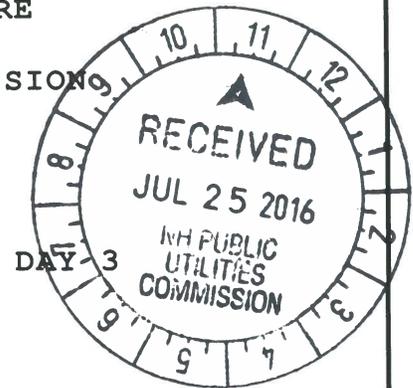


STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION



May 6, 2016 - 9:03 a.m.
Concord, New Hampshire

RE: DG 15-155
VALLEY GREEN NATURAL GAS, LLC:
Petition for Franchise Approval

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

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Marcia A. Brown, Esq. (Rath, Young...)

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Reptg. NG Advantage, LLC:
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Reptg. the City of Lebanon:
Fire Chief Christopher Christopoulos

Ariel Arwen, pro se

COURT REPORTER: SUSAN J. ROBIDAS, N.H. LCR NO. 44



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1 P R O C E E D I N G S

2 CHAIRMAN HONIGBERG: I think we are
3 ready to resume the questioning of Mr. Evslin;
4 is that right?

5 MS. BROWN: Yes, Mr. Chairman.

6 CHAIRMAN HONIGBERG: Why don't we
7 have him take his seat.

8 Is there anything else we need
9 to do this morning before we get started?
10 Ms. Brown?

11 MS. BROWN: Yes. Yesterday Valley
12 Green had stated that it would respond to
13 record requests. And I have those at this
14 time. The parties have received them, and I'd
15 like to pass them out to you now.

16 CHAIRMAN HONIGBERG: Okay. Why don't
17 you do that.

18 MS. BROWN: For the record, we had
19 identified for Exhibit 11 the draft lease, and
20 as Record Request 12, the amendments to the
21 MOU.

22 CHAIRMAN HONIGBERG: All right.
23 While Ms. Brown is passing that out, I think
24 the order of questioning of Mr. Evslin, we're

1 going to do Mr. Patch; Mr. Christopoulos, if
2 he's here; Ms. Arwen; Mr. Cicale and Mr.
3 Speidel and then Valley Green.

4 So, Mr. Patch, are you ready to
5 go?

6 MR. PATCH: Yes. Thank you.

7 CROSS-EXAMINATION

8 BY MR. PATCH:

9 Q. Good morning, Mr. Evslin. I think as you
10 remember, I represent Liberty Utility. My name
11 is Doug Patch.

12 A. I do, and good morning.

13 Q. Good morning.

14 On Page 4 of your prefiled testimony in
15 this docket, you say you are "agnostic" as to
16 whom the franchise should be awarded, but you
17 go on to say that, if the Commission were to
18 approve the Valley Green proposal, it is almost
19 certain to be an economic failure and not even
20 likely to be built; is that correct?

21 A. If they were to approve it as it was submitted,
22 yes, that is correct.

23 Q. And is there anything that has changed as a
24 result of their supplemental testimony or what

1 you heard yesterday that would change that
2 view?

3 A. No, there is not.

4 Q. One of the reasons that you gave in your
5 testimony for that belief is that Valley
6 Green's LNG-centric design will make their
7 product more expensive. And in particular, you
8 cite Dartmouth-Hitchcock and the price that
9 they currently pay for CNG service; is that
10 correct?

11 A. That is correct.

12 Q. And in your testimony at Page 6, Lines 3 to 6,
13 you say, "The economics of a successful gas
14 island LDC service depends on the expensive LNG
15 being used only as backup fuel if the CNG
16 supply is interrupted"; is that correct?

17 A. That's correct.

18 Q. You express a concern that Valley Green would
19 construct expensive LNG infrastructure and a
20 system into which it would be difficult to
21 introduce CNG; correct?

22 A. That's also correct.

23 Q. And has that changed as a result of what you've
24 heard?

1 A. It has not.

2 Q. And one of the other concerns you expressed was
3 Valley Green's ability to meet its
4 responsibility to its customers, providing
5 service at just and reasonable rates if it does
6 not adhere to a policy of procuring supply
7 through a truly competitive process; is that
8 fair to say?

9 A. That's fair to say.

10 Q. And in support of that argument, you cite the
11 laws that require a utility to file a Least
12 Cost Plan in order to obtain approval of rates
13 and changes; correct?

14 A. Correct.

15 Q. And then, in your testimony on Page 10, Lines
16 20 to 21 -- and this is supported by the
17 attachments -- you say that Valley Green has
18 not been responsible in seeking competitive
19 supply bids and assuring ratepayers the best
20 price for their fuel; correct?

21 A. Correct.

22 Q. Was there anything you heard yesterday that
23 changes that opinion?

24 A. No, there is not.

1 Q. Are you familiar with Valley Green's response
2 to Staff 1-3, Exhibit 4, Bates Page 3 to 5?

3 A. Yes, I am.

4 Q. And that's where Valley Green gives the reasons
5 why they believe LNG is more suited to this
6 project than CNG; correct?

7 A. That is correct.

8 Q. Do you agree with those reasons?

9 A. No, I don't.

10 Q. Could you explain why not?

11 A. Okay. I do happen to have a copy of that here
12 with me, so I'll go through that and point out
13 where I disagree.

14 First of all, they make the statement in
15 the first paragraph of their response that the
16 reason that they chose Tri-Mont and Gulf
17 without competitive bidding is that there were
18 a limited number of suppliers available. I
19 can't testify as to the supply of engineering
20 firms. And I realize engineering is not a
21 commodity, so my testimony does not apply to
22 the choice of Tri-Mont.

23 However, there are a large number of
24 suppliers of LNG and CNG -- only a few of us

1 CNG suppliers, a large number of LNG suppliers.
2 In fact, if just trucking LNG is involved, any
3 trucking firm that can haul hazard materials
4 can haul LNG. And various truckers -- the
5 trucker we use, Noonan, for example, have LNG
6 transport. So there are a large number of
7 potential respondents to an RFP that involves
8 trucking gas broadly in other CNG or LNG form.
9 One of the assertions that --

10 (Court Reporter interrupts.)

11 CHAIRMAN HONIGBERG: Off the record.

12 A. Mr. Champion asserts that his customers require
13 firm pricing over 15 years. In fact, we heard
14 during testimony yesterday that the firm
15 pricing that's available for LNG does not
16 include the commodity. In fact, what we heard
17 from the witnesses yesterday, and it's
18 accurate, is that the price for delivered LNG
19 is built up in an absolutely parallel manner to
20 the price for delivered CNG. In both cases you
21 start with pipeline gas. And when you make a
22 quote to say for 10 years or 15 years I'm going
23 to deliver you LNG or CNG, you can often
24 provide a fixed price for everything but the

1 gas itself. And so the price, the quote
2 usually includes an indicative price, what the
3 Forward strips look like for the commodity gas.
4 But the point is it's the same commodity. So
5 the price of the commodity that goes into the
6 LNG goes up and down exactly the same way as
7 the commodity that goes into the CNG because
8 that commodity is pipeline natural gas. After
9 that, with LNG you pay for liquefaction, which
10 can be a fixed price. With CNG, you pay for
11 compression, which can be a fixed price. With
12 both you pay for trucking, which can be a fixed
13 price, and with both you have to amortize the
14 cost of, in the case of LNG, vaporization, and
15 with the cost of CNG, decompression, and that
16 can be fixed price. So there's an absolute
17 parallel in the way that CNG and LNG are
18 priced, and the price of the commodity for LNG
19 and CNG is going to vary in exactly the same
20 way. Or if you choose to buy a hedge, as the
21 gentleman from Gulf testified yesterday, you
22 can fix the price of LNG, or of the base
23 commodity, for some period of time. And of
24 course, you can do exactly the same thing if

1 you're turning that base commodity into CNG.
2 However, Mr. Champion said he wanted to avoid
3 any take-or-pay commitment. You can't really
4 fix the price of the commodity without
5 committing to buy the commodity. Somebody's
6 got to put on a hedge. And, you know, so we
7 understand in this industry that, once you're
8 talking about a fixed price for a commodity,
9 that you're talking about a commitment to the
10 commodity. That's not necessarily a bad thing.
11 I just want to be accurate about what's in
12 here.

13 MS. BROWN: Can I just express an
14 objection to this new testimony? I don't
15 know -- I mean, there's some leeway in adding
16 some new testimony. But I mean, it looks
17 like he's starting to get into --

18 CHAIRMAN HONIGBERG: This isn't his
19 lawyer questioning him. This is Liberty's
20 lawyer questioning. Liberty's lawyer is asking
21 these questions right now.

22 MS. BROWN: Sorry. I was just --

23 CHAIRMAN HONIGBERG: It is sometimes
24 confusing that we have lawyers from the same

1 firm representing two different clients here.
2 But that is what they've got, and they're doing
3 that, as they have in many other dockets. But
4 in this instance, it's Mr. Patch.

5 I'm sorry. Mr. Evslin, do you
6 remember where you were?

7 THE WITNESS: Yes, I do.

8 CHAIRMAN HONIGBERG: Why don't you
9 continue.

10 A. So, again, later on Mr. Camion states again
11 that LNG is more stable in price; CNG prices
12 vary markedly by the season. Not true. Same
13 commodity, varies in the same way.

14 He states that CNG equipment would cost
15 more. That's never been true at any time that
16 we have priced that out. We certainly didn't
17 give him any prices on which he could base
18 that, although we would have been willing to.
19 And I don't believe that that assertion is
20 true.

21 He says that using CNG rather than LNG
22 would result in more truck traffic. That is
23 true. It's not three times as many trucks.
24 It's two times as many trucks. In either case,

1 it's de minimus. Dartmouth Hitchcock is being
2 served with trucks of CNG today. I believe on
3 the average, they get about three truckloads a
4 day. So you're not looking about a huge volume
5 of trucks going up and down the interstate
6 there.

7 It says during -- he's testified that
8 during periods when the LNG supply -- when CNG
9 prices are low, Valley Green could augment its
10 LNG supply with CNG. Well, there's a
11 misunderstanding there. You can't just dump
12 CNG into a tank somewhere. In order to use
13 CNG, there does have to be CNG decompression
14 equipment installed on site, and that equipment
15 is not inexpensive. There also has to be room
16 for trailers, because CNG is used directly out
17 of the trailers that bring it. You don't have
18 to construct an expensive tank for it because
19 you don't do that. But you do have to have
20 room for the trailers to park, for trailers to
21 turn. We haven't seen on any of the diagrams
22 that have been presented where a space -- where
23 there's either a space for CNG to offload at
24 the facility or where there's any provision for

1 that CNG equipment. So it's not that you could
2 just call us or call our competitors and say,
3 Hey, bring us some CNG today. If we haven't
4 installed an off-loading unit, if we don't have
5 a safe place for our trucks, if we don't have
6 operational procedures, we can't bring it.
7 It's not like asking someone to fill the LNG
8 tank or fill the oil tank. So, just buying CNG
9 opportunistically doesn't work. There has to
10 be a plan for how the CNG is used.

11 He talks about the seasonal purchase of
12 LNG, presumably to buy when the commodity
13 prices are low and then stowed until they're
14 high. The problem with that, as Commissioner
15 Bailey pointed out yesterday, is well off. And
16 if you have a large quantity of LNG sitting
17 around, you have to either use it or vent it,
18 which would be a terrible thing to do. You
19 presumably could use some of it, but then you
20 don't have it anymore to offset the
21 seasonality. But you can't just let a tank of
22 LNG sit there forever, you know, until you want
23 to use it. That's incidentally not true of
24 CNG. If you went to CNG storage, which we

1 don't use --

2 CHAIRMAN HONIGBERG: Mr. Evslin, the
3 question was: In what ways do you disagree
4 with that response?

5 THE WITNESS: Okay. Sorry about
6 that.

7 A. Anyway, I do disagree that it's practical to
8 use LNG in any big way to offset seasonality.

9 Goes on to say that Gulf was willing to
10 commit supply for this project over the long
11 term from a planned 100,000-gallon-a-day
12 liquefaction plant. And that was an important
13 reason for choosing Gulf. I can understand
14 that. But it was also clear from the testimony
15 yesterday that there's not yet commitment to
16 build that 100,000-gallon-a-day liquefaction
17 plant.

18 So if we take that out of the equation, if
19 we take into consideration the fact that Gulf
20 neither has commitment to build a plant, that
21 the MOU that was just distributed to us this
22 morning -- the fourth amendment of the MOU has
23 already expired, January 31st, 2016 -- then I
24 don't believe that we get any reassurance from

1 this possible liquefaction plant, even though
2 Pennsylvania would be a good place to build
3 one. If I were going to build one, I might
4 build it there. But we can't rely on the fact
5 that it's going to be there. And absent the
6 liquefaction plant, then the service that Gulf
7 is providing is trucking LNG. And there are
8 lots and lots of truckers of LNG available.

9 He further went on to say that Gulf has --
10 that they're open to using other suppliers
11 because other bids are allowed for CNG, for
12 example, but Gulf has the right to match any
13 bid. Well, unfortunately, there won't be any
14 competitive bids forthcoming from my company or
15 other companies if we know that somebody else
16 gets the last look and knows exactly how they
17 have to bid.

18 Yesterday, attorney for Valley Green
19 wondered why NGA didn't submit a bid after the
20 filing with the Public Utilities Commission
21 which contained the quantities that we'd be
22 asking Valley Green for --

23 CHAIRMAN HONIGBERG: Okay, okay.
24 That's, again, something -- a different topic.

1 So, Mr. Patch, can you focus
2 your questions a little bit more so we can get
3 a little bit more focused answers going
4 forward?

5 THE WITNESS: I'm at the end of --

6 CHAIRMAN HONIGBERG: Mr. Evslin, I'm
7 talking to Mr. Patch right now.

8 So, is there anything else you
9 want to add, briefly, Mr. Evslin? I'm talking
10 to you now. Mr. Evslin, is there anything,
11 briefly, you want to add regarding Pages 3 to 5
12 in Exhibit 4?

13 THE WITNESS: No.

14 CHAIRMAN HONIGBERG: All right.
15 Mr. Patch, can you focus your questions a
16 little more on cross-examination here to get a
17 little bit more focused answers?

18 BY MR. PATCH:

19 Q. Mr. Evslin, I heard you just say that you
20 wanted to respond to something that Valley
21 Green's attorney said yesterday. Could you
22 just briefly say what that is.

23 A. Yes. Valley Green's attorney had questioned
24 why it was -- or had pointed out that NGA did

1 not send a quote after reading the RFP and
2 getting the quantities that we had been asking
3 for. In fact, I did attempt to contact Mr.
4 Campion and was not successful. Did contact
5 Scott Brown. Scott Brown said that he would
6 set up a meeting with Trillium. That didn't
7 happen. I got back to Scott and said, "What
8 happened?"

9 Scott said, "Trillium says there's
10 absolutely no interest in CNG for this
11 project." We weren't about to throw a bid over
12 the wall. And the filing also made clear that
13 there was already an agreement with Gulf. So
14 that's the reason that we didn't start throwing
15 numbers around after the filing. But I think,
16 most important, this arrangement precludes
17 getting competitive bids from other suppliers.

18 MR. PATCH: That's all the questions
19 I have. Thank you.

20 CHAIRMAN HONIGBERG: I don't see Mr.
21 Christopoulos here. Has anyone heard from him?
22 Do we know if he's coming?

23 MR. CORWIN: Oh, I'm sorry. Tim
24 Corwin representing --

1 (Court Reporter interrupts.)

2 CHAIRMAN HONIGBERG: Mr. Corwin, do
3 you have any questions for Mr. Evslin?

4 MR. CORWIN: I do not. Thank you.

5 CHAIRMAN HONIGBERG: Ms. Arwen.

6 MS. ARWEN: No, I do not. Thank you.

7 CHAIRMAN HONIGBERG: Mr. Cicale.

8 MR. CICALE: A few brief questions,
9 Mr. Chairman. Thank you very much. And good
10 morning, Commissioners.

11 CROSS-EXAMINATION

12 BY MR. CICALE:

13 Q. Good morning, Mr. Evslin. Mr. Evslin, you
14 testified yesterday that currently your company
15 is serving Dartmouth-Hitchcock Medical Center
16 with CNG?

17 A. No, sir. Our competitor, XNG, is serving
18 Dartmouth-Hitchcock.

19 Q. Okay. My apologies. I misapprehended that
20 testimony yesterday.

21 Would you still be supportive of a
22 franchisee taking over the service area if they
23 are not conditioned to have a supply of CNG,
24 and, thus, they start servicing this area for

1 years without CNG as part of their gas
2 portfolio?

3 A. I would not, purely for the reason that I
4 believe that such a franchise is doomed to
5 failure. And I believe that the gas island
6 business, of which this is the biggest example
7 to date, will be looking very carefully at what
8 happens in this area. And so I would like to
9 see an operation that's successful. Obviously,
10 we have an interest in bidding on CNG. Our
11 parent has an interest in bidding on LNG. But
12 there's no guaranty that we would win any such
13 contract. I think what's most important is
14 that the franchise be granted under conditions
15 which allow it to succeed.

16 MR. CICALÉ: Nothing further. Thank
17 you, Commissioners.

18 CHAIRMAN HONIGBERG: Mr. Speidel.

19 MR. SPEIDEL: Thank you, Mr.
20 Chairman.

21 CROSS-EXAMINATION

22 BY MR. SPEIDEL:

23 Q. Mr. Evslin, you just mentioned a moment ago
24 that this is the biggest example of a so-called

1 virtual pipeline "island" to date that you're
2 aware of. Would you happen to know of any
3 others, any other such virtual pipeline islands
4 using compressed or liquified natural gas to
5 serve a service territory with pipelines?

6 A. Yes, I do.

7 Q. Could you describe them, please?

8 A. Yes. We serve a gas island somewhat different
9 from this one that was established by Vermont
10 Gas Systems in Middlebury, Vermont. This is a
11 temporary, not a permanent gas island. Vermont
12 Gas had built out its distribution system in
13 Middlebury because it had a CPG for a
14 transmission pipe extension that would reach
15 Middlebury. However, the transmission pipe has
16 been delayed for various reasons, and so
17 there's a distribution system which is an
18 orphan.

19 Q. Sir, you're very polite. You don't have to
20 maintain eye contact with me. You can speak
21 into the microphone.

22 A. Sorry. So, we were already serving a customer
23 down there in Middlebury in advance of the
24 pipeline coming. Vermont Gas contacted us and

1 said, if the customer agreed, could Vermont Gas
2 become our customer. They had pipe running
3 from that customer site already to several
4 large institutions in the Middlebury area,
5 which they were anxious to bring up on gas.
6 And so we reached an arrangement good until the
7 transmission pipeline does arrive, where we
8 deliver Vermont Gas's gas to Vermont Gas,
9 off-load it in a single off-loading station, as
10 would be done with any gas island, into the
11 distribution pipe. Our customer is Vermont
12 Gas. They billed the remaining customers and
13 work with the other customers.

14 Q. So, Mr. Evslin, are you aware of whether there
15 is a seven-day supply requirement for the
16 installation over in the Middlebury area?

17 A. There is deliberately not. And that's one of
18 the differences between this and the other.
19 All of those institutions -- and this is the
20 reason why I think some of the institutions
21 here may prefer this arrangement. All those
22 institutions have formally been on oil or
23 propane, and so they already had a backup fuel
24 even after they added burners for natural gas.

1 Just as if they were large customers of Vermont
2 Gas, it was cheaper for them to elect for an
3 interruptible supply than it was to have that
4 kind of backup.

5 And I should point out, Mr. Speidel, that
6 there are no consumers on this system. So,
7 being 100 percent interruptible is only
8 acceptable if there's 100 percent interruptible
9 customers. And I'm in no way recommending that
10 if they're a small business or residential
11 customer who were dependent on the fuel. I'm
12 just saying that the backup supply needs to be
13 sized for those customers who need to be
14 non-interruptible.

15 Q. At that installation, was there some level of
16 waiver granted by the Vermont Public Service
17 Board or some other regulatory authority to
18 grant this installation, also waiver from the
19 seven-day storage requirement?

20 A. The Vermont Public Service Board doesn't have a
21 seven-day storage requirement, so no waiver for
22 that was necessary. But they approved, I
23 believe -- because we were not a party to this,
24 Vermont Gas was. I believe what they did is

1 approve a special contract between us and
2 Vermont Gas for towing the gas. And they
3 approved the arrangement under which Vermont
4 Gas would bill those customers in the interim
5 before they become pipeline customers.

6 Q. Okay. Thank you.

7 You mentioned yesterday that, in your
8 general viewpoint, CNG, as served by truck, is
9 still competitive with diesel. And I would
10 just like to ask a clarifying question.

11 Did you mean diesel that's "road-tax paid"
12 or what we know as "No. 2 red dye, non-tax
13 diesel" that is actually used as No. 2 heating
14 oil?

15 A. Good question. Thanks for the clarification.

16 I meant the No. 2 red dye diesel because
17 all our -- we don't serve any trucking fleets.
18 We only serve commercial and industrial
19 customers who don't pay the road tax.

20 Q. So that competitive advantage is still intact,
21 despite the lack of the roughly \$1 road tax.

22 A. That's correct.

23 Q. Okay. Thank you.

24 Another question regarding oil prices and

1 the competitive position of CNG. Yesterday you
2 discussed that customers that stayed on through
3 \$25-a-barrel oil. Would you happen to have a
4 sense of the equivalent cost per barrel -- and
5 obviously there's refining costs and marketing
6 costs, distribution costs, transportation
7 costs. But for your own internal business
8 planning purposes, have you identified a cost
9 per barrel of oil that is enough to stimulate
10 conversions for your smaller customers?

11 A. Well, our smaller -- there's a very delicate
12 line, because our smaller customers maintain
13 under dual fuel capability -- that is, they
14 have no capital expense to go back to oil if
15 they should choose to do so. Some may have
16 regulatory prohibitions against burning more
17 oil --

18 (Court Reporter interrupts.)

19 A. But I believe at \$25 a barrel we were right on
20 the borderline.

21 And you asked a question about smaller
22 customers. The smaller customers pay us more,
23 and they pay more for their oil. So the
24 borderline does move around, depending on the

1 size of the customer.

2 Q. So that \$25 borderline is not just for
3 retention. It's actually -- you have seen,
4 even in the darkest of times in recent times,
5 you've seen some trickling in of customer
6 interest at \$25 a barrel?

7 A. No, we have -- I'm sorry. Maybe I answered
8 your question wrong. We have not seen
9 customers who want to do a conversion from oil
10 to gas for economic reasons at \$25 a barrel.

11 Q. Right.

12 A. I didn't mean that. I meant they didn't go
13 back at 25 --

14 Q. That's what you said yesterday --

15 (Court Reporter interrupts.)

16 Q. That's right, Mr. Evslin. You said that
17 yesterday. But I'm just curious. Have you
18 identified a dollar -- and if it's proprietary
19 business information you're nervous about, you
20 don't have to share it. You can simply mention
21 it. But is there a
22 dollar-a-barrel-of-oil-level that you've seen
23 that brings in the customers?

24 A. Yeah. At current gas prices -- because, of

1 course, that's also a factor, because we're
2 talking about the difference -- above \$40 a
3 barrel, then you begin to get a four- or
4 five-year pay back on doing the conversion.
5 And so we're talking now about customers who
6 are converting for purely economic reasons
7 without environmental consideration, which may
8 tip it. A lot of our industry's new
9 prospecting is coal users. Not here in New
10 England, but outside of New England. And in
11 that case, we're not economically competitive
12 with coal, but we're environmentally very
13 competitive with coal. So the math is somewhat
14 different.

15 Q. Thank you. Mr. Evslin, you've mentioned that
16 the length of contracts with your CNG customers
17 vary. Would you be able to let us know what
18 the longest contract you've ever entered
19 into -- that is, Energy Advantage has entered
20 into?

21 A. Five years.

22 Q. Five years is the longest term. Okay. Thank
23 you.

24 MR. SPEIDEL: I believe that would

1 answer our questions. Thank you very much, Mr.
2 Evslin.

3 CHAIRMAN HONIGBERG: Mr. Willing.

4 CROSS-EXAMINATION

5 BY MR. WILLING:

6 Q. Mr. Evslin, do you follow natural gas prices?

7 A. Yes.

8 Q. I would expect so. The prices for natural gas
9 in Vermont and Pennsylvania are different;
10 correct?

11 A. Correct.

12 Q. There's only one LNG supplier that offers firm
13 LNG in New England; correct?

14 A. I said I follow natural gas prices. But I
15 don't follow LNG prices in New England, so I
16 can't answer your question.

