to now be
18 Grade II leaks under the grading system that the
19 Commission is proposing, which we are on board with, but
20 there are, you know, incremental or one-time costs
21 associated with the repair of those leaks. And, then,
22 going forward, incremental costs that are going to occur
23 from year to year as a result of the change. We're not
24 against the change, but we -- there are cost increases,

1 real cost increases that Liberty is going to incur.

2 MS. KNOWLTON: And, maybe I could just
3 clarify this a little bit further. The way I understand
4 this issue is, is that the leaks that preexist the date of
5 any rule change would be classified one way, and leaks
6 discovered thereafter would be classified a second way.
7 And, so, what Mr. Saad is saying is, you know, our people
8 in the field can't operate that way. They have all got to
9 have one common procedure to do it.

10 What Mr. MacDonald is saying is that, if
11 that is the case, we're going to incur, you know,
12 additional costs. So, -- and, that's what we filed on
13 Wednesday, was the support, the data behind the number
14 that we had provided in a previous letter.

15 CHAIRMAN IGNATIUS: Additional costs if
16 there's two different classifications at work, before the
17 change and after the change?

18 MR. MacDONALD: Well, I think that
19 what's -- I think what's being proposed is that the
20 current Grade III inventory of leaks would remain there.
21 And that, during the recheck process, they would be
22 rechecked under the old guidelines, or the current
23 guidelines, and not the proposed guidelines. So, and
24 you've got leaks based on date, you know, you've got leaks

1 that are, you know, found today among Grade III leaks that
2 were -- predate the proposed rule changes that are going
3 to cause problems for us, as far as our, you know,
4 employees, field employees rechecking these leaks under
5 two different sets of completely different standards.

6 CHAIRMAN IGNATIUS: No, I understand
7 that. I guess just a couple questions. One is, what does
8 the Company want here? What's your solution to the
9 problem? You're trying to help us --

10 MR. MacDONALD: Oh. Okay.

11 CHAIRMAN IGNATIUS: -- understand how to
12 deal with it if it goes against you, and that's useful.
13 But, if you had your druthers, how would it read? That's
14 the question.

15 MR. MacDONALD: Okay. Well, I guess,
16 ultimately, where we'd like to go is, if we're going to
17 switch to, you know, a different classification procedure,
18 that we go ahead and, you know, reclassify these leaks or
19 reevaluate our existing leak inventory, and work out with
20 Staff, you know, a suitable, you know, time limit or time
21 frame to get these leaks, you know, repaired.

22 CHAIRMAN IGNATIUS: Commissioner
23 Harrington.

24 CMSR. HARRINGTON: Just, and I really

1 don't know how descriptive your database is on this, but
2 is it possible, if you were to look at a leak that was
3 classified under the existing criteria, is there
4 sufficient information there that you could, on a
5 paperwork basis only, look at that and say "okay, now,
6 under the new criteria, this is no longer a Class III,
7 it's a Class II?" Or, would you have to go back to the
8 field and revisit?

9 MR. MacDONALD: We would want to revisit
10 it one more time to validate it, and then officially
11 reclassify that leak in the field.

12 CMSR. HARRINGTON: But you would prefer
13 to do that, than to have two sets of standards in action,
14 with one dying off as those old leaks went away?

15 MR. SAAD: Right.

16 MR. MacDONALD: Correct. Correct, yes.

17 MR. SAAD: So, when you deploy the
18 single method, what will happen is, there will be a
19 migration of IIIs to IIs, and the IIs have a repair
20 schedule that's rather aggressive. And, so, what happens
21 is, we see a quick spike in our workload, and it's going
22 to be difficult to bring it down based on the current
23 timeline. So, if we did decide to work this out, where we
24 all agreed that we would use a single language, we would

1 experience the spike, because that's what's going to
2 happen, and we would look for some relief, at least for
3 the existing, the existing that move into the new
4 schedule, the more aggressive schedule, some relief on
5 that schedule until we get that backlog down, and then we
6 will continue on with the new rules. Is that -- yes.

7 And, there is a cost associated with the
8 spike. So, if we could spread that out a little bit, we
9 wouldn't see the resource impact, and the cost impact
10 would spread out over a lot more months than just six or
11 so.

12 CHAIRMAN IGNATIUS: Does everyone agree
13 that the new classification structure is better than the
14 current one? That's where I still am not -- I'm lost on
15 whether you're just trying to make due with something you
16 don't like or you agree it's the right way, and it's just
17 a question of implementation and timing to make it go
18 smoothly?

19 MR. CODY: The reality is, it should be
20 the same. I mean, it should be finding the same leak and
21 it should be finding the Class III. It's a different
22 scaling and all, for one. But the reality is that the
23 leak, you know, whatever the leak is, the leak is.

24 CMSR. SCOTT: Can you help me out then?

1 Earlier, when you started discussing this, you took issue
2 with I think Staff's comment about higher -- significantly
3 higher concentrations, --

4 MR. CODY: Yes. There is --

5 CMSR. SCOTT: -- and then you corrected
6 it being in a limited number of cases, but not in all
7 cases.

8 MR. CODY: Yes. And, I believe what
9 Staff was referring to there is there's a reference in the
10 second sentence to "GPTC". Currently, the Company does
11 not, let's say, 100 percent follow GPTC, when it comes to
12 the classifications of Grade III or Class III leaks.

13 CMSR. SCOTT: But the fact that you're
14 agreeing that, in some cases, there's significantly higher
15 gas concentrations, that sounds bad to me. Is that
16 correct? Would that be a good characterization?

17 MR. CODY: I would agree that it sounds
18 bad, yes. But these are non-hazardous leaks.

19 CMSR. SCOTT: Okay. All right. So, --

20 MR. SAAD: Just to be clear, the current
21 system that we are utilizing at Liberty existed back in
22 the --

23 MR. MacDONALD: EnergyNorth.

24 MR. SAAD: -- EnergyNorth days. It's

1 decades old. And, we've been using it for decades
2 unchanged, basically the same as it was back in the '90s.
3 And, really no evidence to suggest that it isn't working.
4 That we've had good experiences with it. So, we wouldn't
5 change it, except for these rules here today.

6 CHAIRMAN IGNATIUS: All right. And,
7 does Northern have a different classification system than
8 what Liberty uses?

9 MR. LeBLANC: I have not looked at
10 Liberty's leak classification currently, classification
11 guidelines. So, I'm not -- I can't comment whether ours
12 are different than theirs today.

13 CHAIRMAN IGNATIUS: Well, are your
14 classifications in line with the current draft of the
15 rules?

16 MR. LeBLANC: How we looked at this,
17 back in 2011, Unitil spent a good portion of the entire
18 year rewriting our leak classification guidelines and --

19 (Court reporter interruption.)

20 MR. LeBLANC: Oh, I'm sorry. We rolled
21 those -- we rolled those new guidelines out last year, in
22 2012. When we looked at -- and we think they were very
23 successful. When we evaluated the proposed language in
24 the code, the ones that we looked at that we had trouble

1 with, "is it going to change our current procedures?" So,
2 we didn't evaluate whether we thought they were good or
3 bad. We compared them to what we currently had. And, our
4 biggest objection would be is, "did we have to change what
5 we had just rolled out?" In our analysis of what was
6 proposed, it would not impact our current leak
7 classification standards. So, we were fine with the
8 language.

9 CMSR. HARRINGTON: Just can I ask a
10 clarifying question, I guess it would be to Liberty? What
11 is in the draft 02/13/13 proposal, on Page 30, where
12 there's a section on "Class III leaks". And, it says "A
13 Class III leak shall be a leak that is non-hazardous at
14 the time of detection and can be reasonably expected to
15 remain non-hazardous." And, then, there's (a), (b), (c),
16 and (d). Liberty is proposing that you replace that with
17 the language "a leak that is not immediately hazardous at
18 the time of detection and can be reasonably expected to
19 remain that way, any leak that is not classified as Class
20 I or Class II." So, effectively removing (a), (b), and
21 (c) from what's in the draft, is that correct?

22 MR. MacDONALD: Yes, that's correct,
23 because that's our current guideline.

24 CMSR. HARRINGTON: And, maybe Staff

1 could comment on why they believe we need (a), (b) and (c)
2 there, as shown on Page 30?

3 MR. KNEPPER: I guess we're bouncing
4 from Class IIs to Class IIIs, but --

5 CMSR. HARRINGTON: Right. But I thought
6 -- they both in the same section, so, just in the
7 "Classification of Leaks".

8 MR. KNEPPER: Yes. This is the
9 conundrum we have as Staff. That, if I have everybody
10 classifying leaks differently throughout the state, it's
11 problematic. And, that's what we have now. So, trying to
12 get everybody on a uniform, consistent manner is what we
13 want. I want our inspectors to say, when they say it's a
14 "Class II leak", and a dispatcher tells me that, I want to
15 know what that means, whether it's Company A, Company B,
16 or Company C.

17 And, so, originally, in our old rules,
18 back in 1988, we referenced the GPTC. And, those rules
19 went from 1988 to 2005. These standards are primarily
20 based on the GPTC, with a few changes, not a lot, but I
21 would say 90 percent of it is based on it. And, so, from
22 1988 to 2005, this should have been the standard for the
23 former Liberty company, because that was in our rules.
24 Whether their policy was doing it or not, our rules

1 dictated how they should have been doing it. From 2005
2 through today, in the last go-around of rulemaking, GPTC
3 got thrown out, because of JLCAR said "you can't reference
4 it", and the GPTC did not, as an organization, did not
5 want to be referenced in rules.

6 So, what this does is it just primarily
7 brings back in a lot of the language into our rules, so
8 that we have that same consistency across the state. So,
9 I will agree there was a period for the last eight years
10 that we have different systems. But the whole intent of
11 our rules was to have uniformity and consistency across
12 the state.

13 So, (a), (b), and (c) -- and, so, you
14 know, when we're trying to balance things, we have one
15 company over here, and another company over there, and,
16 quite frankly, someone has to give or someone has to
17 adjust, or they both have to adjust. So, what we did was,
18 we did research and looked at what other states are doing.
19 We looked at the State of Maine, very similar to the
20 philosophy that we're using; we looked at the State of
21 Washington; we looked at Kansas; we looked at Texas; we
22 looked at Missouri. We looked at quite a few states
23 across the country that use language in their
24 administrative rules similar to what we have. So, we're

1 not doing anything kind of out-of-the-ordinary. It's not
2 exactly what GPTC is. It's kind of "GPTC enhanced", I
3 would say.

4 But it is going to -- and, so, it does
5 create a little bit of a conundrum for Liberty, because
6 they're in a situation where they have existing leaks
7 classified one way, and they want to go forward. We said
8 "the rules allow you to have a dual system." Now, if
9 that's too hard for them, I can't comment on that. I
10 would think, as they're grading things and fixing things,
11 that number of volume is going to go down as to what that
12 quantity is. But, you know, that's for them to decide on
13 how they want to do it. The rules would allow them to
14 reevaluate the leak as it was originally classified,
15 because that's what our existing rules were.

16 And, so, the question is on -- and, I
17 think your question on it, Commissioner Harrington, was,
18 you know, "Should we get rid of (a), (b), (c), and just
19 keep (d)?" Was that your question?

