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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

February 3, 2016 - 10:07 a.m.
Concord, New Hampshire

DAY 2
MORNING SESSION ONLY

RE: DE 14-238 PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE: Determination regarding
PSNH's Generation Assets.

DE 11-250 PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE: Investigation of
Scrubber Costs and Cost Recovery.

PRESENT: Commissioner Martin P. Honigberg, Presiding
Commissioner Kathryn M. Bailey
Special Commissioner Michael J. Iacopino

Jody Carmody, Clerk

APPEARANCES: Reptg. Public Service Co. of New Hampshire:
Matthew J. Fossum, Esq.
Robert A. Bersak, Esq.

Reptg. the City of Berlin and the Town of
Gorham, New Hampshire:
Christopher L. Boldt, Esq. (Donahue, Tucker)

Reptg. the Conservation Law Foundation:
Thomas F. Irwin, Esq.

Reptg. the Sierra Club:
Zachary M. Fabish, Esq.

COURT REPORTER: STEVEN E. PATNAUDE, LCR NO. 52

ORIGINAL

1
2 **APPEARANCES: (c o n t i n u e d)**

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5 Meredith A. Hatfield, Director

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7 Susan S. Geiger, Esq. (Orr & Reno)

8 **Reptg. New England Power Generators Assn.:**

9 Carol Holahan, Esq.

10 **Reptg. Retail Energy Supply Association:**

11 Melissa Lauderdale, Esq. (Exelon)

12 **Reptg. Sen. Jeb Bradley & Sen. Dan Feltes:**

13 Senator Jeb Bradley

14 Senator Dan Feltes

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E X H I B I T S

EXHIBIT ID	D E S C R I P T I O N	PAGE NO.
XX	GSHA's responses to PSNH's data requests (10-12-15)	26

P R O C E E D I N G

1
2 CHAIRMAN HONIGBERG: All right. We're
3 here for Day 2 of the hearings in Docket DE 11-250 and DE
4 14-238.

5 Before we get started, Ms. Amidon, are
6 there any preliminary matters we need to deal with?

7 MS. AMIDON: I believe one of the
8 outstanding issues from yesterday is the request from
9 Attorney Geiger regarding the opportunity to file legal
10 memoranda.

11 Other than that, I believe the
12 Commission has the proposed witness list for today, and
13 everyone's prepared to go forward with cross.

14 CHAIRMAN HONIGBERG: Ms. Geiger, Mr.
15 Bersak, we got the sense yesterday that there are legal
16 arguments that you're making. I mean, each of you was
17 asking the witness about what decisions say and what they
18 mean. It seems logical that you'd want to file memos. Is
19 that right, Ms. Geiger?

20 MS. GEIGER: Correct.

21 CHAIRMAN HONIGBERG: Mr. Bersak?

22 MR. BERSAK: We agree. That makes
23 sense.

24 CHAIRMAN HONIGBERG: Are you in a

1 position to do that this week, to get these memos in by
2 the end of the week?

3 MS. GEIGER: My preference would be
4 Monday, if possible.

5 MR. BERSAK: Well, it depends -- I'm
6 sorry.

7 CHAIRMAN HONIGBERG: Okay. Mr. Bersak,
8 yes?

9 MR. BERSAK: Depends on how long we go
10 here. If we're going through hearings through Thursday,
11 the likelihood of me having a memo ready on Friday is
12 unlikely.

13 CHAIRMAN HONIGBERG: So, Monday works
14 for you as well then?

15 MR. BERSAK: I suppose I have nothing
16 better to do this weakened, sure.

17 CHAIRMAN HONIGBERG: You have other
18 people who work for you, Mr. Bersak.

19 *[Laughter.]*

20 SP. COMMISSIONER IACOPINO: Someone
21 sitting on your table might say somebody else has
22 something better to do.

23 MR. BERSAK: What are you doing this
24 weekend?

1 CHAIRMAN HONIGBERG: Low man again, Mr.
2 Fossum.

3 MR. BERSAK: We can do that.

4 CHAIRMAN HONIGBERG: So, Monday. Do you
5 want page limits?

6 MS. GEIGER: Doesn't matter.

7 MR. BERSAK: Doesn't matter. We'll be
8 brief. They're briefs.

9 CHAIRMAN HONIGBERG: Well, you say that,
10 but -- all right. We will not impose page limits on you,
11 but we encourage you to be brief.

12 MR. BERSAK: Yes.

13 CHAIRMAN HONIGBERG: Is there anything
14 else, Ms. Amidon?

15 MS. AMIDON: No.

16 CHAIRMAN HONIGBERG: All right. Is
17 there anybody here today who was not here yesterday, in
18 terms of appearances? Yes. Oh, Mr. Harrington, welcome.

19 MR. HARRINGTON: Thank you, Chairman.

20 CHAIRMAN HONIGBERG: Mr. Harrington, I'm
21 just going to write your name here geographically in the
22 room, because I have this chart of where people are
23 sitting. So, if anybody moves, I'm going to be in real
24 tough shape.

[WITNESS: Norman]

1 MR. HARRINGTON: I'll try to stay put.

2 CHAIRMAN HONIGBERG: But I see where you
3 are.

4 All right. So, then, with that, are we
5 ready to -- I'm sorry, is there anybody else who's here
6 who wasn't here yesterday?

7 MS. ROSS: I do have a witness here.

8 CHAIRMAN HONIGBERG: No, no, no. I'm
9 just talking about appearances, Ms. Ross.

10 MS. ROSS: Okay. Thank you.

11 CHAIRMAN HONIGBERG: Just the people I
12 would need to call on during questioning, to see if
13 anybody wants to ask questions, okay? You know, looking
14 to recognize people at the appropriate times.

15 So, with that, I think we're ready to
16 call a witness, right, Ms. Geiger?

17 MS. GEIGER: Yes.

18 CHAIRMAN HONIGBERG: All right. Go
19 ahead. Mr. Norman, come on down.

20 (Whereupon **Richard A. Norman** was duly
21 sworn by the Court Reporter.)

22 CHAIRMAN HONIGBERG: Go ahead, Ms.
23 Geiger.

24 **RICHARD A. NORMAN, SWORN**

[WITNESS: Norman]

DIRECT EXAMINATION

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BY MS. GEIGER:

Q. Mr. Norman, could you please state your name for the record.

A. I'm Richard Norman.

Q. And, by whom are you employed and in what capacity?

A. I'm the Chairman of Granite -- of Essex Hydro Associates, a developer and operator of hydroelectric plants regulated by the Federal Energy Regulatory Commission. I'm also Vice President, Secretary, and Treasurer of Honeoye Storage Corporation, an underground natural gas storage facility regulated by the FERC.

Q. Do you hold any other positions?

A. Yes. I'm also the President of Granite State Hydropower Association.

Q. And, for the Commission's edification, what is Granite State Hydropower Association?

A. GSHA is the association for the small independent hydroelectric power industry in New Hampshire. GSHA's members own, operate, and manage approximately 60 small hydroelectric projects located throughout New Hampshire. In the aggregate, these 60 projects have a cumulative gross capacity of approximately 50

[WITNESS: Norman]

1 megawatts. So, they're very small. Twenty-six are
2 qualifying facilities, QFs, as that term is used in the
3 Public Utility Regulatory Policy Act, PURPA, and are
4 independent power producers, IPPs, that sell their
5 output to Eversource, formerly known as "Public Service
6 of New Hampshire".

7 Q. Mr. Norman, have you previously testified before this
8 Commission?

9 A. Yes. I've testified before the New Hampshire Public
10 Utility Commission in Docket DE 09-174, a Petition for
11 Declaratory Ruling regarding Penacook Lower Falls.
12 It's a hydroelectric project. And, in DE 99-099,
13 regarding Public Service -- Public Service of New
14 Hampshire's 1999 Restructuring Settlement Agreement.
15 I've also testified at the FERC, and before the Vermont
16 Public Service Board.

17 Q. Mr. Norman, did you submit prefiled testimony in this
18 case?

19 A. Yes, I did. I submitted prefiled direct testimony on
20 September 20 -- yes, September 18th, 2015;
21 supplementary prefiled direct testimony on
22 November 12th, 2015.

23 Q. Mr. Norman, I'd like to refer you to two documents that
24 have been marked in this docket as "Exhibits K" and

[WITNESS: Norman]

1 "L". Do you have those?

2 A. Yes.

3 Q. And, the first document, Exhibit K, is entitled
4 "Prefiled Direct Testimony of Richard A. Norman on
5 behalf of Granite State Hydropower Association", and
6 that's dated "September 18th, 2015". Is this the
7 prefiled testimony that you just referred to?

8 A. Yes.

9 Q. And, the second document is entitled "Supplemental
10 Prefiled Direct Testimony of Richard A. Norman on
11 behalf of Granite State Hydropower Association", dated
12 "November 12th, 2015". And, that's been marked
13 "Exhibit L". Is that your supplementary direct
14 testimony?

15 A. Yes.

16 Q. Okay. Mr. Norman, do you have any corrections or
17 updates to either of your prefiled testimonies?

18 A. Yes, I do. On Page 8, Line 12, of my prefiled direct
19 testimony, the word "supplement" should be changed to
20 "supplemental". Also, on Page 8, I responded to a
21 question that asked for an explanation of "why GSHA
22 believes that the Commission should not approve the use
23 of real-time price as Public Service of New Hampshire's
24 avoided cost during the hybrid period." I refer to the

[WITNESS: Norman]

1 "hybrid period" as the period in which they continue to
2 own generating assets. On Page 8, Line 18, of my
3 prefiled direct testimony, I'd like to add the
4 following sentence: "Also, FERC has declared that an
5 energy imbalance service market rate at a QF's node is
6 not the purchasing utility's avoided cost under PURPA.
7 See *Exelon Wind 1, LLC et al*, 140 FERC Paragraph 61,152
8 (issued August 28, 2012)."

9 Q. Mr. Norman, do you have any other updates or changes to
10 your prefiled direct testimony or supplemental prefiled
11 direct testimony?

12 MR. BERSAK: Mr. Chairman, could we ask
13 that Granite State Hydro kind of type that up and give it
14 to us?

15 CHAIRMAN HONIGBERG: I was just going to
16 ask. Ms. Geiger, it appeared that Mr. Norman may have
17 been reading from something. Would it be possible to get
18 copies of that for everyone? Because I don't know that
19 any -- there's only one person here who could do
20 shorthand, and he's sitting in front of me.

21 MS. GEIGER: Sure.

22 CHAIRMAN HONIGBERG: Is that -- can that
23 sheet of paper perhaps be shared with a member of Staff
24 who might be able to go make a bunch of copies of it?

[WITNESS: Norman]

1 MS. GEIGER: I don't have it separately
2 typed out on a separate piece of paper. So, it wouldn't
3 be -- it wouldn't be easily extractable from another
4 document that I have. But I'd be happy to make it
5 available later on today.

6 CHAIRMAN HONIGBERG: Mr. Bersak, do you
7 feel you need it right now?

8 MR. BERSAK: No, not right now. But I
9 just want to know exactly what his testimony is, if I'm
10 going to be writing a brief over the weekend.

11 CHAIRMAN HONIGBERG: Okay. We'll deal
12 with it at the break then. Thank you.

13 MS. GEIGER: Thank you.

14 BY MS. GEIGER:

15 Q. So, just referring back to my last question, Mr.
16 Norman, do you have any other updates or changes to
17 your prefiled direct testimony or your prefiled
18 supplemental testimony?

19 A. Yes. I'd like to add to update the direct testimony,
20 in the sentence on Page 12, Lines 2 to 3, that reads:
21 "For example, for the period January 1, 2015 to
22 September 1, 2015, cumulative real-time prices were
23 3.96 percent less than the cumulative DA prices."
24 Because we've now got a full year's data for 2015, I'd

[WITNESS: Norman]

1 like to revise that sentence to read: "For example,
2 for the period January 1, 2015 to December 31, 2015,
3 the average RT, or real-time, prices were 4.51 percent
4 less than the average DA prices."

5 Also, in my supplementary testimony, on
6 Page 5, I'd like to add a sentence on Line 2, after the
7 words in parentheses "purchase power", I'd like to add
8 "PSNH's average generating costs in 2015 were 6.71
9 cents per kilowatt-hour, while the average real-time
10 New Hampshire LMP energy price for the same period was
11 4.02 percent" -- "4.02 cents per kilowatt-hour."

12 MR. BERSAK: Mr. Chairman, could we have
13 the witness please repeat that one? That one I might need
14 right now.

15 CHAIRMAN HONIGBERG: Yes. Mr. Norman,
16 can you go through that slowly, so that the folks who are
17 trying to follow along and write it down can get it?

18 WITNESS NORMAN: Sure. Sorry. I could
19 speak more slowly, if you'd like?

20 CHAIRMAN HONIGBERG: How many other
21 corrections do you have to make, do you think?

22 WITNESS NORMAN: That's -- I've got, I
23 think, one other. I have a couple of other comments,
24 but they're --

[WITNESS: Norman]

1 CHAIRMAN HONIGBERG: In terms of
2 corrections?

3 WITNESS NORMAN: In terms of
4 corrections, that's the only one.

5 CHAIRMAN HONIGBERG: All right. So, why
6 don't you go through that one slowly, so Mr. Bersak and
7 his people can get it down clearly, and that we can get it
8 as well. Yes. Well, wait a minute. Commissioner Bailey?

9 COMMISSIONER BAILEY: Can you start with
10 the page number please?

11 WITNESS NORMAN: Sure.

12 **BY THE WITNESS:**

13 A. This is on Page 5, Line -- after Line 2, after the
14 words in parentheses "purchase power", and this is in
15 my supplementary testimony, I would like to add the
16 words "PSNH's average generating costs --

17 MR. BERSAK: Slow down.

18 **BY THE WITNESS:**

19 A. -- in 2015 --

20 MS. AMIDON: Slower please.

21 **BY THE WITNESS:**

22 A. I'll repeat that. "PSNH's average generating costs in
23 2015 were 6.71 cents per kilowatt-hour, while the
24 average real-time NH LMP energy price for the same

[WITNESS: Norman]

1 period was 4.02 cents per kilowatt-hour."

2 MR. BERSAK: Can you repeat that last
3 number please, 4.?

4 WITNESS NORMAN: 4.02.

5 MR. BERSAK: Thank you.

6 WITNESS NORMAN: And, I believe Ms.
7 Geiger yesterday explained in her cross the derivation of
8 that, of those numbers.

9 BY MS. GEIGER:

10 Q. Mr. Norman, --

11 CHAIRMAN HONIGBERG: Ms. Amidon? Just a
12 moment, Ms. Geiger, I'm sorry. Ms. Amidon?

13 MS. AMIDON: I just had an
14 administrative suggestion that Attorney Geiger file an
15 errata for that, so that the -- later today, so that the
16 text is clear what she intends to amend in Mr. Norman's
17 testimony. Just a one-page errata, just showing where the
18 changes are made and what the changes are.

19 CHAIRMAN HONIGBERG: Ms. Geiger, that
20 would seem the kind of thing you probably had in mind
21 anyway.

22 MS. GEIGER: I'm happy to do that, Mr.
23 Chairman.

24 CHAIRMAN HONIGBERG: All right. Thank

[WITNESS: Norman]

1 you.

2 All right. Now, Ms. Geiger, you may
3 proceed.

4 BY MS. GEIGER:

5 Q. I guess, Mr. Norman, do you have anything else to add
6 to your testimonies?

7 A. Yes. I'd like to provide some brief points in
8 surrebuttal to Mr. Shuckerow's rebuttal testimony that
9 was given yesterday.

10 On Page 23, Lines 1 to 8 of his
11 testimony, he asserted that Granite State's involvement
12 in this proceeding appeared to him to be, in
13 quotations, "opportunistic". That's simply not the
14 case. The small hydro industry in New Hampshire is
15 very fragmented. The industry consists of many small
16 projects that lack individual administrative and legal
17 capability, as has been referenced consistently by the
18 FERC.

19 Project owners simply typically have
20 their hands full in operating their projects. There
21 are 26 Granite State projects that sell power to Public
22 Service's QFs and are the subject of this docket. The
23 largest is only 1.55 megawatts. Until very recently,
24 virtually all small hydroelectric projects sold energy

[WITNESS: Norman]

1 under long-term contracts or rate orders that were
2 signed in the mid 1980s. And, these were for, when I
3 refer to "long-term", those are 30-year contracts.

4 Therefore, at the time the 1999
5 Settlement Agreement was signed, virtually all of these
6 projects were in the middle of long-term purchase
7 obligations, and many were not even aware of the
8 provisions that exist in the 1990 -- 1999 Settlement
9 Agreement.

10 When Granite State first became aware of
11 the divestiture proposal in October 2014, it decided to
12 intervene because, at that point, it believed Public
13 Service's divestiture could impact the same power
14 markets in which GSHA projects operate. Many projects
15 had power purchase agreements, which were scheduled to
16 expire, basically, the 25 to 30 years was about to
17 lapse. It was only after its intervention and
18 participation in this docket that Granite State became
19 aware that Public Service proposed to continue QF
20 purchases as provided in the 1999 Settlement Agreement
21 without any modification.

22 A legal review of the proposed
23 Settlement Agreement revealed that proposed QF purchase
24 language was not consistent with PURPA's definition of

[WITNESS: Norman]

1 "avoided costs". Granite State, therefore, is pursuing
2 the matter in this docket.

3 A further comment on Page 10, Lines 1 to
4 11, in which Mr. Shuckerow speculates that, if Public
5 Service's avoided cost rates for QFs were "higher than
6 other utilities in the region, QFs throughout the
7 region would...put their output to PSNH, and PSNH's
8 customers would ultimately pay the resulting higher
9 costs." I disagree with that assertion.

10 New Hampshire Electric Co-op, as cited
11 on Page 5, Line 22, of Mr. Shuckerow's testimony, did
12 recognize "that QFs are not bound by state franchise
13 boundaries". However, the docket also recognized that
14 the QF would incur transmission costs and would be
15 responsible for obtaining a power purchase agreement
16 from the distant utility from which they wanted to sell
17 power.

18 Although PURPA rates in Vermont, in
19 2015, were substantially more favorable than those
20 existing in New Hampshire, no QF, either from New
21 Hampshire or any other state, sought or obtained a QF
22 contract in Vermont. The right may exist in theory,
23 but the limitations of small QFs that I referenced
24 earlier in my testimony limit the practical effect of

[WITNESS: Norman]

1 this right.

2 A further comment, on Page 21, Lines 12
3 through 31, and Page 22, to Lines 1 through 3 of
4 Mr. Shuckerow's testimony, asserts that "GSHA expressly
5 told the FERC", in a prior docket, "that in states
6 operating RTOs, and specifically in New Hampshire, the
7 LMP rate is an avoided rate sanctioned by the state for
8 purposes of [QF purchases]."

9 I'd like to clarify the GSHA's
10 representations to the FERC in that docket did not
11 distinguish between the day-ahead and real-time rates
12 that are one of the subjects of this docket.

13 Q. Mr. Norman, along with the changes that you just
14 provided orally, if I were to ask you today under oath
15 the same questions as those contained in your prefiled
16 and your supplemental prefiled testimonies, would your
17 answers be the same?