17 Q. I'm sorry. One LNG supplier in New England.

18 A. Are you referring to district -- there are many
19 LNGs -- I think you mean located in New England
20 or Gulf -- there are many suppliers who bring
21 LNG into New England. That I know. I don't
22 know where they're located.

23 Q. You don't have any LNG installations, do you?

24 A. We do not.

1 Q. Okay. And so you have no experience with LNG
2 installations.

3 A. I have only what I've learned from our majority
4 owner, Clean Energy, who has a substantial
5 number of LNG installations. But we do not
6 directly serve any LNG.

7 Q. You mentioned that NG Advantage was the first
8 CNG virtual pipeline company in the U.S.;
9 correct?

10 A. Correct.

11 Q. What year did you begin operation?

12 A. 2013.

13 Q. Have any NFPA safety codes been developed
14 specifically for your application, CNG?

15 A. No, there are -- not for the -- there are NFPA
16 codes that apply to portions of our operations.
17 So, for example: There are very strict codes
18 that we adhere to that affect the construction
19 of our compressor stations. There are NFPA
20 codes that govern where we can locate our
21 decompression facilities, for example -- just
22 one point: There can't be an overhead power
23 line within a certain distance of where we
24 could put a decompression facility there.

1 There are NFPA codes that say where any bulk
2 use of electricity has to meet a spark-free
3 code and where you can use electricity freely.
4 All of those governed portions of -- these are
5 pre-existing codes, and they govern portions of
6 our operation.

7 Q. But there is no equivalent to the 59A LNG
8 safety code for CNG?

9 A. That's correct.

10 Q. How many gas leaks have occurred at your
11 Milton, Vermont facility since you have been in
12 operation?

13 A. There have been three instances of trailer
14 venting.

15 Q. What is the useful life of virtual pipeline CNG
16 equipment?

17 A. Depends on the equipment that you're talking
18 about. But compressors last for at least 15
19 years. The special permit that's been issued
20 for the trailers by DOT is good for 15 years,
21 with five-year periodic reinspection and with
22 the provision that says that may be extended.
23 So we don't know whether it will be extended.

24 We have been using a useful life, which

1 seems to be borne out by experience of seven
2 years for our decompression equipment. But
3 none of it's reached seven years, so I can't
4 tell you that for sure.

5 Q. And that's based on experience?

6 A. It's based on experience. We know what parts
7 are wearing out. Although the equipment is
8 specially constructed for off-loading CNG, the
9 components of the equipment -- the heat
10 exchanger, the valves and so on -- there's long
11 industrial experience with, so we have some
12 basis for making that estimate.

13 Q. So you're saying that this equipment in real
14 life has lasted as long as you're saying the --

15 A. I believe I just --

16 (Court Reporter interrupts.)

17 Q. Has lasted as long as the useful life that
18 you're citing. It's not just a projected
19 useful life without basis.

20 A. I think I just said the opposite. We've only
21 been in operation since 2013, and so these are
22 projections.

23 Q. Okay.

24 A. But the components have been -- in other

1 applications have had that kind of life.

2 Q. Got it.

3 Do you know how much LNG storage capacity
4 LDCs own in New England?

5 A. No, I do not.

6 Q. Would 16 billion cubic feet sound about right?

7 A. I don't know the answer to that question. I
8 know they own a substantial amount. I'm not
9 trying to waffle on that.

10 Q. Do you know how long these facilities have been
11 in operation?

12 A. Yes. For a long time before the price of
13 natural gas changed because of horizontal
14 drilling and fracking, and the economics of our
15 industry changed, but they are in useful
16 operation today.

17 Q. Why do northeast LDCs use LNG instead of CNG
18 for their operations?

19 A. They're using -- first of all, they use LNG in
20 exactly the way that I recommend that LNG be
21 used. They don't use it as their normal fuel
22 because it's very expensive. They use it as a
23 peaking fuel, and they use it as a backup fuel.
24 So when there's high peaking, because we don't

1 have enough pipeline capacity here in New
2 England, then they use their more expensive
3 LNG, because they don't have any other option.
4 They use LNG exactly as I would think that a
5 gas island would use it.

6 Q. You stated that there is no published price for
7 CNG or LNG, but you're confident that CNG is
8 cheaper. What is the basis for that assertion?

9 A. Every time that we've made a proposal where LNG
10 was proposed against us, we've won the bid. We
11 don't know what the LNG bids were exactly.

12 The second basis for that is that we have
13 looked at installations where either LNG --
14 we've gone with an open mind into installations
15 with very high demand, like power plants, and
16 looked at whether LNG or CNG would be a better
17 price. Remember that we have very good access
18 to LNG supply prices through Clean Energy that
19 operates two liquefaction plants and has many
20 off-take agreements. We know what the trucking
21 costs are for LNG. Clean Energy Compression
22 owns a cryogenic unit, which makes equipment
23 for handling LNG. So we know what the capital
24 costs are of the LNG equipment. And if we

1 believed that we could offer a better price to
2 a customer with LNG, we would make that bid.
3 And so we've done that analysis, and in no case
4 have we decided to bid pure LNG, although, as I
5 said, we have bid hybrids which include LNG for
6 backup.

7 Q. You said earlier that NG Advantage has no LNG
8 installations; right?

9 A. That's correct.

10 Q. And so how would you formulate a proposal that
11 included LNG?

12 A. We would determine what price that we were
13 going to have to pay to self-contract for the
14 components that we don't have. We're capable
15 of operating a facility which includes LNG. We
16 know that we can enhance our SCADA to do that.
17 We're very familiar with the SCADA that's used
18 in LNG operations by Clean Energy. We know
19 what trucking costs are, both from Clean Energy
20 and from New England. It includes our trucker
21 who hauls our CNG, but also hauls LNG into New
22 England for various people. We know from both
23 Clean Energy Cryogenics and another vendor what
24 the cost is for vaporization and storage

1 equipment for LNG. And we know, although it
2 changes all the time, what the off-take prices
3 are at various terminals for LNG.

4 Q. Okay. You mentioned yesterday your Middlebury,
5 Vermont Gas island that you work with. Was
6 there a competitive bidding process for that?

7 A. There was not. And it's a very good question,
8 and I'll explain the reason why Vermont Gas
9 didn't go through a competitive bidding process
10 for that.

11 We already were operating a facility in
12 Middlebury, Vermont. We already had our
13 off-loading equipment there. At the time that
14 we signed -- and so we were already serving gas
15 to Cabot, Agri-Mark in this case, in
16 Middlebury. Vermont Gas believed their
17 pipeline would be there in eight months. They
18 did not believe that it would be practical that
19 anybody else would put in off-loading
20 equipment -- typically it takes six months to
21 do that -- within that time period. We would
22 not have signed an eight-month contract if we
23 didn't already have equipment there. And so
24 that's why they did a sole-source procurement

1 in that case. No one else had a compressor
2 station on the Vermont Gas pipeline that was
3 already up and running. Somebody could have
4 built one, but not in an eight-month window.
5 And nobody else had equipment that was already
6 on site and delivering gas and capable of
7 handling the volumes. It has extended from an
8 eight-month contract into probably a 20-month
9 contract, but it was an eight-month contract at
10 the time that we signed it.

11 Q. Do you offer an unbundled service, where you
12 offer to provide CNG equipment, but the buyer
13 can buy the actual gas from someone else?

14 A. We do not.

15 Q. Okay. Last question. You were talking about
16 the size of Valley Green's site and questioning
17 whether --

18 A. Excuse me. Let me just add one thing to my
19 answer to your last question to be completely
20 accurate.

21 One of our customers does own their
22 off-loading equipment. Another customer has an
23 option to buy the off-loading equipment for a
24 nominal price at the end of their contract.

1 And so there would be nothing to stop them from
2 then using that equipment with another
3 supplier. But we've only offered that in
4 conjunction with the service.

5 Q. To one customer?

6 A. I said one customer already owns their
7 equipment, and a second customer has the option
8 to buy it at a nominal price at the end of the
9 contract.

10 Q. Okay. But the other customers don't?

11 A. The other customers do not.

12 Q. Okay. You were talking about the size of
13 Valley Green's site and expressing doubt about
14 whether there would be enough space there to
15 accommodate CNG to make it truly part of Valley
16 Green's project. Do you recall the size of the
17 parcel that Choice Storage owns?

18 A. No. Excuse me. What I questioned was whether
19 any space had been -- whether any provisions
20 had been made into the plan, where there's a
21 large amount of space there. However, what I
22 don't -- and the diagram is very specific about
23 how the LNG works, but there isn't any level of
24 planning for how CNG works.

1 What I said is I didn't see "a space,"
2 Not that I didn't see space. I didn't see a
3 space on there that was for CNG refueling or
4 had been configured for a CNG off-load unit.

5 Q. And you recognize that we're at a fairly early
6 point in the development process; right?

7 A. I'm sorry?

8 Q. We're at a fairly early point in the
9 development process for Valley Green; would you
10 agree?

11 A. I would. You're at a point where you're
12 designing the LNG.

13 (Court Reporter interrupts.)

14 Q. Would you agree that a 182-acre parcel
15 subdivided at some level would be sufficient
16 to --

17 A. Absolutely. And I hope you will include CNG.

18 Q. All right. No further questions.

19 CHAIRMAN HONIGBERG: Commissioner
20 Scott.

21 CMSR. SCOTT: Thank you.

22 INTERROGATORIES BY CMSR. SCOTT:

23 Q. Good morning. One of the discussions really
24 revolved around commercial and industrial

1 customers. There's been very little discussion
2 about residential customers. And I assume
3 that's because there's a quantity of -- you
4 know, there is a scaling issue here, and
5 obviously you look at the bigger customers to
6 drive the economics of this.

7 A. That's correct, Commissioner.

8 Q. So my question is: What's preventing some of
9 these larger customers now from to doing what
10 Clean Laundry [sic] and Dartmouth are already
11 doing? Why isn't that happening otherwise?

12 A. As Mr. Champion testified, it takes a very long
13 time for Dartmouth University, which is the
14 biggest potential customer there, to make a
15 decision on which way they want to move. I
16 think the economics have been favorable for a
17 long time for them to convert to CNG. They do
18 have a practical problem -- and this is one of
19 the reasons why granting this franchise may
20 help. Their boiler house is located on The
21 Green. And the prospect of LNG storage or CNG
22 unloading facilities on the Dartmouth Green
23 isn't very appealing. And so, somehow, some
24 pipe would have to be built in order to serve

1 the Dartmouth boiler house which is located
2 right there, and one of the reasons why I
3 support the franchise.

4 Of course, Dartmouth-Hitchcock, the second
5 largest potential customer, has converted pipe.
6 West Lebanon has. I would like to think if we
7 had been around when the cleaners went to LNG,
8 they'd be on CNG now. But they went to LNG
9 before the CNG option was available to them.

10 Most other potential customers in that
11 area are too small to be served to stand-alone
12 customers. And that's one reason why it would
13 be very, very good that there be a franchise,
14 so that demand can be aggregated and those
15 customers can be reached. Even in Middlebury,
16 we're only serving C & I -- or Vermont Gas is
17 only serving C & I customers on their virtual
18 pipeline. But two of the four customers would
19 have been too small for us to serve on their
20 own and so they get the advantage of that
21 aggregated demand.

22 Q. Thank you.

23 CHAIRMAN HONIGBERG: Commissioner
24 Bailey.

1 INTERROGATORIES BY CMSR. BAILEY:

2 Q. I just have one question for you to clarify
3 something to make sure I understand what you
4 said.

5 When you were talking about the cost of
6 CNG is less than the cost of LNG, you talked
7 about the fixed costs and the commodity costs.
8 And did I understand you to say that it's
9 really the fixed costs that are lower for the
10 CNG application than the LNG application and
11 that the commodity costs are similar, or the
12 commodity costs vary similarly?

13 A. Good distinction. I said it's the fixed cost
14 which is similar, where CNG is lower in most
15 cases. If you were trucking a thousand miles,
16 LNG would be lower. But we're not talking
17 about doing that. The commodity costs vary
18 similarly. They're not identical only because
19 the liquefaction plant and the compression
20 station may not be at the same place on the
21 pipeline. We have the ability to take gas
22 either from Kinder Morgan here in Pembroke, New
23 Hampshire, or from Vermont Gas, which is
24 actually a TransCanada supply. And so we're

1 able to get the lower, the lowest -- in the
2 winter, it's cheaper to get the gas in Milton,
3 and in the summer it's cheaper getting the gas
4 here in Concord. And so we can play with those
5 commodity prices to the advantage of our
6 customers. And if you had a single
7 liquefaction plant, it might well be located,
8 it might not be. And if your off-take
9 agreement is only with a single plant, and its
10 price goes up, you sort of have a problem. But
11 usually LNG can be also sourced from a variety
12 of different plants, so you can seek out the
13 lowest underlying commodity cost.

14 Q. Thank you.

15 INTERROGATORIES BY CHAIRMAN HONIGBERG:

16 Q. Mr. Evslin, I understand from your testimony,
17 the written testimony and what you said today,
18 that you believe there should be a franchise
19 granted in this area; correct?

20 A. That's correct.

21 Q. Just not necessarily the way this one is
22 structured.

23 A. Right. And I believe no matter who it's
24 granted to, it should have conditions that

1 assure the best price.

2 Q. My question is: You seem to know a lot about
3 this, and you have given a lot of thought to
4 it. Why aren't you trying to get this
5 franchise?

6 A. We are -- have made a decision to be in only
7 unregulated businesses.

8 Q. That's a fair enough answer, and I can
9 understand why one would sometimes not want to
10 be regulated by this group.

11 A. With all due respect, sir.

12 Q. Understood.

13 CHAIRMAN HONIGBERG: Ms. Geiger, do
14 you have any further questions?

15 MS. GEIGER: Mr. Chairman, if I can
16 approach very quickly and speak with my witness
17 for a moment, I may have no further questions.

18 CHAIRMAN HONIGBERG: Go ahead.

19 (Counsel and witness confer off the record.)

20 MS. GEIGER: Yes, Mr. Chairman, I
21 think I just have one question to clarify the
22 record. I believe I heard, Mr. Evslin, in
23 response to a question from Mr. Patch, indicate
24 his lack of responsiveness to an RFP.

1 REDIRECT EXAMINATION

2 BY MS. GEIGER:

3 Q. Mr. Evslin, did you mean to say you did not
4 respond to the volumes contained in the
5 prefiled testimony of Valley Green?

6 A. Yes, I did. There was no RFP and I --

7 (Court Reporter interrupts.)

8 A. And I meant the prefiled testimony, the
9 volumes -- to be precise, the volumes that were
10 in the application that was filed by Valley
11 Green.

12 MS. GEIGER: Thank you, Mr. Chairman.
13 I have no further questions.

14 CHAIRMAN HONIGBERG: All right.
15 Thank you, Mr. Evslin. You can return to your
16 seat.

17 I believe, Mr. Patch, your
18 witnesses are next.

19 MR. PATCH: Mr. Chairman, while
20 they're coming up, I don't know if anybody
21 needs a copy of the January 15, 2016, direct
22 testimony of Mr. Clark and Mr. Mullen. I have
23 extra copies. But my understanding is you
24 don't need copies.

1 CHAIRMAN HONIGBERG: Looks like
2 you've got one taker, Mr. Patch.

3 Off the record.

4 (Discussion off the record.)

5 (WHEREUPON, STEVEN E. MULLEN and WILLIAM
6 J. CLARK were duly sworn and cautioned by
7 the Court Reporter.)

8 DIRECT EXAMINATION

9 BY MR. PATCH:

10 Q. Good morning, Mr. Mullen and Mr. Clark. Would
11 you each please state your name, beginning with
12 you, Mr. Mullen.

13 A. (Mullen) My name is Steven E. Mullen.

14 A. (Clark) William J. Clark.

15 Q. By whom are you each employed, and in what
16 capacity?

17 A. (Mullen) I am employed by Liberty Utilities
18 Service Corp. I'm the manager of rates and
19 regulatory.

20 A. (Clark) And I am employed by Liberty Utilities
21 Service Corp., business development manager for
22 New Hampshire.

23 Q. Could you each give the Commission a brief
24 summary of your qualifications.

1 A. (Mullen) Certainly. In addition to being a
2 certified public accountant, I've been in the
3 regulatory arena for approximately 20 years.
4 I've been at Liberty for approximately two
5 years. And before that I was employed by the
6 New Hampshire Public Utilities for 18 years.

7 A. (Clark) And I have been in the gas utility
8 industry for 23 years, and titles ranging from
9 operation, sales, marketing and now business
10 development.

11 Q. Are you the same individuals who submitted
12 prefiled testimony in this docket, dated
13 January 15th, 2016?

14 A. (Mullen) Yes.

15 A. (Clark) Yes.

16 Q. And that includes six attachments to the
17 testimony; is that correct?

18 A. (Mullen) That's correct.

19 A. (Clark) Yes.

20 Q. And there are 23 pages in that testimony.

21 A. (Mullen) Yes. The testimony itself has 23 text
22 pages, which end on Bates 25, and goes to the
23 end of the attachments that ends on Bates 37.

24 MR. PATCH: Mr. Chairman, I would ask

1 that that testimony be marked as the next
2 exhibit.

3 CHAIRMAN HONIGBERG: That will be
4 Exhibit 15.

5 (Exhibit 15 marked for identification.)

6 Q. Thank you. Do you have any correction or
7 updates to the prefiled testimony?

8 A. (Mullen) No.

9 Q. If you were asked the same questions today
10 under oath, would your answers be the same?

11 A. (Mullen) Yes, they would.

12 Q. And Mr. Clark, that's true for you?

13 A. (Clark) Yes.

14 Q. In light of the supplemental testimony that
15 Valley Green has filed and the testimony that
16 was offered yesterday on the stand, is there
17 anything that you would like to tell the
18 Commission to support the prefiled written
19 testimony you submitted in January?

20 A. (Mullen) I would just say that the concerns
21 expressed in the testimony have not changed.
22 In fact, probably the concerns are even a
23 little stronger. Yesterday we heard that -- we
24 confirmed that Valley Green does not have any

1 employees, doesn't have a timetable for hiring
2 any. It does not still have binding agreements
3 with its contractors. And as we heard
4 yesterday, the terms of the whole arrangement
5 seem to change -- keep changing. The tank now
6 is going to be owned by an affiliate. Even the
7 Exhibit 11 that was produced this morning, I
8 was able to take a quick look at the lease
9 agreement. Now, I understand it's a draft
10 lease that was between Valley Green Natural Gas
11 and Choice Storage. It appears that that would
12 have to change related to the change in
13 ownership for the storage tank. So, along with
14 the concerns we had about affiliates, there was
15 some discussion yesterday about not really
16 being sure which companies would be affiliates
17 or not. That leads to cross-subsidization
18 concerns.

19 Another concern we had in our testimony
20 was about a lack of an RFP process. And at
21 different times yesterday, we heard that there
22 was -- they still did not plan to use RFPs, and
23 then we heard that they weren't totally ruling
24 it out. So, the concerns that we have, or had

1 in the prefiled testimony, really have not
2 changed.

3 A. (Clark) I would concur.

4 Q. And Mr. Mullen, you were referring I believe to
5 what's been marked as Exhibit 11, the lease
6 agreement between Choice Storage and Valley
7 Green that was handed out this morning;
8 correct?

9 A. (Mullen) Yes.

10 Q. And did you have a chance to look briefly at
11 Exhibit 12, which was the third and fourth
12 amendments to the MOU?

13 A. (Mullen) Yes, briefly.

14 Q. And Mr. Evslin, I think, pointed out that even
15 with the fourth amendment, the date in that
16 amendment has since expired. Is that your
17 understanding?

18 A. (Mullen) Yes. As I'm looking at it, the date,
19 the expiration date is January 21, 2016.

20 Q. And it appears to me that that amendment as
21 drafted replaces a June amendment, but it
22 doesn't refer to the third amendment which
23 actually took place in the interim. Is that
24 fair to say?

1 A. (Mullen) I haven't looked at it in that
2 particular detail. I was looking more at the
3 dates. But I will certainly take that, subject
4 to check.

5 Q. Well, for example, if you look at paragraph --
6 or Section No. 2 on Page 1 of the fourth
7 amendment, it says Section IV term of the MOU
8 is amended by replacing June 30th, 2015 with
9 January 31st; correct?

10 A. (Mullen) Correct.

11 Q. But then, if you look at the third amendment,
12 it says Section IV of the terms of the MOU is
13 amended by replacing June 30th with
14 September 30th. So, given that, shouldn't the
15 fourth amendment have replaced the
16 September 30th date?

17 A. (Mullen) That would make logical sense to me.

18 Q. That's all the questions I have.

19 MR. PATCH: The witnesses are
20 available for cross-examination.

21 CHAIRMAN HONIGBERG: Mr. Corwin, do
22 you have any questions for these witnesses?

23 MR. CORWIN: No, thank you.

24 CHAIRMAN HONIGBERG: Ms. Arwen, do

1 you have any questions for these witnesses?

2 MS. ARWEN: No, thank you.

3 CHAIRMAN HONIGBERG: Ms. Geiger?

4 MS. GEIGER: No, thank you.

5 CHAIRMAN HONIGBERG: Mr. Cicale?

6 MR. CICALE: No, thank you.

7 CHAIRMAN HONIGBERG: Mr. Speidel.

8 MR. SPEIDEL: Yes, Mr. Chairman.

9 CROSS-EXAMINATION

10 BY MR. SPEIDEL:

11 Q. Gentlemen, having read your testimony, there is
12 one section that jumped out at me and Staff a
13 little tiny bit. Let's see. Ah, yes, here it
14 is.

15 On Bates Page 10, there's some discussion
16 of the contingent nature of many of the
17 arrangements between Valley Green and its
18 expected contractors. In general terms, is it
19 fair to say that Liberty Utilities, the parent
20 company, is a relative newcomer to the New
21 Hampshire utilities scene?

22 A. (Mullen) That's a fair statement. I mean,
23 Liberty Utilities came into the state in
24 mid-2012.

1 Q. Now, the EnergyNorth subsidiary of which
2 Liberty Utilities owns currently in the state
3 of New Hampshire, that goes back quite a ways.
4 Doesn't it go all the way back to the pre-Civil
5 War Concord, Manchester, Nashua gas companies?
6 Has it been in existence for that long, if you
7 do a successor-in-interest look-back?

8 A. (Mullen) If you start going back through the
9 various entities over time, yes.

10 Q. So the actual gas subsidiary of Liberty
11 Utilities has been in New Hampshire for a long
12 time. Pretty much 150 years; isn't that fair
13 to say?

14 A. (Clark) Yes.

15 A. (Mullen) Yes.

16 Q. So there's a long history of personnel,
17 practices, physical plant that's accumulated
18 over that time frame. Would you agree with
19 that?

20 A. (Clark) Correct.

21 Q. Now, the question I would have is: What if the
22 subsidiary was not able to build on such a
23 history of developmental progress? What if it
24 had to start from scratch? Would it be likely

1 to enter into contingent arrangements with
2 potential suppliers and contractors, or would
3 you expect that it would instantly enter into
4 binding agreements, even though it hadn't quite
5 got the franchise yet?

6 A. (Mullen) Are you talking about a hypothetical
7 subsidiary?

8 Q. In so many words, yes. But would the business
9 practices of the company allow for firm
10 agreements, do you think, at such an early
11 stage in development?

12 A. (Mullen) I think that would depend on the facts
13 and circumstances that existed in any
14 particular situation. I mean, trying to think
15 through all the implications of such a
16 hypothetical situation without much detail
17 behind it, I can't really give you a definite
18 answer.

19 Q. Thank you very much.

20 MR. SPEIDEL: No further questions.

21 CHAIRMAN HONIGBERG: Mr. Willing.

22 CROSS-EXAMINATION

23 BY MR. WILLING:

24 Q. Okay. Just on the subject of the MOU, the MOU

1 between Valley Green and Gulf, you recognize
2 that the MOU as amended is or was non-binding;
3 correct?

4 A. (Mullen) Yes.

5 Q. So the expiration that occurred was the
6 expiration of a non-binding agreement; correct?

7 A. (Mullen) That sounds fair.

8 Q. Okay. Would you agree that there's a history
9 between Gulf and Valley Green of continuing
10 their relationship, starting with the MOU and
11 its amendments, and continuing with Mr. Carroll
12 being here for his testimony?

13 A. (Mullen) Other than -- you know, I think the
14 Commission has to base its determination on the
15 documents it has in front of it and the
16 evidence. It's kind of hard to say what the
17 intentions of various entities are and how to
18 base a decision on that.