20 CMSR. HARRINGTON: Well, that's what's
21 being proposed by Liberty.

22 MR. KNEPPER: Right. Well, I think that
23 doesn't address the reevaluation, okay? So, that just
24 eliminates a total -- a total point of when you're going

1 to go back and do a reevaluation or a recheck. And, then,
2 it also, in terms of (b) and (c), I think what it does is,
3 when we -- the reason that we have that in there is,
4 because when you go through these things and you put them
5 in a table, there's a section of leaks that, by putting it
6 into there, it makes the table work because of the percent
7 LEL. So, you kind of say "well, what am I doing from this
8 to this?" This fills in that gap. And, so, it makes it
9 more explicit, and I think makes it easier.

10 CMSR. HARRINGTON: And, Unitil, based on
11 a previous statement, already meets the -- you have no
12 problem with the new "Class III" definition, because your
13 procedures already meet that? Is that what you stated
14 before?

15 MR. HEWITT: Ours meet or exceed. And,
16 they are not word-for-word exactly what your staff has
17 come up with. But ours are certainly consistent with what
18 your staff is using.

19 CMSR. HARRINGTON: And, what about on
20 the Class II, the version in the draft 02/13/13 proposal,
21 versus the Liberty-proposed change in the handout?

22 MR. HEWITT: We haven't looked at that
23 specifically, Commissioner, because I think, as
24 Mr. LeBlanc said, what we did is we candled what the

1 Commission's proposal was against what our standards are.
2 And, our intent was to satisfy ourselves that the
3 direction that the Commission was going was that we could
4 maintain what we have already for our OQ for leak
5 classification, we could leave that undisturbed. So, that
6 was really the end of our analysis at that point.

7 CMSR. HARRINGTON: But that applies to
8 both Class II and -- Class III and Class II?

9 MR. HEWITT: Across the board.

10 CMSR. HARRINGTON: Okay.

11 MR. HEWITT: All classes.

12 CHAIRMAN IGNATIUS: Okay.

13 MS. KNOWLTON: I think, if I might, I
14 think maybe cut to the chase for us. You know, if the
15 Commission determines that a switch from the current
16 system for us to this new system is, you know, what you're
17 going to decide, to make that switch, what we're saying is
18 that, operationally, we need to function using one system
19 to make that switch. And, there's going to be a cost to
20 our customers to do that, and we need time to comply, if
21 we're going to switch to a different system than what we
22 use today.

23 CMSR. SCOTT: Can you fill that in a
24 little bit more? What kind of time frame? And, if you

1 had more time, would it be less cost?

2 MR. SAAD: Yes. We would propose
3 something like, any existing Grade III that migrated to a
4 Grade II or a higher classification, other than a Grade I,
5 which we would fix right away, that the six-month limit
6 for the Grade II would be extended until, just for those
7 that migrated, not anything new that came in, to at least
8 18 months. That way we could spread the spike out and
9 kind of spread those costs out. The costs are
10 significant. So, if we could spread them out over a
11 couple calendar years, it would help, as well as the
12 resources, to get it done.

13 CMSR. SCOTT: And, can you explain the
14 cost issue a little bit more please?

15 MR. SAAD: Based on our reassessment of
16 our existing Grade III leak pool -- that's the number I
17 should quote right there?

18 MR. MacDONALD: Yes.

19 MR. SAAD: It's about, I just want to
20 make sure I'm quoting the right number looking at the
21 spreadsheet here, it's a little over a million dollars of
22 OpEx. So, that's just tough to take in one year. Not
23 only the cost, but the spike of that many leaks. A lot of
24 them will have to be done on overtime. So, --

1 CMSR. SCOTT: So, that cost then, if I
2 understood what you just said, is more than just
3 reclassifying, it's addressing, if they went from a Class
4 III to a Class II, now you're handling it as a Class II
5 also. So, if I understood your statement, it's not -- the
6 cost is not just recalibrating your database, if you will,
7 it's also and addressing --

8 MR. MacDONALD: It's fixing.

9 CMSR. SCOTT: -- it's fixing according
10 --

11 MR. MacDONALD: And, the majority of
12 those --

13 (Court reporter interruption.)

14 CMSR. SCOTT: It includes fixing under
15 the new criteria?

16 MR. MacDONALD: Yes, it does.

17 CHAIRMAN IGNATIUS: So, the things that
18 are in dispute are, although I guess there's the "old way
19 of classifying/new way of classifying" question. And, the
20 Company has said, although Staff may have thought it was
21 being helpful to give you the option of the old way and
22 the new way, it actually would be better to go to a new
23 way, and greater period of time for the Class IIIs that
24 have -- the existing Class IIIs that are now going to be

1 considered IIs, to be repaired or rechecked? I guess I --
2 I start looking at the language, and it seems to be
3 talking about the "rechecking". But it probably also says
4 something about "repairs", which is what you've been
5 talking about.

6 MR. MacDONALD: Yes. We've been talking
7 about repairs. The 1.2 million, you know, cost is a cost,
8 an O&M cost, you know, to repair the leaks. A certain
9 portion of those leaks are going to be capitalized, close
10 to three-quarters of a million dollars. So, when you look
11 at the whole thing for us, you know, it's close to
12 2 million overall, three-quarters of a million of that is
13 going to be capitalized.

14 The rechecking, which is another
15 proposal, --

16 CHAIRMAN IGNATIUS: Okay. Before you go
17 on, help me just -- where's the language? I'm just so
18 lost. I think I got stupider over lunch. So, where's the
19 language about "repair"? I'm sure I'm staring at it, I'm
20 just not finding it.

21 MR. MacDONALD: Well, there's --

22 CHAIRMAN IGNATIUS: Where's the language
23 that's troublesome about "repair" and how would you
24 recommend improving it?

1 MR. MacDONALD: Actually, there really
2 isn't any language in there about "repair". It's really a
3 fallout to the rule changes for us that are being
4 proposed. That we have an inventory of leaks that, under
5 what is being proposed by Staff, not necessarily Liberty,
6 but by Staff, what they would like to see for consistency,
7 with our inventory of Grade III leaks, to comply with that
8 or to, you know, match those new standards, for what we
9 have today in our backlogs or in our inventory, the cost
10 of the repair is going to be, you know, just over
11 \$1 million in O&M expense, which we would like to spread
12 out over a couple years, versus, you know, absorbing that
13 in, you know, a single -- a single year.

14 CHAIRMAN IGNATIUS: Okay. And, the
15 requirement, the period of time that's allowed to repair a
16 Class III leak is some period of time, and the period of
17 time to repair a Class II leak is a shorter period of
18 time?

19 MR. MacDONALD: Class III leaks are
20 monitored only, and repair is at the discretion of the
21 Company. It's not a mandatory requirement, as long as --
22 so long as they're monitored on, you know, according to
23 the cycles that we're talking about, you know, with some
24 of the changes here.

1 But Grade II leaks, under the current
2 regulations, require us to repair those leaks within six
3 months. And, we need to spread the leaks that are going
4 to now become Grade IIs from the existing Grade III
5 inventory, we need -- it would be -- we couldn't repair
6 all of those leaks within six months after reclassifying
7 them. So, we need to spread that out. And, manage it,
8 and work with Staff on that, you know, through the
9 process.

10 CHAIRMAN IGNATIUS: Okay. Mr. Knepper.

11 MR. KNEPPER: Perhaps maybe a solution
12 or a resolution to this could be that, for rule purposes,
13 I think we're all, in concept, that the rules going
14 forward would work. Maybe the rules could get, if we can
15 ever reach resolution on some of these issues, be put into
16 place. The question is, then could Liberty come in and
17 ask for a waiver just for themselves of a certain section
18 of a certain rule, and give a proposal to the Commission
19 as to what they're looking for. And, that be the
20 administrative process that might be applicable for them.
21 And, then, you can kind of, by that point in time, you
22 won't be using "90 percent" and "10 percent" numbers, they
23 can actually probably go back and, if they haven't written
24 down what the percent LELs or percent reads were, they

1 don't know, it would give them the time to do some
2 diligence. Maybe they got it all done in a day and a
3 half, but it sounded like their initial comments today
4 was, they didn't have time to do that kind of stuff. And,
5 then, they can really kind of think about what the true
6 cost impacts are.

7 I don't know if that's a -- that's one
8 thought that occurred to me as we were sitting here kind
9 of talking about this. That we can kind of handle things
10 from a rules standpoint and a company standpoint
11 separately.

12 CHAIRMAN IGNATIUS: And, are you saying
13 that you would be supportive of a request to waive the
14 six-month repair requirement for a number of the leaks
15 that would have moved from the "Class III" to the "Class
16 II" category?

17 MR. KNEPPER: Well, I won't do that
18 until we look at numbers and where we are and what we're
19 talking about, how many there really is, unless these are
20 hardcore numbers, I tend to doubt it, and what the real
21 kind of costs are. My guess is, these are average costs.
22 We have a Class III identification of every leak that they
23 have given us already in through another order that they
24 are under. And, so, we would look at that in the context

1 of that as well.

2 CHAIRMAN IGNATIUS: Well, I recognize no
3 one can be making any decisions without seeing the real
4 information. But, at the same time, I want to make sure
5 your suggestion isn't a hollow one. That, to say "well,
6 you can always ask for a waiver", if your sense is you
7 would oppose that sort of a request. So, I'm just trying
8 to get your feeling. Can you imagine it would be
9 reasonable to waive the six-month deadline for some
10 number, some significant number of the leaks that were --
11 used to be called "III" and would now be called "II"?

12 MR. KNEPPER: Yes. I mean, I think,
13 conceptually, they're in a problem. I'm looking at it
14 from a regulatory standpoint. And, you know, fixing --
15 fixing leaks is not a bad thing. It's not a -- it's a
16 good thing. It will drop your unaccounted for gas down
17 and a lot of other things will become of it. I think
18 having consistency and uniformity is a good thing. Those
19 are the principles that we should be doing. I think
20 somewhere along the way that they got off from what our
21 rules were or they weren't following it exactly. I think
22 keeping six months to repair a Class II leak, we've had
23 that forever; 25 years or more this Commission has
24 requested that. And, so, I think that's a good thing.

1 And, so, I think there's more pluses of it.

2 I guess, you know, from some of the
3 things, I'm not -- and, I guess I'm not flat-out opposed
4 to it. I just need to condition some of my statements of
5 whether -- you know, I think the best thing is, maybe they
6 could sit down and work out a proposal with Staff before
7 they do the official waiver type of thing, and then,
8 before they submit it, and then you would have a better
9 idea.

10 MS. KNOWLTON: But I think Chairman
11 Ignatius has recognized the conundrum that we're in, which
12 is that, you know, you're basically asking us to remove
13 our objection to this change in the rule, and to do that
14 without knowing with any level of certainty that, if we
15 file a waiver request, that it's going to be granted.
16 And, so, it just puts us in a really difficult position.
17 I know that you need to know the facts. But, you know, --
18 you know, I don't want to submit a waiver request, and
19 then find out "sorry, you know, you've got to do it all."
20 And, now, we've got resource constraints. We've got, you
21 know, we've got real operational issues. You know, when,
22 you know, maybe we would have gone to JLCAR, stood up and
23 told them why we didn't think this was a good rule, you
24 know, if the Commission were to, you know, to decide that

1 it was.

2 CHAIRMAN IGNATIUS: Is there another way
3 to solve it, by having a delayed repair schedule for
4 those, and I think this was already proposed earlier, for
5 those that were formerly classified as III, are now
6 classified as II, that they would be on, you know, a
7 12-month, I think you might have said an "18-month"
8 schedule for repair. Maybe a list shared with Staff to
9 prioritize which should go at the beginning of the list,
10 is there any room for that, that gives a little more
11 certainty than what we've been talking about?