18 A. Yes.

19 MS. GEIGER: Mr. Norman is available for
20 cross-examination.

21 CHAIRMAN HONIGBERG: All right. Other
22 than Mr. Bersak, who has questions for Mr. Norman? Does
23 anybody?

24 *[No verbal response]*

[WITNESS: Norman]

1 CHAIRMAN HONIGBERG: All right. Mr.
2 Bersak, you may proceed.

3 MR. BERSAK: Thank you, Mr. Chairman.
4 Good morning, Mr. Norman.

5 WITNESS NORMAN: Good morning.

6 MR. BERSAK: Before we start, I would
7 like to mark as a next exhibit, if I can find the pile of
8 papers here, the responses from Granite State Hydro
9 Association to PSNH's data requests in this proceeding.

10 MS. GEIGER: Mr. Chairman, I'm going to
11 object to marking those exhibits. We all met earlier this
12 week, on Monday, and we identified the documents that we
13 were going to premark. Mr. Bersak never indicated to any
14 of the parties, including myself, that he was going to be
15 marking anything in addition to the testimonies that have
16 been premarked. So, I was not aware that he was going to
17 mark all of GSHA's answers to data requests.

18 CHAIRMAN HONIGBERG: Mr. Bersak?

19 MR. BERSAK: I don't think it was a
20 requirement for us to premark everything that we're going
21 to submit, number one. Number two, I also was not aware
22 that the witness was going to be changing his testimony
23 here today, and he has added to his testimony today. So,
24 I don't think that we're precluded in putting things into

[WITNESS: Norman]

1 the record to support our case.

2 CHAIRMAN HONIGBERG: Ms. Geiger, I don't
3 really know what discussions you all had on Monday. It
4 would -- I think it is always possible to mark things in
5 addition to what you came prepared to mark or had
6 premarked, if things come up that you want to deal with.
7 I mean, I think -- I think, if there are things here that
8 Mr. Bersak knew he wanted to cross-examine Mr. Norman on,
9 and some of these data requests go to those, I mean, I
10 haven't seen them, I have no idea what he's going to show
11 him. But, if this is stuff that he knew he was going to
12 use, and he chose not to do it, you may have -- you may
13 have a little bit of an argument. But I don't know that
14 yet, and I don't know what he's going to show. I don't
15 think, as a general matter, parties are required to show
16 everything.

17 Go ahead, Ms. Geiger.

18 MS. GEIGER: Mr. Chairman, obviously,
19 this is not a criminal trial, and the rules of evidence do
20 not apply. But I think it's been past practice,
21 especially in this docket, where Parties went to great
22 length, including myself, to mark each and every exhibit
23 that I intended to use on Mr. Shuckerow for
24 cross-examination. So, Mr. Bersak had the benefit of

[WITNESS: Norman]

1 knowing all of the documents ahead of time that I was
2 going to be using with his witness. He did not extend to
3 me the same courtesy.

4 I do not have any objection, if Mr.
5 Bersak wants to ask Mr. Norman questions on
6 cross-examination, using particular documents, one or two
7 or whatever he needs, from the answers that GSHA provided
8 to discovery. But, if he's going to mark all of their
9 answers *en masse*, then I do have an objection. Because, I
10 think, (a) he's cluttering the record, and (b) he's not
11 giving me an opportunity to understand the focus of his
12 examination.

13 CHAIRMAN HONIGBERG: Mr. Bersak.

14 MR. BERSAK: Yes, sir. I can represent
15 that, at this morning, at the preliminary meeting that the
16 counsel had, I was asked "how much cross-examination do I
17 have for Mr. Norman?" My answer was "Between zero and 30
18 minutes, depending upon what happens on the stand." So,
19 it was not until this morning that we made a decision
20 whether we were going to cross-examine this witness or
21 not, number one.

22 Number two, as far as trying to separate
23 out one particular response, unfortunately, Granite State
24 Hydro Association never really provided distinct responses

[WITNESS: Norman]

1 to our data requests. They gave us a blanket objection to
2 everything. And, the one response I need incorporates by
3 reference other things in the document. So, I couldn't
4 just extract it without giving the entire document.

5 But I am only going to ask about one
6 question, Question Number 11.

7 MS. GEIGER: And, if I could have a copy
8 of that, I'd appreciate it. Because, based on my
9 understanding of what we did on Monday in premarking
10 exhibits, I was given to understand that none of Granite
11 State Hydropower Association's answers to data requests
12 were going to be premarked or introduced here. So, I did
13 not bring them with me.

14 (Document handed to Atty. Geiger.)

15 CHAIRMAN HONIGBERG: So, you have it
16 now. Mr. Bersak, are you representing to us that you only
17 just decided to mark all these exhibits based on what Mr.
18 Norman just said?

19 MR. BERSAK: We were discussing this
20 morning whether we were going to ask any cross-examination
21 questions of this witness, correct.

22 CHAIRMAN HONIGBERG: And, based on the
23 testimony that he offered, the supplemental information he
24 added to his testimony, and the other comments, the

[WITNESS: Norman]

1 responses to Mr. Shuckerow, that that's when you decided
2 to use these data responses?

3 MR. BERSAK: That's when we decided we
4 would ask cross-examination of this witness.

5 CHAIRMAN HONIGBERG: All right. Mr.
6 Bersak, you may proceed. Ms. Geiger, I understand your
7 objection. And, if you are aggrieved as a result, you
8 know what you can do.

9 MS. GEIGER: No, Mr. Chairman. I just
10 wanted to correct the record, and other parties can
11 correct me if I'm wrong, but I believe Mr. Bersak
12 indicated yesterday, at yesterday's session, that he was
13 going to have approximately between zero and 30 minutes of
14 questioning for Mr. Norman.

15 So, I don't believe that decision was
16 made for the first time this morning. I remember hearing
17 the timeframe of "30 minutes" yesterday.

18 MR. BERSAK: Well, I heard what you have
19 to say, Attorney Geiger. But, I can tell you, this
20 morning was when we made the decision we're going to
21 cross-examine this witness.

22 CHAIRMAN HONIGBERG: Mr. Bersak has
23 represented what he's represented. I understand your
24 position, Ms. Geiger.

[WITNESS: Norman]

1 (The document, as described, was
2 herewith marked as **Exhibit XX** for
3 identification.)

4 **CROSS-EXAMINATION**

5 BY MR. BERSAK:

6 Q. Good morning once again, Mr. Norman. You indicated,
7 during your direct examination, that you previously
8 testified before this Commission in the original
9 restructuring docket, DE -- or, DR 99-099. Is it
10 correct that that restructuring case was ultimately
11 resolved by the 1999 and later 2000 PSNH Settlement
12 Agreements?

13 A. Could you repeat your question please. Because --

14 Q. Sure.

15 CHAIRMAN HONIGBERG: Mr. Norman, stop.
16 Mr. Bersak, why don't you repeat your question.

17 BY MR. BERSAK:

18 Q. This morning, during your direct testimony, you
19 indicated that you had previously testified before this
20 Commission in the original restructuring docket, DR
21 99-099. Isn't it correct that that restructuring case
22 was finally resolved for PSNH by the 1999 Settlement
23 Agreement?

24 A. I don't have specific recall.

[WITNESS: Norman]

1 Q. But you did testify that the provision in the 2015
2 Settlement Agreement that's the subject of this
3 proceeding continues the exact same methodology as
4 contained in that 1999 Agreement, correct?

5 A. I did say that, based upon the statements that have
6 been made in the 2015 docket, and also public
7 statements, in which the assertion has been made that
8 those provisions, which I refreshed my memory on in
9 this docket, would be continued, yes.

10 Q. And, is it correct that none of GSHA's members
11 participate in ISO New England's day-ahead market?

12 A. I don't know the answer to that question.

13 Q. If you can turn to what has been marked as the next
14 exhibit, which was --

15 MR. FOSSUM: WW.

16 MR. BERSAK: What's that?

17 MR. FOSSUM: WW.

18 CHAIRMAN HONIGBERG: No, it's "XX".

19 MR. BERSAK: "XX".

20 MR. FOSSUM: "XX"?

21 BY MR. BERSAK:

22 Q. "XX", which are the responses that Granite State Hydro
23 Association gave to the data requests of Public Service
24 of New Hampshire. If you could turn to Page Number 7,

[WITNESS: Norman]

1 and take a look --

2 A. I'm going to have to look, unless you provide me with a
3 copy, I'm going to have to go into my notes.

4 Q. Take mine.

5 (Atty. Bersak handing document to
6 Witness Norman.)

7 BY MR. BERSAK:

8 Q. Here you go.

9 A. Thank you.

10 Q. Please take a look at Question Number 11 on that page.
11 And, is it correct that Granite State Hydro was asked
12 by Public Service of New Hampshire, 11, "Does Mr.
13 Norman agree that a properly established avoided cost
14 rate should produce a result that causes neither costs
15 nor benefits to the purchasing utility's retail
16 customers? If not, please explain why."

17 A. I believe that that is the case. And, I think the
18 testimony was offered yesterday, based upon what we
19 understand has been presented as testimony, there would
20 be no adverse effect. I say that, because, as we
21 understand it, Granite's -- the QF purchases by Public
22 Service are being used to offset the default service
23 load from Public Service, which would mean that the
24 avoidance of having to purchase that quantity of power

[WITNESS: Norman]

1 would avoid the expenditure at a rate of 90 percent in
2 the day-ahead market and 10 percent in the real-time
3 market, having purchased and used that quantity of
4 power and avoided the need for it.

5 What really is resulting at this point
6 is the fact that, per Mr. Shuckerow's testimony
7 yesterday, with the ISO regulations, are providing that
8 we're compensated only at a real-time rate. And, so,
9 under that circumstance, as I understand the way in
10 which power is being handled by Public Service, the QFs
11 are actually subsidizing the retail customers, rather
12 than penalizing them.

13 Q. So, you dispute Mr. Shuckerow's testimony from
14 yesterday, where he said that the output that Public
15 Service Company of New Hampshire gets from your QF
16 members does not offset, avoids day-ahead market
17 purchases, but only real-time purchases?

18 A. Based upon the testimony given by Mr. Frantz, based
19 upon the response to a question that we asked, and
20 based upon a review of the Default Energy Service
21 filings that are made consistently by Public Service,
22 they all consistently state that QF power is used to
23 meet the default service load. If that is the case,
24 what I don't understand is how, having purchased QF

[WITNESS: Norman]

1 power and used QF power, if that is available for
2 subsequent resale into the ISO-New England market.

3 What I did understand Mr. Shuckerow's
4 testimony to say yesterday was that, for rate purposes,
5 not the quantity of energy that was purchased, that you
6 were setting the value of the resale of whatever
7 quantity might have been resold or settled in the
8 real-time market at a real-time rate.

9 So, I'm frankly confused, based upon the
10 inconsistency between what's shown in your Default
11 Energy Service filings, what was said yesterday, and
12 the assertion that the power is being resold in the
13 real-time market.

14 Q. So, let's suppose that at a moment in time that Public
15 Service Company of New Hampshire had surplus energy,
16 and that energy would be sold then back into the
17 market. Do you agree with that?

18 A. Well, in terms of surplus energy, the first thing I'd
19 have to understand is where that surplus energy is
20 arising from. It could arise from coal generation,
21 biomass generation, hydro generation, or it could arise
22 from QF purchases.

23 Q. It could, but they're surplus. And, if there is
24 surplus, at a moment in time, do you agree that surplus

[WITNESS: Norman]

1 would be sold back into the ISO-New England market at
2 the real-time price?

3 A. To the extent that it was surplus, yes.

4 Q. Okay. And, you can't -- like you said, you can't trace
5 electrons. However, if we paid your members an
6 avoided -- a day-ahead price for a product in a market
7 they can't participate in, and we wound up selling that
8 same amount of energy into the real-time market,
9 wouldn't there be a difference or a mismatch in price?

10 A. Not necessarily. Because there are variations between
11 the planned generation of all of Public Service's
12 generating resources, as well as the QF resources.
13 And, as I've testified, quantity of QF power that we're
14 talking about here is a very insignificant part of the
15 overall generating mix. The data that was supplied to
16 us, we requested the January 1, 2015 to June 3rd --
17 June 20 -- June 30th, 2015 generation, indicated the QF
18 purchases in that period were about 2 percent out of 98
19 percent. And, so, on a daily basis, an hourly basis,
20 if there were a variation between, of any sort, between
21 the planned QF generation and the actual generation, it
22 would be very, very small.

23 We've actually reviewed the load data
24 which Public Service provided. There are a number of

[WITNESS: Norman]

1 hours during the six-month period that we saw where the
2 amount of energy that was settled in the real-time
3 market was actually less than the QF generation. If
4 that's the case, then, during those hours, you would
5 have had a component of power for which Granite -- from
6 which Public Service realized a day-ahead rate, when we
7 were only paid the real-time rate.

8 Q. The issue today really isn't the significance or how
9 much output your plants have, it's what the appropriate
10 avoided cost price is, correct?

11 A. Well, I think that's -- that's an open question, Mr.
12 Bersak. Because, when I read PURPA, and I read PURPA
13 to refer to and state and reference that the
14 "generating costs of the utility, plus its purposes" --
15 "plus its purchases", I have a great deal of problem in
16 reconciling the difference between the energy rate,
17 which is incurred on a variable cost by Public Service
18 in operating their coal plants and their wood plants,
19 and the real-time price that they're receiving.

20 A further analysis of the data that you
21 supplied to us --

22 CHAIRMAN HONIGBERG: Mr. Norman, do you
23 remember the question Mr. Bersak just asked you?

24 WITNESS NORMAN: I guess I'd have to ask

[WITNESS: Norman]

1 him to repeat please.

2 CHAIRMAN HONIGBERG: I'm not sure you
3 do.

4 WITNESS NORMAN: Okay.

5 CHAIRMAN HONIGBERG: Mr. Bersak, why
6 don't you try again.

7 BY MR. BERSAK:

8 Q. I believe the question I asked was, the issue that's
9 before the Commission today deals with the appropriate
10 pricing for mandatory purchase of QF power by PSNH
11 under the Public Utility Regulatory Policies Act, and
12 that calculation is not dependent upon the amount or
13 the significance of the amounts of output that has to
14 be purchased in the overall scheme of things, correct?

15 WITNESS NORMAN: Well, Mr. Chairman, I
16 apologize in the sense, the reason I was trying to answer
17 the question as I did is the fact, a question in my mind
18 at least, as to whether or not the generating costs of the
19 utility should at least be considered or form the basis of
20 the payment of power under PURPA, as compared to the
21 real-time price at this point. That's why I was answering
22 as I did.

23 CHAIRMAN HONIGBERG: Okay.

24 BY MR. BERSAK:

[WITNESS: Norman]

1 Q. To finish up my reference to one question in your data
2 request responses, Question Number 11, you do agree
3 that your response said that a proper avoided cost
4 price under PURPA would be one where there are "no
5 additional costs or benefits to the purchasing
6 utility's retail customers would be incurred", correct?

7 A. Yes.

8 Q. Do you have in front of you Exhibit HH, which was
9 sponsored by Granite State Hydropower Association?
10 That is the schedule of Vermont's Avoided Cost Rates.

11 A. I don't have that, no.

12 Q. But you are aware of that exhibit?

13 A. Yes, I am.

14 Q. You don't really need to refer to it.

15 A. Oh.

16 Q. Isn't it true that, in Vermont, QFs do not sell their
17 output under PURPA directly to individual utilities,
18 but instead sell to VEPP, Inc., which is a nonprofit
19 entity that acts under the Vermont Public Service Board
20 as a purchasing agent for electricity in the State of
21 Vermont?

22 A. Yes. As a proxy for the direct purchase by utilities,
23 because there are many small utilities, QF power is
24 consolidated, and then redirected to the Vermont

[WITNESS: Norman]

1 utilities.

2 Q. And, all the Vermont utilities then pay the same price
3 for that avoided --

4 A. Yes.

5 Q. -- price for that QF power?

6 A. Yes.

7 Q. And, each Vermont utility pays -- or, has to purchase
8 its representative share, based upon each utility's
9 load in the state?

10 A. Yes.

11 Q. Is that the case in New Hampshire?

12 A. No.

13 Q. Yesterday, you may recall there was a question
14 regarding the applicability of the Commission's net
15 metering rules at PUC 900 to GSHA members. Do you
16 recall that?

17 A. I do.

18 Q. Isn't it true that there are at least nine small hydro
19 generators in this state that are participating as net
20 metering hosts under the 900 rules?

21 A. I don't know whether it's nine. I know there are some.

22 Q. That's fine. Thank you. In your correction to Exhibit
23 L, which is your supplemental testimony, on Page 5, I
24 believe you inserted a sentence that says something to

[WITNESS: Norman]

1 the effect of "PSNH's average generating costs in 2015
2 were 6.71 cents per kilowatt-hour, while the average
3 New Hampshire real-time locational marginal price for
4 the period was 4.02 cents per kilowatt-hour." Did I
5 get that correctly?

6 A. Yes.

7 Q. And, you said that the numbers -- or, the number "6.71"
8 came from an exhibit that was proffered during
9 yesterday's testimony, is that correct?

10 A. Yes.

11 Q. Do you have that exhibit in front of you, I believe
12 it's Exhibit II?

13 A. This has the title "PSNH Self Generation Costs"?

14 Q. That is correct.

15 A. Yes.

16 Q. Now, I do not see a number of "6.71 cents per
17 kilowatt-hour" on this document. Does it appear in
18 this document anywhere?

19 A. It does. And, I think Ms. Geiger explained it
20 yesterday, and it's the arithmetic average of "7.49",
21 which is shown in the second column, the period
22 "January through June 30th, 2015", "Total Self
23 Generating Costs", and the number "5.93", which is
24 shown in the fourth column, the period "July through

[WITNESS: Norman]

1 December 2015", the arithmetic average, I believe it
2 results at "6.71 cents".

3 Q. And, were you here yesterday when Mr. Shuckerow
4 testified that the amounts that appear on Lines 2,
5 which are the "Fossil/Hydro Operations & Maintenance,
6 depreciation and taxes", on Line 2, and, on Line 3,
7 "Return on Rate Base", are not avoided as a result of
8 purchases from QFs?

9 A. Yes.

10 Q. And, that the proper number, if you were going to refer
11 to this document, would be the one on the top line, the
12 "Fossil Energy Costs". If you were going to do the
13 same mathematical exercise you just walked us through,
14 and add 3.24 and 2.31, from the fourth column over, and
15 divide that by two, do you agree that the number that
16 Mr. Shuckerow would accept as the right number is "2.77
17 cents per kilowatt-hour"?

18 A. No. I would request that I could respond, to
19 clarify -- I would like to clarify my answer.

20 CHAIRMAN HONIGBERG: It is an odd
21 question, Mr. Bersak. You're asking this witness if
22 Mr. Shuckerow would have done something. So, I'm not --
23 if you want to ask him what the arithmetic mean of 3.24
24 and 2.31 is, I'll bet he can do it.