19 Q. Okay. Sir, your basic testimony is that Valley
20 Green doesn't have the necessary expertise
21 because it doesn't have employees, doesn't
22 have, you know, fully developed-out utility
23 business, doesn't have binding contracts to
24 provide; is that correct?

1 A. (Mullen) Well, I think the Commission has to
2 make a determination about whether the entity
3 that has applied to be a utility has the
4 requisite technical, financial and managerial
5 expertise. And when you don't have binding
6 contracts, you don't have particular employees,
7 you don't have job descriptions, I don't know
8 how the Commission could make such a
9 determination, because there's really lack of
10 any definite facts.

11 Q. So, basically you're saying that Valley Green
12 should have done those things before filing its
13 petition to get a utility franchise?

14 A. (Mullen) I think that certainly having some of
15 those things in line, or even some, you know,
16 much more formal agreements, or some job
17 descriptions and how they were going to fill
18 those, some sort of timetable, right now, as I
19 went through this, this application, I was left
20 scratching my head a lot in terms of exactly
21 how the Commission could make a determination.

22 Q. Would it make any business sense to do these
23 things before actually getting a utility
24 franchise?

1 A. (Mullen) Well, I think if you want to get a
2 utility franchise, then you need to meet the
3 requirements. I think it certainly makes sense
4 to do as much as you can.

5 Q. Doesn't your position boil down to this: Only
6 an existing gas utility can be a utility?

7 A. (Mullen) No.

8 Q. I think I'll leave it at that.

9 MR. WILLING: No further questions.

10 CHAIRMAN HONIGBERG: Commissioner
11 Scott.

12 INTERROGATORIES BY CMSR. SCOTT:

13 Q. Thank you. I think this is for Mr. Mullen, but
14 whoever, again, would like to answer is fine
15 with me.

16 Earlier yesterday we heard Mr. Campion
17 talk -- and I'm paraphrasing here, so I
18 apologize if I get anything wrong. What I got
19 out of some of his discussion was the reason
20 why he wanted to have a franchise is, you know,
21 to see gas service presumably low cost and fuel
22 oil be provided to that area; so, economic
23 development type of issue. We've also heard
24 testimony, some assertion that having two

1 potential franchise areas being in the offing
2 with competing dockets complicates trying to
3 sign up customers in advance.

4 So, my question to Liberty is: Have you
5 tried to -- to me, one of the obvious things
6 was to try to work together. You have one
7 entity saying we really want to see gas service
8 in this area and another entity wanting to
9 provide gas service in the area. Have you
10 tried to work together?

11 A. (Clark) We've had some conversations, but I
12 think both parties were too far down the line
13 with the applications to have serious
14 discussions.

15 CMSR. SCOTT: That's all I have.

16 CHAIRMAN HONIGBERG: Commissioner
17 Bailey.

18 INTERROGATORIES BY CMSR. BAILEY:

19 Q. Good morning.

20 A. Good morning.

21 Q. Were you here yesterday when the witness panel
22 from the Applicant testified?

23 A. (Mullen) Yes.

24 A. (Clark) Yes.

1 Q. Okay. I asked a lot of questions about safety
2 and reliability. My questions are about how
3 you ensure safety and reliability with your
4 employees at your gas company. So, other than
5 the president, who's ultimately responsible for
6 the safety and reliability of service? Who
7 would you say in your company is responsible
8 for ensuring that aspect of the service?

9 A. (Clark) Depending on which nature of the
10 business, we have different levels of
11 responsibility. We have a training center
12 located in Concord that has specific gas
13 training for our field operations people, as
14 well as our supervisors. We also have outside
15 and inside training for our LNG operators for
16 our plants, our propane and LNG plants. And we
17 have a director of operations on staff that
18 oversees our supervisors as well on the gas
19 side.

20 A. (Mullen) We also have an Environmental Health
21 and Safety Department that covers safety not
22 only in the field, but also at our various
23 buildings. And the director of that has the
24 ultimate responsibility for safety in various

1 aspects of business.

2 Q. So I'm specifically focused on the distribution
3 system. I understand the training is
4 important. But the director of operations,
5 would you say he's the person --

6 A. (Clark) Director of operations.

7 Q. And do you know how many employees work for
8 him? I mean, you obviously have a much bigger
9 territory to serve.

10 A. (Clark) If you include the union employees,
11 that would be over a hundred. I think about
12 120.

13 Q. Okay. Do you have any idea what the average
14 salary of the union employees is, or the
15 employees who are responsible for operations
16 and maintenance of the distribution system?

17 A. (Mullen) I'd hate to hazard a guess. I don't
18 know, offhand. We can get that for you if you
19 need it. But offhand, I'm not sure.

20 A. (Clark) The supervisors and managers are
21 salaried. The union is hourly wages. So we
22 can get you some average with overtime.

23 Q. That would be good. All right. Just an
24 average for one person, and then I can apply

1 that.

2 A. (Clark) Both management and union? Front-line
3 supervisor and a union --

4 Q. Yes.

5 CHAIRMAN HONIGBERG: So is that a
6 record request, Commissioner Bailey?

7 CMSR. BAILEY: Yes.

8 A. (Mullen) And you want that fully loaded with
9 benefits?

10 Q. Could you give it to me with and without
11 benefits?

12 A. (Mullen) Yes. Sure.

13 Q. All right. Thank you.

14 CHAIRMAN HONIGBERG: So, Mr. Patch,
15 do you understand the request? That will be
16 No. 16.

17 (Exhibit 16 reserved.)

18 CMSR. BAILEY: Thank you. That's all
19 I have.

20 INTERROGATORIES BY CHAIRMAN HONIGBERG:

21 Q. Mr. Mullen, I'm going to direct these to you
22 because you seem to be the one who was offering
23 up the answers regarding employees and
24 contractors and what would be required.

1 Can you outline how a new entity might go
2 about establishing the proper credentials to
3 obtain the utility status? Because I can
4 appreciate a new entity's unwillingness to
5 commit to hiring a slew of people without
6 knowing that they're actually going to have a
7 business. How would they go about that, in
8 your view?

9 A. (Mullen) Sure. I think as a start, if you turn
10 to Bates 30 of our testimony, this is a copy of
11 the proposed organization chart. And I think,
12 starting with that, if the Applicant were to
13 come in and say, Okay, here's how we want to
14 set the company up, and for each of these jobs
15 that are listed here, here's who they're to be
16 employed by -- because as I understand this
17 chart, they're not all going to be employed by
18 Valley Green. Some would be by Tri-Mont, some
19 would be by Gulf, some would be third-party
20 contractors. For those various positions, then
21 they could have a detailed job description
22 about what they expect each one of those
23 individuals to be doing, who would be reporting
24 to whom, and exactly how those reporting

1 requirements kind of go up and down the line.
2 Each one of those should have various
3 responsibilities. Right now, all I see are --

4 Q. I understand you see it being completely
5 deficient. I'm trying to get a sense of what
6 would be sufficient rather than -- I'm not -- I
7 understand this is somewhat hypothetical. But
8 what would be sufficient, in your view?

9 A. (Mullen) Okay. So, that's for the employees.

10 Now, for the contractors, they've only
11 described in general terms what they intend for
12 those parties to do. I think they could have
13 at least provided some draft form of contracts
14 that laid out in much more detail exactly who
15 was going to be -- which contractor was going
16 to be responsible for what. Part of this goes
17 to what we heard yesterday when there was a
18 question of who's ultimately responsible for
19 safe and reliable service. And even then, I
20 think there was some -- they were unsure about
21 whether it was going to be a contractor or --

22 Q. Again, I got that. I understand that. I'm not
23 trying to rehash yesterday's testimony.
24 Because I know you have experience with this,

1 I'm trying to get a sense what is the minimum,
2 at what point does someone get over the line?

3 A. (Mullen) Where I was going with that was, if
4 that was laid out in much more detail in some
5 documents and contracts, even in their draft
6 form for the Commission to review, you'd have a
7 much better idea how those were laid out.

8 Q. All right. Thank you. That's all I have.

9 CHAIRMAN HONIGBERG: Mr. Patch, do
10 you have any further questions for your
11 witnesses?

12 MR. PATCH: No further questions.
13 Thank you.

14 CHAIRMAN HONIGBERG: All right. You
15 gentlemen may return to your seats.

16 Off the record.

17 (Discussion off the record)

18 (WHEREUPON, PRADIP K. CHATTOPADHYAY was
19 duly sworn and cautioned by the Court
20 Reporter.)

21 DIRECT EXAMINATION

22 BY MR. CICALÉ:

23 Q. Good morning. Would you please state your name
24 and occupation for the record.

1 A. My name is Pradip Chattopadhyay, and I am the
2 Assistant Consumer Advocate with the Office of
3 Consumer Advocate.

4 Q. Dr. Chattopadhyay, do you have a copy of the
5 20-page document that was premarked as your
6 direct testimony in front of you?

7 A. Yes, I do.

8 Q. Is this an accurate copy of the prefiled
9 testimony that you provided to the Commission
10 on January 15, 2016?

11 A. Yes.

12 Q. This testimony consisted of nine pages and four
13 attachments; is that correct?

14 A. That is correct.

15 Q. Do you have any corrections or updates to the
16 prefiled testimony?

17 A. Just to the extent that I had a question in the
18 testimony about what other testimonies are
19 provided. This was written on January 15th.
20 We are in May right now. I've done two other
21 testimonies: One of them is the DG 15-289 and
22 the other is DG 15-494. So I just wanted to
23 state that, to be accurate.

24 Q. Dr. Chattopadhyay, if you were asked the same

1 questions today under oath, would your answers
2 be the same as they are contained in the
3 testimony?

4 A. Other than what I just mentioned before this,
5 yes.

6 MR. CICALÉ: Mr. Chairman and
7 Commissioners, I would like permission to ask
8 that we mark Dr. Chattopadhyay's testimony for
9 identification as Exhibit 16, is it, or 17?

10 CHAIRMAN HONIGBERG: Seventeen.

11 MR. CICALÉ: And the attachments
12 contained therein.

13 CHAIRMAN HONIGBERG: Before we do
14 that, I think in the list, the unredacted,
15 confidential version has a No. 9 reserved for
16 it, and I assume that there's a redacted
17 version that we don't have that would also be
18 marked. Is that what's happening?

19 MR. CICALÉ: No, no, that's my
20 mistake, Mr. Chairman. The premarking of 9 is
21 sufficient for the purposes of
22 Dr. Chattopadhyay's testimony.

23 CHAIRMAN HONIGBERG: Well, don't we
24 need in the record the unredacted version?

1 Because, I mean, without looking at it in
2 detail as I'm sitting here, there are parts of
3 the testimony that are not confidential; are
4 there not? I mean, the filing letter I'll note
5 says there was one redacted original filed with
6 the redacted version. So there is a redacted
7 version.

8 MR. WILLING: For what it's worth,
9 the confidential version has the gray shading.

10 CHAIRMAN HONIGBERG: I have no doubt
11 that's true. So there is a redacted version.

12 MR. CICALÉ: That is correct. We're
13 more than happy to mark that as an exhibit as
14 well.

15 CHAIRMAN HONIGBERG: So we'll make
16 the redacted version No. 17. The unredacted
17 version is No. 9, because that number was
18 already reserved for it. So, 17 will be the
19 redacted version.

20 (Exhibit 17 marked for identification.)

21 CHAIRMAN HONIGBERG: I'm going to ask
22 you, Mr. Cicale, to work with Staff and the
23 clerk's office to get that in the record and
24 where it needs to be. Okay?

1 MR. CICALE: Certainly.

2 CHAIRMAN HONIGBERG: All right.

3 MR. CICALE: I have no questions for
4 the witness on direct examination at this time.
5 He's available for cross.

6 CHAIRMAN HONIGBERG: All right. Ms.
7 Geiger, do you have any questions for
8 Dr. Chattopadhyay?

9 MS. GEIGER: Yes, please.

10 CROSS-EXAMINATION

11 BY MS. GEIGER:

12 Q. Good morning, Dr. Chattopadhyay. Can you hear
13 me okay?

14 A. Yes.

15 Q. Could you please turn to Page 9 of your
16 prefiled testimony.

17 A. Yeah.

18 Q. And there, on Line 6, you stated, "Whether the
19 requested franchise is in the public interest
20 requires understanding the rate impact of
21 company investments on each and every customer
22 class, including the residential customer
23 class." Is that your testimony?

24 A. That is correct.

1 Q. Do you have sufficient information in this
2 docket to form an opinion as to whether or not
3 you have -- or do you have an understanding of
4 what the rate impact of this franchise request
5 is on customers in the franchise area?

6 A. Not at the granular level that I would like it
7 to be. So I don't have sufficient information
8 to inform myself about exactly what different
9 classes would be faced with.

10 Q. Thank you. I have no further questions.

11 CHAIRMAN HONIGBERG: Mr. Corwin, do
12 you have any questions?

13 MR. CORWIN: No.

14 CHAIRMAN HONIGBERG: Ms. Arwen?

15 MS. ARWEN: No.

16 CHAIRMAN HONIGBERG: Mr. Patch?

17 MR. PATCH: Yes.

18 CROSS-EXAMINATION

19 BY MR. PATCH:

20 Q. Good morning. I have a couple of questions.

21 A. Good morning.

22 Q. I'm referring to Exhibit 17, the redacted
23 version, but the page numbers I believe are the
24 same.

1 On Page 6 of your prefiled testimony,
2 Lines 3 to 5, you say that Valley Green has
3 provided some projections, but they cannot be
4 construed as definite plans to provide natural
5 gas service to residential customers even
6 several years after the inception of the
7 franchise; correct?

8 (Witness reviews document.)

9 A. That is correct.

10 Q. And then the same page, Lines 15 to 17, citing
11 this docket and also DG 15-289, you say that
12 among the issues the OCA wants to highlight is
13 that a thorough examination of the franchise
14 request requires addressing unique implications
15 of a start-up entity being granted a franchise
16 as opposed to an existing utility being granted
17 the same franchise; is that fair?

18 A. That is fair.

19 Q. Later, actually on Page 8, you say that,
20 although it is not a foregone conclusion, more
21 experience in regulated utility business can
22 lead to managerial and technical advantages; is
23 that fair?

24 A. Can you just point me to the line numbers,

1 please?

2 Q. Okay.

3 A. You said Page 8.

4 Q. Page 8, yes, Line 19.

5 A. Okay. That is correct.

6 Q. And then you go on to say, "An experienced
7 utility with a pre-existing customer base and
8 infrastructure can provide long-term advantages
9 resulting in desired cost-effectiveness;
10 correct?

11 A. Again, can you just give me the line number? I
12 want to be sure.

13 Q. It's right at the bottom of that page. I think
14 it's 22 and 23.

15 (Witness reviews document.)

16 A. Line 22 and 23?

17 Q. Yes.

18 A. That is correct.

19 MR. PATCH: That's all the questions
20 I have. Thank you.

21 CHAIRMAN HONIGBERG: Mr. Speidel.

22 MR. SPEIDEL: Thank, you Mr.
23 Chairman. I don't have any questions on behalf
24 of Staff. However, I would like to mention

1 something regarding the OCA testimony that's
2 redacted.

3 CHAIRMAN HONIGBERG: Sure.

4 MR. SPEIDEL: I don't think it has to
5 be refiled with the clerk. I believe, Clerk
6 Deno, at Tab 38, the redacted testimony has
7 been prefiled into the docket book. So I
8 believe under the 200 Rules, if you have that
9 available in your docket book, we don't have to
10 have a refiling. It can simply be noticed as
11 Hearing Exhibit 17.

12 CHAIRMAN HONIGBERG: Perfect. Thank
13 you, Mr. Speidel. Thank you, Ms. Deno.

14 Mr. Willing, do you have
15 questions for Dr. Chattopadhyay?

16 MR. WILLING: I do not.

17 CHAIRMAN HONIGBERG: Commissioner
18 Scott.

19 INTERROGATORIES BY CMSR. SCOTT:

20 Q. Thank you. I'm sure you recall yesterday there
21 was some discussion about what I think the
22 Applicant termed the "Catch 22" in that, to
23 expect to have customers in advance of having a
24 franchise was problematic for them. Do you

1 remember that?

2 A. Yes, I do.

3 Q. Is it your opinion that it's reasonable to
4 expect some level of customer commitment before
5 granting a franchise?

6 A. That is my position.

7 Q. Thank you.

8 CHAIRMAN HONIGBERG: Commissioner
9 Bailey.

10 CMSR. BAILEY: No questions. Thank
11 you.

12 INTERROGATORIES BY CHAIRMAN HONIGBERG:

13 Q. Dr. Chattopadhyay, you heard my questions to
14 Mr. Mullen earlier?

15 A. Yeah.

16 Q. Do you agree or disagree or have different
17 thoughts from what Mr. Mullen said on that
18 question?

19 A. Can you remind me again exactly what it was?

20 Q. What should a new company have in place in
21 order to satisfy the requirements of being a
22 utility, in your view?

23 A. I can speak to it very generally. I would find
24 that for a new company or a new entrant that is

1 requesting a franchise, obviously there are
2 huge costs to have things to the level of
3 already hiring people who will be doing exactly
4 what they're told to do. So, yes, in a general
5 sense, more information is helpful as to what
6 the company is wishing to do with regards to
7 personnel and what the plans are. But I also
8 understand the situation that, when you're
9 requesting a franchise and you don't know
10 whether you're going to get it or not, that a
11 new entrant is in a different position than an
12 existing, say, utility that has a lot of
13 experience and have already people who have
14 similar experiences as to how a utility should
15 be run. You know, those two situations are
16 very different.

17 Q. I don't have any other questions.

18 CHAIRMAN HONIGBERG: Mr. Cicale, do
19 you have any follow-up for your witness?

20 MR. CICALÉ: Nothing further. Thank
21 you, Mr. Chairman.

22 CHAIRMAN HONIGBERG: All right. Dr.
23 Chattopadhyay, I think you can return to your
24 seat.

1 And I also think it's time to
2 take a short break. So we're going to break
3 for 15 minutes, and when we come back we'll
4 hear from Staff's witnesses.

5 (Whereupon a brief recess was taken at
6 10:24 a.m., and the hearing resumed at
7 10:44 a.m.)

8 (WHEREUPON, STEPHEN P FRINK, RANDALL S.
9 KNEPPER and ROBERT J. WYATT were duly
10 sworn and cautioned by the Court
11 Reporter.)

12 CHAIRMAN HONIGBERG: Mr. Speidel, you
13 may proceed.

14 MR. SPEIDEL: Thank you, Mr.
15 Chairman. I would like to introduce Staff
16 Witnesses Frink, Knepper and Wyatt.

17 DIRECT EXAMINATION

18 BY MR. SPEIDEL:

19 Q. Mr. Frink, could you please state your full
20 name and business title.

21 A. (Frink) Steven P. Frink, and I'm the Assistant
22 Director of the Gas and Water Division.

23 Q. Could you very briefly summarize your
24 educational history, in terms of degrees

1 awarded.

2 A. (Frink) I have an undergraduate degree and
3 bachelor's of arts and master's degree in
4 business administration.

5 Q. Thank you. What was your role in Staff's
6 evaluation of the Valley Green franchise
7 request?

8 A. (Frink) I evaluated the economic feasibility of
9 the project; so, mainly looking at their
10 finances.

11 Q. So, as part of your responsibilities in
12 reviewing this filing by the petitioner, did
13 you prepare the testimony that was filed on
14 January the 15th of 2016 in your name?

15 A. (Frink) Yes, I did.

16 MR. SPEIDEL: And that is, for the
17 Clerk's benefit, within the docket book at Tab
18 No. 37. And I would request that this be
19 marked as Hearing Exhibit 7.

20 CHAIRMAN HONIGBERG: That makes
21 sense. It's on the list.

22 (Exhibit 7 marked for identification.)

23 MR. SPEIDEL: Thank you.

24 BY MR. SPEIDEL:

1 Q. Mr. Knepper, could you please state your name
2 and title here at the Commission.

3 A. (Knepper) Randall S. Knepper. I'm Director of
4 Safety and Security.

5 Q. And could you please briefly summarize your
6 educational background.

7 A. (Knepper) Yes. I have a bachelor's and
8 master's degree in engineering, both mechanical
9 and civil engineering.

10 Q. And what was your role in the evaluation of the
11 Valley Green franchise request?

12 A. (Knepper) We looked at particularly the
13 engineering, operations, safety and security
14 aspects of the project.

15 Q. Thank you. Mr. Wyatt, could you state your
16 full name, please, and also your title for the
17 record.

18 A. (Wyatt) My name is Robert Wyatt, and I am the
19 Assistant Director of the Safety Division at
20 the New Hampshire Public Utilities Commission.

21 Q. And what was your role in the evaluation of the
22 Valley Green franchise request?

23 A. (Wyatt) I assisted Mr. Knepper in review of the
24 operations aspects of the company, and

1 primarily focused in on the seven-day storage
2 requirement.

3 Q. And is it correct that you have long industry
4 experience in gas operations?

5 A. (Wyatt) That is correct. I have 27 years I
6 worked for EnergyNorth and earlier companies
7 prior to EnergyNorth, but the same company,
8 basically. And my primary professional career
9 at EnergyNorth was in the gas supply area of
10 gas dispatch and senior gas supply analyst.

11 Q. Thank you, Mr. Wyatt.

12 Mr. Knepper, and Mr. Wyatt, I'd ask you to
13 respond in sequence. Did you each have a role
14 in the preparation of the testimony filed under
15 your name on January 15, 2016?

16 A. (Knepper) Yes.

17 A. (Wyatt) Yes.

18 Q. And you do recognize the material that was
19 filed as your testimony.

20 MR. SPEIDEL: And to the clerk, it is
21 at Tab 34. I would ask that it also be marked
22 as an exhibit. That would be Exhibit 8.

23 CHAIRMAN HONIGBERG: Exhibit 8.

24 (Exhibit 8 marked for identification.)

1 Q. Mr. Knepper, would you be able to provide some
2 further explanation of your testimony, in light
3 of what you've heard over the last two days in
4 testimony and presentations by the other
5 parties.

6 A. (Knepper) Before I answer that question, can I
7 make a couple corrections to the prefiled
8 testimony?

9 Q. You do have corrections to make, sir? Okay.

10 A. (Knepper) They're minor, but I just want to
11 make sure they're in the record.

12 Q. Okay. Thank you. Go ahead, please.

13 A. (Knepper) Page 7 of the prefiled testimony,
14 Line 4. I'd like to change the word "are,"
15 A-R-E, to "area." So, add the letter A at the
16 end so it says "area."

17 Q. All right. Any others?

18 A. (Knepper) Page 9, Line 19, the word "leaks,"
19 L-E-A-K-S, should be changed to "leads,"
20 L-E-A-D-S.

21 And last one I have is Page 10, Line 19,
22 add the word "to," T-O, after the word "apply."

23 Q. Okay. Well, Mr. Knepper, thank you for those
24 corrections.

1 Do you have any further explanation of
2 your testimony, in light of what you've heard
3 over the last two days?

4 A. (Knepper) Just that this has -- the context
5 should be given.

6 We wrote this in January. It seems to be
7 somewhat of an evolving project that we've
8 heard into May. And so what we wrote, some of
9 that was based on what was -- what we examined
10 then.

11 Q. And Mr. Wyatt, do you have any further
12 explanation of your testimony in light of what
13 you've heard over the last couple days?

14 A. (Wyatt) First of all, I'd like to just add, if
15 I may, I do have a bachelor of science degree
16 from New Hampshire College, now known as
17 Southern New Hampshire University; it was in
18 technical management. And I have an associate
19 degree in electronic engineering.

20 And to answer your question as regards to
21 the seven-day storage requirement, we had
22 initially met with -- Staff had initially met
23 with Valley Green almost a year before the
24 docket was opened. They presented a conceptual

1 plan of what they were going to do. And after
2 that meeting, I did have a side conversation
3 with one of the Tri-Mont engineers about
4 expectations on the seven-day storage
5 requirement and shared with him information
6 sources that are available for Concord, New
7 Hampshire degree days -- if they can get degree
8 days specific to Lebanon, that would be
9 acceptable as well -- but degree days, and send
10 out daily -- send out requirements would be
11 very useful in doing regression analysis coming
12 up with heat load and base load coefficients to
13 determine demand. Just went over some of the
14 basics of that. I'm quite familiar with it
15 because I used to do that when I worked in my
16 role as a senior analyst at EnergyNorth, and I
17 also reviewed those filings from EnergyNorth as
18 a utility analyst here at the Commission.

19 Q. All right. So, aside from those elaborations,
20 you both adopt the conclusions of your
21 testimony; is that correct?

22 A. (Wyatt) That is correct.

23 A. (Knepper) Yes.

24 Q. Thank you.

1 Mr. Frink, regarding your testimonial
2 presentation, if you were asked the same
3 questions today as those delineated in your
4 testimony, would your answer be the same?