12 MS. FABRIZIO: I just might throw out
13 there, I think, if we do address the timing for compliance
14 issues that way I think -- I think we need to build in
15 language that makes it clear that that extension of the
16 timeline is covering only sort of the grandfathered leaks,
17 so to speak, so that we're not actually inserting
18 something in it that extends it for 18 months or whatever
19 into the future for other leaks.

20 MR. KNEPPER: Yes, I agree with that.
21 Because I don't want to, you know, say that we're not
22 going to fix leaks within six months. That's a very good
23 practice that we've had here in New Hampshire and we've
24 been doing it for a long time. So, it has to be really

1 specific as to what you're looking for and what section of
2 it. And, you know, leaks are popping up every day. I
3 mean, there could be leaks going on right now, tomorrow.
4 So, they're occurring. And, so, if we have a delay to
5 implementing it, then the problem just gets bigger. We
6 just need to know where the Company was.

7 CMSR. HARRINGTON: I just want to make
8 sure, you say "it has to be specific". It seems to me
9 like, if you said "any Class III leak that was
10 reclassified to Class II as a result of the implementation
11 of the new rules would get, whatever, 18 months additional
12 time to be repaired", that seems pretty specific to me.
13 Am I missing something?

14 MR. KNEPPER: Well, is that going to be
15 applicable to all companies?

16 CMSR. HARRINGTON: I would think the
17 rules would have to be applicable to all companies.

18 CMSR. SCOTT: And, I feel safe making
19 the caveat, obviously, if the leak grew worse, that could
20 change things, obviously. I mean, the presumption is the
21 leak isn't getting worse, right, from Class III to Class
22 II, because of the rules.

23 MR. KNEPPER: Some of them. Some of
24 them do get worse over time when you go back and you

1 recheck them. So, even if under the old system --

2 CMSR. SCOTT: Right.

3 CMSR. HARRINGTON: Well, I think we can
4 make that clear. That, if it was being -- it was being
5 reclassified just strictly due to the new rules, and not
6 due to anything physically happening in the field,
7 because, obviously, as Commissioner Scott said, you could
8 have a situation where something that was Class III goes
9 to Class II, and has nothing to do with the change in the
10 rules, just a deterioration of the conditions in the
11 field. Would that be acceptable to Liberty? Would
12 Liberty be acceptable -- would that be acceptable,
13 something like that, an additional time frame, if it was
14 clear that it was only leaks that were reclassified due to
15 the new rules?

16 MR. KNEPPER: They're going to need a
17 Leak Czar.

18 MR. MacDONALD: That's not in our
19 estimate, Randy. It just went up.

20 CHAIRMAN IGNATIUS: Mr. Saad.

21 MR. SAAD: I just, as you walked through
22 your proposal, I just started to wonder that, if a III
23 goes to a II, and we're only using one set of standards
24 now, I'm just trying to imagine how would we know whether

1 it would have moved from a III to a II with the old
2 method. I'm trying to -- that's the part that I had to
3 think through. Go ahead.

4 MR. MacDONALD: You know, Randy is
5 pretty close when he said "we're going to need a Leak
6 Czar." We're going to have to manage that pool of leaks
7 separately. Classify or reclassify the leaks under a
8 single standard, but, you know, manage that specific pool
9 of leaks separately and report on it separately.

10 CHAIRMAN IGNATIUS: Are we close enough
11 that we can ask Staff and the Companies to try to come up
12 with language that would accommodate this goal of moving
13 to the new classification, and understanding that any
14 leaks that are now changing classification from III to II,
15 solely as a result of the new rule standards, not because
16 of the field conditions, would be given up to 18 months
17 for repair? And, then, I don't think it needs to be in
18 the rule, but some agreement that, as you identify that
19 pool of leaks, there be some consultation on where you
20 rank the severity and the need, you know, the repair plan
21 and the choices you're making and go over that with the
22 Staff as well?

23 Well, if Staff's not asking for that,
24 then I won't impose it. I'm just trying to listen to all

1 the things I'm hearing. And, if leaving it to the Company
2 to sort out how best to resolve those that are shifting
3 classification over an 18-month period, then it's fine
4 with me to leave it to the Company.

5 MS. FABRIZIO: But I think that the
6 Company has stated a concern that Staff recognizes, you
7 know, they would like to have addressed as we proceed
8 through this rulemaking. And, perhaps we can talk with
9 the Company afterwards and consider sort of a side
10 agreement or an MOU between Staff and Liberty, in terms of
11 addressing this particular issue under the rules.

12 CHAIRMAN IGNATIUS: Well, I'm a little
13 concerned. I don't know what else we need. As I'm
14 hearing it, there aren't that many terms at issue. It's
15 just the -- there may be more information that will be
16 interesting to look at. But, if the only thing was, if
17 you're moving from a III to a II because of the new rules,
18 you've got -- you go from 6 to 18 months to get it
19 repaired. Is there more there that I'm missing? I'm sure
20 there is.

21 MR. MacDONALD: We'll figure it out.

22 MR. KNEPPER: Well, you know, we might
23 have something where a street's not allowed to be
24 repaired, you can't tear it up. There's issues like that

1 that might crop up. And, so, --

2 CHAIRMAN IGNATIUS: But that's true in
3 any case, right? Whether it's at 6 months or 18 months,
4 you have that problem, correct?

5 MR. KNEPPER: That's true. If they have
6 a Class II, they fix it. They got to fix it within 180
7 days, because that has a potential to be hazardous. So,
8 they all have to do that. So, I was just thinking of
9 streets that may not be able to handle that.

10 MS. FABRIZIO: I suggest that Staff talk
11 with Liberty and try to come up with language for the
12 rules. And, if we don't reach agreement, then we'll
13 report back to you next week.

14 CHAIRMAN IGNATIUS: Okay. Thank you.
15 We didn't go kind of line-by-line, and some of these
16 changes I just can't tell if they're agreed or not. For
17 example, 508.04(m), 2 says "20 percent gas" and "5 feet"
18 are both underlined as terms, maybe we don't need to go
19 through all that. But I just -- I was a little lost on
20 whether those are contested or whether just the larger
21 issue about repair times?

22 MR. KNEPPER: We haven't finished that
23 one either.

24 CHAIRMAN IGNATIUS: Okay. So, then, I

1 guess we are really dealing just now with the Class III
2 leaks. So, if we go back to the Class II leaks --

3 MR. KNEPPER: I'm sorry, I take that
4 back. Class IIs, we did that while you were gone.

5 CHAIRMAN IGNATIUS: Good.

6 MR. KNEPPER: This is where we said,
7 Staff wanted 30 days, and we agreed to 60 days for
8 rechecking, and with some caveats to 30 days for the
9 January through March, and we agreed with Liberty's
10 change. It shouldn't affect Unitil at all, so --

11 CHAIRMAN IGNATIUS: All right. Well,
12 let's just be really clear. Look at 508.04(m). Is that
13 an open question or resolved?

14 MS. FABRIZIO: (m)(2)(h) is resolved.

15 CMSR. HARRINGTON: But I think --

16 MS. FABRIZIO: Are you on (m)(3)?

17 CHAIRMAN IGNATIUS: I'm just looking at
18 (m).

19 CMSR. HARRINGTON: (m)(2)(b), (c) --

20 CHAIRMAN IGNATIUS: And, there's Items 1
21 through 6, and there are a number of line changes that
22 Liberty proposed, and --

23 CMSR. HARRINGTON: Definition of the
24 "Class II leak" is basically what we're referring to.

1 MS. FABRIZIO: Are you looking at the
2 Staff summary document or the --

3 CHAIRMAN IGNATIUS: Yes.

4 MS. FABRIZIO: Okay.

5 CHAIRMAN IGNATIUS: Page 5 on my
6 version.

7 MS. FABRIZIO: Yes.

8 CMSR. HARRINGTON: Page 6 on yours.

9 MS. FABRIZIO: Yes. That was -- this
10 was sort of a foundational issue, that this, what Liberty
11 has proposed here is that current classification system is
12 on a very different system of measurement. And, what
13 Staff has proposed in the draft proposal is to go to the
14 LEL, the lower explosive limit system that Unitil uses.

15 CHAIRMAN IGNATIUS: So, if we do that,
16 which I think Liberty is willing to do with the
17 implementation time we just talked about, then all of
18 that, those changes on Items 1 through 6 on "Class II
19 leak" definition don't need to be addressed, correct?

20 MS. FABRIZIO: That's right.

21 MR. KNEPPER: That is correct.

22 MR. MacDONALD: Yes.

23 CHAIRMAN IGNATIUS: Okay. Good. Looks
24 like Liberty says "yes", Staff says "yes". Okay. Thank

1 you. I'm sorry, I'm getting lost here.

2 MS. FABRIZIO: But on the -- I think the
3 next related provision that we haven't discussed is the
4 508.04(m)(3), where Liberty proposed a change on the Class
5 III.

6 CMSR. HARRINGTON: It looks like we
7 already discussed that on --

8 MR. MacDONALD: That would be the same
9 situation as the IIs. Because, you know, Liberty was
10 proposing its current standards, you know, in opposing
11 what was being proposed. So, that would be the same. We
12 would -- we don't -- we would not have issue with, you
13 know, it was (a), (b), and (c) that we were talking about
14 earlier. Is that what we're talking about?

15 MR. CODY: No, they're talking about
16 rechecks.

17 MR. MacDONALD: Oh, the rechecks? Yes,
18 we still have an issue.

19 CHAIRMAN IGNATIUS: All right. So, we
20 are talking about 508.04(m)(3), correct?

21 MS. KNOWLTON: Yes.

22 MR. SAAD: Yes.

23 CHAIRMAN IGNATIUS: And, I don't know if
24 someone from Liberty wants to explain what the issue is or

1 if Staff wants to, whoever can sort of set the stage for
2 us please.

3 CMSR. HARRINGTON: Can I just ask a
4 clarifying question here? I'm trying to determine the
5 difference between, on the handout, which I guess there
6 are two different sets of handouts now, but, on the top of
7 one page, it says "Class III leaks".

8 MR. KNEPPER: Yes.

9 CMSR. HARRINGTON: "Liberty proposes
10 replacing Class III leaks language in 508.04(m)(3)(a),
11 (b), (c), and (d) with the following". And, then, below
12 that, if you jump down beyond a green block, there's
13 another red block that says "508.04(m)(3)".

14 MR. KNEPPER: (a).

15 CMSR. HARRINGTON: Is that covered in
16 both places?

17 MR. MacDONALD: Yes.

18 MR. KNEPPER: Yes, it's covered in both
19 places. Because what they did was give you the existing
20 Class III leak criteria at the very top of that page.
21 And, we're kind of saying we're not -- if we work out the
22 situation in that language that they propose will not go
23 into effect, it will go to what Staff has initially
24 proposed. But we still have, even within that one area,

1 where Staff and Liberty, I believe, are apart, as far as
2 the timing of a recheck on a Class III leak.

3 MR. MacDONALD: Yes.

4 CMSR. HARRINGTON: So, the issue in
5 debate is what's in the draft proposal of 02/13/13,
6 Page 30, the middle of the page, where it talks about
7 Class III leaks. "Class III shall be a leak that is
8 non-hazardous at the time of detection and can be
9 reasonably expected to remain non-hazardous. (a) Each
10 utility shall survey and re-evaluate each Class III leak
11 at least once every six months from the date of discovery
12 until the leak is repaired." Is that the issue that's in
13 contention?