[WITNESS: Norman]

1 MR. BERSAK: Okay.

2 BY MR. BERSAK:

3 Q. Mr. Norman, if you were to add 3.24 and 2.31, and
4 average them, what is the result?

5 A. Well, give me a minute. I need a calculator, right?

6 Q. Either that or a piece of paper and pencil, I think.
7 Long division still works.

8 A. I get "2.775".

9 Q. Exactly. Thank you. Finally, one last --

10 A. And, may I just say that what that is --

11 Q. No.

12 CHAIRMAN HONIGBERG: Mr. Norman, there's
13 no pending question.

14 WITNESS NORMAN: Okay.

15 MR. BERSAK: There's no question.

16 BY MR. BERSAK:

17 Q. Yesterday -- I'm going to finish up. Yesterday, there
18 was a question from the Commissioners relating to "line
19 losses". Isn't it true that any QF can ask PSNH to
20 conduct a line loss study for a nominal fee, and have
21 the result of that study used to adjust payments for
22 those line losses?

23 A. They have the right to ask. I don't know what the
24 nominal fee would be, or whether it would be nominal.

[WITNESS: Norman]

1 Q. And, some GSHA members have, in fact, had such studies
2 done by PSNH, correct?

3 A. They have.

4 MR. BERSAK: Thank you. No further
5 questions.

6 CHAIRMAN HONIGBERG: Just want to
7 confirm that none of the other counsel out there have
8 questions for Mr. Norman?

9 *[No verbal response]*

10 CHAIRMAN HONIGBERG: All right. That's
11 correct. Commissioner Iacopino?

12 SP. COMMISSIONER IACOPINO: No
13 questions.

14 CHAIRMAN HONIGBERG: Commissioner
15 Bailey?

16 COMMISSIONER BAILEY: I have a few.

17 BY COMMISSIONER BAILEY:

18 Q. I'll ask you, Mr. Norman, why you think that the rate
19 that you just averaged to meet the 2.775 is not
20 appropriate?

21 A. Because it's a weighted average rate, and it does not
22 value fuel costs. If you look at the variable costs of
23 the wood plants, and you look at the variable costs of
24 the biomass plants, in terms of just the fuel that they

[WITNESS: Norman]

1 burn, what you'll find, and I would have to go back to
2 try and -- I have some specific numbers. What you
3 would find is that there are a number of hours during
4 the Operating Period when Public Service is running its
5 coal plant and running its biomass plant, and incurring
6 a higher variable cost for those plants on an hourly
7 basis than what is being paid in the real-time market.

8 And, if I look at the wording of PURPA,
9 and I look at the utility's generating costs, it makes
10 no sense to me that Public Service can run their
11 plants, be under compensated for their variable costs
12 on an hourly basis, and, yet, our QF plants are paid on
13 a real-time basis.

14 Q. Isn't that same thing true, though, when you average
15 the numbers as you did?

16 A. No, I don't believe that it is. In the sense that
17 these are -- this is the form that is used by Public
18 Service when they -- when they submit their default
19 energy rate proposals, which are then reviewed and
20 approved. And, it gives you an average rate over the
21 six-month period. But ISO is not run in that way.
22 It's run on an hourly basis. And, the bidding in and
23 purchase of power is done on an hourly basis. And, so,
24 to look at the result of averages I don't think is a

[WITNESS: Norman]

1 fair way of looking at the -- both costs and
2 compensation that should be incurred from QFs, which
3 are held to an hourly standard.

4 Q. But that's what you're asking us to do, when you
5 modified your testimony to say "the average generating
6 costs in 2015 were 6.71 cents an hour" -- "a
7 kilowatt-hour"?

8 A. The point I was trying -- the point I was trying to
9 make is the fact that the energy rates, which are
10 authorized and approved by the PUC, and then charged to
11 the customers, are 50 percent more than what the --
12 what the rates are that QFs are being paid right now.
13 And, it goes all the way back to when PURPA was first
14 enacted, and when these markets didn't exist, at a
15 point in time when it was expected that PURPA would
16 enable QFs to access a comparable market. We're in a
17 hybrid period right now, in which, for all of the prior
18 occurrences of building plants and operating plants,
19 Public Service justifiably is recovering the approved
20 returns, O&M costs, and whatever on investments that
21 they make. And, I understand. That's what the
22 regulated environment is.

23 But, with all the changes that have
24 evolved since 1999, we find ourselves in a position

[WITNESS: Norman]

1 which I just can't reconcile. I don't understand why a
2 QF, that is supposed to have access to an equivalent
3 market, is held to the standards to which it is held
4 right now.

5 And, what we're arguing about, I've put
6 in my testimony, both the direct and supplemental
7 testimony, is the fact that, on balance, or as a
8 compromise, the one thing which we've been asking for
9 is recognition for day-ahead rates, based upon the way
10 the power is being used, based upon the significant
11 difference that exists right now. And, --

12 Q. So, it's a policy determination that you want us to
13 make?

14 A. I believe it -- I believe it is at least, in part, a
15 policy decision, yes. And, I believe that the FERC has
16 consistently, as it did in the New Orleans decision,
17 indicated that there's great latitude to the state --
18 to the state utility commissions to basically take that
19 into account.

20 Q. Okay. On Page 8 of your testimony, --

21 A. Is that the direct or supplemental?

22 Q. The direct, which is Exhibit K. I know you're not a
23 lawyer, but you refer to "RSA 369-B:3, IV(b)(1)(A)".
24 And, I could not find that. Maybe, perhaps Attorney

[WITNESS: Norman]

1 Geiger could help us out.

2 A. I would have to ask Attorney Geiger.

3 MS. GEIGER: Commissioner Bailey, that
4 may be a typographical error. That is -- hmm, I don't
5 have the RSA in front of me. But, just from memory, I
6 know that there may be a little baby (a) that may be
7 missing from that cite.

8 COMMISSIONER BAILEY: Oh, I found it.
9 Never mind.

10 MS. GEIGER: Is there a lower case (a)
11 that should go after the "3"?

12 COMMISSIONER BAILEY: No, it's right. I
13 think I must have been looking at VI this morning when I
14 tried to find the reference.

15 MS. GEIGER: Okay.

16 BY COMMISSIONER BAILEY:

17 Q. All right. Can you look at Page 4? Of your direct
18 testimony, right. Can you tell me what you think the
19 term "incremental cost" means?

20 A. This is on line -- line what, please?

21 Q. Well, I'll get you there. But, actually, you talk
22 about "incremental cost" on Page 5.

23 A. I think that, at the time that PURPA was drafted, the
24 definition of "incremental cost", at least as it was

[WITNESS: Norman]

1 used in New Hampshire to establish rates or rate
2 orders, was the avoided cost of the next generating
3 unit, which was Seabrook.

4 Q. Right. But now we don't have generation --

5 A. And, we don't have it anymore. And, that's why, in
6 this instance, we believe that the day-ahead and
7 real-time markets are interrelated, and that you should
8 take into account the fact that you cannot have one
9 rather than the other. And, so, to us, it would be
10 either the -- it would be the proportional
11 participation in the day-ahead and real-time markets.

12 With respect to hydro QF generation,
13 it's quite predictable over short periods of time.
14 This is another data request we made of Public Service.
15 We haven't put it in the record. But our run-of-river
16 plants run in the same way that Public Service's do.
17 We have rain today. We know our generation is going to
18 increase as the watershed comes up. And, once the
19 watershed is full, you have a gradual decline in water
20 flow. And, so, from hour-to-hour, your generation is
21 quite predictable, as it is from day to day.

22 Recognizing what Mr. Shuckerow said
23 yesterday, and that is that you may have plant outages
24 and the like that are unscheduled. But, basically, the

[WITNESS: Norman]

1 run-of-river plants that QFs have are very, very
2 similar, albeit much smaller.

3 Q. I understand that. But, if we didn't get the rain
4 today that was expected yesterday, and PSNH had a
5 shortage in its supply, the incremental cost to get
6 more power as needed today would be the real-time
7 price, right?

8 A. It would depend upon its day-ahead and generating
9 plans, time of year, load. And, yes, they would have
10 the same opportunity, as we do, to predict what was
11 going to be generated in the next day. But, if there
12 were shortages, you'd go to the real-time market, as
13 they say.

14 But, again, it's -- there's a high
15 variability. We've gone back and analyzed all of the
16 hours in the six-month period. And, you get some very,
17 very different answers, depending upon where you are in
18 the generating period. Whether it's cold, whether it's
19 hot, ISO load, whether we've had a dry spell or whether
20 we've had a wet spell. But, basically, ultimately, you
21 go to the real-time market.

22 But where we have our confusion is, they
23 are saying that they're using our power to meet their
24 load. And, if they are, then it's there, and they have

[WITNESS: Norman]

1 a source of information upon which to make a very
2 educated projection of the amount of power that the QFs
3 will produce on the subsequent day.

4 Q. Okay. Let's look at the direct testimony, Page 4, Line
5 29 and 30.

6 A. Yes.

7 Q. And, this is -- I think this is a PURPA regulation that
8 you're reciting here?

9 A. Yes.

10 Q. And, it says that the QF price, basically, "must not
11 discriminate against QFs" and "must not exceed the
12 incremental cost to the electric utility of alternative
13 electric energy".

14 A. Yes.

15 Q. Is that the rule that we need to interpret?

16 A. I believe it is, putting aside whether there are policy
17 considerations as well.

18 Q. Can we -- can we apply our policy considerations, when
19 we're -- well, this is -- I guess, this is a legal
20 argument.

21 A. Well, I guess, the simple answer I'd say, for
22 incremental cost, is that we're arguing that you need
23 to consider both, you should and need to consider both
24 the day-ahead and real-time market, not just the

[WITNESS: Norman]

1 real-time market, given what --

2 Q. But this says -- this says we "must not exceed
3 incremental cost"?

4 A. But, if you define "incremental cost" as a daily cost,
5 as a daily cost or an hourly cost, it's composed of
6 both a day-ahead component and a real-time, real-time
7 component.

8 Q. Okay. All right. All right. On Page 8 of your
9 supplemental testimony, you're talking about using the
10 day-ahead pricing until the generic -- for the generic
11 period until avoided cost rates are established in the
12 generic docket -- strike that.

13 In the period after divestiture, --

14 A. Yes.

15 Q. -- is there any reason not to pay the Default Service
16 rate that they bid in the -- that they receive as a bid
17 in the market when they're buying energy for their own
18 customers?

19 A. Yes. As I've indicated, I've become a little -- at
20 least a little bit more educated in the process here.
21 And, Public Service has put some testimony in. And,
22 there are components that are included in the default
23 service bid, which cannot be -- which cannot be
24 provided by QFs. And, I concede that, Granite State

[WITNESS: Norman]

1 concedes that. But there are other components of the
2 bid which we do think should be recognized. And, we --
3 I have indicated that, given the ruling -- given the
4 ruling in the rulemaking request, it was our
5 understanding that that would be addressed in a
6 subsequent -- a subsequent docket.

7 Q. Okay. So, we'll save that for another day?

8 A. Unfortunately, yes.

9 COMMISSIONER BAILEY: All right. Thank
10 you. That's all I have. Thank you.

11 CHAIRMAN HONIGBERG: Mr. Norman, my
12 questions are largely legal questions that I think the
13 lawyers will be answering in writing. So, I don't have
14 anything specific for you.

15 Ms. Geiger, do you have any further
16 questions for your witness?

17 MS. GEIGER: May I have a moment to
18 consult with him please?

19 CHAIRMAN HONIGBERG: Sure.

20 (Atty. Geiger conferring with Witness
21 Norman.)

22 MS. GEIGER: I have nothing further, Mr.
23 Chairman. Thank you.

24 CHAIRMAN HONIGBERG: All right. Mr.

[WITNESSES: Dolan~Allegretti]

1 Norman, you can return to your seat. Thank you very much.

2 WITNESS NORMAN: Thank you.

3 CHAIRMAN HONIGBERG: Next witnesses I
4 believe are from NEPGA, is that right, Ms. Holahan?

5 MS. HOLAHAN: NEPGA and RESA.

6 CHAIRMAN HONIGBERG: NEPGA and RESA,
7 okay.

8 (Whereupon *Dan Dolan* and
9 *Daniel Allegretti* were duly sworn by the
10 Court Reporter.)

11 **DAN DOLAN, SWORN**

12 **DANIEL ALLEGRETTI, SWORN**

13 **DIRECT EXAMINATION**

14 BY MS. HOLAHAN:

15 Q. Good morning, gentlemen. Mr. Dolan, would you please
16 state your name and title for the record please.

17 A. (Dolan) Dan Dolan, President of the New England Power
18 Generators Association.

19 Q. And, for whom are you testifying today?

20 A. (Dolan) On behalf of the New England Power Generators
21 Association, as well as the Retail Energy Supply
22 Association.

23 Q. Mr. Allegretti, would you please state your name for
24 the record.

[WITNESSES: Dolan~Allegretti]

1 A. (Allegretti) Daniel Allegretti.

2 Q. And, your title?

3 A. (Allegretti) I am Vice President - State Government
4 Affairs - East, with Exelon Corporation.

5 Q. And, for whom are you testifying today?

6 A. (Allegretti) I am also testifying today on behalf of
7 RESA and NEPGA.

8 Q. Mr. Dolan, did NEPGA and RESA file joint testimony
9 supporting the Settlement Agreement on or about July
10 17th, 2015?

11 A. (Dolan) Yes, we did.

12 Q. And, that testimony has now been marked as "Exhibit R".
13 Mr. Dolan, would you please briefly summarize your
14 joint testimony.

15 A. (Dolan) Absolutely. Our testimony briefly summarized
16 the basis for divestiture under restructuring, and the
17 lead-up to the current docket and the settlement
18 negotiations, NEPGA and RESA's strong support for
19 divestiture to end the bifurcated market in rate-base
20 generation, and summarize our engagement in the
21 settlement negotiations, and both NEPGA and RESA's
22 actions as initial signatories and strong support for
23 the Settlement focused on goals of shifting risks away
24 from consumers and market participants, as well as

[WITNESSES: Dolan~Allegretti]

1 providing further transparency and competition to serve
2 default customers in a restructured market.

3 Q. Mr. Dolan, on or about October 28th, 2015, did NEPGA
4 and RESA withdraw from the Settlement Agreement?

5 A. (Dolan) We did.

6 Q. And, did NEPGA and RESA jointly file a notice to that
7 effect with the Commission?

8 A. (Dolan) Yes.

9 Q. Mr. Allegretti, can you please address changes in your
10 testimony, and explain why NEPGA and RESA withdrew its
11 support for the Settlement Agreement?

12 A. (Allegretti) Certainly. NEPGA and RESA continue to
13 stand by the statements in our testimony in support of
14 asset divestiture. But, in support of that
15 divestiture, we also made statements, such as the
16 statement on Page 15, that "It completes the move to a
17 fully-competitive generation marketplace fulfilling the
18 commitment made over a decade ago with restructuring, a
19 basis on which competitive power generators invested
20 here in...New England."

21 We also make the statement in our
22 testimony on Page --

23 CHAIRMAN HONIGBERG: And, if you're
24 going to read it, Mr. Allegretti, read it slowly.

[WITNESSES: Dolan~Allegretti]

1 WITNESS ALLEGRETTI: Will do. Thank
2 you, Mr. Chairman.

3 **BY THE WITNESS:**

4 A. (Allegretti) On Page 11, that "through divestiture the
5 investors, not consumers, bear the risk of capital
6 investment. This is the most compelling reason to move
7 forward with divestiture."

8 I think NEPGA and RESA are concerned
9 that we may have overstated the case for the completion
10 of restructuring through the Settlement, and that it
11 may not fully attain those goals as outlined in our
12 testimony. But we are -- continue to be supportive of
13 the asset divestiture as a very positive and helpful
14 move in that direction.

15 But the potential for additional
16 stranded costs in the future, and the misalignment of
17 incentives in the future, is certainly a possibility
18 under commitments that are not prevented under the
19 Settlement Agreement as it was filed with the
20 Commission.

21 Specifically, we filed a motion in
22 September in which RESA and NEPGA detailed that the
23 Public Service Company of New Hampshire, or its parent,
24 Eversource, on August 18, 2015, announced that it had

[WITNESSES: Dolan~Allegretti]

1 entered into a 20-year firm power purchase agreement
2 with Hydro-Quebec. We understand that may not be an
3 executed agreement. We sought additional discovery on
4 the issue, which the Commission declined to allow.

5 But we remain concerned that future
6 power purchase agreement commitments for fixed
7 quantities of power could create stranded costs in the
8 future that could impede restructuring. And, we felt
9 compelled to withdraw from the Settlement Agreement, in
10 order to draw the Commission's attention to this
11 important issue.

12 Nevertheless, we do continue to support
13 the various aspects of the Settlement Agreement that
14 would lead to a full asset divestiture.

15 BY MS. HOLAHAN:

16 Q. Mr. Allegretti, other than the reasons set forth in the
17 withdrawal notice, and your testimony today, and the
18 exhibit you just referenced -- excuse me, the motion
19 you just referenced, are there any other changes to
20 your testimony?

21 A. (Allegretti) Only to indicate, the testimony does
22 indicate that we support the Settlement Agreement. I
23 think, as we indicated subsequently, we did file a
24 letter with the Commission withdrawing our support.

[WITNESSES: Dolan~Allegretti]

1 So, I would correct that.

2 Q. Mr. Dolan, other than the reasons set forth in the
3 withdrawal notice and the motion, and those that have
4 been discussed on the stand today, do you have any
5 other changes to your testimony?

6 A. (Dolan) No, I do not.

7 MS. HOLAHAN: Thank you. The witnesses
8 are available for cross.

9 CHAIRMAN HONIGBERG: All right. Mr.
10 Bersak, do you have questions for the witnesses?

11 MR. BERSAK: No questions. Thank you.

12 CHAIRMAN HONIGBERG: Mr. Irwin?

13 MR. IRWIN: No questions. Thank you.

14 CHAIRMAN HONIGBERG: Does anybody have
15 questions for the witnesses?

16 *[No verbal response]*

17 CHAIRMAN HONIGBERG: None of the counsel
18 are indicating that they do. All right.

19 Commissioner Iacopino, do you have
20 questions?

21 SP. COMMISSIONER IACOPINO: Just one.

22 BY SP. COMMISSIONER IACOPINO:

23 Q. When you originally showed your support for the
24 Agreement, did you not expect that Public Service would

[WITNESSES: Dolan~Allegretti]

1 engage in power purchase agreements?

2 A. (Allegretti) We certainly anticipated that the Public
3 Service Company of New Hampshire would procure default
4 service for the benefit of its default service
5 customers through wholesale contracts. We anticipated
6 that they would be a full-requirement, load-following
7 service, along the lines described by Mr. Shuckerow.
8 And, we did not anticipate that the Public Service
9 Company of New Hampshire going forward would make
10 commitments for fixed quantities of power, not tied to
11 the provision of default service, or that they would
12 make any investments in generation assets on a
13 going-forward basis, and seek recovery through
14 non-bypassable charges.

15 Q. So, essentially, you consider the Northern Pass
16 Transmission Project to be a generation project?
17 That's the way you're looking at it?

18 A. (Allegretti) A purchase of a fixed quantity of power
19 across that facility certainly has a different
20 potential to create a huger stranded cost than a
21 full-requirement, load-following service contract, in
22 which the risk of a change in quantity is on the
23 supplier. When you deal with a fixed quantity, that
24 has a different implication for incentives in

[WITNESSES: Dolan~Allegretti]

1 restructuring than the type of default service
2 procurement that we anticipated would take place under
3 the Settlement Agreement going forward.