5 A. (Frink) No, they wouldn't be. Based on the
6 testimony we heard yesterday from Valley Green,
7 I would change my answers to two of the
8 questions.

9 On Page 10 of 18, Line 1, the question
10 asked if the assumptions used in Valley Green's
11 rate analysis is reasonable. And in response
12 to that question on Line 2, I answered, "The
13 rate base costs and capital structure appear
14 reasonable to serve projected demand." I no
15 longer believe that the rate base costs and
16 capital structure used in Valley Green's rate
17 analysis are reasonable.

18 On the first page of my testimony, when
19 asked to summarize Staff's findings -- that's
20 on Line 22 -- on Lines 23 and 24, I recommended
21 that the Commission not grant the petition and
22 suspend the proceeding. My recommendation now
23 is that the petition be denied and the docket
24 be closed.

1 Q. Mr. Frink, would you please elaborate on why
2 you no longer believe that the companies -- or
3 Valley Green's projected rate base costs and
4 capital structure are reasonable?

5 A. (Frink) Yes. In advance, I'd like to refer
6 people to Exhibit 5, Tab E, Bates Page 102.
7 I'll wait until everybody's there. Actually,
8 I'll be referring to three pages in that area,
9 but to start.

10 Yesterday we heard that Valley Green
11 expects to hire five employees, including a
12 CFO, and that personnel costs for a trained and
13 certified utility worker, for a CFO, the
14 personnel costs associated with having an
15 employee on call 24 hours a day for emergency
16 response, those expenses are very likely to
17 exceed the expenses in Valley Green's
18 projections. If you turn one page to Bates
19 Page 103, you'll see that there's an Expense
20 section, the third section down, and you'll see
21 what the total Distribution expenses are. And
22 this is confidential information, so I won't
23 divulge what that number is. But it seems
24 unreasonable to think that the personnel costs

1 of five employees necessary to do this kind of
2 work wouldn't exceed the total annual expense
3 that's projected here. So the cost is a
4 concern. It doesn't appear reasonable.

5 Then, if you flip back to Page 102, you'll
6 see a rate base number. And again, that's
7 Valley Green's projections that this scenario
8 here on Bates Page 102 is for the initial
9 build-out. So this is the smallest build-out.
10 And as you can see, there's a rate base number
11 projected for the first year in service. And
12 when we had the confidential portion of
13 yesterday's hearing, we heard what Valley Green
14 has already spent to this point in time. And
15 what they've spent from inception to date
16 exceeds what they have for rate base in their
17 projections, and they're a very long way from
18 final design and construction of this project.
19 So I question the reasonableness of the rate
20 base.

21 And then, lastly, if you refer to
22 Page 107, that provides the capital structure,
23 projected capital structure. And I originally
24 testified that I questioned the revenue

1 projections. I didn't think they could achieve
2 the sales they were including. And now I think
3 that they've overstated the revenue and
4 understated the rate base and annual costs. So
5 I imagine their expected income is going to be,
6 when it comes time to go out and issue debt, or
7 for investors to invest in this enterprise,
8 that investors are going to be wary, and
9 there's likely to be a risk premium involved if
10 investors are indeed going to invest in this
11 project.

12 So, these assumptions -- so, again, while
13 originally I thought the assumptions were
14 reasonable, based on yesterday's testimony of
15 Valley Green, I no longer feel that's the case.

16 Q. Mr. Frink, why have you changed your
17 recommendation to suspend the proceeding?

18 A. (Frink) Valley Green's business plan has
19 changed fairly significantly, and it seems to
20 continue to evolve. And I think what was
21 originally filed, while I thought it would be
22 helpful going forward if it was suspended, that
23 they could update what was there, I no longer
24 think that really would be all that helpful. I

1 think what would be more helpful, if Valley
2 Green wants to pursue this further, is to
3 further develop their business plan and
4 implement parts of it and submit new testimony
5 that supports that plan and better describes
6 and clarifies what those plans are and how
7 they'll be achieved.

8 So that is -- I don't think there's much
9 value in leaving this open if Valley Green
10 wants to pursue this. I think they can just as
11 easily pursue it through a new docket and that
12 it be -- we'd be better served if it was a
13 complete new filing with new testimony.

14 Q. And by "new testimony," you mean new testimony
15 that's very solid on the final business plan
16 parameters?

17 A. (Frink) Yes, I do.

18 Q. Okay. Thank you very much.

19 MR. SPEIDEL: The witnesses are
20 available for cross-examination.

21 CHAIRMAN HONIGBERG: Ms. Geiger, do
22 you have any questions for these witnesses?

23 MS. GEIGER: No, thank you, Mr.
24 Chairman.

1 CHAIRMAN HONIGBERG: Mr. Patch, do
2 you have any questions for the witnesses?

3 MR. PATCH: I do have a few
4 questions. Thank you.

5 CROSS-EXAMINATION

6 BY MR. PATCH:

7 Q. Mr. Frink, I'll start with you. I don't have
8 that many questions. But Commissioner
9 Honigberg asked a question of Mr. Mullen and
10 Mr. Clark with regard to an entity that wants
11 to start as a utility, what more essentially
12 should we look for. I think you've gotten into
13 that a little bit with what you just said this
14 morning. And so I don't know if you heard the
15 answer that Mr. Mullen gave, but is there
16 anything you'd like to say in addition to that?

17 A. (Frink) I do. I was anticipating that
18 question.

19 I don't think this is unsimilar to when
20 Liberty purchased EnergyNorth, in that Liberty
21 had to run a natural gas utility prior to its
22 purchase of EnergyNorth. And while they had
23 the existing service people, they didn't have
24 the back-office people, and they signed a

1 two-year management or service agreement with
2 National Grid, the prior owner, to provide
3 those services while they acquired the
4 expertise and staffed up. And that's -- so I
5 think in Valley Green's instance, what they're
6 doing, as far as -- you know, you have to hire
7 somebody, people that have the experience and
8 expertise to perform those while you transition
9 and develop that experience and expertise or
10 are able to hire it. So that's where we're at
11 here.

12 I will say that, as with any new
13 experience, there's a learning curve. And this
14 is a pretty complicated business, and there's
15 bound to be bumps along the way, as there were
16 when Liberty acquired EnergyNorth. And I
17 expect that that would be the instance in most
18 cases.

19 Q. In Liberty's case, isn't it true that they
20 actually hired people like Mr. Delvecchio, and
21 I think Mr. Saad and a few people like that,
22 and they had contracts that were contingent on
23 getting approval from the Commission for the
24 franchise, but they were hired before and as

1 part of the process of going through the
2 franchise?

3 A. (Frink) That's true. They did hire -- they had
4 employees before the franchise, before the
5 acquisition was approved, which of course was
6 very useful in evaluating, you know, what
7 experience they need and where to get that.
8 And so it helps. Yes, that's correct.

9 Q. You were here yesterday, obviously, and heard
10 the testimony with regard to the different
11 companies that they have created, one of which
12 is Choice Storage, and Valley Green Energy
13 Services, LLC; is that correct?

14 A. (Frink) That's correct.

15 Q. Is it your understanding that those companies
16 would be "affiliates" under the -- as that term
17 is defined in the statute and in the rules that
18 the Commission has in place?

19 A. (Frink) Absolutely.

20 Q. And so they would be subject to all of the
21 affiliate requirements.

22 A. (Frink) They would.

23 Q. And do you -- in your testimony at Page 3,
24 Lines 8 to 9 I think it is, you cite the

1 standard that the Commission uses in evaluating
2 a petition for franchise approval, you know,
3 which is whether the Applicant has the
4 requisite financial, technical and managerial
5 capability to construct, own and operate, in
6 this case, a natural gas distribution system;
7 correct?

8 A. (Frink) That's correct.

9 Q. And in your testimony, I believe even before
10 what you said this morning, you said that you
11 did not believe that Valley Green has that
12 expertise; is that correct?

13 A. (Frink) That's correct.

14 Q. And so is there anything you want to add to
15 what you put in your testimony to support that
16 conclusion?

17 A. (Frink) Well, the only thing I would add is
18 that, as I state here, it's in the process of
19 acquiring that expertise. And it's out there.
20 It can be done. They might be able to contract
21 with EnergyNorth. I don't -- but it's... on my
22 end, on the financial end, it's not difficult
23 to find people that can do the billing or can
24 do the bookkeeping and the reporting and that

1 sort of thing. It's more the managerial and
2 technical side of things. I'll leave that to
3 the safety division to assess. That's really
4 not my role. But I do think, as far as the
5 ability to -- they've hired Steve St. Cyr, who
6 does have regulatory experience and actually
7 prepared these schedules for their revenue
8 requirement and the rate analysis that Valley
9 Green did.

10 Q. But it's my understanding that it's your
11 position that they haven't made that showing,
12 that requisite showing to the Commission.

13 A. (Frink) That's correct.

14 Q. Mr. Knepper and Mr. Wyatt, I just have a couple
15 questions for you.

16 I mean, the plan for the facility has
17 obviously changed since it was originally
18 filed. I mean, it's a much -- it's one tank as
19 compared to a number of tanks. Does that raise
20 any additional concerns, as well as the
21 ownership of the tank? Are there any
22 additional concerns that were not expressed in
23 your original testimony that you'd like to
24 mention this morning?

1 A. (Knepper) I think I addressed some of the
2 things about whether it was one tank versus
3 five tanks in data responses. And if you give
4 me a second, I'll tell you which one that is so
5 we can talk about that issue first.

6 (Witness reviews document.)

7 A. (Knepper) And I don't know if this is --

8 WITNESS KNEPPER: Alex, I don't know
9 if this is in the record or not.

10 A. But there's pluses and minuses of having a
11 large, single-gallon -- single tank versus
12 having multiple ones, and advantages and
13 disadvantages of both. When I wrote the
14 testimony, I was thinking primarily that they
15 were going to have 60,000-gallon horizontal
16 tanks versus a single tank. So that was the
17 basis of what I wrote. As Staff safety person,
18 either way it's going to be the option of the
19 company to design and build it. They're just
20 going to have some -- there's trade-offs on
21 each way you configure things.

22 Q. What about the ownership of that? You know,
23 does that give you concerns depending
24 whether it's owned by a regulated utility or

1 not?

2 A. It doesn't give me that much of a concern
3 because all the codes are based on an operator,
4 not the owner. It does get a little bit more
5 complicated because you have to make sure that
6 the person has the authority to do certain
7 things. We'll chase that down if we have to if
8 those come into issues. But you have to
9 operate it safely, regardless of whether you
10 actually own the assets or not.

11 Q. What about jurisdiction of the Safety Division?
12 Is that affected by the ownership?

13 A. (Knepper) If there are -- no, it's not.
14 Actually, the Safety Division, as you well
15 know, or people don't know in this room, we
16 oversee non-public utilities, as well as public
17 utilities. So the owners and operators, it's
18 not something -- "owner" is typically not a
19 term used for regulations, safety regulations;
20 it's mostly operator systems. And they do that
21 purposely because you can have multiple
22 entities being owners. If you have 10
23 companies form an ownership of something,
24 you're really concerned about how it's operated

1 versus what's owned.

2 Q. On Page 9 of your prefiled testimony, Lines 13
3 to 14, you expressed a concern based on the
4 information that Valley Green had presented, as
5 of that point in time at least, that they had
6 limited experience designing and operating
7 natural gas distribution systems. Is that fair
8 to say?

9 A. (Knepper) Can you give me a second to get
10 there?

11 Q. Sure. Page 9, Lines 13 and 14.

12 (Witness reviews document.)

13 A. (Knepper) I'm sorry. I was looking at the
14 wrong testimony. I was looking at Mr.
15 Mullen's.

16 Q. If you want to adopt his testimony...

17 A. (Knepper) It's funny because we talked somewhat
18 on the same subject.

19 (Witness reviews document.)

20 A. (Knepper) Okay. So what was the lines you were
21 referring to, Mr. Patch?

22 Q. Lines 13 and 14, where it says, "The
23 information presented shows have limited
24 experience in designing and operating

1 distribution systems."

2 A. (Knepper) Yeah. So do you want me to expand
3 upon that?

4 Q. Sure. I mean, has your testimony changed at
5 all in light of what you've heard since then?

6 A. (Knepper) No.

7 Q. On Page 9, Lines 14 to 23, you also expressed a
8 concern about who has ultimate authority for
9 the operations and maintenance of the
10 distribution system, given the framework that
11 was presented; is that fair to say?

12 A. (Knepper) What line was that again? I'm sorry.

13 Q. Just below what I just cited, 14 to 23, same
14 page.

15 (Witness reviews document.)

16 A. (Knepper) Yeah. What I'm trying to say there
17 is the further removed you get from -- you
18 know, if the operator -- the owner relies on
19 the operator, the operator relies on the sub
20 operator, and the sub operator relies on the
21 contractor, and the contractor relies on a
22 subcontractor. The further removed you get and
23 down the line, it gets just more difficult to
24 try to enforce and follow things. But we

1 encounter that all the time. And at the end,
2 we're going to hold -- at the beginning of the
3 chain, that person's responsible because that's
4 where ultimately it lies. And so, while we may
5 have a discussion with a subcontractor out in
6 the field, the person we're going to hold
7 responsible for that, just like we do with
8 Liberty, who subcontracts a lot of their field
9 work, we will -- the entity responsible for
10 that is the operator.

11 Q. And then on Page 13 of your prefiled testimony,
12 Lines 6 to 7, after noting that Valley Green
13 selected Gulf to provide operational and
14 maintenance services and personnel to Valley
15 Green, you noted that the Safety Division
16 couldn't find within the testimony submitted
17 support for Gulf's prior experience for
18 providing such operations and maintenance
19 services within a regulated environment, like
20 with a state public utility commission or
21 federal agency; is that correct?

22 A. (Knepper) That's correct.

23 MR. PATCH: I have no further
24 questions. Thank you.

1 CHAIRMAN HONIGBERG: Mr. Corwin, do
2 you have any questions for these witnesses?

3 MR. CORWIN: No, thank you.

4 CHAIRMAN HONIGBERG: Ms. Arwen, do
5 you have any questions?

6 MS. ARWEN: No, thank you.

7 CHAIRMAN HONIGBERG: Mr. Cicale?

8 MR. CICALÉ: Yes, just a couple, Mr.
9 Chairman.

10 CROSS-EXAMINATION

11 BY MR. CICALÉ:

12 A. Mr. Frink, now, you've heard a lot
13 reverberating throughout these franchise
14 dockets about the "Catch 22" and whether an
15 Applicant, whether it be a current
16 investor-owned utility or a start-up, should
17 have some anchor customers under contract in
18 order to protect residential ratepayers and
19 demonstrate the viability and fitness of the
20 franchise. Do you agree that an Applicant
21 should demonstrate that they have some form of
22 contracts, whether it be option-based or
23 contingent on the approval and success of the
24 franchise?

1 A. (Frink) I absolutely agree. In my testimony, I
2 recommend that there be a certain level
3 achieved before that's granted. There's an
4 example of that in the 13-362 docket, which is
5 Liberty requested a franchise to serve Pelham
6 and Windham, and there's a developer that
7 signed a contract in advance of the franchise
8 approval. So, there are customers that it's in
9 their interest to enter into a contract and
10 push the project forward. So, it definitely
11 can be done. And that's certainly Staff's
12 preference.

13 Q. Now, other than to go forward and do this sort
14 of business development, you've changed your
15 testimony today, that the Commission should
16 deny the Applicant's petition. If you had to
17 advise Mr. Champion and his team what he should
18 go forth and do, other than business
19 development, to get this cart pushed over the
20 hill so that they may get their franchise
21 approved, what is it that they should do? It's
22 a little different than a utility that can't go
23 back and regroup. He's very much a start-up.
24 So how would you advise him in this context?

1 A. (Frink) Well, the -- and it's certainly not
2 entirely his fault. The energy market has
3 changed materially since he started this
4 project. When he first came to the Commission
5 with his plans to do this, seeking help, it was
6 a much more favorable environment. And as you
7 heard, Mr. Wyatt and others have sat with him
8 and explained that it is a -- there's a lot to
9 it. There's a lot of regulation. It's
10 capital-intensive. It requires a certain level
11 of labor, and skilled labor at that. And
12 obviously, he's put in a tremendous effort, and
13 he's put in a lot of money into this project.
14 And that's -- but he's still a long way from
15 having a solid plan, that I'm not convinced
16 that his sales projections are realistic. And
17 I think the fact that their investor hasn't put
18 any money into the project yet and that, as he
19 said, even if he gets the franchise, he's not
20 going to start construction until he has
21 customers, tells you that there's a lot of
22 uncertainty there, particularly in this current
23 energy environment.

24 MR. CICALÉ: Nothing further. Thank

1 you.

2 CHAIRMAN HONIGBERG: Mr. Willing.

3 MR. WILLING: I have an initial
4 question here. The testimony has changed
5 rather dramatically. I think you would agree.
6 We haven't had a chance to talk within our team
7 about what questions we would ask in response
8 to dramatically changed testimony. May we be
9 given an opportunity to do that?

10 CHAIRMAN HONIGBERG: Does not seem
11 like an unreasonable request. Do you want to
12 take an early lunch break and confer, with an
13 eye toward returning, say at quarter to one?

14 MR. WILLING: That would work.

15 CHAIRMAN HONIGBERG: All right. Is
16 there any objection to proceeding in that way?

17 MR. CICALÉ: None.

18 CHAIRMAN HONIGBERG: I didn't think
19 so. So we'll take an early lunch break, and
20 we'll be back at 12:45.

21 (Whereupon the lunch recess was taken at
22 11:18, and the hearing resumed at 12:48)

23 CHAIRMAN HONIGBERG: All right.

24 Mr. Willing, are you ready to proceed?

1 MR. WILLING: Yes.

2 CROSS-EXAMINATION

3 BY MR. WILLING:

4 Q. Good afternoon, gentlemen. Mr. Frink, on
5 Page 10 of your testimony, which is Exhibit 7,
6 Line 20 -- Page 10, Line 20, you discuss the
7 risk that a LNG project and the distribution
8 system may be overbuilt or underbuilt relative
9 to the actual customer base; right?

10 A. (Frink) That's correct.

11 Q. You go on to say that, to the extent that some
12 customers could be protected from some risks --
13 you go on to say, to some extent, customers
14 could be protected from such risks through the
15 rate process; right?

16 A. (Frink) Yes, that's true.

17 Q. Wouldn't customers be entirely protected from
18 financial risk if Valley Green received a
19 franchise, but then had to come back and get
20 conditional approval of a rate case before it
21 would begin serving customers?

22 A. (Frink) Well, if rates are set to where -- it's
23 hard to determine in a rate case just how much
24 you're going to put in a rate base. I mean, if

1 you think it's overbuilt, then you expect to
2 grow into some of it. So, determining, you
3 know, what the right amount is to include or
4 what should be excluded, if at all, is a gray
5 area. And then, if you -- even if you approve
6 the rates and they're right, well, if the
7 company fails, then that's a risk to customers
8 that, okay, they've made an investment to
9 convert to natural gas, and now their provider
10 is in financial trouble, and they didn't grow
11 into this rate base that was approved. Then
12 there is either going to be another rate case
13 or it could go bankrupt. There's all sorts of
14 risks involved with approving rates for a
15 company that -- a new company or where there's
16 been additional investments made that you have
17 to decide the prudence of.

18 Q. Has Valley Green proposed a particular set of
19 costs to be included in the rate base?

20 A. (Frink) Valley Green has, based on their
21 preliminary plans, done some analysis. Their
22 investment company -- or the company planning
23 to invest in them has done a discounted cash
24 flow analysis that made some assumptions that

1 included costs, both rate base and expenses,
2 annual expenses and so forth. So there is --
3 there are numbers out there tied to what the
4 expected plan's going to be.

5 Q. Has Valley Green told you which of its costs
6 that it would propose to include in the rate
7 base?

8 A. (Frink) Well, the Staff data request that I
9 referred to in Exhibit 5 is actually the
10 request to do a revenue requirement based on
11 what your expectations are within different
12 scenarios. So, in response to that request,
13 your consultant, Steve St. Cyr, did that. And
14 I assume what's in there, that was the
15 Company's intention to seek recovery of those
16 expenses.

17 Q. One of your issues, if I understood your
18 testimony earlier correctly, is that Valley
19 Green's confidential indication of the amount
20 of money that it has spent on this project is
21 different than the rate base number that's in
22 the schedules --

23 A. (Frink) Well, it's higher. Right.

24 Q. Has Valley Green proposed that it would attempt

1 to recover the higher number through its rate
2 base?

3 A. (Frink) Well, I don't have the transcript
4 before me from yesterday's hearing, but I
5 believe the witness said that he hoped to
6 recover those costs. So, to me, that implies
7 that --

8 Q. That he definitely planned to --

9 A. (Frink) No, that he hoped to recover those
10 costs, which indicates that he's seeking
11 recovery.

12 Q. Can you read for the record your testimony on
13 Page 12, Lines 1 through 7 of your written
14 testimony in response to the question, "Are
15 there any advantages in approving Valley
16 Green's petition either now or at a later
17 date?"

18 A. (Frink) Sure. "Yes. Prior to commencing
19 service, the financial risks are entirely
20 Valley Green's. Organizational, design,
21 marketing, permitting, regulatory, construction
22 and other start-up costs incurred by Valley
23 Green will not be recovered from New Hampshire
24 ratepayers until Valley Green files a rate

1 case, receives Commission approvals of tariff
2 rates and commences service. If Valley Green
3 does not commence service, the cost of service
4 will be borne by its Lebanon and Hanover
5 customers, with no risk of cross-subsidies for
6 ratepayers outside of the franchise area."

7 CHAIRMAN HONIGBERG: For the record,
8 I don't believe you read that correctly, the
9 last sentence.

10 WITNESS FRINK: I'll try again.

11 A. (Frink) "If Valley Green does commence service,
12 the cost of service will be borne by its
13 Lebanon and Hanover customers, with no risk of
14 cross-subsidies from ratepayers outside of the
15 franchise area."

16 BY MR. WILLING:

17 Q. Isn't it the case that Valley Green, at the
18 rate case stage, would have to show actual
19 customer commitments to the Commission to meet
20 its burden of proof that its investments were
21 prudent, and used and useful, and that its
22 rates will be just and reasonable, and
23 similarly it would have to propose a rate base
24 be folded into that rate case?

1 A. (Frink) You're saying they have to prove that
2 they have customers before the Commission would
3 approve a rate case?

4 Q. I would imagine that the Commission would not
5 approve a rate case if it did not have actual
6 customers and did not propose a rate base that
7 the Commission found reasonable.

8 MR. SPEIDEL: If I could sort of
9 interject, I think it would be ill-advised for
10 Mr. Frink to respond as to what the Commission
11 would rule. Mr. Frink can certainly be asked
12 what he would recommend, but I don't think he
13 can be asked how the Commission would rule.

14 CHAIRMAN HONIGBERG: Mr. Willing, is
15 that an acceptable modification to the
16 question?

17 MR. WILLING: That's an acceptable
18 modification.

19 CHAIRMAN HONIGBERG: Mr. Frink, do
20 you understand the question?

21 WITNESS FRINK: (Frink) I do.

22 A. (Frink) When it comes to growth, we don't --
23 utilities, when they invest in plant and
24 facilities and rate base, they're doing it with

1 an eye towards the future. I mean, a lot of
2 these are done in steps. As I mentioned
3 earlier, it's a very capital-intensive
4 business. So, typically you don't -- your rate
5 base isn't just to serve your existing customer
6 base, but it's also to serve expected future
7 growth. So I would have to see what the -- if
8 Valley Green comes in for rates and they have a
9 certain number of customers, and it appears
10 reasonable that they're going to double those
11 customers, then my recommendation may be that,
12 yes, go ahead, even though you don't have a
13 firm commitment. I might recommend to the
14 Commissioners they should go ahead and approve
15 the proposed rate increase based on
16 expectations.

17 Q. Doesn't the fact that Valley Green is proposing
18 an approach to storage, whereby Valley Green
19 could subscribe to a capacity on an as-needed
20 basis, offer further protection to customers?

21 A. (Frink) Well, it depends on how that's priced.
22 But theoretically, yes, I'd agree with that.

23 Q. Mr. Frink, in your testimony on Page 5,
24 Line 22, through Page 6, Line 4, you state

1 that, without Dartmouth College as a customer,
2 fixed costs would be spread over lower sales,
3 and failure to sign an anchor customer could
4 cause financial stress, and therefore Valley
5 Green may not be able to offer reasonable
6 rates; is that right?