14 MR. KNEPPER: That's correct.

15 CMSR. HARRINGTON: And, what Liberty is
16 proposing is "Class III leaks shall be rechecked at
17 intervals no greater than once per calendar year, but at
18 least one recheck shall be performed between September 1
19 and December 15 each calendar year." So, that's the two
20 versions that are in dispute?

21 MR. KNEPPER: Right.

22 CMSR. HARRINGTON: Okay. Just so we're
23 clear.

24 CHAIRMAN IGNATIUS: So, who wants to go

1 first, on why six months is too often or one year is not
2 often enough?

3 MR. SAAD: Well, just to remind folks
4 that the reason they're Class III leaks is because they're
5 considered "non-hazardous". And, if we were to adopt the
6 new leak grading system, they should clearly be pretty low
7 on the risk scale. That's the reason for Class III.
8 That's the reason for the ranking. It's there for a
9 reason. So, not all leaks are the same. And, to check
10 them twice, in our opinion, during the summer months, adds
11 little to no value from a safety perspective.

12 Typically, once we get into spring, a
13 Grade III leak, for the most part, looks the same in April
14 as it does in November. It just doesn't do much. And,
15 however, we do agree that they should be checked before we
16 go into the winter. So, rather than check them -- rather
17 than propose once a year and check them April 1st, we
18 think that it makes more sense to at least ask the
19 utilities to check them before they go into the winter,
20 which is what we're proposing here.

21 So, from a risk standpoint, we think we
22 meet the whole objective of rechecking, to make sure that
23 the migration hasn't changed before you go into the
24 winter. So, just to check multiple times doesn't really

1 add any value in the summertime, when nothing is really
2 happening.

3 CMSR. SCOTT: And, just to clarify on
4 your suggested language, again, this is into the weeds, I
5 apologize, the language suggested says -- would mean that,
6 if you happened to wanted to recheck more than once a
7 year, the rule could not allow that, I assume you don't
8 mean that?

9 MR. SAAD: Correct. If a utility felt
10 that they wanted to check them four times a year, they
11 could. I didn't mean to not allow that.

12 CMSR. HARRINGTON: And, could I just add
13 a follow-up on that?

14 CHAIRMAN IGNATIUS: Please.

15 CMSR. HARRINGTON: What is the process
16 for re -- what's the periodicity for rechecking Class III
17 leaks presently?

18 MR. MacDONALD: Once a year.

19 MR. SAAD: Yes. Currently, it's once
20 per calendar year.

21 CMSR. HARRINGTON: And, what you're
22 trying to say is that the criteria for qualifies for Class
23 III under the new rules will be more stringent, in other
24 words, you'd have to be a lower level leak to classify as

1 Class III, some of the present Class IIIs would be Class
2 II?

3 MR. SAAD: Correct. So, it would be
4 clearly very low risk to be considered a Class III in the
5 new criteria. So, rechecking is a good thing to do. At
6 the right time, it has a lot more effect, a lot more
7 value. To just check it a whole bunch of times in the
8 months where nothing's changing doesn't really add
9 anything from a safety perspective.

10 CHAIRMAN IGNATIUS: Does Staff have a
11 response to the argument that it's really annually is
12 enough for these low level leaks?

13 MR. KNEPPER: In doing our research, I
14 talked to a number of states, as to what their policies
15 were and why, and why they went into effect. So, I
16 reached out to Maine, Texas, Kansas, Missouri, and
17 Arkansas, five states, different areas of the country, to
18 find out, you know, "why do you have certain things in?"
19 Up in Maine, it's 180 days. Well, what they do is, you
20 have a finite cap on the life of that leak. It will be
21 repaired in two years. Our regulations say it can go on
22 forever. It can just be monitored for now until the end
23 of time. Texas, the same thing, they allowed one year,
24 but they said there's a finite at the end, you have to

1 have these repaired in three years. Most of the states,
2 Kansas, same thing, you had to have them repaired in two
3 and a half years. So, they put a cap on the end of that,
4 the life of that leak, I guess. The basic thing that they
5 were trying to do is fix them.

6 We have no -- the Staff hasn't proposed
7 doing -- putting a finite life on it. We left it kind of
8 open and allowed for them. But it requires more
9 rechecking. And, we think the frequency -- that the
10 frequencies should go up, if you're not going to have a
11 finite life. If you're going to have a finite life, then
12 you can allow it to be a longer period of time. So,
13 that's kind of the thought process in which Staff used.

14 CMSR. SCOTT: So, based on that, I
15 wonder if, in the spirit of compromise, if there was a
16 Class III leak that was a Class III leak for more than X
17 amount of time, the frequency of inspection would be
18 increased, would that be --

19 MR. KNEPPER: Certainly be open to that.
20 But that's not -- I think it goes back to some of those
21 statements they were saying, that they consider it
22 non-hazardous. They don't think it's an issue. And, I'm
23 guessing, I'm assuming the Company is saying it's not
24 worth doing.

1 So, you know, it's not -- and, they're
2 certainly open to that and they can have that view. But,
3 when you do that, leaks just kind of creep up. And, so,
4 that's what happened in a lot of these states. And, so,
5 they ended up just saying "you have to have a life on
6 these and you're kind of fixing them.

7 So, I'm kind of -- to me, a leak is not
8 a good thing. The gas is supposed to stay in the pipe.
9 It's supposed to be, you design it, you maintain it,
10 you've installed it, you have qualified people. The whole
11 idea is to keep it in there. And, when it's out,
12 technically, according to PHMSA and regulations, it's
13 considered a failure. You're not doing what it's designed
14 to do.

15 Because it's not, you know, rushing into
16 someone's home, that's not necessarily the only criteria.
17 And, so, you have to kind of say, you know, "what are you
18 going to do to address leaks?" Now, you know, there's new
19 regulations called "Distribution Integrity Management",
20 which is based on these leak profiles and doing some
21 things like that, and it will tell you where their highest
22 risks are. But, really, in New Hampshire, the Is are
23 fixed, the IIs are fixed, all you got left is the IIIs,
24 and they're the ones that stay, you know? So, you're only

1 talking about this. And, so, either you kind of decide
2 whether it's a growing number or not.

3 And, so, does that give you some
4 background as to our logic?

5 CMSR. SCOTT: Uh-huh.

6 CHAIRMAN IGNATIUS: Let me ask, if we --
7 we're going to need to take a break very soon. Is there
8 any thought that, over a break, there might be some
9 agreement on how to resolve this one or we're sort of done
10 and it's just up to us to make a call?

11 MR. MacDONALD: We could give it a try.

12 CHAIRMAN IGNATIUS: All right. Then,
13 why don't we take a break until between quarter of and ten
14 of, I would like to say "ten of", but, if we say that, I
15 don't want it to be even later, just because I really want
16 to see if we can finish this today. So, we'll try to get
17 back, you know, between 3:45 or close after that. Thank
18 you.

19 (Recess taken 3:35 p.m. and the hearing
20 resumed at 3:59 p.m.)

21 CHAIRMAN IGNATIUS: All right. We're
22 back on the record. All right. We're back from a break.
23 And, I guess I'll ask for a report on what issue we should
24 take up. Whether we have any resolution of the 504 --

1 excuse me, 508.04(m)(3) recheck intervals issue?

2 MR. KNEPPER: You guys want to speak
3 first or no?

4 MS. KNOWLTON: We weren't able to reach
5 an agreement. I mean, I think our view is that it's not
6 the best use of customer dollars. That they're very --
7 once you do the reclassification, what's left in Class III
8 is a very, very low risk. And, to spend the money to
9 check them twice a year, to us, does not make sense. You
10 know, we've got mobile surveys of our system going on, you
11 know, that pick up issues. That goes on, you know,
12 regularly in the spring. And, so, we just don't think
13 it's the right use of customer money.

14 CHAIRMAN IGNATIUS: All right. Anything
15 Staff wants to add or should we move to the next issue?

16 MR. KNEPPER: Yes. It was just too
17 brief a period to be able to get that resolved, so --

18 CHAIRMAN IGNATIUS: All right. So, yes,
19 the next big one, maybe the final big one, and then we
20 have a few things that we've set aside to come back to, is
21 512.09(g), is that right? Oh, am I on the wrong page?

22 CMSR. HARRINGTON: No, we're at
23 506.02(t).

24 CHAIRMAN IGNATIUS: We have to start all

1 over again.

2 CMSR. HARRINGTON: It's Ground Hog's
3 Day, right? 506.02(t).

4 CHAIRMAN IGNATIUS: Thank you.
5 "506.02(t) Operator Qualification plans". Who wants to
6 start?

7 CMSR. HARRINGTON: This is the one we
8 put off because the other ones were going to be fast, I
9 guess.

10 CHAIRMAN IGNATIUS: Who wants to lead
11 off on this one?

12 MR. CODY: Well, this is the utilities,
13 Liberty Utilities will give it a shot.

14 CHAIRMAN IGNATIUS: All right. Thank
15 you.

16 MR. SAAD: Leo, --

17 MS. KNOWLTON: Leo, let them --

18 MR. SAAD: -- let's let them go. I
19 think they have a longer story.

20 MR. HEWITT: Yes. If you want utilities
21 to lead off, we can do that. I'm happy to.

22 CHAIRMAN IGNATIUS: Sure.

23 MR. HEWITT: Let's get -- so, we've got
24 a half an hour to cover --

1 CHAIRMAN IGNATIUS: Less, as we have
2 some other items we have skipped over to go back to.
3 Let's give it a shot.

4 MR. HEWITT: I'll do my best,
5 Commissioner. In my time working with this utility, this
6 is the only time that I have seen an issue rise to the
7 level where the Chief Operations Officer felt he needed to
8 write directly to the Commission. On January 14th of this
9 year, Tom Meissner, Chief Operations Officer for Unitil
10 Service Company wrote a letter to the Commission
11 explaining in, I think, very plain language, and in great
12 detail, what this Company's concerns are with respect to
13 the proposed change in direction for operator
14 qualifications that your Staff is proposing in this rule.

15 This is a significant concern, because
16 it is a departure and a significant departure from the
17 regional approach that has been taken to OQ here in the
18 Northeast region. And, it may seem like only a very few
19 words that get appended into your regulation, but they
20 have far-reaching ramifications for your operators. And,
21 the section, as we mentioned, is 506.02(t). And, the
22 language that's concerning, and it's at Page 21 of the
23 most recent set of regs that kicked out on the 13th. But
24 the first sentence in 506.02(t) reads: "Operator

1 qualification plans shall list all covered tasks and
2 include specific abnormal operating conditions for each
3 task." While abnormal operating conditions, or "OACs"
4 [AOCs?] as you'll hear them referred to from time to time,
5 are woven into the fabric of federal OQ regulation. They
6 are not and have not been viewed or treated in the
7 Northeast region as being AOCs for each covered task.

8 And, to sort of start the discussion and
9 kind of lay the framework, I think you really need to
10 start in Federal Code, because that's where these mandates
11 really are based. And, the source is 192.805, and that's
12 where qualification programs are required. 192.805
13 requires that "Each operator shall have and follow a
14 written qualification program. The program shall include
15 provisions to: Identify covered tasks; and ensure through
16 evaluation that individuals performing covered tasks are
17 qualified."