4 A. (Dolan) And, Commissioner, if I may? The basic concern
5 is further long-term obligations that the consumer is
6 bearing the costs and the risks for that are entered
7 into by the utility without a specific policy
8 direction. And, another example is, beyond the default
9 customer obligations that Mr. Allegretti noted,
10 certainly we see, both in New Hampshire, as well as the
11 Eversource sister utilities in other states, do enter
12 into some long-term PPAs. But it is at the specific
13 direction of the Legislature, for example, for
14 Renewable Portfolio Standard purposes, or it's specific
15 direction from the Public Utilities Commission.

16 What came to light, and therefore led to
17 the withdrawal from the Settlement by our organizations
18 is something that is completely different from that.

19 MR. BERSAK: If I may, Mr. Chairman?
20 May I remind the Commission that this Commission has ruled
21 that it is premature for us to address a hypothetical
22 PPA's effect on the Settlement Agreement. And, that's --

23 CHAIRMAN HONIGBERG: Actually, no, that
24 wouldn't be appropriate for you to do right now. I mean,

[WITNESSES: Dolan~Allegretti]

1 I appreciate the comment. But, right now, we're
2 interested in hearing from these witnesses about their
3 position.

4 It may be appropriate in a few moments
5 for you to do that. But, right now, I think it --

6 MR. BERSAK: In that case, I withdraw.

7 CHAIRMAN HONIGBERG: All right. Thank
8 you, Mr. Bersak. I'm sorry, Commissioner?

9 SP. COMMISSIONER IACOPINO: No other
10 questions.

11 CHAIRMAN HONIGBERG: All right.
12 Commissioner Bailey, do you have questions for the
13 witnesses?

14 COMMISSIONER BAILEY: Yes. Good
15 morning.

16 WITNESS ALLEGRETTI: Good morning.

17 BY COMMISSIONER BAILEY:

18 Q. I'm not sure what you said at the end of your direct.
19 Are you in support of the Settlement or you are not in
20 support of the Settlement?

21 A. (Allegretti) I think it's fair to say that we are in
22 support of the divestiture of the assets. But we are
23 not a signatory to or supporter of the Settlement
24 Agreement at this time.

[WITNESSES: Dolan~Allegretti]

1 Q. But your testimony --

2 A. (Allegretti) Otherwise stands.

3 Q. -- is in support of approving the Settlement? Yes,
4 because that's what we have to decide.

5 A. (Witness Allegretti nodding in the affirmative).

6 Q. Okay.

7 A. (Allegretti) Well, to answer the question, we would
8 certainly support an order of this Commission that
9 leads to the divestiture of the assets.

10 Q. Okay. And, if this Commission were to make that
11 determination, could you tell me how that approval
12 would affect the economy? Would it have any impact on
13 the economy, from your business perspective?

14 A. (Dolan) From our standpoint, it would move New
15 Hampshire into a situation in which it has the
16 advantage of using a fully competitive process, to both
17 supply wholesale power, as well as then procuring
18 default service for consumers. And, by doing so, it
19 supports competitive investments within the state, in
20 the form of new generation, upgrades and improvement at
21 existing facilities, and doesn't undermine those
22 economic investments and having to compete in a
23 unbalanced playing field, with facilities that get
24 guarantied rate base, cost recovery, as well as rates

[WITNESSES: Dolan~Allegretti]

1 of return that don't come through the marketplace.

2 And, in that sense, would strongly move New Hampshire
3 forward and benefit consumers from a more reliable and
4 competitive system overall.

5 A. (Allegretti) I think that I would only say, from the
6 retail perspective, I don't know that I can speak to
7 the broader economy. But, certainly, the functioning
8 of the competitive retail electricity marketplace
9 within the State of New Hampshire would be improved.
10 And, as we detailed in the testimony, where the
11 provision of default service is tied to the existing
12 assets, there's a misalignment of incentives for the
13 utility, between managing the revenue necessary to pay
14 for the cost of those assets, versus facilitating a
15 competitive environment in which third parties serve
16 those customers. And, I think better aligning those
17 incentives will help to bring about the level of
18 competition and innovation that retail restructuring
19 promised. So, in that sense, I think it represents an
20 economic improvement and a step forward, at least for
21 the retail electricity marketplace within the state.

22 Q. Thank you. Do you think -- what do you think the
23 impact on PSNH customers will be?

24 A. (Dolan) It would end the cycle of risk of having to

[WITNESSES: Dolan~Allegretti]

1 bear the burden from potential investments made, either
2 at existing facilities or potential new facilities, in
3 a rate-base manner, in which those costs are borne by a
4 small and potentially smaller rate base, as customers
5 take advantage of the retail marketplace and
6 potentially leave. So, it would ensure that those
7 customers get a fully competitive price and offering,
8 with the risks and the costs associated with those
9 facilities borne by the suppliers themselves, and not
10 by the customer base.

11 Q. Do you think -- do you think that the competitive
12 market will provide more choice for the residential
13 class of customers as a result of this?

14 A. (Allegretti) I think this will certainly improve the
15 environment for competitive suppliers to make
16 residential retail offerings in New Hampshire.

17 Q. Okay. Do you think that the improvement in the
18 competitive market would provide employment
19 opportunities in New Hampshire within competitive
20 generators?

21 A. (Dolan) Certainly, as -- assuming divestiture moves
22 forward, and there are new owners of the facilities,
23 what we are seeing in the wholesale marketplace is the
24 first real build cycle and investment cycle in close to

[WITNESSES: Dolan~Allegretti]

1 a decade in New England. As older facilities retire,
2 new facilities come on, and the construction, and the
3 permanent employment at those facilities follow along
4 with it. And, what we've also seen is that the
5 individual sites of some of these facilities are being
6 reused for new facilities.

7 And, a great example is what's going on
8 right now at the Salem Harbor power station in
9 Massachusetts, where an older coal and oil facility has
10 been retired and torn down, and right now a new natural
11 gas combined-cycle is under construction and
12 development.

13 And, certainly, as we see more of some
14 of the older facilities retired and brought down,
15 creating an environment in which any new investor can
16 come in and make the investment and develop a new
17 facility does offer additional employment, both from a
18 construction standpoint and then within the power
19 generation facility, for decades into the future.

20 A. (Allegretti) That would be the answer with regard to
21 the wholesale competitive market. To the extent that
22 it produces increased retail opportunities may also
23 generate increased employment.

24 Q. Thank you. Do you see anything in the Settlement

[WITNESSES: Dolan~Allegretti]

1 Agreement that would allow PSNH to seek recovery of
2 stranded costs of a power purchase agreement that
3 doesn't exist today?

4 A. (Dolan) We don't believe so. And, that was why we were
5 initial signatories of the Settlement. But it's based
6 on public statements that we've heard from the utility,
7 as well as its affiliate in Northern Pass, that gave us
8 great concern and pause, which was why we made the
9 motion initially for questions on discovery. And,
10 ultimately, when the Commission chose not to go down
11 that path, we felt it was in our best interest to
12 remove ourselves from the Settlement Agreement.

13 Q. That haven't made public statements that they expect to
14 have stranded costs as a result of any new PPAs, have
15 they?

16 A. (Dolan) And, yet, any time you have a PPA, I think
17 there is the potential for the stranded costs with
18 that.

19 Q. And, we would probably talk about that, if we were to
20 receive a petition to approve such PPA, and then you
21 guys would come and talk about that, right?

22 A. (Allegretti) We would hope.

23 COMMISSIONER BAILEY: Okay. I think
24 that's all I have. Thank you very much.

[WITNESSES: Dolan~Allegretti]

1 BY CHAIRMAN HONIGBERG:

2 Q. I'm in the same place that I think Commissioner Bailey
3 is. Is there a provision you're looking for in an
4 order otherwise approving what's before us? Are you
5 asking that we somehow say "And don't even think about
6 bringing a long-term PPA to us that might result in
7 stranded costs"? I mean, there's a whole other process
8 for that, isn't there?

9 A. (Allegretti) Well, I think it's important for the
10 Commission to detail the reasons for which it chooses
11 to approve the Settlement Agreement. And, if, in doing
12 so, you make clear that there is a public policy
13 benefit in moving the risk away from captive
14 ratepayers, and putting it onto investors' generation
15 and fostering a better alignment of the incentives
16 between the utility and retail competitive suppliers,
17 those types of -- that type of reasoning would
18 certainly be very helpful in indicating the
19 Commission's thinking on these policy issues. And, I
20 think would certainly shape arguments that we would
21 make in the future, should a proceeding such as the one
22 suggested by Commissioner Bailey arise.

23 A. (Dolan) But I would also add that, as is included
24 within the Settlement Agreement, in which there is

[WITNESSES: Dolan~Allegretti]

1 discussion of how future default service is procured
2 and moves forward, that within any order that approves
3 divestiture, our hope would be that the Commission
4 would also order that, therefore, default service
5 customers receive their power and their supply in an
6 open, competitive manner.

7 CHAIRMAN HONIGBERG: Okay. I see where
8 you guys are. I don't think I have any other questions
9 for you.

10 Ms. Holahan, do you have any further
11 questions for your witnesses?

12 MS. HOLAHAN: I do not.

13 CHAIRMAN HONIGBERG: All right,
14 gentlemen. Thank you very much.

15 WITNESS ALLEGRETTI: Thank you.

16 CHAIRMAN HONIGBERG: You can return to
17 your seats. Off the record for a minute.

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

20 CHAIRMAN HONIGBERG: We'll go on the
21 record. But we're going to take a short break. We'll be
22 back at 25 minutes to 12:00.

23 (Recess taken at 11:21 a.m. and the
24 hearing resumed at 11:40 a.m.)

1 CHAIRMAN HONIGBERG: All right. The
2 panel we have in front of us has been characterized as the
3 "rate design panel". So, who's going to be taking the
4 lead for counsel and getting us started? Mr. Bersak, will
5 you be doing that?

6 MR. BERSAK: I believe that all the
7 witnesses have been previously sworn, with the exception
8 of the two senators. And, I thought that Attorney Aslin
9 was going to take care of that for them.

10 CHAIRMAN HONIGBERG: All right. Well,
11 actually, let me do one thing, before we do that.

12 Mr. Bersak, there was something you
13 wanted to share with us when Mr. Dolan and Mr. Allegretti
14 were on the stand. Is there something you -- you wanted
15 to say something, and I stopped you.

16 MR. BERSAK: No.

17 CHAIRMAN HONIGBERG: No?

18 MR. BERSAK: No, we're fine.

19 CHAIRMAN HONIGBERG: All right.

20 MR. BERSAK: Let's proceed.

21 CHAIRMAN HONIGBERG: All right. Mr.
22 Aslin. Are you looking for -- you want the witnesses, the
23 rest of the witnesses to be sworn? I am a little confused
24 as to who is taking the lead.

[WITNESSES: Bradley~Felttes~Chung~Brennan~Antonuk~Frantz]

1 MR. ASLIN: I believe that four of the
2 witnesses were sworn in yesterday, but that the senators
3 had not yet been sworn in. So, they should probably be
4 sworn in.

5 CHAIRMAN HONIGBERG: All right. So,
6 Mr. Patnaude, why don't you take care of that for us.

7 (Whereupon **Jeb Bradley** and **Daniel Felttes**
8 were duly sworn by the Court Reporter,
9 joining a witness panel along with
10 **Eric H. Chung, James J. Brennan,**
11 **Thomas C. Frantz,** and **John Antonuk** who
12 were previously sworn.)

13 CHAIRMAN HONIGBERG: And, so, Mr. Aslin,
14 are you going to go first?

15 MR. ASLIN: Yes. As a courtesy to the
16 senators, since they're not represented by counsel, I
17 thought I could ask them the initial questions to get them
18 on the record.

19 CHAIRMAN HONIGBERG: All right. Why
20 don't you go ahead.

21 **JEB BRADLEY, SWORN**

22 **DANIEL FELTES, SWORN**

23 **ERIC H. CHUNG, PREVIOUSLY SWORN**

24 **JAMES J. BRENNAN, PREVIOUSLY SWORN**

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THOMAS C. FRANTZ, PREVIOUSLY SWORN

JOHN ANTONUK, PREVIOUSLY SWORN

DIRECT EXAMINATION

BY MR. ASLIN:

Q. Good morning, Senators. Senator Feltles, I'll start with you. If you could please state your name for the record.

A. (Feltles) Dan Feltles.

Q. And, in what capacity are you testifying here today?

A. (Feltles) State Senate District 15, and a signatory to the Settlement Agreement.

Q. Thank you. And, have you previously testified before the Commission?

A. (Feltles) I've not testified, although I have, you know, in a prior capacity, appeared before the Commission in different dockets.

Q. And Senator Bradley, could you state your name for the record please.

A. (Bradley) Good morning, Chris. Jeb Bradley, Senate District 3.

Q. Thank you. And, have you previously testified before the Commission?

A. (Bradley) Yes, I have. In the restructuring docket, that would have been the 2000-2001 timeframe.

[WITNESSES: Bradley~Feltres~Chung~Brennan~Antonuk~Frantz]

1 Q. Thank you. Senators, you submitted testimony in this
2 docket on July 10th, the direct testimony, that's been
3 marked as "Exhibit O", and, on November 23rd, the
4 rebuttal testimony that's been marked as "Exhibit P".

5 Do you have that testimony in front of you?

6 A. (Feltres) Yes.

7 Q. And, is that the testimony that you'd like to adopt
8 today as part of your testimony for this record?

9 A. (Feltres) Yes.

10 Q. Thank you. Do you have any corrections or additions to
11 that testimony?

12 A. (Feltres) No. Other than the -- in the rebuttal
13 testimony, we, you know, by agreement, grayed out some
14 of the testimony. But that's part of what's been
15 filed, so --

16 Q. Great. And, with that, I guess to start the panel off,
17 I would just ask the Senators to give a brief summary
18 of their position on the rate design issue, which is
19 the topic of this panel.

20 A. (Feltres) I'd be happy to, and then Senator Bradley as
21 follow-up. We support this Settlement as a global
22 resolution of all the issues, rate design was a
23 component of the Settlement, and an important
24 consideration of the global Settlement. As part of

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 rate design, rate design, in our view, helps to also
2 "consider" the economic impacts in PSNH's service
3 territory. And, you'll hear more testimony about the
4 REMI model and it produces jobs across industries.
5 You'll hear more testimony about that later on.

6 But, in terms of the economic impacts, I
7 would just encourage folks also to consider, and the
8 Commission to consider, the -- not just the customer
9 savings, in terms of the impact, economic impact, but
10 also the provisions relative to the municipal property
11 tax stabilization portion, which is important for the
12 economy in PSNH's service territory.

13 And, then, also attached as "Appendix B"
14 to the initial Settlement filing is comprehensive
15 worker protections for PSNH generation workers, to help
16 with the process of moving to a more competitive
17 market.

18 And, when we talk about the ability to
19 attract and retain across industries, in terms of the
20 rate design, if the rate design produced a
21 equi-proportional outcome, it would have even more
22 benefits to the residential rate class, which would,
23 obviously, benefit consumer purchasing power and retail
24 jobs and that kind of thing.

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 But the rate design proposed is
2 reasonable in light of a number of factors. Including
3 the fact that, as the REMI modeling shows, there's jobs
4 produced across industries, not just in on retail, but
5 LNG, manufacturing, high-tech. But, also, it's
6 important in terms of, not just REMI modeling, but, you
7 know, that's a quantitative output, it's important to
8 consider qualitative input in the rate design, too.

9 And, specifically, I'll point the
10 Commission to Attachment A of our rebuttal testimony,
11 which is the letter from the Business & Industry
12 Association, President Jim Roche.

13 And, I'll just read slowly just a couple
14 of sentences here. And, the BIA ultimately supported
15 Senate Bill 221. And, it says: "Our support
16 specifically relied upon the proposed rate design that
17 the Settling Parties including in the final settlement,
18 and which was understood by the BIA and the Legislature
19 as a key component to reduce the impacts of stranded
20 costs on Eversource's commercial and industrial
21 customers. It is important to recognize that
22 commercial and industrial ratepayers drive New
23 Hampshire's economy."

24 I can't emphasize enough the

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 consideration by the Legislature, in terms of the rate
2 design, as an important component of moving forward.
3 You know, and I think that, if you look at some of the
4 suggestions on rate design and how things are allocated
5 amongst business classes, I think it's also important
6 to note that the BIA doesn't just represent LG
7 customers. They represent a lot of business customers
8 in different classes. And, the amount of time and
9 effort and meetings, Senator Bradley and myself, with
10 BIA Board, with ultimate stake -- many stakeholders,
11 chambers of commerces, for the BIA to support the rate
12 design, when it, you know, represents multiple business
13 classes, I think says something about how delicate this
14 rate design portion of the Agreement is.

15 And, so, I would respectfully submit to
16 the Commission to, you know, not pluck out the rate
17 design out of the Settlement Agreement and make
18 adjustments to it. I would encourage the Commission to
19 consider it as part of the global Settlement. That's
20 the way all the parties looked at it, as part of a
21 global Settlement. And, I would respectfully submit
22 that that Settlement is in the public interest and
23 encourage the Commission to approve it.

24 CHAIRMAN HONIGBERG: Senator Bradley,

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 you want to add something?

2 WITNESS BRADLEY: Thank you very much,
3 Commissioners. Good morning, everybody. A pleasure to be
4 here.

5 **BY THE WITNESS:**

6 A. (Bradley) The Settlement is a settlement, it's a global
7 Settlement. Nobody ever gets everything that they
8 want. It's a compilation of a number of different
9 compromises to get to "yes".

10 The rate design, I can attest to what my
11 good friend from Concord just indicated, was essential
12 for the support in the Legislature of my bill, Senate
13 Bill 221. Had it not been for the rate design issue
14 that we negotiated as the Settlement Team, and then
15 went to and advocated for the balance of the process
16 through, in particular, in the House, but also in the
17 Senate, without the rate design that had the support of
18 the business community, I don't think any of us would
19 have been here today. So, to change that, would
20 totally change the dynamics of the Settlement.

21 So, why are businesses, you know,
22 supportive of the Settlement? Well, I know we're the
23 center of the political universe, but -- right now, and
24 it's all political ads right now, but back up not that

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 long ago, and the BIA was on television and on radio
2 touting the high cost of energy as a significant
3 impediment to job growth and the ability to some of the
4 largest blue chip firms in the State of New Hampshire
5 to be able to remain here. And, it's not just that a
6 BAE Systems, or any company like BAE, could easily pick
7 up and relocate. What is more likely to happen,
8 especially in companies that have a presence in New
9 Hampshire, but have a presence in multiple other
10 states, is the next unit of production increases is not
11 going to be in New Hampshire.

12 And, it's -- unfortunately, we're a
13 high-cost state in a lot of ways. We have high health
14 care costs, we have high workers' comp costs, we have
15 high business taxes. But Senator Feltles and I hear all
16 the time, the single worst problem of the big four is
17 high electric rates. Because we are, for any number of
18 reasons, as high as we are, to have the business
19 support for this Settlement at this rate design, I
20 think is indicative of the fact of how important the
21 rate design is and how important the Settlement is that
22 we move forward, get the divestiture behind us, the end
23 of the half-in-one-world/half-in-another-world of
24 deregulation partly. With this Settlement, we do that.