7 A. (Frink) That's correct.

8 Q. When a new utility comes in for its first rate
9 case, the Commission's policy is to base just
10 and reasonable rates on full build-out;
11 correct?

12 A. (Frink) I don't think I agree with that. When
13 you come in for rates... again, it's by steps.
14 Full build-out could be accomplished in 10 or
15 20 years. You could put in an amount of plant
16 to serve for 10 years and then add to it as you
17 grow into it or need it. So I wouldn't say I'm
18 looking at full build-out, as far as what I'd
19 recommend for approval in setting rates. I'm
20 looking at what's a reasonable expectation for
21 growth and the most cost-effective way to
22 satisfy that growth.

23 Q. Isn't it the case that, when there's a stage
24 build-out, the fixed costs are not passed along

1 to just the initial customers of that
2 build-out?

3 A. (Frink) Yes, that's correct.

4 Q. We discussed earlier that the financial risk is
5 borne by the utility at the initial stage and
6 not through the ratepayers; right?

7 A. (Frink) That's true.

8 Q. Okay. I'd like to ask you some questions
9 regarding your analysis on Page 8 regarding the
10 discounted cash flow analysis.

11 Your concern on Page 8 is that you're
12 trying to measure Mr. Champion's ability to
13 generate revenues to meet operating costs;
14 correct?

15 A. (Frink) Yes.

16 Q. Lines 8 and 9. And you're applying a DCF
17 method that the Commission used with past
18 regulated natural gas utilities line
19 expansions; right?

20 A. (Frink) Well, I didn't actually perform a DCF
21 analysis. But I said --

22 Q. The equivalent. I'm sorry.

23 A. (Frink) Yes.

24 Q. And you cited two orders that are footnoted on

1 that page.

2 A. (Frink) Okay.

3 Q. Those orders involve the Commission assessing
4 whether a take-or-pay contract between a
5 utility and an anchor customer with the utility
6 was in the public good; right?

7 A. (Frink) Yes.

8 Q. In those cases, if I understand correctly, the
9 customer knew there was one big anchor customer
10 in each case, and the customer knew if it
11 committed, the franchise would very likely be
12 awarded, and it would receive the service that
13 it was contracting for; is that right?

14 A. (Frink) In both instances I'm sure the anchor
15 customer realized that approval of the contract
16 that they -- the risk to them was really in
17 whether the Commission would find a special
18 contract was reasonable. It wasn't really a
19 concern as to whether they had a franchise.

20 Q. It was a much simpler process to look forward
21 to it from a customer standpoint, wouldn't you
22 agree, than --

23 A. (Frink) I would agree, yes.

24 Q. -- and to complete the comparison -- than the

1 situation that we're presented with today?

2 A. (Frink) That's correct.

3 CHAIRMAN HONIGBERG: I'm going to
4 remind both of you to wait until the other is
5 finished before you start talking. It'll be
6 much easier for our stenographer.

7 BY MR. WILLING:

8 Q. So that anchor customer -- those anchor
9 customer dockets were special contract analyses
10 under RSA 378:18; right?

11 A. (Frink) They were, yes.

12 Q. Okay. In weighing special contracts, would you
13 agree that the Commission traditionally
14 considers four aspects of benefits: Benefit to
15 the public, benefit to the utility, benefit to
16 the special contract customer, and the benefit
17 to the utility customers?

18 A. (Frink) Would weigh all those factors, yes.

19 Q. And you're saying that the Commission has used
20 the DCF in that benefits analysis?

21 A. (Frink) In weighing those --

22 Q. Special contracts.

23 A. (Frink) Yes.

24 Q. Cross-subsidization between the special

1 contract customer and the existing customers is
2 a concern that the Commission weighs while it
3 assesses those benefits --

4 (Court Reporter interrupts.)

5 Q. Cross-subsidization between the special
6 contract customer and existing customers is a
7 concern that the Commission weighs when it
8 assesses the four benefit prongs I talked about
9 earlier?

10 A. (Frink) That's correct.

11 Q. Mr. Champion has no existing customers; right?

12 A. (Frink) That's true.

13 Q. And Valley Green isn't doing a line extension;
14 right?

15 A. (Frink) Well, they're extending lines from a
16 plant. So I would say the entire system is a
17 line extension.

18 Q. It's not a line extension from an existing
19 network of pipeline, is it?

20 A. (Frink) No, it's not.

21 Q. This is the first time that Staff is asking the
22 Commission apply this analysis in a non-special
23 contract, non-line extension case, to assess
24 risk to the utility and its future customers;

1 right?

2 A. (Frink) I don't think I understand your
3 question.

4 Q. Okay. Is this the first time that the Staff
5 has asked the Commission to apply the DCF
6 analysis or the equivalent to a brand new
7 island start-up utility?

8 A. (Frink) Yes. Absolutely. That's correct.

9 Q. And there are some differences between such an
10 enterprise and the line extension from an
11 existing pipeline network, wouldn't you agree?

12 A. (Frink) I would agree.

13 Q. Yup. Okay. Now I want to go back to your
14 initial statement on Line 8, that you were
15 trying to assess Valley Green's ability to
16 generate enough revenue to meet operating costs
17 and achieve a reasonable rate of return, all
18 right. It's up on Lines 8 and 9.

19 A. (Frink) Right.

20 Q. Isn't that a different analysis than whether
21 there are cross-subsidies among customers?

22 (Witness reviews document.)

23 A. (Frink) Yes, it is.

24 Q. So the assessment of whether the regulated

1 utility in a special contract situation would
2 generate enough revenues to meet operating
3 costs is partially based on backing out
4 customer subsidiaries; right?

5 A. (Frink) Repeat that, please?

6 Q. The assessment of whether the regulated utility
7 in a special contract situation will generate
8 enough revenue to meet operating costs is
9 partially based on backing out customer
10 subsidies; right?

11 A. (Frink) I do not agree with that. When you
12 evaluate a special contract, you seek to make
13 sure, above all else, that your marginal costs
14 are covered to serve that customer. When you
15 have a special contract, it's not that your --
16 if you can meet the marginal costs, then it
17 provides benefit to existing customers. So I
18 guess, in a sense, it's to avoid subsidies,
19 but -- yeah, I'll accept that, okay.

20 Q. I think my question said "partially."

21 A. (Frink) Yes.

22 Q. And here, with Valley Green, you don't have
23 that problem, right, because there are no
24 existing customers?

1 A. (Frink) Right.

2 Q. All right. I'm moving on.

3 Can you read for the record your testimony
4 on Page 10, Lines 10 through 13 in response to
5 the question, "Can a customer contract for
6 utility service with Valley Green prior to
7 franchise approval?"

8 A. (Frink) "Yes. There is nothing to prevent
9 Valley Green from entering an agreement with
10 potential customers. Agreements would be
11 subject to Commission approval of the franchise
12 request, tariffs and, if the terms of service
13 differed from the approved tariff, approval of
14 the special contract."

15 Q. So your answer suggests that Valley Green
16 should be able to obtain customer agreements
17 before the grant of a franchise that would
18 become effective after the Commission approves
19 rates and/or a special contract; right?

20 A. (Frink) That's correct.

21 Q. What do you think the time lag would be between
22 those two events?

23 A. (Frink) Could be a matter of a few months to
24 many months.

1 Q. Could it be longer than that?

2 A. (Frink) Conceivably.

3 Q. And as Mr. Evslin pointed out in his testimony,
4 there could be a -- there are two companies
5 competing for the same franchise. Doesn't that
6 introduce additional uncertainty for the
7 customer?

8 A. (Frink) I don't know if that's true. I mean,
9 if I'm a customer looking for natural gas
10 service, there are two proposed utilities. I
11 would expect to approach both utilities and
12 possibly sign a contract with both or either.

13 Q. Would you agree the Commission is looking for
14 contracts that are binding, or as binding as
15 possible?

16 A. (Frink) Yes.

17 Q. Do you think a customer would sign a binding
18 contract with a proposed utility that is
19 competing with another utility for a franchise
20 on an indefinite time frame for service that
21 would begin at some point in the future,
22 probably years in the future?

23 A. (Frink) These contracts are contingent upon --
24 there are conditions that have to be satisfied

1 for these contracts to be binding. So the
2 contracts are never binding until there's
3 Commission approval of the required, whatever
4 you need approvals for. So, a customer
5 interested in natural gas service in the
6 Lebanon/Hanover area that saw it's in their
7 best interest, they might choose one or the
8 other, or they could enter into contracts with
9 both, but they would not be bound by that
10 contract until such time as the approvals were
11 given.

12 Q. But in that scenario, wouldn't they be offering
13 up their commitment contingent on an event that
14 they don't control; so, therefore, from their
15 standpoint, it isn't a commitment if that event
16 occurred [sic]?

17 A. (Frink) They're signing on to a contract that
18 they don't control, but that they could
19 influence. And again, if it's in their best
20 interest and they want this service, if there's
21 a need for this service, then -- I'll give you
22 an example, a very recent example, where
23 Liberty signed for a capacity on the NED
24 pipeline, and that failed. But they had an

1 interest in that and need for that and
2 demonstrated it to the Commission. The
3 Commission approved those contracts. But it's
4 out of their hands that the project's fallen
5 through. But it was the best solution to their
6 situation at that time, and so that's what they
7 did. And any customer on a interstate pipeline
8 or utility would be in the same position.

9 Q. So you're saying a manufacturing customer in
10 the Lebanon/Hanover area would be willing to
11 sign a contract with Valley Green or Liberty,
12 or whatever company came forward, competing for
13 a franchise for service that might begin for
14 the winter of 2018 or 2019, depending on how
15 processes unfolded here, and would be willing
16 to sign that contract not knowing what pricing
17 conditions might be like at that point in time?

18 A. (Frink) I don't know what they would be willing
19 or not willing to do. Again, it depends on
20 their interest and what kind of terms they
21 expect to get.

22 When Valley Green was out seeking
23 customers earlier to start this process, there
24 obviously was a good deal of interest. And no

1 manufacturing customer is going to say, Oh, if
2 you can give me cheaper energy prices, then I'm
3 not going to talk to you. But when it gets
4 more -- when the differential disappears, as it
5 has at this point in time, even then I imagine
6 they'll still talk to you. And if they are
7 willing to sign -- if they thought it was in
8 their interest, why wouldn't you do something
9 to help and can get the terms you're looking
10 for if all these events take place. Why
11 wouldn't you enter into that contract to get --
12 to help promote that process and get it done.

13 Q. By entering into that contract, wouldn't you be
14 foreclosing your other fuel options, propane
15 or --

16 A. (Frink) Not at all. No, because you're not --
17 until these events come to pass, it's not
18 effective. I mean, any customer out there,
19 unless it's a brand new customer, has an
20 existing fuel supply. And they'll draw on that
21 until such time as -- and you could always put
22 another condition in there, by date certain
23 this has to happen. So you can control those.

24 Q. You think that customers should be willing to

1 sign contracts like that --

2 A. (Frink) I'm saying --

3 (Court Reporter interrupts.)

4 A. (Frink) I'm saying if it's in their interest,
5 yes.

6 Q. Can you read for the record your testimony on
7 Page 11, Lines 17 to 18, in response to the
8 question, "Are there advantages in approving
9 Valley Green's petition at this time?"

10 A. (Frink) "Yes. Valley Green will have the legal
11 authority to provide utility service, which
12 could make it easier to attain customer
13 commitments."

14 Q. So, here you're saying that the franchise would
15 make a difference in Valley Green's ability to
16 get customer commitments.

17 A. (Frink) It would make it easier. Doesn't mean
18 it's not possible now. But it would make it
19 easier, yes.

20 Did you want me to continue?

21 Q. No, it's okay.

22 Can you read for the record your testimony
23 on Page 11, Lines 11 through 15, in response to
24 the question, "Do you see any other risks in

1 approving the petition?"

2 A. (Frink) "Valley Green would hold exclusive
3 rights to the franchise territory and could
4 delay the provision of utility service
5 indefinitely, denying potential customers the
6 possibility of obtaining utility service at an
7 earlier date, or at all, from a competing
8 entity. Also, if Valley Green were to fail,
9 what to do with the utility plant and
10 distribution system would need to be
11 addressed."

12 Q. So you're saying that one risk is that
13 customers would not have an energy choice if
14 Valley Green received a franchise and didn't
15 act on it; right?

16 (Witness reviews document.)

17 A. (Frink) Right. Yes, that's correct.

18 Q. But the Commission can take away Valley Green's
19 franchise under RSA 374:27 if it did not act on
20 its franchise within two years; right?

21 A. (Frink) Yes, that's correct.

22 Q. And a utility receiving a franchise would need
23 a large portion of that two-year period to
24 design and permit its project, receive rate

1 approval, construct its project and begin
2 serving customers; right?

3 A. (Frink) It would need some of that time, yes.
4 Probably a good deal of that time, yes.

5 Q. So the risk of Valley Green not acting on its
6 rights isn't really indefinite, is it?

7 A. (Frink) I would agree it's not indefinite.

8 Q. And you're also aware that the New Hampshire
9 Supreme Court has ruled that the Commission has
10 the right to franchise a utility within the
11 franchise territory of another utility, under
12 RSA 374:28; right?

13 A. (Frink) I didn't know that, but --

14 Q. I can give you the cite. It's Appeal of PSNH,
15 141 NH 13, decided in 1996.

16 A. (Frink) Okay.

17 Q. So, if Valley Green were serving some, but not
18 all of Lebanon and Hanover, and another company
19 wished to serve the rest of the territory, the
20 Commission could grant a franchise within
21 Valley Green's territory to serve to [sic] that
22 other company; right?

23 A. (Frink) That's a legal opinion that I'm not
24 qualified to make.

1 Q. The point being, the Commission has tools in
2 its toolbox to protect customers from the risks
3 that Valley Green might hold but not act on
4 franchise rights; correct?

5 A. (Frink) It appears that way.

6 Q. Okay. Going to move on to a different topic.

7 At Page 6, Line 19, you cite natural gas
8 prices of 1.46 and 1.40 per therm; correct?

9 A. (Frink) Yes, I did.

10 Q. And those prices are the average residential
11 heating customer per therm rate for Liberty and
12 Northern; right?

13 A. (Frink) Yes.

14 Q. At Page 7, Line 1 of your testimony, you make
15 note of those natural gas prices in order to
16 conclude that Valley Green's rates will almost
17 certainly be higher than those prices; right?

18 A. (Frink) That is correct.

19 Q. Liberty, through EnergyNorth, has about 90,000
20 customers; is that about right?

21 A. (Frink) Yes.

22 Q. And Northern has about 30,000 customers; is
23 that about right?

24 A. (Frink) Yes.

1 Q. These natural gas prices aren't from an island
2 service territory, are they?

3 A. (Frink) No, they're not.

4 Q. A customer in the Upper Valley doesn't have the
5 option to buy pipeline gas for 1.46 or 1.40 per
6 therm; right?

7 A. (Frink) They don't. But I think you're missing
8 the point. I'm comparing this to alternative
9 fuel costs, not to Liberty's rates or
10 Northern's rates. I could have as easily
11 referred to the average per therm rate that was
12 in the Company's confidential revenue -- rate
13 analysis that they did. But to avoid going
14 into confidential information, I didn't do
15 that. But the point is you're not competing
16 with Northern and EnergyNorth rates in this
17 area. You're competing with oil and propane
18 rates.

19 Q. In the Upper Valley.

20 A. (Frink) In the Upper Valley, yes.

21 Q. Okay. Got it. That's the point I was trying
22 to make.

23 Just above on Page 6, Lines 11 and 12 of
24 your testimony, you cite an oil price of \$1.92

1 per gallon; right?

2 A. (Frink) That's correct.

3 Q. And that price represents the price of No. 2
4 fuel oil delivered to your house in Manchester;
5 right?

6 A. (Frink) Yes, it is.

7 Q. And this correlates, you say, to an equivalent
8 energy value of 1.53 per therm of natural gas;
9 right?

10 A. Yes.

11 Q. Manchester is not in the Upper Valley; right?

12 A. (Frink) No.

13 Q. Okay. I'd like to show you some pages from the
14 web site of New England Oil, which is at
15 www.newenglandoil.com, that indicates oil
16 prices quoted for the Manchester area and the
17 Upper Valley area.

18 (Discussion off the record among
19 counsel.)

20 BY MR. WILLING:

21 Q. Okay. Turn to the second page of the document
22 which lists oil price quotes in south central
23 New Hampshire--

24 CHAIRMAN HONIGBERG: Mr. Willing, do

1 you think it might be helpful for the other
2 parties to have access to the document that the
3 witness and Mr. Speidel are looking at?

4 MR. WILLING: Oh, sure. Yeah. It is
5 publicly available.

6 CHAIRMAN HONIGBERG: Yeah, but
7 they're not looking at it right now on the web,
8 unless you've got screenshots for everybody.

9 MR. WILLING: No.

10 (Ms. Brown distributing document.)

11 BY MR. WILLING:

12 Q. I'd like to ask you to go to the second page of
13 the document, which was oil price quotes in
14 south central New Hampshire -- I'm sorry. Go
15 to the third page of the document. Does this
16 list oil prices quoted by two Manchester
17 distributors as of February 22nd and 23rd?

18 A. (Frink) Yes, it does.

19 Q. What are those price?

20 A. (Frink) I see \$1.70 and I see \$1.64.9.

21 Q. Okay. Now turn to Page 2, which lists prices
22 for west central New Hampshire.

23 A. (Frink) Do you mean Claremont?

24 Q. Yes.

1 A. (Frink) Okay.

2 Q. Does this show the prices for two distributors
3 in Newport and Claremont as of March 1st?

4 A. (Frink) It does.

5 Q. And what are those prices?

6 A. (Frink) One's \$1.89.9 and one is \$1.78.

7 Q. No prices are listed for Lebanon and Hanover
8 specifically; right?

9 A. (Frink) Well, I don't see any.

10 Q. Are Claremont and Newport closer to Lebanon and
11 Hanover than Manchester is?

12 A. (Frink) I don't know the distances, but maybe
13 Mr. Knepper does.

14 A. (Knepper) I'd say you just accept that.

15 A. (Frink) Subject to check.

16 Q. So these prices would suggest that heating oil
17 in west central New Hampshire is in the range
18 of 8 to 25 cents more expensive than heating
19 oil in Manchester?

20 MR. SPEIDEL: I would object to that.
21 There's not adequate evidence to support that
22 assertion.

23 CHAIRMAN HONIGBERG: Mr. Willing?

24 MR. WILLING: The witness, you know,

1 has testified that oil prices in Manchester are
2 relevant to oil prices in the Lebanon and
3 Hanover area with which Valley Green would be
4 competing.

5 A. (Frink) Well, I --

6 CHAIRMAN HONIGBERG: Hang on, Mr.
7 Frink.

8 I think you're probably asking
9 him to do more than is -- than he can do based
10 on what you've given him. You can ask his
11 opinion about whether -- and he's entitled to
12 his opinion --

13 MR. WILLING: Okay. I will do that.

14 BY MR. WILLING:

15 Q. Would you agree that it is likely that oil
16 prices in the Lebanon/Hanover area are more
17 expensive than oil prices in the Manchester
18 area?

19 A. (Frink) The oil prices for a residential
20 heating customer in Lebanon and Hanover is
21 probably slightly higher than the oil heating
22 price for a residential heating customer in
23 Manchester, New Hampshire.

24 Q. Okay. It's the oil price in Lebanon and

1 Hanover with which Valley Green would be
2 competing; right?

3 A. (Frink) The numbers in my testimony are for
4 residential heating. I think the customer base
5 that Valley Green is looking for is primarily
6 commercial and industrial, and I imagine they
7 get a better rate than the residential heating
8 customer.

9 Q. Would commercial and industrial customers in
10 Lebanon and Hanover pay a slightly higher rate
11 than commercial and industrial customers in
12 Manchester?

13 A. (Frink) They would. But, again, the rates I
14 cite in Manchester are residential heating.

15 Q. What is the utility of the rates that you cited
16 in Manchester to this discussion?

17 A. (Frink) It's Absco Heating.

18 Q. Of what usefulness is the information
19 consisting of residential oil pricing in
20 Manchester to an analysis of Valley Green's
21 competitiveness in Lebanon and Hanover?

22 A. (Frink) I used these numbers because typically
23 the heating oil market in Manchester, the
24 various oil suppliers are relatively close.

1 That happens to be my supplier. I've gone
2 online and looked at what other suppliers offer
3 for price. There's never really a very big
4 delta between the two, and so I believe this is
5 representative. And I didn't call up to
6 Lebanon and Hanover to see what they were
7 offering for rates. If it's a few pennies
8 more, that wouldn't be a surprise. But I
9 believe the point is that this price of \$1.53
10 and \$1.92 is -- that's what -- somewhere in
11 that range is well -- I don't think it's enough
12 to incent people to convert from oil to natural
13 gas, let's put it that way. And you can look
14 at your, you know, average per therm rate and
15 compare it to this equivalent gas price and say
16 the Commissioners can judge that for
17 themselves.

18 Q. Okay. While we're on the subject of heating
19 fuel, you mentioned what you paid -- you
20 mentioned what you paid for heating fuel. If
21 your furnace or boiler were to die and you had
22 natural gas running by your house, would you
23 switch to natural gas?

24 A. (Frink) At this point, probably not. Actually,

1 I've had natural gas for my fuel, and I prefer
2 it to oil. But my kids have grown. They've
3 left the house. I'm going to downsize and move
4 into a condominium --

5 CHAIRMAN HONIGBERG: Mr. Frink, why
6 don't you just hang on for just a minute.

7 Are we really going to continue
8 along this line any further?

9 MR. WILLING: Two more questions
10 along this line.

11 CHAIRMAN HONIGBERG: About what Mr.
12 Frink might do in his personal life? I think
13 he's given you an answer to the question.
14 What's the next question?

15 BY MR. WILLING:

16 Q. Isn't it a fallacy to make a decision on a
17 franchise based on commodity prices at a moment
18 in time?

19 A. (Frink) This franchise could be created and put
20 in place. It could have been done two years
21 ago. It could have been, you know, looking to
22 do it now or two years from now. I think it's
23 relevant, in that, you know, you know what you
24 know. At that point in time, this is the

1 information you have, and you can allow for,
2 you know, expected changes. But I don't think
3 it's irrelevant, especially when you're looking
4 at a discounted cash flow that has high costs
5 early on and cash flows that, as you go out,
6 become more deeply discounted and have less
7 value than those in the early years. So if you
8 know at this point in time that the next couple
9 years is going to be tough to generate
10 revenues, then I think that's worth
11 considering. And there's nothing -- I'm not
12 suggesting that there shouldn't be a utility in
13 Lebanon and Hanover if it's economically
14 feasible. I'm suggesting at this point in time
15 that this is not the time really to do that.
16 That's my recommendation.

17 Q. If oil prices rose in a year or two, that would
18 be a more propitious time for a company to step
19 forward and propose --

20 A. (Frink) Assuming gas prices stayed relatively
21 low.

22 Q. Could the oil prices then drop again after
23 that?

24 A. (Frink) Of course.

1 Q. Do you ever have certainty about how oil prices
2 and gas prices are going to compete in the
3 future relative to each other at any particular
4 point in time?

5 A. (Frink) No, you don't have certainty.

6 Q. I'm going to move on.

7 At Page 9, Line 14 and 15 of your
8 testimony, you cited Valley Green's revenue
9 requirement numbers for its build-out
10 scenarios; right?

11 A. (Frink) Where are you?

12 Q. Page 9, Lines 14 and 15.

13 A. (Frink) Okay. Thank you.

14 (Witness reviews document.)

15 A. Okay.

16 Q. And are those the numbers that you used to
17 represent Valley Green's potential customer
18 rates for purposes of comparing them to fuel
19 prices to determine viability?

20 A. (Frink) I am suggesting that should be
21 considered, yes.

22 Q. But revenue requirements aren't customer rates,
23 are they?

24 A. (Frink) Well, not directly, but the customer

1 rates are designed to satisfy the revenue
2 requirement.

3 Q. There are other factors that go into customer
4 rates other than the revenue requirement;
5 right?

6 A. (Frink) Could you give me an example? I
7 don't --

8 Q. Rate design issues?

9 A. (Frink) That's all part of the revenue
10 requirement.

11 Q. Other revenue sources?

12 A. (Frink) When you do a revenue requirement, you
13 look at all regulated revenue, be it customer
14 charges, delivery charges, late fees. There
15 are all sorts of things that would go into the
16 revenue requirements. So that's all part of
17 the revenue requirement.

18 CROSS-EXAMINATION

19 BY MS. BROWN:

20 Q. Mr. Frink, I believe the point we want to ask
21 you about is, when you're looking at the rate
22 comparisons on Schedules 3-10, those were per
23 therm -- or they took the revenue requirement
24 and divided it by therms; correct?