18 So, there are these identified tasks on
19 the system, and each operator has to ensure that anyone
20 who operates, anyone who does one of those covered tasks
21 has gone through a qualification process. And,
22 "qualification" is defined in the regs. It's defined up
23 in 192.803. "Qualified" means that an individual has been
24 evaluated and can perform assigned covered tasks and

1 recognize and react to abnormal operating conditions. So,
2 it's a requirement in federal law that individuals, who
3 are going to be performing covered tasks, be qualified,
4 and that qualification includes recognizing and reacting
5 to AOCs.

6 So, that's kind of the foundation on
7 which really all of our arguments here rest. And, covered
8 tasks are things like, oh, they include leakage surveys,
9 investigating leak complaints, purging a pipeline into
10 service, restoring service. Many of the functions that an
11 operator is required to do when restoring service after a
12 significant emergency situation on the Company's system.

13 So, that's sort of OQ at the federal
14 regulatory level. How is OQ handled in the Northeast?
15 And, Mr. Meissner's letter goes through this. And,
16 incidentally, he wanted to be here today, but he had
17 long-standing travel plans to be out of this country, and
18 he left on a plane this morning. Had this been scheduled
19 a day earlier, he would have -- he would have been here.
20 That's the level of importance that this issue has in this
21 company.

22 OQ in the Northeast is really considered
23 on a regional level. The operators in the Northeast look
24 to a written plan that has been developed through the NGA.

1 Mr. Costa is here today, if the Commissioners have any
2 questions about sort of how the NGA's plan was developed,
3 who was involved, as far as regulators, operators,
4 contractors in the region, I'm sure he could provide you
5 with a brief background on that. But the NGA is really
6 sort of the font, if you will, of OQ plans that have been
7 adopted and developed by the operators in the Northeast
8 region. And, this regional approach has a lot of
9 benefits. And, probably the most important one that we
10 see is that having this commonality in OQ allows operators
11 to take advantage of mutual aid resources throughout the
12 region. And, that point was probably driven home most
13 recently and most directly by Super Storm Sandy.

14 I know our company had work crews that
15 traveled to New Jersey, in order to provide mutual aid
16 assistance. Those efforts were coordinated through the
17 NGA. Within hours, literally hours of our people landing
18 on the ground in New Jersey, they were out in the field
19 performing covered tasks to help in the restoration
20 effort. Their ability to be dispatched that quickly out
21 into the field to help with restoration is directly tied
22 to the fact that there was common OQ throughout the
23 region.

24 Once an operator confirms that an

1 individual who is on loan from another operator is
2 qualified in the covered tasks and AOCs that the receiving
3 operator needs, they don't require any further
4 qualification. There may be a safety briefing. A crew
5 hits the ground -- you know, the crew arrives in New
6 Jersey, a quick safety briefing, bang, they're out in the
7 field, doing leak surveys, doing meter installations,
8 doing other covered tasks. And, part of that -- part of
9 that OQ is not only ensuring that these workers understand
10 what the covered tasks are and ensure that they're
11 qualified to perform those appropriately, but it's also
12 the identification of the AOCs, the abnormal operating
13 conditions that these people could experience while
14 they're out in the field.

15 Now, if the Commission adopts the
16 Staff's proposal, which would essentially require all the
17 operators to adopt AOCs on a -- for each covered task,
18 that will take New Hampshire out of step with the rest of
19 the region. Right now, in the region, what the region
20 follows in the NGA plan, and what the NGA plan has is
21 about 85 covered tasks, then eight general AOCs. And,
22 those AOCs really apply to all the various covered tasks.

23 What the Staff's proposal is is to have
24 covered tasks, but then AOCs would need to be developed

1 for each of those covered tasks. And, in Unitil's --
2 Northern's particular circumstance, we have 86 covered
3 tasks. We have an additional covered task that addresses
4 live insertion, that the NGA does not have, but we've
5 adopted, because that's a covered task that we use on our
6 system.

7 CHAIRMAN IGNATIUS: So, can you just
8 focus in on why putting in additional AOCs would somehow
9 throw off the ability to work throughout the region? I
10 mean, you just said your own company has different items
11 that aren't necessarily shared by all the other companies,
12 and yet that wasn't any sort of a barrier. So, --

13 MR. HEWITT: Right. Well, sure. And,
14 it isn't, because we don't have, you know, in an emergency
15 situation, you would not expect to have a mutual aid
16 resource come in and do live insertion on your system.
17 You would, though, expect them to be doing things like
18 leakage surveys, meter installations, restoring service,
19 doing relights, okay?

20 CHAIRMAN IGNATIUS: But just explain to
21 me, why is it that -- no one is talking about changing the
22 operator qualification plans or to not have them in place.
23 It's that to spell out, put in writing what is called for
24 in a kind a general sense of the eight broad categories to

1 actually get specific and put them in writing. And, why
2 is that a bad thing?

3 MR. HEWITT: Well, having the eight
4 broad categories in writing isn't a bad thing, in fact,
5 it's required by federal law to do that. What is being
6 proposed, though, is to say "go on a task-by-task basis
7 and come up with new AOCs for each of those specific
8 covered tasks." So, instead of having eight overarching
9 AOCs, you need to have AOCs for each covered task. So,
10 Unitil would have to go through their 85 or 86 or so
11 covered tasks and develop new AOCs that are specific to
12 each of those tasks. That can be done. The problem is,
13 no one else in the rest of your region is going to be
14 doing that. And, so, when you need to bring in someone to
15 do mutual aid work, when you have a system emergency,
16 those people are not going to be qualified, because they
17 will have not been trained on your task-specific AOCs,
18 they won't be qualified as to your task-specific AOCs.
19 And, under federal law, the operator cannot allow those
20 personnel to work on their system, because they haven't
21 been properly qualified in those AOCs.

22 MS. HOLLENBERG: May I just seek to
23 clarify something? So, is what you're saying that New
24 England or the region has a common minimum requirement

1 that's required, so that such that you all -- you can make
2 more stringent requirements for yourself, if you wanted,
3 but, because you have a common minimum, you can each
4 borrow resources from each other, and then the changes
5 here are setting your minimum higher than other people.
6 And, so, you won't be able to borrow from other regions,
7 other areas?

8 MR. HEWITT: I'll let Jose answer that.
9 I wouldn't characterize it as "minimums".

10 MS. HOLLENBERG: Uh-huh.

11 MR. HEWITT: Because I don't think
12 that's really what it gets at, but --

13 MS. HOLLENBERG: Well, the rules are the
14 minimums. I mean, in terms of the requirement in the --
15 requirement for regulation, the rule is the minimum. The
16 Company can always do more than the rule, right? That's
17 what I mean. I'm just trying to understand this
18 conceptually. And, I thought that would be helpful, but I
19 apologize if it wasn't.

20 MR. HEWITT: Do you want to take a shot
21 at that, Jose?

22 MR. COSTA: Yes. Firstly, thank you.
23 Did you get the comments from the Northeast Gas
24 Association? There's a whole bunch I think we sent in. I

1 just didn't see our name on this document here. So, I
2 just wanted to make sure you got comments from us.

3 CHAIRMAN IGNATIUS: We got at least one,
4 and maybe two rounds of comments.

5 MR. COSTA: Well, probably there was two
6 letters, and then there was a letter that came in recently
7 as well, so --

8 CHAIRMAN IGNATIUS: We have an
9 October 26 filing.

10 MR. COSTA: Right. And, there should
11 have been a letter that came in recently as well. So, --

12 CHAIRMAN IGNATIUS: All I have is
13 October 26.

14 MS. FABRIZIO: How recently was that?

15 MR. COSTA: It would have probably been
16 about a month ago, and even sooner than that, about a
17 month ago.

18 CHAIRMAN IGNATIUS: No.

19 MR. COSTA: It was probably a two-page
20 letter from Tom Kiley, written by the president. But,
21 okay, that's fine.

22 CHAIRMAN IGNATIUS: We don't.

23 MR. COSTA: And, in regards to that
24 question, just to give you -- it's not a minimum.

1 Basically, it comes down to what the definition of an
2 "abnormal operating condition" is. And, which I'm looking
3 right at the definition right now and it says it's A
4 "abnormal operating condition" means "a condition
5 identified by the operator that maybe indicate a
6 malfunction of a component or deviation from normal
7 operations that may indicate a condition -- (a) may
8 indicate a condition exceeding design limits, or (b)
9 result in a hazard to persons, property or the
10 environment." That's what an "AOC" means.

11 We have gone through to the process,
12 when I say "we", and when I mention "NGA", "Northeast Gas
13 Association", I'm really talking about members. I'm
14 talking about Unitil, Liberty, New Hampshire Gas, those
15 are all our members. And, we all sit down and we go
16 through and determine this.

17 We looked and tried to identify what are
18 "abnormal operating conditions". For example, explosion,
19 for example, under-odorization, under-pressure, that's
20 what we determine to be abnormal operating conditions. We
21 do reach out, on a yearly basis, to each state commission
22 staff to help us if there's any part of our plan that we
23 want to improve. And, I guess I'm saying that right now,
24 because I think this is one of those areas that I think

1 that, if we want to look at adding some additional
2 changes, hearing what was just proposed, I think this is a
3 great opportunity that we sit down with the New Hampshire
4 -- with Mr. Knepper and his staff, to try to get a better
5 handle of what additional AOCs is he looking for.
6 Because, even in the language here, it's not being defined
7 of what an AOC -- what AOCs is he specifically looking
8 for.

9 You used the words earlier, which I
10 thought was very important, consistency and uniformity is
11 a good thing, and that's what this plan does. It's not
12 just this plan that we have. We have a Distribution
13 Integrity Plan, Transmission Integrity Plan, Public
14 Awareness Plan that we use for the region. But, again,
15 the idea -- the thing here is, when we look at abnormal
16 operating conditions, as was stated, there's eight that we
17 identify. Those eight are also similar, have been
18 identified with --

19 (Court reporter interruption.)

20 MR. COSTA: It's ASME B31Q. It's a
21 standard. And, that was with industry, PHMSA personnel,
22 state inspectors were part of that as well, had the same
23 type of criteria and came up with the same type of eight
24 abnormal operating conditions. And, when you look at the

1 individual tasks, what we do is, those eight are also
2 covered in there. We don't have new ones, but those eight
3 are covered. And, because when you look at abnormal
4 operating conditions, you're asking the question -- two
5 questions, basically. "How you identify it?" Does an
6 individual know how to identify that abnormal operating
7 condition? And, two, "how does he respond?"

8 So, I'll use the idea -- I'll give you
9 the odorant one. An individual has to take an evaluation
10 for all eight. And, it's basically -- you can consider it
11 basically a generic evaluation. You could have a person
12 that's a meter reader that's near a meter, and all of a
13 sudden, you know, there's a leak there, that he can see or
14 something, or a noise, anything, but he doesn't smell gas.
15 So, right away, he should know that there could be an odor
16 problem in the system. There's not enough odor in the
17 system. He or she needs to be able to recognize, know
18 that they should call in immediately, and then somebody
19 from the odorization area should be able to take a look at
20 this issue as well, in addition to fixing the leak that
21 you have.