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 We implement fully competition, and we allocate the
2 stranded costs in a way that is fair to residential
3 customers, because they're going to see lower rates as
4 a result of this, but, in particular, protects the most
5 vulnerable segment of our economy, those large
6 businesses that have choice. And, guess what,
7 residential customers need jobs. Thank you.

8 CHAIRMAN HONIGBERG: Mr. Aslin, are the
9 other -- are you and the other Settling Parties then going
10 to follow up with your witnesses who are here? I know
11 they have all been sworn, they have already adopted their
12 prefiled testimonies. So, they don't need to do that.

13 MR. ASLIN: Great. I guess I'll pose a
14 single question to the panel.

15 BY MR. ASLIN:

16 Q. If anyone else has additional comments that they think
17 are necessary, in regard to rate design, before we open
18 it up to cross, this would be the opportunity?

19 A. (Antonuk) No. I think, for my part, I'd just
20 underscore agreement with what's been said, and the
21 importance of building the consensus it took to get to
22 this stage. That it's two major bodies in this state
23 have to act, and, unfortunately, they have to act in
24 sequence. The Commission has to go first or the

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 Legislature has to go first. I think what you need to
2 realize here is, because the legislation led, there
3 were certain arrangements, certain understandings that
4 were made.

5 And, while we certainly respect the
6 power of the Commission to exercise its judgment at
7 this point, I think it's important to realize that,
8 when you have a sequenced arrangement like this, that,
9 for the second body to undue a part of what the first
10 body did, has repercussions, I think, for the ability
11 to kind of work through these sorts of processes in the
12 future, when you have two separate entities that have
13 to act. Both of which have had to act independently,
14 and, unfortunately, can't all sit behind the same bench
15 at the same time and make a concurring decision.

16 MS. ROSS: I would like to propose a
17 question to my witness, if that's appropriate?

18 CHAIRMAN HONIGBERG: It is, Ms. Ross.
19 And, he looks like he's eager to say something. So, your
20 timing was propitious.

21 BY MS. ROSS:

22 Q. Well, let me just frame up what I would, and I'm sure
23 he'll address this, but I just want to point us to the
24 statutory language in Senate Bill 221. And, I'll read

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1 it, because it's short. "The Commission may
2 incorporate rate designs that fairly allocate the cost
3 of divestiture of PSNH's generation plants among
4 customer classes."

5 And, I would like to ask Tom, in his
6 sort of general summary comments, to address the
7 "fairness" concern with regard to rate design.

8 A. (Frantz) Well, I'll start by saying that, to an
9 economist, often there's ways to look at "fairness",
10 but, to many others, "fairness" is in the eye of the
11 beholder.

12 That said, I do think this is a fair
13 rate design. I think that it incorporated the
14 positions of numerous parties, as the senators have
15 just said, and Mr. Antonuk elaborated on. I think,
16 based on the history of restructuring in New Hampshire
17 and migration, and the customers that were in the
18 market and really weren't taking retail default service
19 from the Company, I think there was some expectation
20 about those costs. And, I think that that is different
21 today, as we go toward a rate design for stranded
22 costs, than it was during the 1999-2001 period, as we
23 just entered into electric restructuring, where
24 everybody at that time was actually a customer of the

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 Company, there was no retail choice. So, everybody
2 contributed to and took part in the generation
3 offerings from the Company. So that made sense then to
4 have an equi-proportional rate design for stranded
5 costs. I do think it's -- you could argue that it is
6 different today, and the migration reports over time
7 indicate that.

8 So, I think this is a fair rate design
9 that we've actually incorporated into the Settlement
10 Agreement.

11 Q. Could I ask you to just develop slightly more the
12 migration status, and how much of the various rate
13 classes are currently on default service, and how much
14 have been out in the market and would be then incurring
15 additional costs post divestiture for stranded costs
16 they're not currently paying?

17 A. (Frantz) It varies over time. We get quarterly reports
18 from the Company. But I'll just summarize that, for
19 the largest class of customers, which is around -- the
20 Rate LG class, which has approximately 123 LG
21 customers, that, on average, at least 110 to 113 of
22 those customers are usually taking their energy service
23 from a competitive electric power supplier. So, that's
24 approximately 90 percent, or more.

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1 It goes down from there. If you go to
2 the Rate GV class, you see anywhere, and that's an
3 actual -- you'll see somewhere around 70 to 80 percent
4 of the customers are in the market.

5 And, as you move down, you see more --
6 higher percentages are actually taking default service
7 from the Company, well over 50 to -- well over 50 or
8 60 percent, actually, the residential class takes
9 competitive -- default service from the Company, its
10 service requirements.

11 So, that's sort of is a rough indicator
12 of a little bit of how we looked at the rate design. I
13 will say that this rate design was the product of
14 settlement negotiations, however, and we got to where
15 we are.

16 CHAIRMAN HONIGBERG: Ms. Chamberlin, do
17 you have any questions for Mr. Brennan?

18 MS. CHAMBERLIN: I do.

19 BY MS. CHAMBERLIN:

20 Q. Mr. Brennan, could you please summarize the OCA's
21 position on the rate design in the Settlement
22 Agreement.

23 A. (Brennan) It's important to point out that the rate
24 design under the Settlement Agreement brings

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1 significant benefits to the PSNH residential default
2 service ratepayers. Comparing where they are now,
3 *status quo*, their cost and risk, versus where they will
4 be under settlement, with divestiture and stranded cost
5 allocation. If, by way of an example or to add
6 context, if you turn to my testimony, which is "Exhibit
7 N", I believe, on Page 11, Table 3, far right-hand
8 column. This table breaks down actual energy service
9 costs for PSNH over a number of years. And, I just
10 want to use the right-hand column to illustrate a
11 point. I'm looking at Rows 1, 2, 3, and 4, which
12 provides, Row 1, "Energy cost", 169 million; Row 2,
13 "Operational (fixed) cost", 128 million; Row 3, "Return
14 cost", which are -- I'd consider "fixed costs",
15 \$80 million. If you add the fixed costs and return
16 costs, you come up with around \$200 million. And, this
17 is relatively consistent, if you go to 2014 data, and
18 it's relatively consistent with the model and testimony
19 given yesterday, the Brattle model.

20 That we've got this \$200 million of
21 fixed and return costs that ultimately residential
22 default service ratepayers are on the hook for.
23 Understandably, if there's -- with capacity revenues
24 and energy revenues, there are offsets and credits

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1 made. But, ultimately, the default service payers are
2 on the hook to pay that when generation sales are low.

3 And, if you look at the migration
4 reports that Mr. Frantz just referred to, approximately
5 65 percent of these costs get allocated to the
6 residential default service ratepayers. And, I would
7 consider that -- our position is that that is unfair.

8 And, contrast that with the Settlement,
9 where you have a smaller known capped amount of
10 stranded costs, call it -- I'm not sure exactly what
11 the dollar amount is, call it \$50 million annually for
12 principal and interest, 48.5 percent of those costs are
13 allocated to all residential customers.

14 So, when you compare where they are
15 today, 65 percent of unknown future levels of fixed and
16 return costs, versus the Settlement Agreement, stranded
17 cost, capped and known and reducing over the years,
18 48.5 percent, this is a significant benefit to PSNH
19 default service ratepayers, and is a key reason we
20 support the Settlement Agreement.

21 MS. CHAMBERLIN: Thank you. That's all
22 I have.

23 CHAIRMAN HONIGBERG: Mr. Bersak, do you
24 have any questions for Mr. Chung?

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1 MR. BERSAK: No thank you, Mr. Chairman.

2 CHAIRMAN HONIGBERG: All right. Who has
3 questions for the panel? I see Mr. Harrington, I see
4 Mr. Aalto. Is there anybody else who's going to have
5 questions? Mr. Cunningham.

6 All right. Mr. Aalto, you can go first.

7 MR. AALTO: Thank you. Good morning.

8 CHAIRMAN HONIGBERG: Just make sure you
9 have a microphone in front of you that is on.

10 MR. AALTO: And, I see the red light.

11 CHAIRMAN HONIGBERG: That's a good sign.

12 **CROSS-EXAMINATION**

13 BY MR. AALTO:

14 Q. I guess -- I guess I need to start by asking, does any
15 residential customer have an obligation to pay for
16 PSNH's generation plant, if they leave for competitive
17 supply? From anyone that might want to answer that.

18 A. (Frantz) Today, if a customer leaves, they avoid those
19 generation supply costs, and they pay the rate that
20 they get from a competitive electric power supplier,
21 for the term length that they signed up for.

22 Q. So, if we go through the Settlement, then the only
23 people that are absolutely going to -- well, there's no
24 one that will see a reduction in cost, assuming that

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1 the market prices are lower than PSNH's prices for
2 energy. So, this Settlement would add at least to the
3 distribution cost of everyone that buys power from
4 PSNH, and might reduce the cost of power from those
5 that are on the -- in the "default service" category,
6 that for some reason can't leave. It looks to me like
7 everyone sees a rate increase. But I also understand
8 that, if that came to pass, then we have a problem, in
9 that we have a utility that would say "Well, I need to
10 recover these costs somewhere. If I can't, I'm going
11 to go broke."

12 MS. CHAMBERLIN: I'm going to object. I
13 don't hear a question.

14 MR. AALTO: Well, the question --

15 CHAIRMAN HONIGBERG: I think he was
16 almost there. I really do. I really do. I hear you,
17 Ms. Chamberlin, but I think he was almost there.

18 BY MR. AALTO:

19 Q. The question then becomes, with the structure of the
20 Settlement Agreement, the utility will come back to the
21 Commission and say "we're going to retire these, and
22 there will be stranded costs in the retirement." And,
23 indeed, the remaining customers are going to pick up
24 those costs anyway, so that -- unless there's a

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1 disallowance for imprudence or something of that sort.

2 So, in the end, it seems like what we've
3 got here is, how do we keep those costs that,
4 ultimately, we, as customers, are going to see as low
5 as possible? Would there be general agreement with
6 that? And, normally, that would be by sale of an
7 asset.

8 CHAIRMAN HONIGBERG: I think you were
9 fine with the question you just asked. Don't embellish.
10 Mr. Frantz, I think you were looking to respond to at
11 least part of what Mr. Aalto said.

12 WITNESS FRANTZ: I was looking to
13 respond to a question I thought was coming about --

14 *[Court reporter interruption.]*

15 WITNESS FRANTZ: I was looking to
16 respond to a question I thought was coming about 200 words
17 earlier.

18 MR. AALTO: My apologies.

19 **BY THE WITNESS:**

20 A. (Frantz) And, that was that customers will all be worse
21 off under this Settlement Agreement. And, I think
22 that, if you look at our Staff/La Capra report, where
23 we did some analysis of market prices and default
24 service prices, what you'd see is that the customers on

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1 default service would actually save. That the cost of
2 the market price, plus the stranded costs, were
3 expected to be less than what PSNH's default service
4 price would be going forward, under at least the
5 scenarios that were looked at by La Capra and in that
6 report.

7 So, for a large group of customers,
8 especially the residential class, and even a fair
9 number of general service class customers, they would
10 be expected to actually have lower rates overall than
11 going forward.

12 Now, it's true that, for all those
13 customers that, and those are large customers, the LG
14 class and the GV class, a large number of them that
15 have been actually in the competitive supply market
16 still see pretty much a market-based price, but they
17 will incur now a stranded cost. So, all else equal,
18 they may actually see a slight increase. But they
19 signed off on that, and I think part of the reason that
20 they agreed to that and endorsed this Settlement
21 Agreement is it takes uncertainty away. It takes
22 uncertainty from the legislative process going forward,
23 with having bill after bill introduced every year and
24 discussing it. So, to businesses, it's important to

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1 also reduce uncertainty. So, that's my response.

2 MS. ROSS: I just --

3 BY MR. AALTO:

4 Q. I think my question there was, the customer can leave,
5 so they don't have an obligation to continue paying
6 default service. But, well, let's go past that. The
7 issue is --

8 MS. ROSS: Could I hold up for just a
9 second?

10 MR. AALTO: Yes.

11 MS. ROSS: I just would like to, this is
12 awkward, but I'm going to instruct my witness to, in the
13 future, rather than referring to the "La Capra" work, if
14 you can bring it up to the Brattle model. Because we had
15 agreed that we would rely on that model with regard to
16 customer savings.

17 And, I guess I would ask you, would your
18 answer, if you relied on the Brattle model, be the same as
19 the answer you just gave?

20 CHAIRMAN HONIGBERG: Mr. Frantz, you
21 don't need to answer that right now. Ms. Ross can circle
22 back to you, if she needs to.

23 MS. ROSS: Okay.

24 CHAIRMAN HONIGBERG: Although, you might

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1 want to remember what she just asked, because it will
2 probably come up again.

3 Mr. Aalto, you may proceed.

4 BY MR. AALTO:

5 Q. And, the goal here is to reduce the customer exposure
6 as much as possible. Currently, we're only using the
7 sale of the plant as the mechanism for that. Do you
8 see other possibilities, like perhaps instead of
9 selling the plant, continue with revenue from the
10 plant, and including securitization, so that -- because
11 there's a major savings there? But, instead of
12 selling, just get the revenues from the power plants'
13 operations and use that to reduce the stranded cost
14 payments within the rate structure, even to the point
15 of perhaps getting some of the hedging value of non-oil
16 and gas fuel?

17 MR. BERSAK: I'm going to have to object
18 to the form of the question, because Mr. Aalto is
19 suggesting something that the law of this state prohibits.
20 And, the witnesses that we have tomorrow from our Treasury
21 will be able to address that.

22 CHAIRMAN HONIGBERG: I actually thought
23 you were going to object because it wasn't a question
24 about rate design.

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1 MS. AMIDON: Yes.

2 CHAIRMAN HONIGBERG: But, either way, I
3 think it's probably a question that could have been or
4 should have been addressed to the panel yesterday,
5 regarding the structure of the Settlement. But -- so, I'm
6 going to sustain one of Mr. Bersak's two grounds for
7 objecting.

8 Mr. Aalto, do you have anything else you
9 want to follow up on?

10 MR. AALTO: With that, I will have to
11 then, I think, try to reserve some more questions for
12 tomorrow.

13 CHAIRMAN HONIGBERG: Well, I think
14 you're going to have an opportunity to make your argument
15 affirmatively, yourself, tomorrow, isn't that right?

16 MR. AALTO: Yes. But part of it is what
17 the Company's response and what the sense of the others
18 involved would be to a different structure. And, I think
19 that may fit tomorrow better than today, at this point.

20 CHAIRMAN HONIGBERG: All right. Well,
21 we'll just --

22 MR. AALTO: So, I can --

23 CHAIRMAN HONIGBERG: We'll deal with it
24 when we get there, I guess.

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 MR. AALTO: Okay. I can then -- I can
2 drop the remaining questions here, other than to indicate
3 that other methods might be there to support the structure
4 of the stranded cost recovery. But I'll leave it at that
5 then.

6 Thank you very much for the opportunity.
7 And, thank you for the panel.

8 CHAIRMAN HONIGBERG: All right. Mr.
9 Cunningham.

10 MR. CUNNINGHAM: I'll make sure this is
11 on. I don't have many questions, but my first questions
12 are to the senators.

13 BY MR. CUNNINGHAM:

14 Q. You described the Settlement as a "global Settlement".
15 And, in that Settlement, can you identify what
16 residential ratepayers were included?

17 A. (Bradley) I think it goes without saying that the
18 Office of the Consumer Advocate, representing
19 residential ratepayers, signed on to the Settlement.
20 So, to me, that's pretty global.

21 Q. And, --

22 A. (Feltles) I would only add -- sorry.

23 Q. Go ahead.

24 CHAIRMAN HONIGBERG: Go ahead. Go

[WITNESSES: Bradley~Felttes~Chung~Brennan~Antonuk~Frantz]

1 ahead, Senator Felttes.

2 WITNESS FELTTES: Thank you, Mr.

3 Chairman.

4 **BY THE WITNESS:**

5 A. (Felttes) I would only add, Mr. Cunningham, that, you
6 know, in the world that we live in right now, default
7 service customers, disproportionally residential
8 customers, are bearing the brunt of this. And, as
9 Mr. Brennan testified to, under divestiture, and PSNH
10 is, you know, going to the securitization, and about
11 7 percent being carved off, residential customers make
12 out significantly, significant benefits.

13 The real savings is really in
14 divestiture and securitization, not the \$25 million
15 write-off.

16 BY MR. CUNNINGHAM:

17 Q. So, the answer to my question is, there were no
18 residential ratepayers invited into the settlement
19 discussions, yes or no?

20 A. (Bradley) And, our answer is that the Office of the
21 Consumer Advocate does an excellent job of representing
22 residential ratepayers.

23 A. (Felttes) And, I would only add to that, Mr. Chairman,
24 if I could, that, you know, we're state senators, we

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1 represent -- our job is to represent everyone, and we
2 take that very seriously. This is a very balanced
3 Settlement Agreement. It reflects the interest of
4 business, it reflects the interest of residential
5 customers, it reflects the interest of all of the
6 stakeholders that signed on to it, and took, obviously,
7 a lot of time and effort working with folks to balance
8 everything. And, I think, respectfully, I think it's
9 an appropriate balance.

10 Q. And, as a follow-up question, did any residential
11 ratepayer ask you senators to file a motion with the
12 Public Utilities Commission to postpone or eliminate
13 the prudence decision on the Scrubber?

14 A. (Bradley) Not to the best of my knowledge.

15 Q. And, who incentivized you, either of you, to file the
16 motion to ask this Commission not to make the prudence
17 decision on the Scrubber?

18 A. (Bradley) Well, as a sponsor of Senate Bill 221, as
19 somebody that has been around these issues for a long,
20 long time, I certainly, and I think the Legislature
21 agreed with me, felt that the battle of the Scrubber
22 should be put behind us. That we needed to securitize
23 those costs at a time that interest rates were as low
24 as possible, and not have residential ratepayers

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1 largely have to pay an equity return on the Scrubber.
2 And, that the Settlement was the best way to do it.
3 And, that's why I believe the Legislature adopted it,
4 Senate Bill 221, in the way it did.

5 Q. So, you're suggesting that you acted as a senator when
6 you filed this motion?

7 CHAIRMAN HONIGBERG: I think -- I think
8 he would stipulate that the answer to that is "yes".
9 That's precisely what Senator Bradley just said.

10 BY MR. CUNNINGHAM:

11 Q. Well, let me ask this then, Senator Bradley, Senator
12 Feltles. Would you expect or anticipate -- anticipate
13 acting in a similar fashion, for example, in an SEC
14 process to ask the SEC, for example, not to make a
15 decision on a pending matter, of whatever that might
16 be?

17 A. (Bradley) Well, like you, Attorney Cunningham, --

18 MR. ASLIN: Mr. Chairman?

19 CHAIRMAN HONIGBERG: Well, hang on,
20 Senator Bradley. I think there's an objection coming from
21 somewhere. Ah, Mr. Aslin, yes?