1 A. (Frink) Correct.

2 Q. So it's only a rate through a volumetric
3 analysis, not a fixed --

4 A. (Frink) It is a very high-level analysis of
5 what an average rate might look like. You're
6 absolutely correct.

7 Q. And you would agree, would you not, that
8 revenues come from more than just a volumetric
9 charge; correct?

10 A. (Frink) That's correct.

11 Q. They can come from fixed charges, fixed rate
12 charges?

13 A. (Frink) Yes, but that's still all part of the
14 revenue requirement.

15 Q. Yes. And does a revenue requirement also -- is
16 it also fueled by revenues from, say,
17 connection fees?

18 A. (Frink) Yes.

19 Q. And the revenues from connection fees and flat
20 fees are not reflected in a volumetric rate;
21 right?

22 A. (Frink) It is not -- it's not in the volumetric
23 rate. But again, all these costs are borne by
24 the customers to satisfy the revenue

1 requirement. So, even if it's a fixed rate in
2 a customer charge or if it's a volumetric
3 charge, in the end, those customers are going
4 to pay those charges. And the average price is
5 going to be reflective of that number, even
6 though, yes, there is a small portion that, you
7 know, if you're late with a check and there's a
8 late penalty or a hookup charge or something
9 like that, those factor in. But typically
10 those are relatively small.

11 Q. So, the point being, in your analysis you were
12 taking this per therm revenue rate and assuming
13 all of the revenues were coming out of a
14 volumetric charge and that that would be the
15 rate design.

16 A. (Frink) No, I'm not assuming it's all recovered
17 through a volumetric charge. I'm saying all
18 these costs will be recovered from customers,
19 and this is what a total, typical price cost is
20 going to be. Again, it's very high level,
21 so...

22 Q. Glad to have you say it is a high-level review.
23 But when you are comparing Valley Green's
24 high-level rates, these per therm revenue

1 requirement rates, to rates that customers are
2 paying either at a propane level or an oil
3 level, you are essentially taking a
4 volumetric -- or assuming that Valley Green is
5 only having a volumetric rate design.

6 A. (Frink) No, I'm not doing that. If I'm a
7 customer looking to take Valley Green's
8 service, I'm not just going to look at your
9 delivery rate. I'm going to look at my
10 customer charge. I'm going to look at my
11 delivery rate. I'm going to look at my
12 commodity rate. I'm going to look at my hookup
13 fee. All that stuff calculates in, and so it's
14 not purely a volumetric charge.

15 Q. So when you're concluding that the rates are
16 not competitive, aren't you, in your testimony,
17 just looking at Valley Green's rate as if it
18 were a volumetric charge?

19 MR. SPEIDEL: Isn't that the fourth
20 time that same question has been asked?

21 MS. BROWN: Yes. I'm looking for the
22 answer.

23 MR. SPEIDEL: But he's already
24 answered "No."

1 A. (Frink) I gave you my answer. No, I don't look
2 at it strictly as a volumetric charge.

3 BY MS. BROWN:

4 Q. So, then, your conclusion, then, that Valley
5 Green's rates are not competitive is not based
6 on a apples-to-apples comparison of rates then;
7 correct?

8 A. (Frink) No, I don't agree with that. When I
9 buy my oil from my oil dealer, he charges me
10 \$1.92. That covers everything. If I buy gas
11 from a gas utility, I pay a customer charge, I
12 pay a delivery charge, I pay a commodity
13 charge. When I compare my costs at the end of
14 the year, I say, okay, what was my total gas
15 bill and what's my total oil bill, and there's
16 my cost. That's what I'm comparing.

17 Q. And wouldn't Valley Green's per therm rate, as
18 determined on those schedules at Staff 3-10, be
19 lower if the revenues were backed out that were
20 attributable to fixed charges and other sources
21 of revenue, such as connection fees? I can ask
22 it a different way.

23 A. (Frink) Please do, because I...

24 Q. The "rate" -- and I use that term loosely -- in

1 the revenue requirement schedules at Staff 3-10
2 would be lower if you backed out revenue
3 sources that are revenues that come from fixed
4 charges and connection fees.

5 A. (Frink) Those are rates. Those are rates. How
6 can you say a customer charge is not a
7 customer -- it's a rate. You have to pay that
8 customer charge.

9 Q. But in your analysis, you're using the per
10 therm revenue requirement as a customer rate;
11 correct?

12 A. (Frink) My analysis asked for an average per
13 therm rate. It's an all-in rate. It's
14 customer charges. It's everything. It's the
15 delivery charge. It's the commodity charge.

16 CHAIRMAN HONIGBERG: I think you can
17 keep arguing with him if you want, but I'm
18 pretty sure he's going to give you the same
19 answer the next time you go in this direction.

20 All right. Is there anything
21 else you want to ask him?

22 MS. BROWN: Yeah, we have other
23 questions. I was just cutting to the chase
24 here.

1 MR. SPEIDEL: Mr. Frink isn't a
2 broken vending, and it doesn't depend on the
3 number of kicks. So I think we're getting the
4 same thing here.

5 CHAIRMAN HONIGBERG: Well, I think
6 they get the point.

7 MR. WILLING: Okay. We'll move on.

8 CROSS-EXAMINATION (cont'd)

9 BY MR. WILLING:

10 Q. Valley Green produced a business plan; right?

11 A. (Frink) Yes.

12 Q. Liberty did not produce a business plan, is
13 that right, in its filing?

14 A. (Frink) Well, they might disagree. But what
15 they provided was not a detailed business plan.

16 Q. Okay. Valley Green's business plan changed,
17 and that's part of your concern; right?

18 A. (Frink) Well, it has changed, and it seems to
19 still be in flux.

20 Q. Do you think that the changes in Valley Green's
21 business plan were made to adapt to market
22 conditions?

23 A. (Frink) Yes, I do.

24 Q. Do you think that Valley Green operating in the

1 real world needs to adapt to market conditions?

2 A. (Frink) I do.

3 Q. How would you suggest that Valley Green square
4 the circle of adapting to market conditions but
5 not adapting its plan?

6 A. (Frink) Well, because of the change in the
7 energy market, it changes the whole economics
8 of that thing, which has been realized by
9 everybody in this room. And maybe this isn't
10 the time to open a utility, a gas utility in
11 Lebanon/Hanover. And maybe you should wait
12 until -- you know, come back when the plans --
13 when the business plan is in place that will --
14 is more feasible.

15 Q. Aren't market conditions constantly changing?

16 A. (Frink) Of course.

17 Q. So there won't be a point in time in the future
18 where you could come in and say these are the
19 market conditions that we will experience going
20 forward.

21 A. (Frink) No, of course not.

22 Q. Okay. There was mention earlier about the
23 Middlebury gas system over in Vermont. Vermont
24 Gas wanted to start a gas island there within

1 its territory. Are you familiar with that
2 situation?

3 A. (Frink) Only what I've heard here.

4 Q. Okay. Would it surprise you to learn that they
5 started with only three customers --

6 A. (Frink) No.

7 Q. -- with the idea that it would grow into
8 something bigger?

9 A. (Frink) That wouldn't surprise me either.

10 Q. Okay.

11 A. (Frink) May I ask what the size of the
12 customers were? Because it's really not the
13 number, it's the volume that matter.

14 CHAIRMAN HONIGBERG: Mr. Frink, one
15 of the cool things is that they get to ask
16 questions. You had your shot at them earlier.

17 WITNESS FRINK: All right. I'll
18 withdraw it.

19 BY MR. WILLING:

20 Q. Suffice to say, Vermont is encouraging this
21 sort of development based on the Middlebury
22 experience, wouldn't you say?

23 A. (Frink) Sounds that way.

24 Q. Yeah. How would you imagine that an island LDC

1 in New Hampshire should start? Should it not
2 follow the Middlebury experience in Vermont:
3 Start one up and let it grow?

4 A. (Frink) Middlebury had customers when they did
5 that, apparently, and that's how I think it
6 should start.

7 Q. With some number of customers.

8 A. (Frink) Yes.

9 Q. Is there a minimum volume that you have in
10 mind, in terms of what threshold a start-up
11 utility would have to meet to have viability?

12 A. (Frink) It depends on the circumstances at the
13 time and the business plan. If there's a
14 business plan that -- if the conditions are
15 such again when Valley Green first came here
16 and gas prices were half of oil prices, and,
17 you know, I can see a plan that says we have
18 these customers that will save this kind of
19 money and there's all this interest in it and
20 they're on propane now and the cost conversion
21 is such, then the whole plan -- if there's a
22 detailed plan and an agreement with -- it
23 varies how many firm commitments it would take
24 for me to say, yeah, this is a good plan. And

1 going way back to when EnergyNorth extended its
2 system out to Milford, there was one customer
3 that satisfied 40 percent of the 10-year
4 requirement. But there was also a very high
5 degree of confidence that they would pick up
6 customers along the way because they had a
7 business plan that said, okay, our experience
8 is such that we know we're going to pick up
9 90 percent of propane customers along this
10 route, and there's this many of them, and this
11 is what they generate. You know, there was a
12 very detailed plan that provided a lot of
13 confidence and one customer that provided a
14 substantial amount of revenue requirement. And
15 I could go forward with that. So, again, it's
16 not, okay, we need 50 percent firm commitment.
17 It's how realistic is the plan. That
18 EnergyNorth plan included a marketing program
19 and everything else following the installment
20 of the line. So it was very -- that sort of
21 thing goes a long way in determining whether --
22 you know, when the Commission is considering
23 something like this, those are the kind of
24 things that will give it confidence and allow

1 it to, and Staff, to recommend approval or
2 disapproval. I feel like what's before us in
3 this instance doesn't give me a lot of
4 confidence that you're going to be able to
5 acquire the customers, to support the
6 investment this it's going to take.

7 Q. So there is no volume threshold that you have
8 in mind that would be a minimum threshold to
9 cross for a utility to be viable; is that
10 right?

11 A. (Frink) I'd say it's based on various
12 circumstances. In my testimony, I believe I
13 cited -- I'd like to see -- I'd recommend
14 50 percent... again, it's a rough number based
15 on circumstances, so it could change.

16 Q. Would an initial build-out serving customers
17 that were in the range of the volume that Keene
18 Gas currently has, could that sort of a
19 build-out be viable initially?

20 A. (Frink) It would depend on the cost of the
21 build-out.

22 Q. Okay. Switching gears.

23 This is not a rate case, is it?

24 A. (Frink) No, it's not.

1 Q. But Staff asked Valley Green to develop
2 financial schedules that would be used in a
3 rate case; right?

4 A. (Frink) Yes.

5 Q. The schedules that Valley Green produced
6 reflected numbers that Valley Green was using
7 at the time it produced them; right?

8 A. (Frink) Correct.

9 Q. And now we're several months after those
10 numbers were produced.

11 A. (Frink) Yes.

12 Q. If Valley Green came back with another
13 petition, what you're saying is Valley Green
14 would then produce another set of numbers that
15 hopefully would meet your requirements.

16 A. (Frink) Yes.

17 Q. If that petition were successful, then Valley
18 Green would come back again at a later point
19 with another set of numbers in a rate case.

20 A. (Frink) Yes.

21 Q. All of the numbers prior to the rate case
22 numbers would be projected numbers; right?

23 A. (Frink) Yes.

24 CROSS-EXAMINATION (CONT'D)

1 BY MS. BROWN:

2 Q. Mr. Frink, I just had some follow-up questions
3 regarding the testimony that you gave this
4 morning, that there were two reasons, as I
5 recall, that you changed your testimony: One
6 being regarding rate base and one regarding
7 cost of employees. Am I fair in
8 characterizing --

9 A. (Frink) I questioned the rate base, the
10 reasonableness of the projected rate base, and
11 I questioned the annual operating cost.

12 Q. And I want to follow up on the rate base
13 questions.

14 So, the numbers that you were comparing,
15 the costs from yesterday in Mr. Champion's
16 testimony, implicit in your argument, correct,
17 is that you are assuming all of those costs are
18 going into rate base?

19 A. (Frink) I am not assuming all of those costs
20 are going into rate base. I am assuming that
21 Valley Green, when they become a utility and
22 hope to recover those costs, will seek recovery
23 of those costs.

24 CHAIRMAN HONIGBERG: And that's

1 consistent with what you testified to a little
2 while ago in response to the same question, I
3 believe; is it not?

4 WITNESS FRINK: (Frink) I hope so.

5 CHAIRMAN HONIGBERG: Yeah.

6 BY MS. BROWN:

7 Q. So, if Mr. Campion testified -- or do you
8 recall him testifying yesterday that those
9 costs that he disclosed during the confidential
10 session would either go in equity, or if he
11 could recover them, recover them? Do you
12 remember that testimony?

13 A. (Frink) I remember the testimony, yes.

14 Q. So if they -- if the costs go into equity, then
15 they're not in the rate base; correct?

16 A. (Frink) No. Those costs, whether it's funded
17 through equity or debt, those costs represent
18 the organizational costs to build this system,
19 and so it goes into rate base, regardless of
20 what it's funded from. I mean, rate base is
21 generally supported by equity and debt. So, it
22 doesn't really matter whether it's equity or
23 debt; in the end, it's rate base.

24 Q. But rate base is only what gets into customer

1 rates; correct?

2 A. (Frink) The Commission will decide what should
3 be allowed for recovery in a rate base.

4 Q. And the number that Mr. Champion disclosed
5 yesterday may not all go into rates; correct?

6 A. (Frink) That's correct.

7 Q. So, again, my question is: If that is the
8 case, then your reason for asking the
9 Commission to deny the petition based on the
10 rate case issue presumes Mr. Champion is going
11 to ask for more costs into rate base than what
12 is represented in the schedules; right?

13 A. (Frink) Yes, that's a concern.

14 Q. Okay. And with those costs that Mr. Champion
15 discussed, the number yesterday, if he were to
16 respond with more customer commitments and
17 finalize more of the business plans that you
18 were asking for today in your testimony,
19 doesn't that take money, or cost money to do
20 that?

21 A. (Frink) Of course.

22 Q. And that's going to also increase his expenses
23 that he disclosed yesterday.

24 A. (Frink) It would.

1 Q. Now, the schedules that you were referring to
2 this morning in response to Staff 3-10, they
3 included multiple build-out scenarios; is that
4 correct?

5 A. (Frink) Yes.

6 Q. And those multiple build-out scenarios are
7 based on assumed market conditions; would you
8 agree?

9 A. (Frink) Valley Green gave us various phases of
10 build-outs. And from yesterday's testimony, I
11 marked that exhibit as being Service Area B,
12 the smallest initial build-out.

13 Q. So, in answer to my question, with the
14 Scenarios A, B, C, those build-outs are based
15 on what market conditions will bear; correct?

16 A. (Frink) They're based on Valley Green's
17 projected build-out, what they expect.

18 Q. Okay. Let me just move on.

19 The scenarios in response to Staff 3-10
20 are based on estimated costs; would you agree?

21 A. (Frink) Yes. Absolutely.

22 Q. And those build-out scenarios do not represent
23 the universe of all build-out scenarios that
24 Valley Green could undertake; would you agree?

1 A. (Frink) Yes, I would.

2 Q. And in designing its project, Valley Green has
3 allowed it to have various projections to
4 accommodate various growth projections. Would
5 you agree with that?

6 A. (Frink) Yes.

7 Q. And the demand and the size of these
8 projections will impact the estimated costs
9 included in these revenue requirement
10 schedules; would you agree?

11 A. (Frink) It will.

12 Q. And more specifically, the cost estimates could
13 also change if equipment costs were lower;
14 would you agree?

15 A. (Frink) I would agree.

16 Q. And by way of example, if the natural gas
17 industry tanking in the mid -- in the Marcellus
18 Shale area offered up a glut of equipment, that
19 could result in Valley Green purchasing cheaper
20 equipment; would you agree?

21 A. (Frink) That's possible.

22 Q. Okay. So, would you also agree that the
23 revenue requirements in these schedules contain
24 numerous assumptions that are based on market

1 conditions?

2 A. (Frink) Of course.

3 Q. Then, wouldn't logic flow that your
4 recommendation to deny the petition based on
5 these revenue requirement schedules is also
6 impact -- is also only as good as the estimates
7 that are in these schedules?

8 A. (Frink) The difference between the alternative
9 fuels and Valley Green's averaged costs per
10 therm, the magnitude of that difference is
11 really what concerns me. And if you are able
12 to get costs lower and get more revenues,
13 that's all good. But there's a pretty big
14 delta there right now. So I understand these
15 are high level and very, you know -- it's the
16 best estimate at the time based on market
17 conditions. And unfortunately, the results are
18 what they are, and that's -- it's not like, you
19 know, there's a very narrow margin there. If
20 the numbers are off some, okay. I assume they
21 are. But there's a fairly significant
22 difference.

23 Q. And would you also agree that the prices of
24 today vary significantly from the prices, gas

1 prices that were available in 2012?

2 A. (Frink) Absolutely.

3 Q. Would you also agree it takes time to develop a
4 utility before it's able to offer gas service?

5 A. (Frink) Yes.

6 Q. Mr. Frink, Valley Green filed its application a
7 year ago. Would you agree with that?

8 A. (Frink) Sure.

9 Q. And I just want to make sure, because I don't
10 have a transcript to read. Your testimony this
11 morning, is it fair to characterize that you
12 were critical of Valley Green changing its
13 project?

14 A. (Frink) My testimony this morning is not
15 inconsistent with my testimony when I filed it,
16 in that I didn't think Lebanon and Hanover
17 right now will support a natural gas utility.
18 Before, in my testimony I suggest that the
19 Commission should not approve the petition and
20 suspend it. Now I'm saying deny the petition
21 and close it. I don't see a really significant
22 difference between the two. The fact is I just
23 don't think this proposal is economic -- this
24 project is economically feasible at this time.

1 Q. What I'm trying to suss out is, I thought this
2 morning you were giving the impression that you
3 looked not favorably upon Valley Green changing
4 its project from the time that it filed it to
5 now.

6 A. (Frink) It's not so much that it's changed from
7 the initial filing. You should respond to
8 market conditions. The problem is what I heard
9 yesterday, I still don't have a clear
10 understanding of what Valley Green's business
11 plan is, and that is a concern. It's still
12 changing. And part of that -- most of that is
13 due to the changing market. But it just -- the
14 market as it exists now makes it very difficult
15 to make this project economically feasible.
16 And what is before us I do not believe is
17 economically feasible.

18 Q. But that could change.

19 A. (Frink) Absolutely.

20 Q. Okay. I want to just move on to, you had
21 asked, I believe, for business plans this
22 morning; is that correct?

23 A. (Frink) I don't -- I would -- my testimony says
24 there should be detailed business plans. And

1 yes, if you come back -- if Valley Green -- if
2 the Commission ultimately decides not to grant
3 the petition and Valley Green wants to pursue
4 this further, then I would want to see a very
5 well-laid-out, detailed plan with strong
6 support that would give us an indication that
7 customers up there do want it, will support it,
8 will take gas service, and that you can build a
9 system that will provide that service at
10 competitive rates.

11 Q. Mr. Frink, how long have you been with the
12 Commission?

13 A. (Frink) About 25 years.

14 Q. And as part of your responsibilities here, you
15 review gas utility business plans; is that
16 correct?

17 A. (Frink) Yes.

18 Q. And would you agree that a business plan for a
19 start-up utility would be different than a
20 business plan for an existing utility?

21 A. (Frink) Yes, it would.

22 Q. And in your 25 years of being with the
23 Commission, have you reviewed a start-up
24 business plan?

1 A. (Frink) No, I haven't.

2 Q. So this is the first time you're reviewing a
3 start-up business plan?

4 A. This is a very unique situation, yes.

5 Q. Have you ever run a start-up business?

6 A. (Frink) Well, not really. I mean, I've done
7 some -- I sold Christmas trees. How's that?

8 Q. I'm so struggling to not ask you what was your
9 detailed business plan.

10 I think -- I don't know if you fully
11 answered this, but we're trying to get a
12 comparison on the business plan of Mr. -- or
13 how you view the business plan of Valley Green
14 compared to Liberty.

15 Is it your opinion that Valley Green is
16 farther along in deploying its business plan
17 for the Valley Green -- for the proposed
18 franchise area than Liberty?

19 A. (Frink) I would agree, yes.

20 Q. Now, going back to the rate case schedules
21 briefly. Would you agree that the mere act of
22 producing the rate case schedules in response
23 to Staff 3-10 evidences a level of ability to
24 conduct financial analyses?

1 A. (Frink) Yes.

2 Q. And wouldn't the ability to conduct financial
3 analyses go toward the managerial, technical
4 and financial test -- in specific, the
5 financial capabilities test?

6 A. (Frink) It gives the filing increased
7 credibility. But again, the numbers in it are
8 such that any analysis is really only as good
9 as the numbers you put in it. And you have to
10 wonder, when you have an annual expense that
11 is -- doesn't seem reflective of what one might
12 expect, you know, if the utility really knows
13 what they're getting into.

14 Q. Mr. Frink, I think I just have one follow-up
15 question. Do you know when Mr. Champion first
16 started looking into wanting a -- or looking at
17 developing this Valley Green project? I guess
18 I'll modify that question.

19 When did Mr. Champion first approach Staff
20 with the idea of looking at or forming a
21 project?

22 A. (Frink) I believe it was in 2012.

23 Q. So would you agree he's had four years of
24 experience in researching how to develop a gas

1 utility?

2 A. (Frink) I'd say he was looking at it before he
3 came here. So I'd say that's fair, yes.

4 Q. Okay. Thank you.

5 MS. BROWN: We have no further cross.
6 Thank you.

7 CHAIRMAN HONIGBERG: Commissioner
8 Scott.

9 INTERROGATORIES BY CMSR. SCOTT:

10 Q. Mr. Frink, do you remember, I think it was Mr.
11 Evslin gave some testimony, where he suggested
12 two different price points: One for
13 maintaining a customer base so they don't
14 convert to, in this case, to oil, and another
15 one to get new customers? Do you remember
16 that?

17 A. (Frink) I remember it well, yes.

18 Q. Do you agree with, maybe not the exact numbers,
19 but there are two different price points?

20 A. (Frink) Yes. When he was testifying -- maybe I
21 didn't understand it correctly. But I thought
22 what he was saying was that the -- his
23 customers using compressed natural gas were
24 still using compressed natural gas even when

1 oil was \$25 a barrel, even though it may have
2 been a little more economically advantageous
3 for those customers to burn oil. So, to me, I
4 took that to mean that, basically at \$25, \$30 a
5 barrel, a customer that has the capability to
6 burn both will elect -- that's kind of a price
7 point at which it's a break-even for the
8 customer. So that doesn't -- but those people
9 have sunk costs. They've converted to make the
10 investment to burn compressed natural gas.
11 What the delta is necessary to make that
12 investment, this morning he testified during
13 cross, he suggested that today's prices, when
14 you get up into the \$40, \$45 a barrel, that the
15 customers, good-size customers, might be
16 willing to make that investment and realize a
17 five-year payback.

18 Q. So, do you agree, to some extent, once you're
19 signed on as a ratepayer of a utility, there's
20 some sunk costs, effectively, for lack of a
21 better word? There's a certain amount of
22 "capture" there?

23 A. (Frink) Oh, absolutely.

24 Q. And perhaps that's one of the basic tenets of

1 why we regulate utilities generally?

2 A. (Frink) Yes.

3 Q. Okay. So, going back to the discussion about
4 where oil prices are -- and certainly I think
5 we all understand there will be some
6 fluctuation of everything in the future -- is
7 it your position that the most opportune time
8 to get new customers is when there's a positive
9 differential between, in this case, oil and
10 natural gas?

11 A. (Frink) Absolutely. For a commercial and
12 industrial customer, I imagine the biggest
13 driver is the payback on that investment. They
14 can invest their money in a lot of things. And
15 typically a business -- if you're in business,
16 you're looking for the best payback.

17 Q. You were also asked about this -- been a
18 recurring theme with me, I guess -- this "Catch
19 22" issue of not being able to get contracts
20 and get customers; right?

21 So you'd mentioned in a different case you
22 understood Liberty Utilities had signed
23 somebody prior to getting a franchise approval;
24 is that correct?

1 A. (Frink) That's correct.

2 Q. So is it your understanding that that contract
3 was firm, or was it conditional?

4 A. (Frink) That customer had signed a service line
5 agreement to take service from Liberty
6 Utilities, and it's a firm contract. They
7 signed a contract. They're responsible for
8 the -- if they don't take service, they're
9 responsible for the line extension costs to
10 serve them. So there is a commitment there.

11 Q. But having said that, since the franchise area
12 wasn't granted yet, I assume -- to your
13 knowledge, was that a condition of that
14 contract, that it did not take effect unless
15 the franchise was approved?