22 If you have a person that actually works
23 in the Odorization Department, who is doing their normal
24 task duties, and they identify that there's

1 under-odorization in the system, well, that person is
2 typically not going to call somebody to fix it. He's
3 going to do it himself, he or she is going to do it
4 themselves. So, any individual tasks, like odorization,
5 we do ask additional questions related to the eight that
6 we talk about. But the area that we're being addressed
7 today is, we're not aware of any additional, other than
8 the eight that we have right now, that are being asked for
9 these additional covered tasks. So, with the way the
10 language is right now, it would be open to, you know,
11 adding tasks, adding just what people might feel an
12 abnormal operating condition is. You know, is corrosion
13 an abnormal operating condition, atmospheric corrosion in
14 that? Or, is that something that is found in the system?
15 I mean, it opens up a door that other states do not have
16 that we don't have right now, that could definitely, as
17 the explanation made, make New Hampshire different. And,
18 it also means that what it does, it's not only, when you
19 look at the cost of this that's been submitted, it's not
20 just the plan that changes, you now have to recreate all
21 those evaluation tools. We hire third party testing
22 experts to take our evaluation tools. You have to
23 recreate those evaluation tools then at that point to
24 include the assessment that people know, these abnormal

1 operating conditions you're adding in there. And, as was
2 stated earlier, that means, with mutual aid, anybody
3 that's outside from New Hampshire, who hasn't taken these
4 assessments in a sense is not qualified to work here.

5 CHAIRMAN IGNATIUS: Maybe Mr. Knepper or
6 Ms. Fabrizio, could you explain why you proposed including
7 these terms into Section 02(t)?

8 MR. KNEPPER: Yes. We've been asking
9 operators quite a while for this, and have tried to work
10 with the Northeast Gas Association. And, they have
11 extended invitations to us and we have gone down there and
12 had meetings and participated. But we're being instructed
13 by the federal government, PHMSA, saying, in the guidance
14 material, for inspections, to talk about specific AOCs,
15 task-specific AOCs. So, as regulators, the federal
16 government is telling us that.

17 We're given inspection guidance by the
18 federal government as inspectors. And, I don't
19 necessarily want to, I don't know, give out the playbook,
20 but some of the questions that we ask -- are being asked
21 of us, have the operators identified and evaluated for
22 generic AOCs, which is what they have done, but do not
23 identify and evaluate it for task-specific AOCs. They are
24 asking us to see "are there any task-specific AOCs?" Or,

1 vice versa, "have they only done task-specific AOCs, and
2 have they not -- and have they left out the generic AOCs?"

3 So, we're being asked as regulators to
4 identify in the program where those task-specific AOCs
5 are. I mean, that's word-for-word on the guidance that
6 we're given. So, we think that task-specific AOCs are one
7 of the methods that should be done. I think it's a good
8 thing. I think not everything fits into this eight or
9 more, eight generic AOCs. An example of that is to --
10 they have a covered task of installation of a pipeline in
11 a ditch. So, typically, the contractors in New Hampshire,
12 for both these companies, Liberty and Utility [Unitil?]
13 outsource that to a contractor. Well, you know, the
14 person may not be -- you know, the only thing applicable
15 they write is these eight generic AOCs. Is there
16 over-pressurization? The answer is, it's not even
17 pressurized at this point in time. Is it inadequate
18 pressure? Again, there's no pressure. Is there any
19 unintentional ignition? There's no gas going through at
20 this point in time. Explosion? Component failure? Is
21 there damage to the facility pipeline component? Is there
22 improper odorization or escaping blowing gas? I think
23 Unitil, in their opening statement, said "one of them is
24 to recognize the design." So, what if I'm not even using

1 the correct type of ASDM plastic that's supposed to be
2 there, or using something that's an old vintage, that's
3 out-of-date, that doesn't meet the requirement. Those are
4 the kind of things that we're looking for that aren't
5 mentioned in these eight generic things. That's a
6 specific AOC that they have decided to put in, which is we
7 think it's a good one, the New Hampshire regulations are
8 different than the federal government's. We require new
9 construction. NGA agreed with us. And, it's in --
10 applicable for all the states. The federal government
11 still doesn't have new construction into their -- into the
12 Operator Qualifications Program, because all they could
13 get was Operations and Maintenance. Well, you know, we
14 didn't want to get into the argument about whether it's
15 new, old, whatever, new construction, we think, certainly
16 affects the integrity of a pipeline. So, there's an
17 example.

18 They had mentioned "mutual aid". I
19 guess, to address mutual aid, within the plan itself of
20 the Northeast Gas Association, and I'm reading it now, in
21 Section 13, they have things within their own plan that
22 address mutual aid. And, it says: "In the event of major
23 natural disasters or other emergencies, an operator may
24 require assistance from employees or contractors of

1 another operator. These individuals may be required to
2 perform covered tasks." And, one of the things that they
3 can do is, NGA operators can incorporate by reference into
4 the plan the qualification requirements of other NGA
5 operators, whose employees or contractors or
6 subcontractors might be used to perform covered tasks.
7 So, that's picking from the pool.

8 But, also, non-NGA member companies,
9 likely to provide assistance in emergencies, are
10 identified, would be identified in that section of the
11 operator's plan that would list those members. And, then,
12 that operator's key operator qualification contact shall
13 request a copy of the non-NGA members' company OQ plan and
14 details on the employee qualifications. And, by doing
15 that, it would allow such mutual assistance without
16 violating the thing, violating subpart 1 --

17 MS. FABRIZIO: N.

18 MR. KNEPPER: Subpart N of 192, which is
19 the Operator Qualification section.

20 MS. FABRIZIO: Or applicable state
21 regulations.

22 MR. KNEPPER: So, -- yes, and it says
23 "as well as applicable state regulations." So, the thing
24 about the mutual aid, I don't quite understand their

1 position on it, because we, you know, their own plan
2 allows them a provision to take care of that kind of
3 thing.

4 They mentioned how, I guess, that
5 somehow it's going to impede their ability to attain
6 workforces from I guess afar. We don't see that. To me,
7 the Company can plan ahead, qualify the people that they
8 need to, and have them on a list of qualified people that
9 they can call upon. They don't have to do it in the
10 middle of a crisis. They don't have to wait till the
11 hurricane hits. They don't have to wait until -- there's
12 nothing that says you can't do this ahead of time.

13 The second thing is if, for whatever
14 reason, you couldn't do that, you can have unqualified
15 people working in your system, they just have to be
16 overseen by qualified personnel. The rules allow you to
17 have, let's say you have a crew of three, one of those --
18 not all three members have to be qualified, but one of the
19 three has to be there, who is qualified to know the tasks,
20 and he can do the oversight. And, it is pretty specific
21 that they have to be there. They can't be down the street
22 and around the block. They have to be in the line of
23 sight. So, that -- and, I think they don't take that into
24 account.

1 Another thing that I look at is that, in
2 the Unitil letter, that I guess was written by
3 Mr. Meissner, they said it's going to slow down the
4 process, for whatever reason, if they had to get a waiver.
5 This Commission has gotten waivers from the highest level
6 of government, in the middle of a hurricane, we just had
7 one, it was on the electric side. And, it was done on a
8 Sunday afternoon, and it was done in four hours. So, I
9 don't think the delay is always there that they anticipate
10 is going to be. It's not the traditional waiver process
11 of regular things. So, I think, when you're talking about
12 catastrophic emergencies, which is what they have cited, I
13 don't necessarily agree with some of the statements that
14 they put into their letter to us.

15 MR. HEWITT: Would this be a good time
16 to respond to those?

17 CHAIRMAN IGNATIUS: Sure. And, let me
18 just ask, it's 4:30 now. I don't know if people are able
19 to stay later?

20 MR. HEWITT: For an OQ discussion, are
21 you kidding me? I would think they would be flocking for
22 this.

23 CHAIRMAN IGNATIUS: So, we've got
24 another problem on our hands, which is how we finish the

1 other issues. But -- so, a brief comment, Mr. Hewitt.

2 MR. HEWITT: Sure. Yes. Thank you. As
3 far as the issues that Staff has raised, yes, the NGA plan
4 does cover mutual aid assistance in Section 13, and it
5 does address using mutual aid from other NGA-qualified or
6 operators who have NGA-qualified personnel. And, that's
7 the plan that we basically would use and that we would
8 rely upon.

9 As far as being able to prequalify
10 others who don't subscribe to the NGA? Really don't think
11 that's a viable solution. The advantage of having the --
12 of the NGA pool, is that it's a vast resource to draw
13 upon. You don't want to only have two or three potential,
14 you know, "go-to operators" or "go-to resources" in the
15 event you have a large-scale catastrophe. Those people
16 may no longer be available to you. It's much better to be
17 part of a larger pool, where you can draw upon the
18 resources of an entire region, such as the Northeast
19 region.

20 Furthermore, in our practical
21 experience, even when we are a member of a large pool,
22 like the NGA, we've had in the past few years three
23 contractors, who have tried to sort of get on our
24 "approved" list, the Appendix D list that Mr. Knepper

1 referred to. And, they submitted their OQ plans that they
2 use. And, they couldn't even meet what the NGA, you know,
3 what the NGA plan is that we subscribe to. So, if we were
4 to become something that's even more sort of "unique", the
5 expectation certainly would be that there would be even
6 fewer operator, fewer contractors or personnel from other
7 operators that would be able to meet this criteria. In
8 our view, it would be highly specialized, and the pool of
9 resources would just shrink significantly. And, when
10 you're in the middle of an emergency situation, that's not
11 the time you want to have to go to look to maybe, you
12 know, one or two who you're able to prequalify, and that's
13 the time you find out when those one or two are not
14 available. So, as far as there being the availability to
15 prequalify, if you're choosing between that option, and
16 having the vast resources of the NGA, as well as the NGA
17 who acts as the clearing house, so all you have to do is
18 say "you know what, I need resources that are qualified in
19 covered tasks A, B, and C." You tell that to Mr. Costa,
20 he goes out and he finds people who are qualified in A, B,
21 and C. He already has a database with all of their
22 qualifications on file. And, so, it's plug-and-play,
23 really. It's very little effort. And, if you're stuck
24 having a unique OQ plan, and you can't find the resources,

1 but you can find non-qualified people to come in, you're
2 still going to have to train them. And, what means is,
3 you're taking resources away from being able to -- you're
4 taking internal resources away that could be working on
5 the solution, could be working on system restoration.
6 Instead, they're doing training, or instead they're doing
7 the supervising that Mr. Knepper refers to. And, yes,
8 there can be super -- you can have non-qualified personnel
9 work on your system, but they have to be directly
10 supervised. And, that's a federal requirement. They have
11 to be directly supervised. They have to be within sight.
12 In the NGA's OQ plan, means they also have to be able to
13 hear what you're saying. And, the person who is qualified
14 has to be in a position to be able to say "Whoa! Stop!
15 You're doing something that's wrong." So, they have to be
16 in control of that situation as well. And, that makes
17 sense. You would want that. Right? You would want to
18 have someone who's qualified, who actually knows what
19 they're doing, who's tested, who's been verified.

20 CHAIRMAN IGNATIUS: Mr. Hewitt, I don't
21 think anyone is disagreeing with that.

22 MR. HEWITT: Okay. So, --

23 CHAIRMAN IGNATIUS: Let's stay focused
24 on why -- I mean, is there anything else on why we should

1 or should not be inserting a requirement of AOCs -- did I
2 say the right letters?

3 MR. HEWITT: Yes.

4 CHAIRMAN IGNATIUS: -- AOCs into the
5 plans themselves?

6 MR. HEWITT: Only that it will make
7 mutual aid efforts for your operators far more difficult,
8 and it's going to slow down system restoration during a
9 system emergency.