22 MR. ASLIN: I'm going to interpose an
23 objection. I don't see the relevance of this to the rate
24 design question that's before the Commission and --

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1 [*Court reporter interruption.*]

2 MR. ASLIN: I'm sorry.

3 CHAIRMAN HONIGBERG: His objection is
4 relevance. Mr. Cunningham?

5 MR. CUNNINGHAM: The suggestion here is
6 that political influence in regulatory bodies from
7 powerful senators is a bad policy precedent for everybody
8 involved. And, so, I will repeat my question.

9 CHAIRMAN HONIGBERG: The objection is
10 sustained.

11 BY MR. CUNNINGHAM:

12 Q. Senator Feltles, you mentioned that "equi-proportional
13 ratepayer design is a good idea". Could you explain
14 that for us please, how that works?

15 A. (Feltles) Attorney Cunningham, and I mentioned that this
16 rate design deviates from equi-proportional, and for
17 good reason. And, I think we testified to all the
18 reasons why it does deviate.

19 Q. Well, let me -- would you answer my question. What is
20 "equi-proportional rate design"?

21 A. (Feltles) In this --

22 CHAIRMAN HONIGBERG: Just a minute,
23 Senator Feltles. Mr. Cunningham, that wasn't your question
24 before. If you would like to ask Senator Feltles or anyone

[WITNESSES: Bradley~Feltès~Chung~Brennan~Antonuk~Frantz]

1 on the panel to explain "equi-proportional rate design",
2 which is a phrase that he used, --

3 MR. CUNNINGHAM: Yes.

4 CHAIRMAN HONIGBERG: -- you may do so
5 without the introduction.

6 BY MR. CUNNINGHAM:

7 Q. Yes. I want somebody to answer or describe for me
8 precisely what is "equi-proportional rate design"?

9 A. (Feltès) Well, I'd be happy to answer, and anybody who
10 disagrees I'm sure will let me know. But
11 "equi-proportional", in the context of the Stranded
12 Cost Charge, would be the same per energy unit, you
13 know, cost, regardless of the customer class. So,
14 that's "equi-proportional", in this context. And, the
15 reason why we deviated in this context I think has been
16 well explained by myself, Senator Bradley, Mr. Antonuk,
17 Mr. Frantz, Mr. Brennan, and, you know, everybody else
18 that signed onto the Settlement Agreement and submitted
19 testimony.

20 Q. So, simply put, "equi-proportional" means "equal rate
21 charges" for whatever category you may fall in?

22 A. (Feltès) I think it is what I -- I think it's my
23 answer. So, if you want to just restate my answer
24 verbatim, that's what it is.

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1 Q. And, does that equi-proportional rate design have a
2 history in New Hampshire?

3 A. (Feltles) It has a history in a number of contexts.

4 Q. And, is it fair to say then that the rate design
5 currently available is "equi-proportional"?

6 A. (Feltles) I think it's fair. I think the Settlement
7 Agreement rate design is fair. And, that's what the
8 statute requires the Commission to take a look at.

9 CHAIRMAN HONIGBERG: Mr. Cunningham,
10 were you asking about the current rate structure?

11 MR. CUNNINGHAM: Yes.

12 CHAIRMAN HONIGBERG: I think the
13 question is "are current rates, with respect to the kinds
14 of charges we're talking about, is it currently
15 equi-proportional?"

16 **BY THE WITNESS:**

17 A. (Feltles) No. Not at all. You know, look, you know,
18 when you saddle default service customers,
19 disproportionately residential customers, a lot of them
20 low income, on fixed incomes, with the cost of the
21 Scrubber, you know, the Legislature, in 2006,
22 fortunately, Senator Bradley and I weren't there to
23 make this decision, that was an unfair decision.

24 And, what we're doing now is trying to

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1 make the best of a bad situation. And, for all the
2 reasons that we discussed earlier, this rate design is
3 fair and moves us in the right direction.

4 BY MR. CUNNINGHAM:

5 Q. Well, I suggest, Senator, you and I agree on that one.

6 A. (Feltles) Okay. Good.

7 Q. I have just one question for Mr. Brennan. Mr. Brennan,
8 you testified that you believe that this Settlement
9 Agreement caps and makes known the stranded costs. Is
10 that what you testified to?

11 A. (Brennan) Ultimately, once divestiture and the auction
12 process and the sales occur, at a point in time,
13 stranded costs will be known.

14 Q. And -- I'm sorry, I didn't mean to interrupt.

15 A. (Brennan) Stranded costs will be known.

16 Q. And, based on the -- and, based on the language of this
17 Agreement, can you tell us what the cap is and what the
18 known costs are?

19 A. (Brennan) The Agreement gives a format for determining
20 what stranded costs ultimately will be.

21 Q. And, can you tell us --

22 A. (Brennan) So, I cannot give you -- I cannot give you a
23 specific dollar amount.

24 Q. And, can you tell us when ultimately it will be under

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 this Agreement?

2 A. (Brennan) I cannot give you a date when that would
3 occur, no.

4 MR. CUNNINGHAM: That's all the
5 questions I have, Mr. Chairman.

6 CHAIRMAN HONIGBERG: Mr. Harrington.

7 MR. HARRINGTON: I think I'm on, am I?
8 Yes. Okay. Good morning -- good afternoon, I guess.
9 Most of my -- or, in fact, all my questions are going to
10 be dealing with the purchase power agreements between
11 Eversource or Public Service and the Lempster Wind Project
12 and the biomass plant in Berlin, the Burgess Biomass
13 plant, and how they're going to be handled under this new
14 rate structure.

15 I would say up front, most of them are
16 going to be dealing using examples on the Burgess Biomass,
17 because it is a much, much larger size, there will be much
18 larger costs or potential costs involved in that. And,
19 whoever is most appropriate to answer the question, feel
20 free to do so.

21 MR. BERSAK: I'm going to object, Mr.
22 Chairman. This is not a rate design issue.

23 CHAIRMAN HONIGBERG: He hasn't asked a
24 question yet. So, let's hear what the question is, and

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1 then we'll deal with it.

2 MR. HARRINGTON: Well, let me make it
3 clear --

4 *[Court reporter interruption.]*

5 BY MR. HARRINGTON:

6 Q. How those purchase power agreements are going to be
7 handled in the new proposed Settlement. First, I guess
8 I'd want to start out with what we are at the present,
9 what is the present status of this. What is the --
10 and, again, we're referring to the Burgess Biomass, to
11 make things simpler here. What is the energy rate that
12 they are paid in that PPA?

13 MR. BERSAK: Mr. Harrington has now
14 asked the question. I will object. It's not dealing with
15 the purpose of this panel, which is rate design. That was
16 question that should have been asked yesterday.

17 CHAIRMAN HONIGBERG: Mr. Harrington?

18 MR. HARRINGTON: Well, it is, when I
19 say -- I thought "rate design" was how you're going to
20 design the rates. And, certainly, the use of how this
21 purchase power agreement costs are put in are going to
22 have an effect on rates. So, it is a part of the rate
23 design. It's going to be in the rates. Does not the
24 Settlement Agreement say they're going to take the costs

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1 associated with these and put it in a non-bypassable
2 charge in rates?

3 CHAIRMAN HONIGBERG: It's the -- Mr.
4 Bersak, why don't you complete your thought on how this
5 should have been dealt with yesterday.

6 MR. BERSAK: Yesterday, there was a
7 panel that addressed the contents in general of the
8 Settlement Agreement, and including, you know, the various
9 different provisions, that including how power purchase
10 agreement purchases would be handled going forward. The
11 purpose of today's panel was specifically to address how
12 the stranded cost charges that must be recovered from
13 customers would be spread out. Would it be, as we just
14 heard, "equi-proportional", or would there be some kind of
15 rate design, where the costs were spread
16 disproportionately among customer classes?

17 The issue of "power purchase agreement"
18 does not fall into this "rate design" issue for the
19 Stranded Cost Recovery Charge.

20 CHAIRMAN HONIGBERG: Mr. Harrington, I'm
21 going to let you go a little ways with your question, so
22 you can get an understanding of what these witnesses will
23 tell you in response.

24 But it is my understanding that it was

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1 yesterday's panel that was discussing how the PPAs and the
2 resulting the stranded costs would be put into the base,
3 that would then be used for calculating the rates.

4 But why don't you go a little ways and
5 see what you can get from these witnesses on this.

6 MR. HARRINGTON: Sure. Just to clarify
7 what my thinking was, is that the panel today was
8 "stranded costs in rates", and I assumed that the PPA, as
9 proposed, is going to be a stranded cost.

10 CHAIRMAN HONIGBERG: Why don't you start
11 asking questions, and we'll see where it goes.

12 MR. HARRINGTON: Okay. I will repeat my
13 first question then.

14 BY MR. HARRINGTON:

15 Q. What's the energy rate for the biomass plant in the
16 present PPA?

17 A. (Frantz) I guess it's me.

18 CHAIRMAN HONIGBERG: If you know.

19 **BY THE WITNESS:**

20 A. (Frantz) Well, I have a general knowledge of it. I
21 don't know specifically what the rate actually is
22 today. It's based on the contractual price that was in
23 the agreement that was approved by the Commission, and
24 it includes capacity at a certain price and includes

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1 RECs and it includes energy. The beginning price for
2 energy, in the first year, I believe was around \$69 per
3 megawatt-hour, and then had escalation factors built
4 into it. So, it's -- that's the best I can answer at
5 this point.

6 BY MR. HARRINGTON:

7 Q. So, it's in the range of \$70 a megawatt-hour for the
8 energy portion of that contract?

9 A. (Frantz) I would say it's north of \$70 at this point.

10 Q. And, --

11 A. (Feltes) And, I would just --

12 WITNESS FELTES: If I may, Mr. Chairman?

13 CHAIRMAN HONIGBERG: Go ahead, Senator

14 Feltes.

15 **BY THE WITNESS:**

16 A. (Feltes) I would just add, Mr. Harrington, that, in
17 Order 25,305, in 2011, cited on Page 8 of
18 Bradley/Feltes Direct Testimony, Exhibit O, a portion
19 of the over-market costs is already distributed to
20 distribution customers of PSNH, of the over-market
21 value of the Burgess Biomass PPA.

22 BY MR. HARRINGTON:

23 Q. That's a small portion, though. Most of it's in the
24 energy service rates. Is that correct?

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1 A. (Felttes) I'm not going to comment on whether or not
2 it's a "small portion" or not. But it's part of the
3 over-market portion. And, what the Commission said, on
4 Page 10 of our testimony, is, you know, that the "costs
5 associated with the public benefits accrue to tall PSNH
6 customers, whether they take default energy service or
7 competitive supply. Thus, there is no unfair cost
8 shifting to customers who have taken advantage of
9 competitive supply."

10 So, you know, the rate design here, if
11 you want to call it a "rate design", of putting the
12 over-market Burgess Biomass into the stranded costs,
13 and shifting off of default service customers, benefits
14 disproportionately residential ratepayers, and is
15 consistent with prior Commission decision.

16 Q. Well, let me go on with the questions then. So, we
17 know approximately what it was. We heard testimony
18 earlier today that the LMP for New Hampshire for last
19 year was, I think, about \$40 a megawatt-hour, is that
20 correct?

21 A. (Frantz) I heard something around \$41, I believe
22 earlier today.

23 Q. So, that would be one of the lower average LMPs for the
24 year since the establishment of competitive markets in

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1 New Hampshire, is that correct?

2 A. (Frantz) I haven't looked at all the numbers going
3 back, but it would certainly probably be in the top two
4 or three of the lowest average prices for the year for
5 New Hampshire.

6 Q. So, presently, when we see the lowest LMPs, if not in
7 history, maybe the second or third lowest, I think they
8 tend to be really very low, yet, we're still seeing,
9 even though that makes the Biomass PPA the most
10 over-market price it's probably going to ever see,
11 we're still seeing a large proportion of residential
12 customers staying with the Default Energy Service rate
13 from Public Service, is that correct? I believe you
14 said "60 percent were still staying with Public
15 Service", in your earlier testimony, Mr. Frantz?

16 A. (Frantz) Yes. We could look at the migration reports.
17 But it's essentially 60 some percent at least of
18 megawatt-hours stay with default service.

19 Q. For residential?

20 A. (Frantz) For residential.

21 Q. So, in a year where we're seeing the close to maximum
22 over out-of-market price associated with the PPA, the
23 majority of the people chose to stay with default
24 service from Public Service or Eversource anyways, is

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1 that correct?

2 A. (Frantz) Well, I don't know if they're that highly
3 connected or correlated. But we know that those two
4 facts are probably correct.

5 Q. Okay.

6 A. (Frantz) That 60 some percent, actually, of residential
7 customers stay on default service, and we know what the
8 actual price in the LMP is.

9 Q. But that -- the default service rate reflects a lot of
10 those over-market costs from the Berlin Biomass plant.
11 They're included in that rate?

12 A. (Frantz) It's one part of the rate.

13 Q. Yes.

14 A. (Frantz) But there's lots of parts of the rate --

15 Q. But it is included as part --

16 *[Court reporter interruption.]*

17 **BY THE WITNESS:**

18 A. (Frantz) But there are lots of parts that go into that
19 rate; the return, rate base, depreciation, fuel costs.
20 You know, it's a full cost-of-service rate associated
21 with setting PSNH's default service.

22 BY MR. HARRINGTON:

23 Q. My question is strictly that, it is part of the rate.

24 So, when this purchase power agreement was originally

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1 proposed, and maybe someone from Public -- representing
2 Public Service or Eversource can talk to this, it's my
3 understanding that it was Public Service that pursued
4 this purchase power agreement. It wasn't -- they
5 weren't being pressured by the Public Utilities
6 Commission or anybody, to my knowledge, to go with
7 that?

8 MR. BERSAK: Mr. Chairman, my objection
9 is still out there.

10 CHAIRMAN HONIGBERG: It's sustained on
11 that.

12 WITNESS BRADLEY: Actually, I'd be more
13 than happy to answer that question.

14 CHAIRMAN HONIGBERG: Senator Bradley,
15 you are free to answer.

16 MR. BERSAK: Okay. I will --

17 CHAIRMAN HONIGBERG: I'm not going to
18 argue with you on this one.

19 MR. BERSAK: I will withdraw the
20 objection.

21 **BY THE WITNESS:**

22 A. (Bradley) Good afternoon, Commissioner Harrington.
23 And, good to see you. There was huge support in the
24 Legislature, especially from people like myself that

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1 represent the North Country, because of the jobs
2 impact, because of the depressed jobs opportunity gap
3 in the eastern side of the North Country, in
4 particular, in Berlin. Folks like myself, Senator
5 Gallus, Senator Forrester, and others, Governor Lynch,
6 advocated long and hard to ensure that that wood plant
7 was built, and that it was appropriately reflected in
8 rates.

9 So, I appreciate my friend, Mr. Bersak,
10 trying to defend this. But, I think, for the record,
11 you should know that there was huge support for the
12 Burgess Power Plant, and, obviously, the Commission
13 deemed it to be in the public interest and approved it
14 in rates.

15 BY MR. HARRINGTON:

16 Q. I guess my clarification on that, Senator Bradley,
17 would be, there was a lot of support for that. I'm
18 aware of that. I was on the Site Evaluation Committee
19 at the time that was being proposed. But it wasn't
20 mandated by anybody that Public Service sign this
21 contract, is that correct?

22 A. (Bradley) Not mandated, but I think that one of the
23 reasons we're in this room today, one of the reasons
24 that that purchase power agreement was entered into,

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1 was that Eversource responds to folks like myself, who
2 advocated for the jobs in the North Country, and
3 appropriately so.

4 Q. And, at that time, when that contract that you
5 mentioned was approved by the Public Utilities
6 Commission, the law required that the costs be
7 acquired or be covered by default service energy rates,
8 is that correct?

9 A. (Bradley) That is correct. But, now, we're back to
10 your rate design issue. And, we feel again, with the
11 global Settlement here, that these costs, all of them,
12 whether it's the Scrubber, whether it's the PPAs, these
13 costs of the past, in the vertically integrated
14 utilities, are best dealt with with the rate design
15 that we have, that both is a benefit to residential
16 customers, as I think we've heard the compelling
17 testimony from the Consumer Advocate this morning, as
18 well as Senator Felttes and I, knowing, in our roles as
19 senators, how important the rate design issue is for
20 the business community to do everything that we
21 possibly can to reduce the impediment that high
22 electric rates are in New Hampshire.

23 Q. But the fact is, when the contract was signed, it was
24 to be collected -- costs would be collected from

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1 default service rates, and we're now asking the
2 Commission to change that?

3 A. (Felttes) No. I think what the Commission did, in
4 Docket -- in Order 25,305, cited on Page 10 of
5 Bradley/Felttes Testimony, Exhibit O, it allocated a
6 portion of the over-market costs to all distribution
7 customers. So, it's not, again, going back to what we
8 talked about earlier, it's not all on default. So,
9 there is a precedent here. And, the precedent is based
10 on that decision, and the Commission can review it, you
11 know, we cite it on Page 9 and 10 of our direct
12 testimony, the basis for the broad public benefits,
13 that everybody benefits from this power purchase
14 agreement, so, therefore, everybody shares in any
15 over-market costs that may be incurred.

16 It's also worth pointing out that --

17 CHAIRMAN HONIGBERG: Senator Felttes, I
18 don't think there's a pending question right now.

19 WITNESS FELTES: Okay.

20 BY MR. HARRINGTON:

21 Q. Under that, under the proposed Settlement now, you're
22 talking about taking all the costs and putting them on
23 a non-bypassable charge, is that correct?

24 A. (Felttes) Yes.

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1 Q. Okay. And, in the past, that could not be done. In
2 fact, if it wasn't -- if it could have been done, we
3 wouldn't need part of Senate Bill 221, which allows --
4 does not require these out-of-market costs to be
5 transferred to a non-bypassable charge, is that
6 correct?

7 A. (Feltres) Yes.

8 Q. Okay. So, basically, what we're doing here is we have
9 this contract that was signed by Public Service, and
10 approved by the PUC, which said that most of these
11 charges were going to go in the energy service rate,
12 and now we want to change the rules, Senate Bill 221
13 says "you may switch them to a non-bypassable charge",
14 and this Settlement would ask the Commission to say
15 "they must be switched to a non-bypassable charge", is
16 that correct?

17 A. (Feltres) Well, you know, I wouldn't agree with, you
18 know, some of the characterization. What I would say
19 is this: Is that this is part of a global Settlement.
20 And, you know, all the stakeholders and everybody, this
21 is part of what we discussed. And, certainly, in terms
22 of rate design, if you want to call it, in terms of
23 helping residential ratepayers, who are
24 disproportionately default service customers who haven't

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1 migrated, --

2 Q. That wasn't my question, though. My question is, under
3 what -- this agreement that is proposed here, you're
4 asking the Commission to take all the above-market
5 charges associated with that purchase power agreement
6 and transfer them to a non-bypassable charge that every
7 Eversource ratepayer will have to pay some of?

8 CHAIRMAN HONIGBERG: And, that question
9 has already been answered. The question you asked
10 subsequently was a summary question, which was, in a
11 sense, essentially an argument from you that you probably
12 weren't going to get buy-in from these witnesses on. But
13 you had asked the question you just asked already, and you
14 got the answer you were looking for.