16 A. (Frink) I'd have to look. I don't believe
17 that's in the service line agreement, but they
18 may have something on the side. Obviously,
19 they can't do it if they don't get the
20 franchise. But I don't remember the specifics
21 of that. I think the service line agreement is
22 a standard form, that any customer who can take
23 service, Liberty has them sign that contract.
24 It's not a special contract. But

1 understandably, if they aren't allowed to bring
2 service, there would be no customer
3 responsibility for costs because there wouldn't
4 be any cost for an extension.

5 Q. And I think I had asked one of the other panels
6 earlier -- it's a little bit different -- but
7 my understanding is, for interstate pipelines
8 to be built, to get a certificate of need from
9 the Federal Energy Regulatory Commission, the
10 first step in that is people sign precedent
11 agreements with the pipeline before it's built.
12 Is that correct?

13 A. (Frink) That's correct.

14 Q. And that's standard; correct?

15 A. (Frink) That is standard.

16 CMSR. SCOTT: That's all I have.
17 Thank you.

18 CHAIRMAN HONIGBERG: Commissioner
19 Bailey.

20 INTERROGATORIES BY CMSR. BAILEY:

21 Q. I'm going to try to ask some questions to make
22 sure that I understand an area that I'm not
23 expert in, but I think you are, Mr. Frink.

24 Can you look at Exhibit 5, Bates-stamped

1 Page 103. And this is confidential, so we're
2 not going to say the numbers out loud.

3 A. (Frink) Okay. I'm there.

4 Q. This is one of the schedules that you cited in
5 your testimony. And this is the schedule that
6 the Applicant has provided to show, for one
7 thing, to show that the revenue that they
8 expect based on all their assumptions will
9 cover their costs. And it computes the average
10 cost to a customer on a per therm basis.

11 A. (Frink) That's correct.

12 Q. Okay. So, under the Expenses, there's a number
13 there that shows what they expect their
14 expenses to be for distribution of operation
15 and maintenance. Can you tell me what you
16 think, what kind of expenses would be included
17 in that estimate?

18 A. (Frink) Well, so you see Distribution O & M
19 Costs.

20 Q. Right.

21 A. (Frink) So that would be the cost of -- and Mr.
22 Knepper could answer it, what those costs
23 entail better I could. But those are your
24 linemen and your line supervisors and tools --

1 well, that would be a capital cost. But gas.
2 And along those lines, the administrative and
3 general expenses, that would be your -- that
4 would reflect regulatory costs and legal costs.
5 So, just your billing, your accounting, all
6 that falls under Admin and General Expenses.

7 Q. So, Mr. Knepper, would that include the five
8 employees that we were talking about yesterday
9 who were going to ensure safe and reliable
10 service?

11 A. (Knepper) I would think it would be built into
12 those lines.

13 Q. Okay. Would it include -- would the
14 Distribution O & M number include things other
15 than those five employees? Anybody can answer.
16 What else would it include?

17 A. (Knepper) It might be outside contractors,
18 subcontractors, things like that that you hire,
19 some of those costs.

20 A. (Frink) When they submitted -- when Valley
21 Green submitted this, obviously there's a place
22 there for company full-time employees,
23 full-time equivalence. But because they're
24 using Tri-Mont and Gulf and things like that,

1 at the time they weren't sure what their
2 full-time equivalents would be in that first
3 year. So this would reflect consulting fee --
4 payment to the contractors.

5 Q. So it would -- this number would include or
6 should include the cost of what they're going
7 to pay Tri-Mont for designing and inspecting
8 the construction -- but not the construction,
9 obviously.

10 A. (Frink) Well, it may be a rate base item. But
11 certainly their inspections, their training,
12 their oversight of any employees, contractors
13 that Valley Green might be using, that should
14 all be part of the Distribution O & M.

15 Q. Okay. So, Mr. Knepper, based on your
16 experience, do you have any idea whether that
17 number is sufficient to, all by itself, cover
18 the five employees, including the chief
19 operating officer and the five employees that
20 were going to be responsible for safe and
21 reliable service, or does that number seem too
22 low to you?

23 A. (Knepper) In my opinion, it appears low.

24 Q. Okay. And when we get down to the bottom of

1 the page, Net Income, can you tell me what "Net
2 Income" means? Is that the money they have
3 left over after they've collected their revenue
4 and paid their expenses?

5 A. (Frink) You take your total operating revenue
6 and subtract your total operating expenses,
7 that will give you your net operating income.

8 Q. So that's the money they have left over in case
9 the number for the Distribution O & M expense
10 is too low. That's all they have left to add
11 to that and still have any revenue?

12 A. (Frink) This is net operating income, so
13 there's -- I don't know if their financier is
14 going to -- you can make more equity
15 investments, you could borrow money. But
16 essentially, once you -- assuming they get that
17 revenue that they're projecting, if their
18 expenses exceed this, then that's going to
19 reduce that net income. And once you go above
20 that number, then they'd be operating in the
21 red.

22 Q. Okay. Thank you.

23 INTERROGATORIES BY CHAIRMAN HONIGBERG:

24 Q. Mr. Frink, I want to understand what hasn't

1 changed in your testimony, just to close the
2 loop on that.

3 I know you started your testimony this
4 morning by saying that, if you were asked the
5 same questions today, you actually wouldn't be
6 giving all of the same answers, and you changed
7 some of them. But you're not changing the rest
8 of your testimony; right?

9 A. (Frink) Right.

10 Q. On Page 3 of your testimony, I think Attorney
11 Patch may have alluded to this question and
12 answer regarding whether the Company has
13 managerial, technical and financial expertise
14 to operate a natural gas utility. And your
15 answer was "not at this time," and then you
16 added a little bit. I want to make sure I
17 understand. And maybe Mr. Knepper or Mr. Wyatt
18 may need to contribute here as well.

19 Is the problem managerial? Is the problem
20 technical? Is the problem financial? Or is it
21 some combination of those three?

22 A. (Frink) I didn't delve too much into the actual
23 managerial and technical because my point is
24 that it fails financially, and so the other

1 pieces are kind of irrelevant if it's not going
2 to work. I can't venture a guess --

3 Q. I know Mr. Knepper has testimony on the
4 technical, and I think managerial as well. I
5 just want to make sure I've got it clear.

6 So, Mr. Frink, you're largely limiting
7 your concerns to the financial portion of those
8 three criteria; is that right?

9 A. (Frink) That's correct.

10 Q. All right. Mr. Knepper Mr. Wyatt, do you want
11 to offer up conclusions regarding managerial
12 and technical expertise? Because I know your
13 testimony alludes to those things, but I'm not
14 sure it actually closes the loop.

15 A. (Knepper) Well, it's hard to definitely say yes
16 or no based on what you look at. You have to
17 recognize our perspective is in the safety
18 review of things. We deal with operators that
19 are utilities and non-utilities. We have LP
20 operators that we look at that are
21 non-utilities. So we're not looking at rates
22 and revenues and all the things that Mr. Frink
23 is looking at. But they're obligated
24 regardless to provide safe service. We will

1 not allow an operator to run a system that's
2 unsafe. That doesn't mean they don't have
3 compliance issues. Doesn't mean we're not
4 going to look at those things. So, for us,
5 we're going to be asking questions: Are you
6 familiar with the codes? Are you familiar with
7 the components that make up those things? And
8 I believe that they are. I think technically
9 they have worked with utilities before.
10 They've worked with small utilities. They
11 worked with some of the same utilities that are
12 here. They may not have been in this state.
13 They worked for -- so we looked at those things
14 as pluses. But we're not saying they do it
15 day-to-day and they're doing it every single
16 day and that's what their major course of
17 business is. So we recognize those things.
18 But I would say I didn't see any huge hurdles
19 that couldn't be overcome and anything that
20 caused us to have red flags. We kind of look
21 at this as a resume. We had some talks and
22 discussions. And in those discussions, I
23 didn't come away feeling that it was issues of
24 incompetency or any of those type of things.

1 A. (Frink) And if I could just clarify. When I
2 say, "they're in the process of acquiring,"
3 they haven't entered into any contracts with
4 these vendors and consultants to do work beyond
5 what they've done as part of this filing.

6 Q. I was going to ask you about that because it's
7 similar to the testimony that Mr. Mullen gave.
8 And I know I had exchanges with Mr. Mullen and
9 Dr. Chattopadhyay about what they would want to
10 see. I think Mr. Patch asked you a little bit
11 about that exchange this morning.

12 But I guess I want to know, do you agree
13 with Mr. Mullen's testimony ultimately, that
14 one of the places where this falls short is
15 that there is no operating officer in place and
16 no time line to get one in place, so the people
17 who are by title and by responsibility
18 ultimately accountable don't have the kinds of
19 experience that you would want to see in
20 running a company like this?

21 A. (Frink) I would agree with what you said, other
22 than in two years you could bring somebody on
23 to do that. So when you say "they don't have
24 somebody in place now or in time to get

1 somebody," well, they do have time to get
2 somebody. But they don't have somebody now
3 that would -- that we could actually evaluate
4 and know if this person knows what they're
5 doing and would be able to shepherd this
6 through.

7 Q. Should we feel comfortable in a situation like
8 that, granting a franchise with no one in place
9 but a promise to put someone in place before
10 they actually flip the switches?

11 A. (Frink) I wouldn't.

12 Q. I want to follow up on a line of questions
13 Attorney Brown was asking you about the
14 significance of the changes that the Company
15 has made to its plans over time.

16 I think through a fairly long series of
17 questions and answers with Mr. Willing and
18 Ms. Brown, you acknowledged that change is
19 sometimes and often is appropriate when
20 circumstances change; right?

21 A. Yes.

22 Q. I have a feeling, based on what you've
23 testified and the way you've said it, it's not
24 that they have made changes, it's that, as you

1 sit here, you're feeling like you're trying to
2 evaluate a moving target.

3 A. (Frink) That's well put.

4 Q. You may have even used that phrase, or maybe it
5 was Mr. Knepper who used that phrase this
6 morning. I don't think I made it up myself.

7 What you contemplated before was suspend
8 this and do some more to put yourself in a
9 better position to go forward. Is that a fair
10 way to put it?

11 A. (Frink) Yes.

12 Q. And your change this morning to say deny it is
13 really just -- suspend or deny, you're still
14 advising, if they want go forward, go back and
15 do some more work to get yourself in a position
16 to make a better presentation?

17 A. (Frink) That's correct.

18 Q. I want to talk a little bit about the
19 acquisition of customers. I'm not sure I
20 understood one of the points that you and
21 Mr. Willing were having a back-and-forth about.

22 A. I seem to hear you say that a company that
23 signed on with Liberty in advance of a getting
24 a franchise, or with Valley Green, would still

1 be able to change its mind and not go with
2 those companies under certain circumstances.
3 Can I get a little clarification on that?
4 Because there's binding, no contingencies, and
5 then there's binding as long as certain
6 conditions are met. I want to make sure I
7 understand what you're saying. Can you clarify
8 that for me, please?

9 A. (Frink) Well, on a high level, it goes more to
10 what Commissioner Scott was saying, that at the
11 FERC you have to have customers to demonstrate
12 a need. And I'm looking for customers not
13 necessarily that are willing to move this --
14 show enough desire in this project and for this
15 service that they're willing to make some
16 financial commitment. And obviously it's
17 conditioned on if they get the approval first,
18 the franchise and then the rates and everything
19 else. You can condition it any way you want
20 it. But to this point, I have not heard or
21 seen anything from a customer that leads me to
22 believe that they're going to commit to service
23 in Lebanon and Hanover. And I'm not seeing
24 supporting documentation as to what the real

1 market potential is for conversions and how
2 quickly those conversions are going to take
3 place. Typically, you build a line, and
4 eventually customers along that line over time
5 will -- you know, saturation rates are actually
6 very good. But I just... I think the
7 Commission in the past has approved franchise
8 expansions that, you know, paid for themselves
9 within 10 years. I have serious concerns that
10 that won't be the case here, and I want to see
11 some indication from customers that that's not
12 the case.

13 Q. No, I understand that. I just do want to
14 focus, though, on one type of customer that I
15 think you and Mr. Willing were talking about,
16 and that is a prospect who is thinking that he
17 or she might want to convert over the next
18 three years, say. And if they were to sign a
19 conditional contract with Valley Green that
20 says, you know, I'm committed to you, as long
21 as you get all your approvals within the next
22 18 months, and as long as it's done in 18
23 months, I'm your customer, that person would be
24 foreclosed from then signing a contract with an

1 NG Advantage or someone else; would they not?

2 A. (Frink) Yes, they would be.

3 Q. So I do want to be clear, make sure I
4 understand that when you were talking with
5 Mr. Willing, you weren't saying that such
6 customers, once they make commitments, can back
7 out under any circumstance. It depends on what
8 their contract says, doesn't it?

9 A. (Frink) Yes, it does.

10 Q. And savvy customers will build as many
11 contingencies as they can into their contract.
12 But the more certain they are, the more
13 comfortable you'll be that the demand will be
14 there if it goes live; right?

15 A. (Frink) Yes.

16 CHAIRMAN HONIGBERG: I don't think I
17 have anything else.

18 Mr. Speidel, do you have any
19 further questions for your witnesses?

20 MR. SPEIDEL: I do, indeed, a couple
21 loose ends regarding Mr. Knepper's and Mr.
22 Wyatt's testimony.

23 REDIRECT EXAMINATION

24 BY MR. SPEIDEL:

1 Q. There was some mention within your recent
2 answers to Chairman Honigberg's questions, and
3 also some of the interrogatories that Mr. Patch
4 engaged in, for starters, Mr. Knepper, when you
5 were responding to Mr. Honigberg's questioning,
6 you were referring to Tri-Mont's capabilities,
7 is that correct, not necessarily Valley Green's
8 own capabilities?

9 A. (Knepper) Yeah, we focused mostly on Tri-Mont
10 and Gulf's abilities to operate the plant.

11 Q. So that's operational and technical expertise
12 within the context of the engineering of the
13 plant and the ongoing gas operations aspects;
14 correct?

15 A. (Knepper) That's correct.

16 Q. So it's not necessarily Tri-Mont's abilities to
17 manage the financial aspects of the business
18 or, for instance, the business planning or
19 business outreach elements.

20 A. (Knepper) Correct.

21 Q. And within Exhibit 4, I think there's a Valley
22 Green response to a Staff Data Request No. 1-4.
23 That's in Section B, Bates Pages 7 through 11.
24 I think this is what you were referring to in

1 shorthand as the "resume"; isn't that right?
2 It's materials such as this that you evaluated
3 in addition to in-person interviews of Tri-Mont
4 personnel that led you to believe that they had
5 the technical expertise; isn't that right?

6 A. (Knepper) Yeah, I wouldn't say it was an
7 "interview." But it was a discussion, and we
8 looked at these things. If someone has
9 experience with a utility, that's good, better
10 than not having any. If you've got some
11 experience with LNG, that's good, better than
12 not having any. If you have some experience
13 with other supplemental fields, that's good,
14 better than not having any. And so when we're
15 having these discussions, we're not asking for
16 perfection. We're not, you know, trying to --
17 the question is: Can we have a discussion and
18 an understanding of what our expectations are,
19 and are they able to grasp that and understand
20 that? And I think that we were able to have
21 those.

22 Q. Thank you very much, Mr. Knepper.

23 Mr. Frink, do you have, still, the
24 newenglandoil.com handout the Valley Green

1 attorneys gave over to you?

2 A. (Frink) Yes, I do.

3 Q. Okay. Can we just take quick glance at that.

4 For starters, on the third page of this

5 three-page handout, there's a list of various

6 oil prices for south central New Hampshire.

7 You reside in south central New Hampshire;

8 correct?

9 A. (Frink) Correct.

10 Q. And you reside in the city of Manchester?

11 A. (Frink) Yes.

12 Q. You see that there's evidently two Manchester

13 oil dealers listed here. In your knowledge,

14 there's probably more than two oil dealers in

15 the city Manchester; right?

16 A. (Frink) Many more.

17 Q. Many more, yeah.

18 And regarding the information presented on

19 the second page of the handout, there's two oil

20 dealers listed for the entire west central New

21 Hampshire region. Now, isn't it fair to say

22 that a Lebanon or Hanover resident might be

23 interested in ordering oil from, say, White

24 River Junction, Springfield, Vermont? There's

1 more oil dealers serving Hanover and Lebanon
2 than probably these two; isn't that fair to
3 say?

4 A. (Frink) I'm sure there are.

5 Q. So I think you would agree that this isn't the
6 entire universe of oil prices available to
7 residents of either Manchester or Lebanon and
8 Hanover; isn't that fair to say?

9 A. (Frink) That is definitely the case.

10 Q. Okay. So when you were describing your own
11 personal experience with oil prices in the city
12 of Manchester, it's indicative of pricing
13 levels for untaxed No. 2 oil in New Hampshire
14 generally; isn't that fair to say?

15 A. (Frink) Yes.

16 Q. And Manchester is a fairly liquid oil market,
17 lots of competitors; right?

18 A. (Frink) Yes.

19 Q. So it's not necessarily the worst case, but
20 it's a pretty good indication of the best case?

21 A. (Frink) Yes.

22 Q. Okay. All right. So there was quite a bit of
23 discussion and questioning by the Valley Green
24 attorneys, and I would say that we can start

1 with the general question regarding the
2 inclusion of start-up expenses in the rate base
3 accounting of the de novo utility. Do you
4 recall that discussion?

5 A. (Frink) I do.

6 Q. Okay. So you did hear Mr. Champion testify
7 yesterday that he would hope that the expenses
8 related to start-up costs would be recovered
9 most likely through an equity item; is that
10 correct?

11 A. (Frink) That's my recollection.

12 Q. To your knowledge, is that prohibited by any
13 Commission precedent or any rate base
14 accounting convention, to your knowledge?

15 A. (Frink) No, it's not.

16 Q. So, in your experience as a rate analyst for 25
17 years, have you seen many instances where
18 companies that aren't precluded from seeking
19 recovery through a certain mechanism are
20 circumspect about seeking recovery?

21 A. (Frink) There have been instances for small
22 utilities with cash flow problems and market
23 issues. Concord Steam and Keene both have a
24 lot of competition for their alternative

1 supplies, and they've come in for rate cases
2 and foregone recovery or haven't sought
3 recovery that in a traditional ratemaking they
4 would be entitled to.

5 Q. But that usually happens when you've got a
6 pretty small boat and you're bailing out fast
7 to try to keep your customers. It's not the
8 usual convention; is that fair to say?

9 A. Frink That is fair to say.

10 Q. So, certainly I don't want to necessarily
11 disclose any confidences, but there was a
12 significant difference between the expected
13 expense figures that have been fleshed out in
14 the past and those that were testified to
15 yesterday; isn't that right?

16 A. (Frink) Say that again?

17 Q. There's a significant difference in the
18 expected expense figures, the start-up expense
19 figures that we've heard over the pendency of
20 this proceeding?

21 A. (Frink) Right. Again, referring to what was
22 filed, the Company projections, there's some
23 very specific expenses in there. And based on
24 the expenses incurred to date, they were well

1 in excess of what was reflected in projected
2 costs, start-up costs.

3 Q. Okay. So I think what you have as a general
4 picture is you've relied on the discounted cash
5 flow analysis to serve as a test for the
6 financial viability of the Valley Green
7 proposal; isn't that right?

8 A. (Frink) Yes.

9 Q. So, certainly it's been used in the past to
10 assess the proposals of existing utilities that
11 have a fairly large physical plant and a large
12 base of customers -- large for New Hampshire,
13 of course. But in your professional opinion,
14 is it also a reasonable test for the financial
15 reasonableness and viability of a de novo
16 plant?

17 A. (Frink) Of course. And that is what their
18 investor said --

19 (Court Reporter interrupts.)

20 A. (Frink) Their investor, NECP, testified that
21 they'd do a discounted cash flow analysis to
22 make an apples-to-apples comparison of various
23 investment opportunities.

24 Q. So, that was Mr. Bernstein's testimony to that

1 effect.

2 Now, would you agree that the utility
3 business, the gas utility business in
4 particular, is a fairly capital-intensive
5 business?

6 A. (Frink) Yes, it is.

7 Q. As I recall -- I don't want to testify myself,
8 but I have personal knowledge of this.

9 As I recall in the earliest discussion, I
10 think there was some indication to Mr. Campion
11 that that is the case, that it is a very
12 capital-intensive business; isn't that right --
13 around 2012?

14 A. (Frink) Oh, absolutely.

15 Q. Yeah. And then there were subsequent
16 discussions prior to the May 2015 filing of the
17 petition. And as I recall, there was also
18 discussion of the need to file comprehensive
19 financial schedules relying on pro forma
20 revenues, pro forma expenditures, personnel
21 expenses, et cetera, I think; wasn't that
22 right?

23 A. (Frink) I remember having those discussions,
24 and it was -- we did our best to explain that

1 this is for the Commission to approve something
2 like this. Develop it as completely and
3 reliably as you can possibly do. And that's
4 from everything to proposed rates and
5 everything else, that the more you put in
6 there, the better your chances. And that's --
7 so, yes, I do remember those discussions.

8 Q. So when the petition came in, in the form of
9 Exhibit 1 and ancillary exhibits, there weren't
10 any of those schedules presented; isn't that
11 right?

12 A. (Frink) I don't know about any schedules,
13 but --

14 Q. They were tariff pages. But pro forma
15 financials -- would you like to refresh your
16 memory with material?

17 A. (Frink) No, I think I recall that there was no
18 substantive schedules in there.

19 Q. So those were developed through discovery by
20 Staff and OCA and other parties; correct?

21 A. Yes.

22 Q. So that Valley Green, during the pendency of
23 this proceeding, used the time to amply add to
24 its submission with these detailed, granular

1 pro forma schedules; isn't that right?

2 A. (Frink) They did. They added to it. I will
3 say their filing didn't include it. But, for
4 instance, the discounted cash flow analysis,
5 that wasn't -- they hadn't done that prior to
6 filing. They just had filed it as part of
7 their petition.

8 Q. Right.

9 A. (Frink) So we did get to that and then took it
10 further, of course, to try and get a revenue
11 requirement that the Commission might expect to
12 see for rates. So, yes, that was not in their
13 initial filing.

14 Q. So that was added to the attention of Staff and
15 the other parties over time.

16 And using the information that you
17 examined, I think you came to the conclusion
18 that the discounted cash flow analysis is a
19 reasonable metric for examining the different
20 aspects of capital investment versus revenue
21 for this proposal; isn't that right?

22 A. (Frink) Oh, yes. Well, I believed that well
23 before their filing.

24 Q. So you're new to this, insofar as you haven't

1 had a de novo come across your desk yet. But
2 you're relying on industry standards of
3 financial analysis to gauge the appropriateness
4 of this filing; is that right?

5 A. (Frink) Yes.

6 Q. Okay. So there's two questions I wanted to ask
7 about the matter of de novo versus existing
8 utilities expanding their operations.

9 I think in the recent Liberty hearing we
10 had some discussion about discounted cash flow,
11 too. But what I'm going to ask you about, just
12 to clarify, because there were some questions
13 from Valley Green's attorneys about this, in
14 the case of an existing utility expanding its
15 operations into a new franchise territory, the
16 general concern would be cross-subsidization.
17 The existing ratepayers of the utility are
18 expected to bear the costs that cannot be
19 economically borne by revenues in the new area;
20 is that fair to say?

21 A. (Frink) That is definitely a major concern.

22 Q. Okay. So that would be the existing utility.
23 Moving on.

24 Now, in the de novo case, wouldn't it be

1 fair to say that the primary concern that you
2 discussed, actually quite at length in your own
3 testimony, would be the risk of business
4 failure? There's too much capital investment.
5 It's too heavy. Operating expenses are too
6 heavy for the amount of sales that the de novo
7 can gin up in that franchise territory; isn't
8 that right?

9 A. (Frink) That's right. It was pointed out by
10 Valley Green themselves. There isn't a risk to
11 existing customers because there are no
12 existing customers. The risk is entirely with
13 the principals that have invested in this
14 project may not ever realize a return on that
15 investment. So, until they actually come into
16 service, the risk is entirely on the potential
17 utility.

18 Q. So, having examined all of the accounting
19 schedules in a generic way, without having to
20 necessarily engage in technical analysis, but
21 also using your own technical analyses, you've
22 concluded that there could be, without adequate
23 customer commitments, a risk of business
24 failure by Valley Green if it were to be

1 awarded the franchise; isn't that right?