10 CHAIRMAN IGNATIUS: All right. Does
11 Liberty have something that they want to add to that?

12 MS. KNOWLTON: Just in the interest of
13 time, you know, we agree with Unitil's position. I think
14 the only thing that we would throw out there is, you know,
15 would there be a way for the Staff to work with the NGA
16 to, you know, if there's -- see if there's any resolution,
17 you know, since the NGA is this tremendous resource.

18 CHAIRMAN IGNATIUS: Commissioner
19 Harrington.

20 CMSR. HARRINGTON: Yes. This is for the
21 gentleman from the NGA. Are there any other states in New
22 England that have imposed this type of requirement?

23 MR. COSTA: No. And, our plan covers
24 all the states, every company in New England, all the

1 companies in New York, and three of the four companies in
2 New Jersey. That's our membership. And, all are part of
3 our plan.

4 CMSR. HARRINGTON: Okay. And, none of
5 those have this type of a requirement?

6 MR. COSTA: No. They all use the eight
7 abnormal operating conditions.

8 CHAIRMAN IGNATIUS: So, in the Staff
9 memo it said "Recently, Virginia and New York are
10 beginning to expect task-specific AOCs listed in Operator
11 OQ plans." Do you have any information on that?

12 MR. COSTA: Yes. And, I can tell you
13 that the New York situation, if Mr. Knepper wrote that, is
14 because he might have had conversations with the Chief
15 Pipeline Safety Division person, and I have had the same
16 conversations with them three months ago -- not "three
17 months ago", three weeks ago. And, we're going to have
18 some additional discussions on it.

19 In the Virginia case, I have started
20 working, we were selected, Northeast Gas Association, to
21 help Virginia develop their OQ plan for the state for all
22 of the operators, which I thought it recognizes our plan
23 as being one -- they did a national search, we're one of
24 the top ones in the nation. What they have done is they

1 don't call it -- they call it "abnormal operating
2 conditions/unsafe conditions". Because I think the key
3 here that we see here, and Mr. Knepper noted it, if you
4 look at the rule, the rule -- the definition of "abnormal
5 operating condition" is what I read to you, it doesn't say
6 anything about "task-specific" or anything like that.
7 That is just part of guidance that us, as operators, I've
8 asked for a copy of that guidance, and I can't get my
9 hands on it, it's like Mr. Knepper said, he doesn't want
10 to give it away.

11 CHAIRMAN IGNATIUS: I think he's not
12 allowed to, but go ahead.

13 MR. COSTA: No. No, I understand he's
14 not allowed to, it's not him. But, I'm just saying, this
15 something that's not even part of the rule, it's not even
16 written into the rule. And, so, in the Virginia, to
17 describe with your question, they actually call it "unsafe
18 conditions". And, I was just there on Monday. And, I
19 gave the example of abnormal operating conditions, we
20 discussed how can abnormal -- I'm not using that word,
21 atmospheric corrosion, I said "How can atmospheric
22 corrosion be an abnormal operating condition? Wherever
23 you have steel, you're going to have corrosion come up,
24 and then you basically fix it to a point that you don't

1 let it get bad." And, the response I got from the
2 Virginia Company -- Commission was "Well, atmospheric
3 corrosion is part of the regulations you shouldn't have in
4 a pipeline. So, it's an abnormal condition." I mean,
5 that's going well beyond that, and that's what they're
6 calling "unsafe". So, I guess it all goes to the
7 definition.

8 I agree with Liberty. You know, I
9 welcome to sit down with Mr. Knepper and all that. He has
10 attended our meetings that we have yearly we have to deal
11 with all that. We also have, every year, we put subject
12 matter expert teams together to actually look at all our
13 evaluations and come up with making them better. And, I
14 will tell you that, other than the State of Connecticut,
15 we have not had participation from any other state or
16 states of having their personnel involved in the
17 development of those materials. So, it's very hard
18 sometimes to sit here, when people say they want
19 something, but they're not participating in the process to
20 help us. So, I wish the participation is there, because,
21 as you said, he wanted new construction, and it's not part
22 of the regulation, we listened, and we included it. So,
23 we added it, it's part of the regulation. So, we're
24 willing to do, you know, sit down and have these

1 discussions, and I think that's probably the best way to
2 go.

3 CHAIRMAN IGNATIUS: All right.
4 Mr. Knepper, any -- do have a very brief response to any
5 of that that you feel you would like to do?

6 MR. KNEPPER: Yes. I mean, the
7 conversation that I had with the New York Program Manager
8 and the Virginia, maybe it takes larger states to get them
9 to go to specific AOCs or "unsafe" conditions, because
10 Virginia doesn't write rules. They have no administrative
11 rules on their safety at all. So, they don't do it that
12 way. And, so, they got to make it kind of fit within the
13 federal framework and make up some directive or something.

14 But, my comment is, is that it isn't new
15 to the companies, number one. Number two, it shouldn't be
16 new to New Hampshire. We have a company right here, in
17 New Hampshire, that, under another Commission order and a
18 settlement agreement, that is doing that, is putting
19 together specific AOCs for tasks. So, I guess I just
20 don't see the cataclysmic type of situation or portrayal
21 that Unitil is kind of putting together. I do think
22 specific AOCs is a good thing. I think that's why PHMSA
23 asked for us. They asked for, "when you have an event, do
24 you have additional AOCs?" Well, if you -- why would you

1 even ask the question, if eight generic AOCs can be
2 acceptable? It doesn't even make sense.

3 And, so, I think there's areas where a
4 certain task, eight generic AOCs might be applicable. But
5 there's a lot of tasks where they're not. And, that you
6 need to go and make it more deeper.

7 It's hard for me to ask NGA to do
8 anything. I regulate the companies here in New Hampshire.
9 Not the companies in New Jersey and New York and
10 Massachusetts and the other states around. I can't do
11 that. I have to be worried about the ones that are in the
12 confines of our state. So, I can't -- I don't want to be
13 held hostage to necessarily a plan done by NGA. You know,
14 NGA allows the company to, and I think the NGA -- I don't
15 want to make it sound like the plan is terrible. No. The
16 answer is "no". I think it's a good starting point. I
17 just don't think it's the finishing point of an
18 operators's qualification plan. I think the operator has
19 the duty to take it and amend it for the distribution and
20 the service territory in which they're subject to. And,
21 that's really what the plan is saying.

22 Do they -- you know, does every company
23 have to start from scratch? No, you start with -- you can
24 start with a template that's there. But the template

1 doesn't become the end point. That doesn't become,
2 because other companies don't necessarily agree to things
3 or whatever, that's where your end point should be. I
4 just don't necessarily agree with that.

5 CHAIRMAN IGNATIUS: All right. Thank
6 you. I know there are people who have other commitments,
7 and so I'm trying to -- I don't mind staying, but I don't
8 think everybody can. So, I guess we're faced with a
9 couple things. On this issue, I think, do we have any
10 other questions or do we understand?

11 CMSR. HARRINGTON: I just have one more
12 follow-up question.

13 CHAIRMAN IGNATIUS: Mr. Harrington.

14 CMSR. HARRINGTON: Mr. Knepper, you talk
15 about "PHMSA suggesting" and so forth, but is there a
16 specific federal rule that you can bring up that says it's
17 required to include specific abnormal operating conditions
18 for each task?

19 MR. KNEPPER: I think, if I could cite
20 you that, then this discussion would be moot.

21 CMSR. HARRINGTON: Okay. All right.

22 MS. FABRIZIO: Can I just add to that?
23 The federal rule requires a qualified individual to be
24 evaluated to the extent that he can recognize and react to

1 an abnormal operating condition. And, what has happened
2 is that the NGA has gotten together and come up with
3 eight, as you've heard several times, generic, general
4 AOCs. And, I think the concern that Mr. Knepper is
5 picking up on in his obligations as a regulator is that he
6 doesn't want to be limited to those eight general, when
7 PHMSA is directing him to look at what AOCs operators are
8 being tested for on specific tasks.

9 And, the other point that I wanted to
10 make was, or at least raise, is that there's been an awful
11 lot of emphasis placed on the detrimental impact on mutual
12 aid. And, Staff's reading of NGA's own plan, provision on
13 mutual aid, clearly recognizes that developing operator
14 specific tasks could impact that. And, so, it actually
15 specifically states that "to allow mutual aid to occur
16 without violation of the Federal Code or applicable state
17 regulations", that you have a number of options, and
18 including the third option that Mr. Knepper had read off
19 earlier, that it's not requiring prequalification. It
20 allows you to accept mutual aid, and then, you know, add
21 those qualifications of that operator into your plan as
22 soon as possible.

23 I'm just, you know, Mr. LeBlanc is
24 shaking his head, but I'm just noting that this is -- the

1 language seems perfectly clear to us on its face, and
2 maybe we would like to hear more, perhaps in writing, from
3 the Company as why this doesn't address the problem.
4 Because it also goes so far as to suggest that the
5 qualification requirements of other NGA operators can be
6 different. And that, by incorporating this plan into a
7 company's plan, individual plan, it covers other NGA
8 operators. So, those are just some of the issues that we
9 see plainly in that provision that should alleviate the
10 concerns that have been raised today.

11 MR. KNEPPER: May I --

12 CHAIRMAN IGNATIUS: Very briefly,
13 Mr. Knepper. Very briefly.

14 MR. KNEPPER: I'll pass.

15 CHAIRMAN IGNATIUS: Mr. Hewitt?

16 MR. HEWITT: Can I take his place then
17 please?

18 CHAIRMAN IGNATIUS: Yes.

19 MR. HEWITT: Just sort of to recommend a
20 path forward, okay?

21 CHAIRMAN IGNATIUS: Yes.

22 MR. HEWITT: OQ is designed to ensure
23 you have a qualified workforce. We have not been
24 reporting incidents on our system that resulted from human

1 error. All right? If you were seeing a bunch of reported
2 incidents because operators were not doing what they're
3 supposed to be doing, human error, then probably a time to
4 act, maybe to change up what we're doing here. You're not
5 seeing that. So, I think you do have maybe the luxury of
6 time, that you could say, "you know what, we should
7 explore this issue further at the NGA, and see if the
8 region" -- if PHMSA is saying that operators need to take
9 a look at task-specific, let's take a look at that as a
10 region. And, right now, maintain the *status quo*. And,
11 then, give this region some time to respond, if that's
12 where PHMSA is pushing this. If PHMSA doesn't push this
13 quickly as this Commission would like, you could always
14 reopen the rulemaking and pick this issue -- pick this
15 issue back up.

16 CHAIRMAN IGNATIUS: Well, it sounds
17 like, from the guidelines that Mr. Knepper read, companies
18 that don't include task-specific AOCs do so at their peril
19 when an evaluation is being done. I mean, if I understood
20 what you were reading aloud, that that's something now
21 that is going to be sort of graded against. And, so, I
22 guess that I'm a little lost on why -- I can understand
23 the question of "well, should it be in rules to mandate it
24 or not?" But I can't imagine the companies would be

1 resistant to developing it, if that's the criteria on
2 which you're going to be judged.

3 MR. HEWITT: I don't know that there's
4 resistance to doing it, as long as it's done as a region,
5 so you're not left out there as the only one who is doing
6 it. So, I think that's -- and that's what I'm trying to
7 say. If PHMSA is pushing this down, the regions should
8 take note of that, and the regions, or at least the
9 Northeast region, should take note of that and should
10 modify to meet what PHMSA's wishes are. But the problem
11 is, it's when one state within that region is "we're going
12 to do it, and we're going to do it today, regardless of
13 what the rest of the region is doing", that's where I
14 think you set yourself up. That, if you need that mutual
15 aid, it's just not going to be there to rely on.