15 MR. HARRINGTON: Okay.

16 BY MR. HARRINGTON:

17 Q. And, referring to Mr. Frantz's testimony, I guess it
18 was just -- and it's dated July 17th, that apparently
19 was resubmitted on the 26th of this year, on Page 3,
20 Line 69, it states "the General Court stated that "the
21 most compelling reason to restructure the New Hampshire
22 electric utility industry is to reduce costs for all
23 consumers of electricity by harnessing the power of
24 competitive markets." It also stated, "Increased

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1 customer choice" --

2 CHAIRMAN HONIGBERG: Mr. Harrington,
3 slow down. Slow down.

4 MR. HARRINGTON: Okay. Sorry. Sorry.
5 Sorry, Steve. Are you caught up?

6 BY MR. HARRINGTON:

7 Q. "It also stated that, "Increased customer choice and
8 the development of competitive markets for wholesale
9 and retail electricity services are key elements in a
10 restructured industry"."

11 It would seem that transferring the
12 costs that were originally in the energy service rate
13 to all customers clearly does not provide for increased
14 customer choice, it provides for less. Mr. Frantz,
15 would you care to comment on that?

16 A. (Frantz) Actually, I don't agree with that commentary.
17 I think that, if you asked yourself "had we divested
18 these purchase power agreements, how would they have
19 been treated?" In my opinion, they would have been
20 treated as they were in restructuring, and they would
21 have been included as we're doing here. The --

22 Q. Okay. Excuse me. Could I just ask it, because I'm not
23 quite sure of your terminology, when you say "divested
24 the purchase power agreements"?

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1 A. (Frantz) Sure. Okay. We --

2 Q. I don't know what that means.

3 A. (Frantz) That would have meant that you could have put
4 out for bid someone to purchase the PPA that PSNH is
5 contractually obligated to buy right now. So, it ends
6 up we're getting the Company out of the generating
7 business, and I think this does that in a fair and
8 really efficient manner. So, to keep them actually in
9 this and put these costs on default service is very
10 different than what you'd see from Unitil or for
11 Liberty Utilities' customers. This treats them
12 essentially like other customers.

13 Q. But you would not have to divest these PPAs in the
14 manner that you just described. They would simply be
15 kept in the same way that they are now, and have
16 Eversource and, of course, management making the
17 decisions to enter into these PPAs, have it based on
18 their -- put into their default service rates.

19 A. (Antonuk) You could do that with the power plants, too.
20 You know, we're talking about getting PSNH finally out
21 of the supply business. As Mr. Allegretti and his
22 colleague pointed out, the supply business isn't just
23 generation plants, it's also power purchase agreements,
24 which is a hard spot for them, I understand. There's

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1 really no distinction between a power purchase
2 agreement and a generating plant as a source of supply.

3 And, I think the point Tom was making
4 was that, yes, we could have divested them, and we'd
5 end up with the same thing, the same result, somebody
6 is going to buy them down to market. So, we leave them
7 there, because it's convenient. And, we say "we want
8 PSNH out of the supply business." We've already
9 crossed the Rubicon on changing the rules about who
10 pays for stranded costs for the generating plants. So,
11 the question I pose is "what's really different about a
12 power purchase agreement that is designed to supply the
13 PSNH customers?" And, my answer to that question is
14 "there's really no difference."

15 Q. I guess my follow-up question to that would be, then
16 what you're saying is that, if this Settlement goes
17 through, that no time in the future will Eversource
18 enter into a purchase power agreement?

19 A. (Antonuk) Well, as I said yesterday, they may or they
20 may not. But this Settlement Agreement is not an
21 onramp for the treatment of the cost of any future
22 power purchase agreement. This Settlement Agreement
23 only addresses those agreements that exist today. What
24 PSNH does in the future is a function of its making a

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1 decision, then coming before this Commission and
2 defending its reasonableness, and allowing everybody --
3 every stakeholder to argue for or against that
4 reasonableness, and then the Commission can make a
5 decision as appropriate to the circumstances
6 applicable, not to some hypothetical possible power
7 purchase agreement. But something real, something
8 tangible, something that has dimensions that are
9 meaningful.

10 Q. Well, let's deal with a real tangible one we've got in
11 front of us now, and that's the one that was signed
12 with these companies. And, Public Service management
13 made a decision that they wanted to sign these
14 contracts.

15 A. (Antonuk) Uh-huh.

16 Q. Now, my question again is, they could be left in the
17 default service rate, and have this Settlement go
18 forward, they can still divest all their plants, it
19 would simply mean that the risk associated with those
20 contracts would remain with the default service rate,
21 people that chose to be with Public Service or
22 Eversource, and the Eversource stockholders?

23 MR. BERSAK: I object. I believe that
24 he's testifying right now. That the question that's

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1 underlying his testimony has already been asked and
2 answered, and is far away from the purpose of this panel.

3 CHAIRMAN HONIGBERG: Sustained.

4 MR. HARRINGTON: Okay. All right.

5 BY MR. HARRINGTON:

6 Q. There's testimony that, again, I'm referring to Mr.
7 Frantz's testimony, that the reason for going to
8 this -- it's on the bottom of Page 9, Line 249, it says
9 "Why do you support the inclusion in stranded costs of
10 the over-market or under-market costs of the Lempster
11 Burgess" -- "and Burgess Biomass PPAs?" And, the
12 answer is "Doing so would result in all New Hampshire's
13 regulated utilities default energy service pricing be
14 determined on a similar basis from the competitive
15 marketplace." And, my question then, Mr. Frantz, would
16 be, you're saying it would be the same because none of
17 the other regulated utilities have chosen to enter into
18 long-term PPAs, like this one?

19 A. (Frantz) Well, they don't have any.

20 Q. They don't have any, okay. And, you go on to say that
21 "the treatment that the Commission has approved
22 previously", "how the costs associated with the QFs
23 will be covered in Public Service's 1999 Agreement."
24 The QF contracts that Public Service entered into,

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1 those were mandatory, correct? They didn't have an
2 option of not doing that?

3 A. (Frantz) They were PURPA contracts, most of them were
4 long-term rates. Some of that was discussed this
5 morning; thirty years, for most of the hydros, 20 years
6 for the biomass facilities. And, they were obligated
7 under PURPA to contract with those facilities.

8 Q. So, again, --

9 A. (Frantz) At rates determined by the Commission.

10 Q. And, that was somewhat different than the PPA that
11 we're talking about here, in that this PPA was not
12 mandatory? Okay.

13 CHAIRMAN HONIGBERG: Was that a
14 question?

15 MR. HARRINGTON: Yes.

16 BY MR. HARRINGTON:

17 Q. This PPA was not mandatory, you --

18 CHAIRMAN HONIGBERG: I think we've
19 already established that.

20 MR. HARRINGTON: Okay. All right.

21 BY MR. HARRINGTON:

22 Q. I'm trying to just determine, if we were to leave the
23 PPAs in the default energy service rate, why would that
24 be a problem? And, probably Mr. Frantz probably could

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1 answer that.

2 CHAIRMAN HONIGBERG: I guess Senator
3 Feltles wants a crack at it before anybody else. He's
4 grabbed the microphone.

5 WITNESS FELTES: Thank you, Mr.
6 Chairman. And, thank you, Mr. Harrington.

7 **BY THE WITNESS:**

8 A. (Feltles) Again, the implication underlying some of
9 these questions is that the default service customers
10 really do have a meaningful choice. And, while some of
11 them do, some of them, including some constituents and
12 former clients, are not aware of the choice. That
13 market is still developing, especially for bigger
14 customers. And, there's a reason why migration has
15 occurred largely amongst the bigger customers,
16 including business customers.

17 And, if we want to put in place
18 something that has fully competitive marketplace and
19 the price signal, the price signal is the same across
20 all distribution customers, that really facilitates
21 competition, and it relieves the pressure on default
22 service customers who are disproportionately
23 residential. That's, in part, why this was a key
24 component of the Settlement Agreement. It is part of

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1 the consideration of the global Settlement Agreement.
2 And, as Senator Bradley indicated, the reason, the
3 public benefits, and as the Commission noted in 2011,
4 distinct public benefits for everybody.

5 BY MR. HARRINGTON:

6 Q. Well, I guess, I don't know, maybe you didn't
7 understand my question, but I'm trying to figure out
8 what bad would happen if we allowed the costs
9 associated with these purchase power agreements to stay
10 in default service rates?

11 CHAIRMAN HONIGBERG: Mr. Harrington, one
12 of the problems that we're having right now is that these
13 witnesses want to talk about rate design, and where the
14 stranded costs -- how the stranded costs should be
15 allocated among the rate classes. That's really what
16 they're here for. You want to talk about "what should be
17 included in those stranded costs?" And, I understand.
18 And, you've asked a number of questions that illuminate a
19 possible argument as to why the rate design that's
20 proposed might not be fair to some rate classes.

21 But the fundamental question about "what
22 should be included in stranded costs?" is not really this
23 group of witnesses' issue. I've let you go a long way in
24 that. But how much more do you think you have?

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1 MR. HARRINGTON: I don't have much more.
2 But let me just -- the reason I thought this was the
3 correct point, because most of these questions come from
4 Mr. Frantz's testimony, and he's on the panel. And, so,
5 that's why I --

6 CHAIRMAN HONIGBERG: And, I think he's
7 doing his best to give you the answers where he agrees
8 with you and where he disagrees with you. So, I mean, and
9 I think Senator Feltles and some of the others feel
10 compelled to defend the position that they're taking,
11 because they know you have a problem with it.

12 I think it might be helpful, and I think
13 you're going to have an opportunity to make an affirmative
14 argument about how the rates are different.

15 MR. HARRINGTON: I only have a couple
16 more questions.

17 CHAIRMAN HONIGBERG: Okay. Why don't
18 you go ahead.

19 BY MR. HARRINGTON:

20 Q. Again, if I could ask that question to Mr. Frantz. If
21 the costs associated with these purchase power
22 agreements was to remain in the default energy service
23 rates, why does that create problems?

24 A. (Frantz) I can think of one reason. To the extent that

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1 a potential bidder for default service sees that the
2 additional -- that the rate that will be charged to
3 customers will be higher than it otherwise would have
4 been, depending on its level, may, in fact, increase
5 the risk to that competitive supplier when they bid for
6 default service, and, therefore, potentially drive more
7 customers to the competitive electric power supply.
8 And that -- those potential bidders take the risk of
9 price and quantity in those bids. So, they may either
10 bid up the price or may not have as much interest in
11 bidding. That's an increased potential risk to a
12 bidder of competitive electric power supply, based on
13 what that level above what their bid would be, and
14 whether or not that would increase migration away from
15 default service.

16 Q. As many times in the past, Mr. Frantz, you've lost me
17 completely.

18 CHAIRMAN HONIGBERG: And, Mr. Antonuk,
19 briefly.

20 WITNESS ANTONUK: Yes.

21 **BY THE WITNESS:**

22 A. (Antonuk) I think the issue is cherrypicking. I don't
23 think there's any difference between taking this
24 contract and putting it in or out versus taking

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1 Schiller or Amoskeag. We are dealing with a portfolio
2 of supply assets.

3 Whether or not PSNH had entered this
4 contract, they didn't have to build Merrimack, they
5 didn't have to build Schiller. They didn't have to do
6 any of that stuff. And, we're changing the rules on
7 the entire supply portfolio. So, to kind of cherrypick
8 something that we want to put here, versus there, is, I
9 think, fundamentally opposed to the notion that we're
10 all about here, which is "how do we get PSNH, once and
11 for all, finally out of the supply business?"

12 CHAIRMAN HONIGBERG: Mr. Harrington, did
13 you want to follow up with Mr. Frantz?

14 MR. HARRINGTON: No, I just have one
15 final question.

16 CHAIRMAN HONIGBERG: Okay.

17 BY MR. HARRINGTON:

18 Q. There's a lot of talk about "fairness" and so forth,
19 and where the costs are going to go --

20 *[Court reporter interruption.]*

21 BY MR. HARRINGTON:

22 Q. If the costs associated with this contracts -- the
23 contracts, instead of being placed on a non-bypassable
24 charge, were kept on the default service rate, is there

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1 anything that would prevent Eversource from simply
2 saying "our stockholders are going to eat the
3 over-market costs of this contract that we entered
4 into, and we're going to keep our default service rates
5 competitive, and we're not going to include that in the
6 rates"?

7 MR. BERSAK: We find that question to be
8 objectionable. It's not relevant to this at all.

9 CHAIRMAN HONIGBERG: Does anyone -- it's
10 overruled. Anyone want to take it on?

11 WITNESS FELTES: I'll be happy to.

12 CHAIRMAN HONIGBERG: Go ahead, Senator
13 Feltes.

14 WITNESS FELTES: Thank you, Mr.
15 Chairman.

16 **BY THE WITNESS:**

17 A. (Felttes) Mr. Harrington, the Settlement resolves this
18 issue, resolves the issue you just asked about, and
19 it's a global Settlement, and what we resolved to as,
20 you know, one of the considerations. And, it's in the
21 public interest to approve the Settlement.

22 BY MR. HARRINGTON:

23 Q. Okay. And, I understand your position on that, and I
24 understand it's global, and I understand you're in

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 favor of it. But I'm asking you a specific question.
2 Is there anything that prevents Eversource's to take
3 this over-market rates and saying "we're going to pay
4 slightly less dividend, which would be fractions of a
5 penny less dividends per year to our stockholders",
6 rather than include it in their energy service rates as
7 mandated?

8 CHAIRMAN HONIGBERG: Other than the
9 Agreement they've entered into, and the legislation that
10 implements that Agreement?

11 MR. HARRINGTON: I'm sorry, Mr.
12 Chairman, the "legislation"?

13 CHAIRMAN HONIGBERG: The Senate Bill
14 221.

15 MR. HARRINGTON: Says it "may not be
16 included in energy service rates". It doesn't say "it has
17 to be", one way or the other, though, correct?

18 CHAIRMAN HONIGBERG: "So, other than the
19 legislation and the Agreement, is there anything else that
20 prevents it?" That's your question?

21 MR. HARRINGTON: Yes.

22 CHAIRMAN HONIGBERG: All right. Senator
23 Bradley.

24 **BY THE WITNESS:**

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 A. (Bradley) Commissioner Harrington, you were once a
2 Commissioner. Let me ask you the question. Do you
3 think that's realistic that could ever happen?

4 BY MR. HARRINGTON:

5 Q. As we move to a competitive market, yes, it certainly
6 could be.

7 CHAIRMAN HONIGBERG: Well, one of the
8 cool things about this process is the people out there ask
9 the questions, and the people up here answer them.

10 [Laughter.]

11 MR. HARRINGTON: It wouldn't be the
12 first time Jeb and I sparred a little, but --

13 CHAIRMAN HONIGBERG: I'm well aware of
14 that, Commissioner Harrington.

15 MR. HARRINGTON: I was just trying to
16 get the point across that there is another option here.
17 And, that's the end of my questions. Thank you very much.

18 CHAIRMAN HONIGBERG: All right. Let me
19 confirm that the other counsel -- ah, Mr. Boldt has
20 changed his mind. Mr. Boldt, do you have questions for
21 the panel?

22 MR. BOLDT: I, unfortunately, have to,
23 your Honor. Very briefly.

24 BY MR. BOLDT:

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 Q. On behalf of the City of Berlin and the Town of Gorham,
2 I'll ask first the senators, are you aware of the City
3 and Town's position in support of the Settlement
4 Agreement currently before us, in part, because the PPA
5 with Burgess Biomass is not being divested?

6 A. (Feltles) Yes.

7 Q. And, that was a very important and key crucial element
8 for the City's support, are you aware of that?

9 A. (Feltles) Well, I won't get into the context of
10 settlement discussions, but --

11 Q. In the give-and-take back and forth amongst all issues?

12 A. (Feltles) It was an important issue for many people and
13 many parties.

14 Q. And, if anybody on the panel can answer this one, if
15 the over-market charges associated with either of the
16 two PPAs being retained are kept only with default
17 service provided customers, as opposed to spread
18 amongst all of the ratepayers in a non-bypassable
19 charge, does that mean that fewer customers are paying
20 for that over-market or less customers -- or, more
21 customers?

22 A. (Feltles) I think it's both fewer and less, not more.

23 MR. BOLDT: Okay. Thank you. My
24 English major in me reared its ugly head. Thank you.

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 CHAIRMAN HONIGBERG: All right. Anyone
2 else? Last call on the lawyers?

3 MS. ROSS: I would like to redirect, if
4 there's an opportunity.

5 CHAIRMAN HONIGBERG: After the
6 Commissioners get their licks in.

7 MS. ROSS: Oh, sorry. Yes.

8 CHAIRMAN HONIGBERG: Commissioner
9 Iacopino and Commissioner Bailey both assured me that they
10 don't have a lot of questions to ask. So, we're going to
11 try and press through and finish with this panel.
12 Commissioner Iac -- I'm sorry, Commissioner Bailey.

13 COMMISSIONER BAILEY: Thank you. Good
14 afternoon.

15 BY COMMISSIONER BAILEY:

16 Q. The costs that we've just been talking about, would you
17 define those as part of the cost of divestiture? What
18 are the costs of divestiture, referred to in 369-B:3-a,
19 II?

20 A. (Feltles) Commissioner Bailey, I don't know if this
21 answers your question, but I'll try. Included in the
22 stranded costs include, by statute, stranded cost
23 deferrals, transaction costs, tax liabilities, employee
24 protections, payments in lieu of taxes, and other

[WITNESSES: Bradley~Feltès~Chung~Brennan~Antonuk~Frantz]

1 expenditures as contemplated in the 2015 Settlement
2 Proposal, if approved by the Commission.

3 So, the PPAs are in the Settlement
4 Proposal. And, if you and your colleagues choose to
5 approve the over-market, then it would be captured
6 within the stranded costs.

7 Q. And, the stranded costs are part of the divestiture
8 costs?

9 A. (Feltès) Correct. Yes.

10 Q. Which we need to fairly allocate. And, your proposal
11 is one way to do that?

12 A. (Feltès) Correct.

13 COMMISSIONER BAILEY: Okay. I think
14 that's all I have. Thank you.

15 CHAIRMAN HONIGBERG: Commissioner
16 Iacopino. Oh, Commissioner Bailey says she has another.
17 Commissioner Iacopino, so, you can --

18 COMMISSIONER BAILEY: Sorry.

19 BY COMMISSIONER BAILEY:

20 Q. I just want to ask some general questions about the --
21 maybe what the senators believe that this rate design
22 will have on the impact on the economy in PSNH's
23 territory?

24 A. (Bradley) We think that, given the high electric rates

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 that we've labored under for -- within PSNH's service
2 territory, that this global Settlement is the most
3 equitable way of allocating all of those costs to all
4 customer classes, but, most importantly, through the
5 rate design, protecting the economy of the State of New
6 Hampshire and the jobs-producing sector, while being
7 more than fair to residential ratepayers, because they
8 will see lower rates.

9 Q. And, how does it -- it affects the economy, because of
10 the lower rates, people have more money in their
11 pocket, that kind of thing, or --

12 A. (Bradley) Well, that's one impact. But, also, by
13 ending the uncertainty to the largest customers, that
14 had the ability to increase production in other states,
15 if not pick up and move, because electric rates are a
16 key focal point for large manufacturers and large
17 businesses in the state. By implementing this
18 Settlement and reducing the uncertainty around electric
19 rates in Eversource's territory, we hope that that will
20 help us retain and increase employment.