2 A. (Frink) That is correct.

3 Q. Okay. So if there's a risk of business
4 failure, would you agree that customer
5 discouragement and wasted time are significant
6 issues in a small area such as
7 Hanover/Lebanon -- for instance, if a customer
8 signs up for service and the de novo fails and
9 then they're left in hot water and maybe they
10 have conversion costs? Would you agree that
11 such risks are significant here?

12 A. (Frink) I would.

13 Q. Okay. And would you agree that it's probably
14 not optimal to rely on the ability of the
15 Commission to withdraw a franchise after it's
16 been awarded to a failed entity, as compared to
17 not granting a shaky entity the franchise in
18 the first instance?

19 A. (Frink) I agree.

20 Q. So, just avoiding all those "opportunity
21 costs." I think that's how you had described
22 them in your testimony.

23 A. (Frink) Yes.

24 Q. Okay.

1 MR. SPEIDEL: I have no further
2 questions. Thank you very much.

3 CHAIRMAN HONIGBERG: All right. If
4 there's nothing further for these gentlemen,
5 they can return to their seats.

6 There are no other witnesses;
7 correct?

8 [No verbal response]

9 CHAIRMAN HONIGBERG: All right. I
10 think we've got that established. Let's talk
11 about exhibits for a moment. There's one
12 record request pending, which is going to be
13 16 -- just a second, Commissioner Scott --
14 which is going to be Exhibit 16, which is to
15 Liberty.

16 Correct, Mr. Patch? We'll leave
17 the record open for that.

18 With respect to the other
19 exhibits, 1 through 15 and 17, if there's no
20 objection to striking I.D. on any of those
21 exhibits, all right, we will do that.

22 (Exhibits 1-17 admitted.)

23 CHAIRMAN HONIGBERG: Are there any
24 exhibits from the earlier hearing that need to

1 be admitted as full exhibits? Ms. Brown? Mr.
2 Willing. Sorry.

3 MR. WILLING: I think you've already
4 decided Exhibit 1 from the other hearing was
5 admitted.

6 CHAIRMAN HONIGBERG: Yes.

7 MR. WILLING: The others do not need
8 to be admitted.

9 CHAIRMAN HONIGBERG: I think
10 everyone's in agreement on that; correct?

11 [No verbal response]

12 CHAIRMAN HONIGBERG: All right.
13 Commissioner Scott, I believe you have --
14 there's another confidentiality question?

15 CMSR. SCOTT: Yes.

16 Attorney Willing, so, yesterday
17 we had a discussion in a confidential session
18 about Exhibits 4 and 5 -- Page 16 in Exhibit 4
19 and 92 I think on Exhibit 5, the confidential.

20 So my first question is: I
21 think you agree that Page 92 in Exhibit 5 is no
22 longer confidential?

23 MR. WILLING: Yeah, we did agree to
24 that, and then I think we discovered there were

1 slight differences between the two pages.

2 CMSR. SCOTT: So my first question is
3 how you're going to rectify that in the record.

4 MR. WILLING: Whether we waive it or
5 not or --

6 CHAIRMAN HONIGBERG: I think what we
7 may be looking for is a new version of the
8 unredacted document, because currently I think
9 Exhibit 5 may be -- no.

10 MR. WILLING: Yeah, it's Bates
11 Page 92 in Exhibit 5.

12 CHAIRMAN HONIGBERG: But there should
13 be the non-confidential version of that packet
14 is 4. So there should be a version in 4 that
15 then has the unredacted document in it;
16 correct?

17 MR. WILLING: Yeah, Page 16. And I
18 think --

19 CHAIRMAN HONIGBERG: It's already
20 there. But as we've established, it is
21 slightly different.

22 CMSR. BAILEY: Can I ask a question?

23 CHAIRMAN HONIGBERG: Sure.

24 CMSR. BAILEY: Isn't Page 16 more

1 specific? The unredacted version is more
2 specific, contains more possibly confidential
3 information than the --

4 MR. WILLING: I think that is
5 correct.

6 CMSR. BAILEY: So it's already
7 public. So I think maybe we could just take
8 the page out of the confidential filing,
9 because it has less specific information in it.
10 So there's nothing confidential on that page at
11 all.

12 CHAIRMAN HONIGBERG: Let's go off the
13 record for a second.

14 (Discussion off the record)

15 CHAIRMAN HONIGBERG: Go back on the
16 record. Commissioner Scott.

17 CMSR. SCOTT: So, second question --

18 CHAIRMAN HONIGBERG: Wait. We need
19 to finish this on the record. We need to
20 finish the conversation we just had.

21 So we made a reference to
22 Exhibit 4, and that was a mistake a moment ago.
23 The non-confidential version of Exhibit 5 is
24 Exhibit 6. And so, based on the conversation

1 that took place yesterday and earlier, Page 92
2 in Exhibit 6 needs to be replaced with the full
3 version, which is no longer confidential. It
4 exists in Exhibit 5 on Page 92 and needs to be
5 recreated in Exhibit 6 as Page 92.

6 All right. Commissioner Scott,
7 another issue.

8 CMSR. SCOTT: So, Attorney Willing,
9 if you could go to Exhibit 5, the confidential
10 material, Bates 133. Are you there?

11 MR. WILLING: Yes.

12 CMSR. SCOTT: Do you agree with me
13 that, based on the discussion we just had,
14 there's nothing confidential on this page?

15 MR. WILLING: Yeah, the three
16 paragraphs on that page should not be
17 confidential any longer.

18 CMSR. SCOTT: So that needs to be
19 rectified also.

20 MR. WILLING: Yeah.

21 CHAIRMAN HONIGBERG: So, an
22 unredacted version of that page will be
23 provided for Exhibit 6. What page? What was
24 the page number again?

1 CMSR. SCOTT: It's 133.

2 CHAIRMAN HONIGBERG: Page 133.

3 All right. Are there any other
4 exhibit matters we need to deal with before we
5 allow the parties to sum up? Mr. Patch.

6 MR. PATCH: Mr. Chairman, I don't
7 mean to complicate things, but don't you mean
8 he would provide in Exhibit 5 a
9 non-confidential version of Page 92? Because
10 there isn't one there now.

11 CHAIRMAN HONIGBERG: You don't have
12 Exhibit 5.

13 MR. PATCH: I have 5. I don't have
14 6.

15 MR. WILLING: Six is the public
16 version of 5.

17 MR. PATCH: I'm sorry. It's got the
18 wrong tab number in my book. Sorry. I'm
19 confused.

20 CHAIRMAN HONIGBERG: Sorry. You had
21 me there for a minute, Mr. Patch. Getting
22 worried.

23 Is there anything else, real or
24 imagined?

1 [No verbal response]

2 CHAIRMAN HONIGBERG: All right. So
3 we're going to give the parties a chance to sum
4 up. We'll be finishing with Valley Green, and
5 we'll start in the back left, Mr. Corwin.

6 MR. CORWIN: I don't have anything to
7 add. Thank you.

8 CHAIRMAN HONIGBERG: Ms. Arwen.

9 MS. ARWEN: Yes, I have a closing
10 statement. It's about four minutes, if I'm
11 allowed.

12 CHAIRMAN HONIGBERG: Four minutes
13 sounds wonderful.

14 CLOSING STATEMENTS

15 MS. ARWEN: Great. A happy
16 occurrence for me in the last year was becoming
17 part of a national project with the Upper
18 Valley Sierra Club Steering Committee, working
19 on a funded grant initially seeking commitments
20 from Hanover and other communities to become
21 100 percent renewable by 2050 in all three
22 sectors.

23 We are facing a crisis, one that
24 will, one way or the other, change our

1 civilization forever. Our climate is changing,
2 and because of the failure so far of our
3 legislators and regulators to act decisively,
4 the options that remain for us to respond to
5 the crisis have diminished. I believe that the
6 Commission and all of the parties to this
7 procedure share a common basic understanding.
8 I believe we all accept the truth in the data,
9 the models and the conclusions of climate
10 scientists. If we believe the scientists, then
11 we must accept the conclusion that global
12 carbon-equivalent emissions must be reduced to
13 net zero within the next three and a half to
14 five decades if global warming is to be limited
15 to 2 degrees. Human-generated greenhouse gas
16 emissions must be eliminated in this century.
17 We must accept the conclusion that failure to
18 meet those targets will have catastrophic
19 consequences for civilization and the natural
20 world. Most projects show that even a 2-degree
21 Celsius rise in average temperatures will be
22 devastating. I note that all of the more than
23 190 national governments who signed the Climate
24 Agreement in Paris last December made

1 commitments to achieve the goal of limiting
2 warming to 2 degrees, but then went further by
3 acknowledging that we should strive to limit
4 warming to 1.5 degrees. Indeed, 13 of the 15
5 hottest years on record have all occurred since
6 the year 2000. If we accept those conclusions
7 as fact, then a petition for the granting of a
8 franchise that would require the building of
9 new fossil fuel infrastructure must be
10 understood and examined within the context of
11 the climate crisis; otherwise, there can be no
12 understanding of whether the proposal is in
13 the, quote, public good.

14 New Hampshire's Climate Action
15 Plan was released in 2009 by a task force
16 chaired by the Commissioner of the Department
17 of Environmental Services pursuant to an
18 executive order by Governor John Lynch. The
19 plan is out of date and does not reflect
20 advances over the past seven years in the
21 understanding of climate change. It does,
22 however, set out goals for the reduction of
23 greenhouse gas emissions: 20 percent below
24 1990 levels by 2025, and 80 percent lower by

1 2050. The plan describes some consequences of
2 failure to reduce greenhouse gas emissions, and
3 it spells out benefits to the economy from
4 emission reductions. The Commission has
5 previously ruled that it does not, quote, find
6 questions relating to the Climate Action Plan
7 relevant to our inquiry, end quote. Even after
8 acknowledging that the Commission enjoys,
9 quote, broad discretion in the management of
10 discovery, end quote, by way of explanation of
11 the denial of my request to compel a response
12 related to the Climate Action Plan, the
13 Commission wrote, quote, If we perceive of no
14 circumstance in which the requested data would
15 be relevant, we will deny your request to
16 compel its production, end quote.

17 With respect, I urge the
18 Commission to reconsider the relevance of the
19 state's climate plan in this docket, or
20 presumably in any case that comes before it.
21 Every build-out of new fossil fuel
22 infrastructure locks in an increment of
23 greenhouse gas emissions for decades to come.
24 The term is "carbon lock-in." You may well

1 decide that neither this project, nor the one
2 proposed by a competitor in another docket will
3 be in the public good, based merely on
4 considerations of momentary energy prices and
5 the number of angry customers. That would be a
6 welcomed decision. However, with time running
7 out to limit the most catastrophic effects of
8 climate change, the people of New Hampshire
9 need regulators who have the courage to
10 exercise the broad discretion that the law
11 allows. Please, I urge you to consider the
12 effects on global climate. Thank you very
13 much.

14 CHAIRMAN HONIGBERG: Ms. Arwen, are
15 we bound by state law? Is it your opinion that
16 the Commission is bound by state law or not?

17 MS. ARWEN: Surely.

18 CHAIRMAN HONIGBERG: Thank you.

19 Ms. Geiger.

20 MS. GEIGER: Yes. Thank you, Mr.
21 Chairman. NG Advantage appreciates the
22 opportunity to participate in this docket and
23 to share its perspective regarding the role of
24 compressed natural gas in an island LDC for the

1 Upper Valley, as well as the importance of
2 obtaining gas supply and related services for
3 both LNG and CNG through a truly competitive
4 RFP process.

5 NGA favors the granting of a
6 franchise in Hanover and Lebanon. However, the
7 Commission should not grant Valley Green's
8 petition without substantial changes, such as
9 requiring that the system be designed to
10 utilize both CNG and LNG, and requiring a truly
11 competitive RFP process for trucked gas to the
12 island system. Thank you.

13 CHAIRMAN HONIGBERG: Mr. Patch.

14 MR. PATCH: Thank you. Based on the
15 evidence that's been presented to the
16 Commission in this docket, we believe the
17 weight of the evidence shows very clearly that
18 Valley Green has not made the requisite showing
19 in order to be granted a franchise by the
20 Commission, the necessary financial, technical
21 and managerial capabilities, nor do we believe
22 it's in the public interest, based on all of
23 the testimony that's been submitted. We don't
24 think Valley Green possesses the experience or

1 capability to construct, own and operate a
2 natural gas distribution company. It's
3 attempted to compensate for that by contracting
4 with others, but those contracts have not been
5 finalized. The Commission really does not know
6 who would fulfill those positions in a number
7 of cases. And so we don't think they have made
8 the requisite showing.

9 We think there are also serious
10 doubts that the rates would be just and
11 reasonable, for a few reasons. Mr. Frink
12 testified with regard to the projected capital
13 structure and revenue projections. And based
14 on that, he doesn't think that they have
15 presented sufficient evidence on that. In
16 addition to that, the issue that's been raised
17 by NG Advantage with regard to Valley Green's
18 failure to indicate that they would be
19 purchasing commodity through an RFP process we
20 think is a significant issue.

21 And along those lines, I want to
22 quote a Commission order from January of this
23 year, in IR 15-124, Order 25,860. In that
24 order, the Commission said, quote, There is a

1 recognition in private industry and regulatory
2 bodies throughout the United States that
3 competitive bidding, acquisition processes
4 provide powerful benefits for ensuring prudence
5 in utility expenditure and, by extension, cost
6 savings for utility customers through the
7 introduction of cost discipline, open
8 participation by competitors, and choices in
9 product acquisition, close quote. The fact
10 that Valley Green has a sole-source contract
11 with Gulf, and therefore no intention of
12 procuring the supply of gas needed to serve
13 customers through a truly competitive process
14 should be a significant concern. It's also
15 inconsistent with RSA 378:37, Least Cost
16 Planning and implementation.

17 None of the parties to this
18 docket, other than Valley Green, believe that
19 Valley Green should be granted the franchise.
20 You've just heard from NG Advantage, which was
21 probably the closest to suggesting that. But
22 they obviously still have concerns. So, based
23 on that, we think the Commission ought to deny,
24 as Mr. Frink testified today.

1 There's one more item I just
2 want to raise, Mr. Chairman. In his opening
3 statement on March 2nd, Mr. Willing had said,
4 quote, Liberty was not interested. Because
5 Liberty was not interested, they decided to
6 pursue the project on its own. At the time, I
7 objected to this statement, and the Chairman
8 overruled the objection, but said, "If at the
9 end of the day they haven't delivered on their
10 promise, certainly remind us." And so I just
11 wanted to do that. I think the testimony now
12 indicates that it is not the case that Liberty
13 was not interested. I think we substantiated
14 that on the record. Thank you.

15 CHAIRMAN HONIGBERG: Mr. Cicale.

16 MR. CICALÉ: Thank you, Mr. Chairman.
17 The Office of Consumer Advocate is very
18 sensitive to the investment and time that
19 Valley Green has put into its petition.
20 Substantial sums of money and planning have
21 gone into the enterprise as it stands. And,
22 you know, it's a rare day when a start-up comes
23 through the doors of the Public Service
24 Commission -- Public Utilities Commission

1 seeking to serve an area for a franchise. Mr.
2 Frink testified that in his 25 years of
3 experience, a start-up's application has never
4 come before his desk for approval. That's a
5 quarter century. He's got a lot of experience
6 here.

7 And, you know, it reminds me, to
8 look back, it reminds me basically, at the
9 breakout of the electrical system, there were
10 other entrepreneurs that sought to do things of
11 this nature: Bring utility systems to their
12 local community. In fact, in Connecticut, in
13 North Canaan, there was an individual
14 fascinated with hydropower, and he sought to
15 start a utility there in northwestern
16 Connecticut. And he partnered with people in
17 Connecticut. He had no formal utility training
18 or experience. He was an attorney. And he
19 wasn't a banker or engineer, but he partnered
20 with the right people. He partnered with the
21 United Gas and Improvement Organization company
22 out of Pennsylvania for financial support and
23 operations advice. And his charter was
24 approved by the Connecticut General Assembly

1 prior to the period when Connecticut would have
2 a Public Service Commission, and approved for
3 the Connecticut Light and Power Company. And
4 he was the founder of Northeast Utilities,
5 which is now Eversource. His name is J. Henry
6 Roraback. So it's not impossible for a
7 start-up to be successful with a utility. Even
8 in the 21st century it may not be impossible.

9 Even though the Office of
10 Consumer Advocate is sensitive to the
11 petitioner in this matter, we're reluctant to
12 recommend that the Commission approve the
13 application as it stands. The issues that we
14 have with the application are somewhat in the
15 nature of managerial. You know, it would be
16 incredible to be a president of a utility, but
17 there's other things that need to be taken into
18 account in this application. Needs to be a
19 showing of a demonstration that, other than
20 just the organizational chart, a general
21 awareness in breadth of knowledge in regards to
22 the departments that a utility contains and how
23 they may be utilized and operated. There's
24 revenue rates, legal compliance, corporate

1 business development, accounting and billing,
2 engineering, technical and operations staff and
3 administrative support. Probably left out a
4 few. I mean, Valley Green has framed and
5 poured the foundation for a house. They can
6 complete the house with some insulation,
7 siding, a roof and some paint, and get that
8 business development off the ground, get some
9 customers signed.

10 So, at this point, the Office of
11 Consumer Advocate is not going to recommend the
12 Commission deny or approve this application,
13 but suspend it for a period of at least six
14 months so that the Company can fill these holes
15 and bring some more knowledge and some more
16 weight to their application and some time.
17 Thank you.

18 CHAIRMAN HONIGBERG: Mr. Speidel.

19 MR. SPEIDEL: Thank you, Mr. Chairman
20 and Commissioners. Similarly to the Office of
21 the Consumer Advocate, the Staff definitely
22 appreciates the ongoing efforts of Valley Green
23 and its principals to try to develop a de novo
24 start-up business plan for its prospective

1 service territory. However, the threshold
2 question is whether or not there is sufficient
3 demand in the proposed franchise area to
4 support natural gas utility service -- that is,
5 a generation of sufficient revenue to support
6 Valley Green's capital costs and operating
7 costs. That is the question. At this time, it
8 does not appear to be the case that this
9 financial requirement will be met, as
10 demonstrated by Valley Green's inability to
11 obtain any customer commitments, and revisions
12 to the Valley Green business plan in
13 recognition of the fact that current energy
14 prices are far less favorable for natural gas
15 conversions than when its proposal was
16 officially contemplated in 2012 and 2013.
17 Whether or not Valley Green has the managerial,
18 technical and legal expertise to operate a gas
19 utility is to no avail if reasonably expected
20 revenues are insufficient to support ongoing
21 operations and to meet capital and debt
22 structure obligations. While the financing may
23 be in place to fund construction of utility
24 facilities, there needs to be sufficient

1 revenue from sales to fund ongoing operations.
2 That is very much in question at this time.

3 In light of this situation, the
4 Commission should deny Valley Green's petition
5 without prejudice. Without prejudice. Rather
6 than a "build it and they will come" approach,
7 Valley Green needs to demonstrate through
8 signed customer commitments that there is
9 sufficient demand for its services to produce a
10 reasonable rate of return on its investment and
11 to fund ongoing operations and obligations.

12 Thank you.

13 CHAIRMAN HONIGBERG: Mr. Willing.

14 MR. WILLING: First of all, thank
15 you, Commissioners, for your time, your
16 considerable time and your consideration in the
17 last two days.

18 Two specific points I want to
19 make before I go on. One is the Commission
20 referenced an e-mail -- or this proceeding
21 referenced an e-mail that was produced in
22 Liberty Docket 15-289 regarding Mr. Champion's
23 communications with Liberty. And we would ask
24 for notice of that exhibit in this docket. We

1 didn't produce it as an exhibit here, but to
2 address Mr. Patch's point.

3 CHAIRMAN HONIGBERG: So that is a
4 motion that we take administrative notice of an
5 exhibit from the Liberty proceeding?

6 MR. WILLING: That's right.

7 CHAIRMAN HONIGBERG: Does anyone
8 remember the exhibit number? I know the
9 document, but I don't remember the number. Ms.
10 Geiger?

11 MS. GEIGER: Fourteen.

12 CHAIRMAN HONIGBERG: Fourteen.

13 MR. WILLING: Yeah.

14 CHAIRMAN HONIGBERG: We can take
15 administrative notice of the existence of that
16 exhibit.

17 MR. WILLING: And one other thing.
18 There's been a focus on Schedule 2 of Exhibit
19 5E. The Commissioners should keep in mind that
20 these are estimates that are based on different
21 build-out scenarios. So the number on Schedule
22 2 for O & M expenses will vary, depending on
23 what the scenario actually is.

24 I want to close with just a few

1 points. First, the Valley Green project is the
2 product of a spontaneous local effort to bring
3 energy choice to the Upper Valley. Mr. Champion
4 is from and of the Upper Valley. He knows his
5 community well and is motivated to make a
6 project succeed there, and stands the best
7 chance of making a project succeed. He has
8 assembled a well-qualified team that has all of
9 the managerial, technical and financial
10 expertise to operate a gas utility. He's
11 relying on contractors to provide some of that
12 expertise, but it cannot be any other way with
13 a start-up utility. The capability for the
14 Valley Green team are the right capabilities to
15 operate a gas utility.

16 Next, Valley Green's project is
17 superior to Liberty's. Mr. Champion has the
18 necessary land. The site is ideal for this
19 project. He has zoning approval, and he has
20 begun other permitting. This site is located
21 much closer to the biggest customers than
22 Liberty's site is; so, the length of pipe
23 needed for Valley Green to reach those
24 customers is much shorter. Valley Green has

1 invested more time and effort into its project,
2 and so the Valley Green project is much more
3 advanced. For these reasons, it would be in
4 the public good to grant the franchise to
5 Valley Green.

6 And we believe the franchise
7 should be granted now for several reasons.
8 You're not taking a chance by granting a
9 franchise to Valley Green now. There's no risk
10 of cross-subsidization because Valley Green has
11 no existing customers. Valley Green must
12 obtain approval of rates, special contracts and
13 other aspects of its project from the
14 Commission before it can ever begin serving
15 customers. Until then, as Mr. Frink said in
16 his testimony, all financial risk falls on
17 Valley Green. Valley Green is willing to bear
18 that risk. Meanwhile, if you don't grant the
19 franchise now, the project might not advance
20 forward at all. Design and permitting can't
21 advance. Customers are unlikely to make
22 commitments to buy gas from a company without a
23 franchise, with an unknown start date and
24 unknown price terms. Valley Green can't get a

1 franchise without customer commitments, but it
2 can't get customer commitments without
3 franchise. That's the chicken-and-egg
4 situation we've been talking about.

5 Valley Green faces a particular
6 challenge in developing its project as a
7 start-up. Mr. Champion met with Staff, was told
8 what he needed to do, did it, in his view, came
9 back with a proposal and was told that his
10 costs, which he is not yet seeking to recover,
11 are too high. If he comes back, they will only
12 be higher. That's yet another Catch 22 that he
13 faces.

14 Market conditions have changed
15 since he first started his project, and indeed
16 since the petition was even filed. But oil
17 prices are coming back up again. Market
18 conditions and oil prices will always change.
19 Valley Green is ready to take the chance on
20 changing oil prices in order to establish a
21 business to operate over the long term. Denial
22 would be sending a message to community-based
23 efforts to find energy solutions, a very
24 negative message: Why would anyone else do

1 what Mr. Campion has done to find solutions for
2 their communities if denial is the end result?

3 If you are concerned about tying
4 up franchise territory, as discussed, RSA
5 374:27 requires a franchisee to act on his
6 franchise within two years or lose the
7 franchise. If you grant the franchise to
8 Valley Green, Valley Green will be "on the
9 clock," so to speak. If you suspend the
10 proceeding despite our reasons for believing
11 you should grant the --

12 (Court Reporter interrupts.)

13 MR. WILLING: If you suspend the
14 proceeding instead of granting the franchise
15 now, until customer commitments are obtained,
16 Valley Green asks that, at a minimum, the
17 Commission find that Valley Green possesses the
18 managerial, technical and financial expertise
19 to provide gas service and otherwise identify
20 specifically what Valley Green still needs to
21 do in order to get a franchise. This is
22 obviously a second-best solution from our
23 standpoint as compared to granting the
24 franchise. But an order that is specific with

1 conditions could allow Valley Green to speak to
2 customers in concrete terms, which then might
3 allow it to get customer commitments despite
4 the lack of a franchise. Again, we thank you.

5 CHAIRMAN HONIGBERG: All right.
6 Thank you all. I don't think there's anything
7 else we need to do, is there?

8 [No verbal response]

9 CHAIRMAN HONIGBERG: All right. We
10 will adjourn. We'll keep the record open for
11 the one record request and take the matter
12 under advisement. We are adjourned.

13 (WHEREUPON the hearing was adjourned at
14 3:10 p.m.)

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