16 CHAIRMAN IGNATIUS: But you're still, as
17 an individual company, regardless of what the region is
18 doing, is still going to be judged against the criterion
19 that Mr. Knepper was describing that talks about
20 task-specific AOCs.

21 MR. HEWITT: And, I think what you may
22 be seeing is the beginning of the push in this direction.
23 But I don't think you can expect that to take route in the
24 industry overnight. I think you've got to allow the

1 region or the region should be allowed the time to conform
2 to what PHMSA is asking for now. That's how this all
3 started. We've been operating under this regional
4 approach for a long time.

5 MS. FABRIZIO: And, I would just like to
6 note also that Liberty has already come up with specific
7 AOCs for its tasks, for each task in its plan.

8 CHAIRMAN IGNATIUS: All right. Okay.
9 Then, I guess we'll have to consider all of those
10 arguments and what to do next. On the things that we said
11 we would come back to, is it possible to get reports back
12 on those items in writing or can people, enough of us stay
13 to get those put on the record now? I mean, I can stay,
14 even if others do have to go.

15 CMSR. HARRINGTON: If they can -- if
16 people can summarize quickly.

17 CHAIRMAN IGNATIUS: Well, at least let's
18 try and go till 5:00 then. Can we -- Liberty was going to
19 check on field actions on visually inspecting welds.

20 MR. CODY: I can confirm that we do that
21 now. That the welder is required, with each weld, to
22 visually inspect each weld before he can move onto the
23 next.

24 CMSR. HARRINGTON: So, just so we're

1 clear. The welder visually inspects his own work?

2 MR. CODY: Correct.

3 CMSR. HARRINGTON: Okay. But he's
4 qualified to -- I'm assuming, if he's qualified to do the
5 welding, he's qualified to do the inspection?

6 MR. CODY: Correct.

7 CMSR. HARRINGTON: Okay. Thank you.

8 CHAIRMAN IGNATIUS: And, on the more
9 complex question of, this is in 506.01(e), whether some
10 sense of the number of --

11 MR. CODY: Liberty --

12 CHAIRMAN IGNATIUS: -- projects that
13 have the ten welds or five to ten range, --

14 MR. CODY: Well, I'd just say --

15 CHAIRMAN IGNATIUS: -- any sense of
16 that?

17 MS. KNOWLTON: Let her finish the
18 question.

19 MR. CODY: I'm sorry for speaking over
20 you on that. Liberty has more jobs that are less than ten
21 welds than it does with greater than ten welds. We're
22 only talking about, you know, a dozen or so per year.

23 CHAIRMAN IGNATIUS: Only a dozen or so
24 that are greater than ten?

1 MR. CODY: It would require full days,
2 once we have the vendor there, he may as well be there for
3 the day.

4 CHAIRMAN IGNATIUS: All right.

5 CMSR. SCOTT: Can you clarify that, at
6 least for me, maybe the Chair got that? So, less than a
7 dozen that are over ten welds or less than a dozen weld
8 jobs total?

9 MR. CODY: There are less -- there are
10 about a dozen -- you've got me confused now, sorry.

11 MR. MacDONALD: If I may? What we're
12 saying is that, under ten welds, you know, in that "five
13 to ten" category, you know, we don't have any specific
14 numbers, we didn't crunch anything for that. But, when I
15 look at the operations that occur, you know, it's under --
16 it's 12 or under for jobs that have five to ten welds.

17 CHAIRMAN IGNATIUS: Oh, I'm sorry. I
18 thought you were saying the opposite. And, so, are there,
19 in the category of more than -- of ten or more, is it a
20 greater number than 12? Is it --

21 MR. MacDONALD: You know, it occurs
22 mainly, you know, at our tie-ins. Ninety-five
23 (95) percent of the pipe we install around today is
24 plastic, polyethylene. So, it's specialty work. Anything

1 operating at higher, or if we're working on lines that are
2 operating at higher than 20 percent SMYS, you know, we're
3 x-raying everything anyway. So, this is for everything
4 else below 20 percent. And, it's just doesn't -- it's not
5 a frequent occurrence, but, you know, it's, you know, it's
6 just, you know, some of the things that Unitil was talking
7 about, as far as control fittings, as long as we can agree
8 that we're talking about fillet welds on butt-weld
9 fittings, and it's five to ten or whatever, I think we're
10 okay.

11 CMSR. HARRINGTON: I'm sorry, what was
12 that? "Fillet welds on butt-weld fittings"?

13 MR. MacDONALD: Well, it's on butt-weld
14 fittings. We were talking about x-raying an --

15 (Court reporter interruption.)

16 MR. MacDONALD: Sorry.

17 CHAIRMAN IGNATIUS: And, let me ask
18 this. Is that something that you could put in writing?
19 It sounds like, you admitted that -- "admitted" is the
20 wrong word, you were trying to help out with some ballpark
21 estimates.

22 MR. MacDONALD: Correct.

23 CHAIRMAN IGNATIUS: And, we recognize
24 that these are not exact. But a sense of the number per

1 year that are in the "under ten weld" category, I think
2 you said that comes out to probably less than 12 in the
3 "under ten" category?

4 MR. MacDONALD: Correct.

5 CHAIRMAN IGNATIUS: And, the question of
6 how many come in in the "ten and over" category, I still
7 don't have a sense. Is it a bigger number or a smaller
8 number than the "under ten" category?

9 MR. MacDONALD: Probably smaller.

10 CHAIRMAN IGNATIUS: Okay. All right.
11 Then, maybe we don't need more definition on it, and we'll
12 just have to decide what to make of all of that.

13 On other things that were set aside,
14 that's all I had marked to come to back to. There's a
15 number of open issues, but I had a feeling it was just
16 you're at difference of opinions, and we're going to make
17 our best call on what to do about them. Is there anything
18 else that anyone remembers we were going to loop back to?

19 (No verbal response)

20 CHAIRMAN IGNATIUS: Okay.

21 CMSR. HARRINGTON: I'm happy with -- I'm
22 finished, let's not say "happy".

23 MR. HEWITT: Let's not overstate it.

24 CHAIRMAN IGNATIUS: All right. Then, --

1 CMSR. HARRINGTON: It is Friday
2 afternoon.

3 CHAIRMAN IGNATIUS: Yes. I think
4 everybody has been working hard at this, and I appreciate
5 it. And, we will go through all of this, give direction
6 in order to get to a final submission that can't be any
7 later than Friday or the following Monday. So, we've got
8 just a few days to pull it together and a Commission vote
9 to adopt a final proposal. And, then, you will be
10 notified of the -- obviously, seeing a copy of the
11 proposal that is adopted, and you'll be notified of the
12 hearing date in front of JLCAR and the opportunity to make
13 your views known, if there's things in the final proposal
14 that you are not fond of. Ms. Fabrizio.

15 MS. FABRIZIO: I would just like to note
16 that I just learned that we have Monday off as a holiday.
17 So, to the extent that companies have agreed to provide
18 proposed language, if they could get that to me on
19 Tuesday, no later than Tuesday, that would be greatly
20 appreciated, given the short week that we have to get this
21 done.

22 CHAIRMAN IGNATIUS: That's right. There
23 were a couple things that we asked if Staff and the
24 Companies could see if they could work out the actual

1 wording to accomplish what we kind of agreed to in
2 concept. So, thank you for that.

3 MR. KNEPPER: I think the utilities
4 might also have Monday off as well. I'm not sure if they
5 do or not.

6 MR. LeBLANC: We don't.

7 MS. KNOWLTON: We do.

8 MR. KNEPPER: One does, one doesn't.

9 MR. CODY: I'm sorry, I have one
10 question?

11 CHAIRMAN IGNATIUS: Yes, Mr. Cody.

12 MR. CODY: Have all the subjects been
13 covered now? And, I guess what I'm asking, we have yet to
14 see anything on Section 505, meter accuracy and testing.
15 And, just wanted to confirm that not to expect anything in
16 that section in the next draft?

17 CHAIRMAN IGNATIUS: Help me out here,
18 Mr. Knepper.

19 MR. KNEPPER: I think you'll see nothing
20 substantial. We do have some clean-up language to do that
21 JLCAR has from the existing rules that we have to clean
22 up. So, as this process started, as we said last October,
23 we kind of parked the 500 rules that had to do with meter
24 and meter measurement and accuracies aside, and said we

1 would bring that issue back later, you know, after, when
2 and if these rules got approved. But we do -- I do want
3 to say, there's a couple things that we have to do just
4 for JLCAR doesn't like the existing language.

5 CHAIRMAN IGNATIUS: And, are they in the
6 sort of editorial comments, they think a phrase is vague
7 or something like that?

8 MR. KNEPPER: Well, there's -- yeah,
9 there's things like, there's one that's a big one, it says
10 "what's an "approved meter shop"?" Because we have that
11 language in there, it crept in from Massachusetts language
12 the last time. And, so, we've got to figure out how to
13 address that. And, so, those kind of things.

14 I don't, from my perspective, and I
15 probably shouldn't even say it, because things that I
16 don't think are going to impact the utilities, looks like
17 they are impacting the utilities. So, we'll try to share
18 whatever language we come up with on those. You know,
19 we're doing all this collectively, so --

20 MS. KNOWLTON: I would just ask that, as
21 soon as you can, you know, and we'll see. You know, and
22 maybe if that's a late-breaker that we get next week and
23 see for the first time, then, you know, hopefully it's
24 fine, but, if there's an issue, you know, maybe that's one

1 we carve out and send the rest of the thing forward, and
2 give us a little time. But we'll see what it is.

3 CHAIRMAN IGNATIUS: Okay. Thank you.

4 MS. FABRIZIO: Yes. Staff's intent was
5 to incorporate language promised by the Companies today,
6 as well as the OLS comments. And, the OLS comments are
7 pretty much editorial in nature. I didn't see any, you
8 know, other than clarifying the use of the word "approved
9 meter shop", that would be a shock to any parties.

10 CHAIRMAN IGNATIUS: All right. Well, I
11 know this has been moving really quickly, and it's been
12 something of a moving target for people to respond to, in
13 an effort to try to resolve things. And, I'll take some
14 responsibility for that. I was asked, you know, "if we
15 can make progress in resolving any of the open issues,
16 should we keep trying to do that or just stick with the
17 form of the rules that were there before?" And, I said,
18 "no, if you can keep at it and whittle this down at all
19 and come up with a shorter list of open issues, go for
20 it." I think that's helpful, but I realize, by doing
21 that, it means, you know, there isn't two weeks to get
22 ready to know what the terms are, they were changing hour
23 to hour. And, so, it was -- makes it harder for everybody
24 to respond to.

1 And, so, if there is any further
2 language proposed coming out of today's session, or
3 anything else that you had wanted to mention in reading
4 through this, please submit it as soon as you can. I know
5 you've got a long weekend. But, if Tuesday is possible,
6 that would be great. Early Wednesday, if not. Because
7 we've got to turn around and schedule a public Commission
8 session to take a vote on a final proposal to submit to
9 JLCAR, and that probably will be Friday afternoon, and
10 then a submission on the following Monday.

11 So, I appreciate everybody's help and
12 your willingness to work through this into the afternoon
13 today. Thank you. Unless there's anything else?

14 (No verbal response)

15 CHAIRMAN IGNATIUS: We are adjourned.

16 **(Whereupon the hearing ended at 5:01**
17 **p.m.)**