21 A. (Feltles) And, Commissioner Bailey, I would just add to
22 it and echo what RESA and NEPGA testified to earlier,
23 in terms of the value of competition in PSNH's service
24 territory. And, that goes, in part, to the PPA

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 question, too. If the PPAs are just on default
2 service, in terms of price signal, rather than
3 distributing across all distribution customers, that,
4 in our view, helps facilitate competition, which helps
5 the economy in PSNH's service territory.

6 Also, under that requirement to
7 "consider", as the statute says, "consider the
8 impacts", there are other positive impacts that were
9 embedded. As mentioned earlier, the comprehensive
10 worker protection, as you divest the plants, we need to
11 look out for the workers at those plants. And, a lot
12 of work went into the Appendix B to the Settlement
13 Agreement between Eversource and the Union, and also
14 other employees non-Union that are affected by
15 divestiture, then, obviously, the municipalities that
16 are in PSNH's service territory are also affected. So,
17 we thought about that, too, in terms of the property
18 tax stabilization piece of the Agreement.

19 So, all of these were things that folks
20 thought about, in terms of trying to help meet that
21 benchmark of positive economic benefits.

22 Q. Okay. And, does anybody want to summarize your
23 position about the impact on all PSNH customer classes
24 of this rate design?

[WITNESSES: Bradley~Feltres~Chung~Brennan~Antonuk~Frantz]

1 A. (Frantz) I'd only add that I think the rate design, as
2 I've said before, is fair, and I think it's balanced,
3 and, taken as a whole, works for all customers, and not
4 just the large C&I customers.

5 Q. Thank you. And, I assume that the ability to attract
6 and retain employment across industries, the answer
7 would be similar, although let's talk about across
8 industries maybe a little bit?

9 A. (Frantz) I think we'll address some of that in the REMI
10 testimony that I'll be part of that panel also.

11 Q. Okay. Thank you.

12 A. (Frantz) We can go into some detail on that at that
13 point.

14 Q. All right. Senator Feltres, do you have something?

15 A. (Feltres) Well, just in addition to that, Commissioner
16 Bailey, as I mentioned earlier, the REMI output
17 indicate jobs value across industries. But there's
18 also qualitative inputs, like, for example, the
19 Business & Industry Association, their support,
20 representing all businesses, who are, you know,
21 employing people. And, then, other inputs that we
22 received throughout the process, including the vast
23 array of stakeholders who signed onto the Agreement.

24 So, that would be the only addition to

[WITNESSES: Bradley~Feltres~Chung~Brennan~Antonuk~Frantz]

1 that. I don't know if Senator Bradley has anything
2 else?

3 A. (Bradley) No. I think it's been covered.

4 Q. Okay. Just an administrative question. Did you say
5 that the BIA letter was attached to your supplemental
6 testimony?

7 A. (Feltres) It's attached as "Attachment A" to the
8 rebuttal testimony, P.

9 COMMISSIONER BAILEY: All right. I'm
10 going to have to -- I don't have that. I think I'll find
11 it, though. Thank you.

12 WITNESS FELTES: Okay. If you don't,
13 we'll --

14 WITNESS BRADLEY: We can get it.

15 WITNESS FELTES: -- we'll get it.

16 COMMISSIONER BAILEY: I'm sure the
17 Commission has it.

18 SP. COMMISSIONER IACOPINO: It's Exhibit
19 P.

20 COMMISSIONER BAILEY: P? Oh.

21 SP. COMMISSIONER IACOPINO: I'm sorry.
22 Yes, Exhibit P, Attachment A.

23 COMMISSIONER BAILEY: Okay. Thank you.
24 I've got it.

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1 CHAIRMAN HONIGBERG: It's not in mine.

2 COMMISSIONER BAILEY: And, it's not
3 attached to my copy, but I'll find a copy. Thank you.

4 CHAIRMAN HONIGBERG: Commissioner
5 Iacopino.

6 SP. COMMISSIONER IACOPINO: Thank you.
7 Thank you, Mr. Chairman.

8 BY SP. COMMISSIONER IACOPINO:

9 Q. I want the panel to address one of the arguments that's
10 made by Mr. Chagnon about the fairness of the rate
11 design. He makes an argument, essentially, at Page 7
12 of his testimony that the smaller ratepayers, over
13 the -- since 2000-2001, whenever the other, the 1999
14 Agreement went into effect, and we sort of embarked on
15 the restructuring, the smaller ratepayers are the ones
16 that really haven't been able to take the benefit of
17 that over the last, I guess, however many years it's
18 been. And, he makes an argument that we should
19 consider a different -- a more equi-proportional rate
20 distribution than is suggested in the Settlement
21 Agreement. Can you all address that particular
22 argument?

23 A. (Frantz) Well, it's true that, as we started electric
24 restructuring and retail choice, pretty much as we

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1 thought, the competitive electric power suppliers would
2 come in first for the larger commercial/industrial
3 accounts. And, that's exactly what happened.

4 Although, that took some time, because, for a little
5 while, for a number of years, PSNH's default service
6 rate was actually lower than the market. But that
7 changed. There's a lot of competitive electric power
8 suppliers registered in New Hampshire to do business.
9 And, though, many went for the larger accounts, that
10 really did change, that there are many competitive
11 electric power suppliers now that sell to residential
12 customers. So, for the last even four or five years,
13 there has been a lot of retail choice for residential
14 accounts.

15 A. (Antonuk) And, I think, even in the absence of the
16 phenomenon that Tom's talking about, residential
17 ratepayers derived a very substantial benefit out of
18 the embarkation on restructuring that you mentioned,
19 through securitizing stranded costs at that time, and
20 also through the retention of the power plants, which,
21 at that time, were below market, and remained below
22 market for a substantial time.

23 So, I don't have an argument with the
24 notion that an option to go to other sources was not

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1 available to them in the same degree as others. But I
2 think it would be wrong to kind of see them, in any
3 respect, as kind of victimized by that Settlement. I
4 think that was all to the good, and the retention of
5 the plants particularly, for the period during which
6 they were below market, I think brought unique benefits
7 to those small customers who did remain on default
8 service.

9 Q. Anybody else kind of want to respond?

10 A. (Bradley) I think we've covered that already, in
11 talking about the rate design, which we feel is fair to
12 all the customer classes, as well as protecting the
13 state's economy.

14 Q. Mr. Brennan, there's a suggestion by one of the
15 witnesses to come that the Office of Consumer Advocate
16 has been pressured politically in taking the position
17 that you've taken. Is that the case?

18 A. (Brennan) No.

19 SP. COMMISSIONER IACOPINO: And, then,
20 Mr. Chairman, with your permission, can I ask a couple
21 questions just about the auction, while I have Mr. Frantz
22 and Mr. Antonuk here?

23 CHAIRMAN HONIGBERG: Go ahead,
24 Commissioner Iacopino.

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 SP. COMMISSIONER IACOPINO: Okay. Thank
2 you.

3 BY SP. COMMISSIONER IACOPINO:

4 Q. I neglected to ask you guys yesterday, it's my
5 privilege to do it today, about the notion that the
6 auction anticipated by the Settlement Agreement is, the
7 way that I read it, is basically conducted by the
8 Public Utilities Commission. And, I guess I would like
9 your input on my concern that that takes the prudence
10 and management of the Company out of the equation, if
11 there is a problem during the course of that, that
12 auction. And, I understand that both of you were
13 involved way back when in Seabrook. So, I'd like your
14 input on that.

15 A. (Frantz) I think it makes sense for the Commission to
16 actually be in charge of it. I think it gives
17 potential bidders more comfort. I think it gives, and
18 I won't speak for the two senators here, but I'm pretty
19 sure it gives a lot of the people at the Legislature
20 more comfort that the Commission is actually in charge
21 of it. We expect the Company to work closely with us.

22 And, I think, if the Company was in
23 charge of the auction, we would still be deeply
24 involved in it, and looking at decisions and walking

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1 through it. But I think it complicates the process of
2 an auction. I think this is cleaner, more transparent,
3 and better, to actually have the Commission involved.

4 It does increase the workload of the
5 Commission, and it definitely takes away that potential
6 of a disallowance or a prudence investigation of the
7 costs of getting the plants ready.

8 But, overall, I think it makes sense.
9 And, that's the way we did it in Seabrook. And,
10 there's always the question "is there some kind of
11 potential sale or deal going on between Eversource and
12 some other company that we don't know about that might
13 have interest in the assets?" And, so, this takes that
14 out of there.

15 A. (Antonuk) Yes. I think the overriding issue to me is
16 that this is all about customer money, it's not PSNH's
17 money anymore. Whatever the auction brings has no
18 impact on their bottom line, but it really
19 substantially affects the customer bottom line. The
20 approach of "Commission-sponsored" has worked
21 successfully here, it's worked successfully other
22 places. And, in fact, the Seabrook auction was managed
23 jointly by the Connecticut and the New Hampshire
24 Commission, because the CL&P -- CL&P? -- at the time

[WITNESSES: Bradley~Feltres~Chung~Brennan~Antonuk~Frantz]

1 had a substantial interest in Seabrook.

2 I took one of your concerns to be kind
3 of the risks and the relative risks of the Company
4 doing it, versus the Commission doing it. I think
5 there is a risk that the auction will go bad whoever
6 manages it. I don't think that risk is material if
7 there's a Commission selection process, which there was
8 when Seabrook was sold, and if there's active oversight
9 by a Staff team dedicated to monitoring it.

10 I compare that to the risk of -- the
11 risk of, as I've been describing it this way, how
12 likely is it, if there is a defect in the process run
13 by the Company, that it will be discovered in any
14 event? So, while I can kind of see your point about
15 putting the risk on them, I don't put a lot of
16 confidence in the fact that the way these auction
17 processes look -- operate that that will be
18 discoverable through some after-the-fact regulatory
19 process in any event.

20 Contrast that with the Commission kind
21 of being aware of every step as it proceeds, I think
22 that gives you real-time knowledge of what's going on.

23 And, as Tom, I think, demonstrated
24 pretty well, the confidence of the bidders is important

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1 here, too. And, that confidence is, I think, very
2 substantially affected by the Commission running the
3 audit, which I believe gives the bidders a higher level
4 of confidence that their confidential information will
5 not -- is less likely to fall into the hands of someone
6 with whom they may compete, which is any of the
7 Eversource entities.

8 A. (Frantz) If I may just add, that said, what I basically
9 said, I think it could be successful both ways. I just
10 think, from, potentially, from a bidder's perspective,
11 it may be more valuable to have the PUC in charge of
12 it.

13 SP. COMMISSIONER IACOPINO: Thank you.

14 I have no other questions.

15 BY CHAIRMAN HONIGBERG:

16 Q. Mr. Brennan, I want to pick up on something that I
17 think Mr. Cunningham was asking you about, why you're
18 in support of this. What I got from what you said, I
19 was trying to write it quickly, was that we're moving
20 from a *status quo* position, where the residential
21 ratepayers carry roughly 65 percent of a large and
22 unknown amount going forward, whereas, in this, under
23 the Settlement, you're looking at roughly 48 percent of
24 something that isn't known today, but will be known and

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1 will be capped at that amount. Is that essentially
2 what you're saying?

3 A. (Brennan) Yes.

4 Q. All right. Thank you for clarifying that. And, Mr.
5 Antonuk, Senator Feltles, both made allusions to this
6 being a part of a larger deal. And, Mr. Antonuk, in
7 particular, you talked about the dangers of the
8 Commission tinkering with it. The Legislature has told
9 us to look at this. And, it's a little unclear to me
10 how you square your testimony with our charge under RSA
11 369-B:3-a. We have a responsibility here. And, it's a
12 little unclear how you think we should fulfill that?

13 A. (Antonuk) I gave this a lot of thought last night,
14 because I figured I'd get a chance to make that point,
15 and I anticipated your question. I think, to me, it's
16 a balance between the level of any concern you may have
17 about -- about the rate structure, versus what is the
18 impact of a change that basically has the tendency to
19 sort of have some people who went along with this
20 through the legislative process, and now find that what
21 was interesting or important to them is now no longer
22 part of the arrangement, what does that mean the next
23 time there's a deal for a change that's going to take
24 both your action and the Legislature's action?

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1 By no means did I intend to say that I
2 think you're hamstrung. All I'm sort of saying I think
3 is, when you think about any level of discomfort you
4 have with the rate structure, to what degree should you
5 also consider the fact that we only got to this stage
6 to begin with by having a number of people come
7 together, people with widely disparate interests. And,
8 will there or won't there be a barrier in the future to
9 this kind of an arrangement, when someone knows that
10 there's a two-stage process, that they may get -- they
11 may help get it to the first stage, and then find
12 they're left behind at the second stage.

13 And, again, I don't think that says you
14 "can't act differently". Obviously, the law says you
15 can, and I believe the law should say that. I think
16 that's right. I think you occupy a different position.

17 All I'm saying is I think one of the
18 things that's important to keep in mind here is that it
19 took a coalition to get us here. It may take a
20 coalition to get us across the next bridge or across
21 the next gulf that comes up. And, they do tend to come
22 up, in my experience, every 20 years, you probably see
23 them more frequently.

24 And, so, all I'm saying is I think you

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1 just need to kind of factor in how serious are your
2 problems with the rate structure, before you decide
3 that it's worth it to undo the deal. Can you decide
4 that and are you empowered to decide that? And, do I
5 think you should be empowered to decide that?

6 Absolutely.

7 Q. I think the last thing you said is maybe the answer to
8 my next question, which is could the Legislature have
9 answered all of these questions itself through the
10 legislative process?

11 A. (Antonuk) I think this -- this is the classic process
12 of making an omelette. Eggs get broken, and there are
13 messes to clean up along the way. It's not pretty and
14 it's not clean. And, we just have to do the best we
15 can to try to take it a step at a time.

16 So, yes, the Legislature could have
17 taken a different approach. We could have come to
18 you -- theoretically, I guess we could have come to you
19 first, and then go on to the Legislature, which was
20 really more the model for the -- for the 1999
21 arrangement?

22 A. (Bradley) '89. Yes.

23 A. (Antonuk) Yes. So, yes, they could have done a lot of
24 things differently. I'm certainly happy with what they

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1 did do, because it's a big part of why we're here
2 today.

3 Q. Senator Bradley.

4 A. (Bradley) Well, I would add, the Settlement has tension
5 in it between competing interests. The law needs to
6 allow the flexibility that you have, that we've written
7 into the law, that you may approve or reject the
8 Settlement, or condition its approval on a modification
9 of terms.

10 We're here to argue, though, that we
11 feel, as Settling Parties, in particular on the rate
12 design, that we have balanced those interests, and we
13 hope you will concur with that.

14 Obviously, the Legislature wanted, like
15 all functions of government, a check-and-balance. You
16 have that opportunity, you have that authority. But I
17 think that, as we have had this discussion today and,
18 certainly, at the State House, the needs that are
19 incorporated into the rate design are very important,
20 and reflect a balance that I think we achieved. We
21 hope you concur.

22 CHAIRMAN HONIGBERG: Thank you. That's
23 all I have.

24 Attorney Ross, I know you wanted to

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1 follow up with Mr. Frantz.

2 MS. ROSS: I had some very quick
3 redirect, and you've already heard it, but I will repeat
4 it, because a lot has happened.

5 **REDIRECT EXAMINATION**

6 BY MS. ROSS:

7 Q. Tom, you were questioned -- I'm sorry, Mr. Frantz, you
8 were --

9 A. (Frantz) I'll answer to either.

10 Q. Mr. Frantz, you were questioned earlier about whether
11 or not customers would be better off post divestiture,
12 and you answered based on some earlier analysis that
13 you had done with La Capra. And, I'm asking you if you
14 might just bring your response forward and tie it to
15 the Brattle -- the current Brattle Group analysis that
16 is before the Commission?

17 A. (Frantz) And, the answer is the same, yes. And,
18 actually, for the economic questions, we'll get into
19 that and show that, when REMI and -- when the panel on
20 REMI actually takes the stand.

21 MS. ROSS: Thank you. That's all I
22 have.

23 WITNESS FRANTZ: I actually did want to
24 clarify one thing about my testimony.

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1 CHAIRMAN HONIGBERG: Yes, Mr. Frantz?

2 WITNESS FRANTZ: And, it has to do with
3 an exhibit. And, it was on migration. Which I think is
4 marked as "I". Says, when I sort of winged it at
5 "68 percent" or "70 percent", it's very clear, based on
6 that exhibit, that it's about 80 percent of customers are
7 on default service. And, I think that exhibit speaks for
8 itself.

9 CHAIRMAN HONIGBERG: It may speak for
10 itself. But, since we can't find it, we're going to have
11 to take your word for it. Any idea what exhibit that is?
12 Anybody know?

13 MS. ROSS: I think that was actually --
14 it may have been attached to the rebuttal testimony that
15 isn't actually filed. But what we can do is we can give
16 it a number, and we can put it in the record and mark it
17 for identification. Unfortunately, I gave my only copy to
18 Tom.

19 CHAIRMAN HONIGBERG: All right. I'm
20 going to ask you to work --

21 MS. ROSS: So, we can do that over the
22 lunch break.

23 CHAIRMAN HONIGBERG: Yes, work on that
24 over the lunch break.

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 Does any of the other lawyers who have
2 witnesses up there need redirect with their witnesses?

3 [Show of hands.]

4 CHAIRMAN HONIGBERG: I see Mr. Aslin's
5 hand. Is there going to be anybody else?

6 [No response given.]

7 CHAIRMAN HONIGBERG: All right,
8 Mr. Aslin.

9 MR. ASLIN: Thank you, Mr. Chairman.
10 Very briefly. I just wanted to clarify one question to
11 the panel.

12 BY MR. ASLIN:

13 Q. When we were talking about over-market costs from PPAs
14 earlier, the panel answered whether those over-market
15 costs come from both the existing PPAs, or just from
16 one or the other?

17 A. (Frantz) No. The one PPA is actually a below-market
18 PPA, based on the structure of that, up to a certain
19 level of market prices. And, that's the Lempster Wind
20 Project.

21 Q. So, over-market costs only come from the Burgess PPA,
22 potentially?

23 A. (Frantz) Yes. Based on the contract for the wind
24 project, it's possible during certain hours to be

[WITNESSES: Bradley~Feltles~Chung~Brennan~Antonuk~Frantz]

1 actually over-market. But it's structured, in general,
2 to be below-market for most hours.

3 MR. ASLIN: Thank you nothing further.

4 CHAIRMAN HONIGBERG: All right.

5 Gentlemen, thank you. I think we are going to be resuming
6 this afternoon with Mr. Chagnon. And, we're going to come
7 back as close to 2:15 as we can. We are adjourned.

8 **(Lunch recess was taken at 1:16 p.m.)**

9 (This concludes the **Morning Session** of
10 Day 2 regarding DE 14-238 & DE 11-250.
11 Please note that the **Afternoon Session**
12 is being provided **under separate cover**
13 so designated.)
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{DE 14-238/DE 11-250} [Day 2 AM Session only] {02-03-16}