STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

May 27, 2015 - 1:04 p.m.
Concord, New Hampshire

RE: **IR 14-338**
ELECTRIC UTILITIES:
Review of Default Service Procurement Processes for Electric Distribution Utilities.

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

Sandy Deno, Clerk

APPEARANCES: **Reptg. Public Service of New Hampshire d/b/a Eversource Energy:**
Matthew J. Fossum, Esq.

Reptg. Liberty Utilities (Granite State Electric) Corp.:
Sarah B. Knowlton, Esq.

Reptg. Unitil Energy Systems:
Gary Epler, Esq.

Reptg. NextEra Energy Power Marketing:
Susan S. Geiger, Esq. (Orr & Reno)

Reptg. Briar Hydro Associates:
Andrew Locke
Richard Normand

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

APPEARANCES: **(C o n t i n u e d)**

Reptg. Constellation Energy/Exelon:
Daniel Allegretti

Patricia Martin, *pro se*

Reptg. the Office of Energy & Planning:
Meredith Hatfield, Esq., Director
Molly Connors

Reptg. Residential Ratepayers:
Susan Chamberlin, Esq., Consumer Advocate
Pradip Chattopadhyay
Office of Consumer Advocate

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.
Leszek Stachow, Asst. Director/Electric Div.
Amanda Noonan, Director/Consumer Affairs Div.
Grant Siwinski, Electric Division

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E X H I B I T S

P R O C E E D I N G

CHAIRMAN HONIGBERG: We are here this afternoon in Docket IR 14-338, which is an investigation docket. That's what the "I" stands for in "IR", I think. And, we're here for what's been noticed as a "hearing". You all have filed lots of things, the Staff and most of you I see in the room. We're going to take appearances in a minute. But what I want you to think about while we're taking appearances is, keep in mind that the reason we opened this docket, or one of the reasons we opened this docket, was to see what, if anything, can be done before next winter's procurements. And, so, one of the things we're going to want to hear from you during the course of however long we're here this afternoon is what can we do and how can we do it, before the next -- before next winter's procurement?

Now, there's lots of other things we'll talk about, lots of questions Commissioner Scott has, questions I have. And, there may be interplay that, you know, between and among you out there on various issues.

So, before we go any further, why don't we take appearances. And, as per usual, we start in the front right, as you are looking at us. So, I'm sorry, Mr. Fossum, you get to go first.

MR. FOSSUM: Thank you. I tried not to be, but this is where I ended up anyway. Matthew Fossum, for Public Service Company of New Hampshire, doing business as Eversource Energy.

MR. EPLER: Good afternoon. Gary Epler, on behalf of Unitil Energy Systems. Thank you.

MS. KNOWLTON: Hello. Sarah Knowlton. I'm here today for Liberty Utilities (Granite State Electric) Corp.

CHAIRMAN HONIGBERG: So, the big groups all took that side of the room. That's everybody on that side is now accounted for, right? Okay.

MR. ALLEGRETTI: Thank you. Dan Allegretti, with Exelon Corporation. I'm here today to testify. I'm not represented by counsel.

CHAIRMAN HONIGBERG: Just to be clear, Mr. Allegretti. I don't think we're looking for on-the-record testimony here. This is going to be -- I don't think we're going to swear anybody in, unless somebody wants to make an assertion under oath. I mean, for the most part, we're going to be following up on and hearing about the comments that you filed.

That's why one of the -- that's why the opening question is, "what are we legally allowed to do in this docket? One of the significant questions are, "what can we do at the end of an investigation docket?"

So, continuing on.

MR. ALLEGRETTI: Appreciate that. Thank you very much, Mr. Chairman.

CHAIRMAN HONIGBERG: Uh-huh.

MR. LOCKE: Andrew Locke, with Briar Hydro Associates.

MS. GEIGER: Susan Geiger, from the law firm of Orr & Reno, representing NextEra Energy Power Marketing.

MS. CHAMBERLIN: Good afternoon. Susan Chamberlin, Consumer Advocate. And, with me today is Pradip Chattopadhyay.

MS. HATFIELD: Good afternoon. Meredith Hatfield, for the Office of Energy & Planning. And, with me is Molly Connors.

CHAIRMAN HONIGBERG: I was just watching you on my computer a little while ago.

MS. MARTIN: Pat Martin, consumer.

MS. AMIDON: Suzanne Amidon, for Commission Staff. With me today, I have Amanda Noonan, who is the Director of the Consumer Affairs Division, and Les Stachow, who is the Assistant Director of the Electric

Division. And, if the Commission has any questions that relate to their areas of expertise, they are available to answer questions.

CHAIRMAN HONIGBERG: Thank you. Who wants to go first? I'm not going to make Mr. Fossum go first, unless he wants to, unless no one else raises their hand. But does anybody want to open this up in some way? Yes, Mr. Epler. Thank you.

MR. EPLER: I'll go.

CHAIRMAN HONIGBERG: Mr. Fossum thanks you, too.

MR. EPLER: So, we'll take the softball questions first. Actually, the reason I thought we would open up is because just -- well, first of all, let me introduce my co-workers here. To my right, and then moving to the right, is Mr. Todd Bohan, who is a Senior Energy Analyst; Linda McNamara, a Senior Regulatory Analyst; and Lisa Glover, an Energy Analyst, all with Unitil Service Corp., which provides administrative, regulatory, and so on, services to UES. And, they're available for any specific questions.

Generally, we did provide initial comments, and then final comments in the proceeding. We noted in our final comments that, for the most part, we agreed with the Staff position that was laid out in the Staff's memo, and believe that our current method of solicitation and awarding default service contracts is generally in line with the Staff position. At this point, we don't advocate any major changes for our company, in terms of how it solicits and awards default service.

And, while there is the issue of whether or not to reduce the time between the awarding of the bids and the approvals, just from other perspective, our limited perspective, we have not gotten feedback from our suppliers that that's an issue with Unitil. So, we'd just be cautious as to whether or not that's a change that would be necessary for our company, or whether or not there would be a benefit from that.

Also, just to point out that, in a previous docket, and I forget the number, we filed contingency plans in case we had a failed auction. And, so, if you were to reduce the time period for approval, that might have a negative impact on contingency plans, if we were to experience a failed auction. So, there is a trade-off. One of the -- our contingency plans, if we had a failed auction, would allow us to go back to the market and issue a second or necessary -- if necessary, a third request for proposals. So, if you reduce the time period between the award and when the rates take effect, you might miss -- you might reduce the ability to go back to the market.

CHAIRMAN HONIGBERG: Well, you just clarified something. I thought you confused me for a minute. Because there are two different time periods there.

MR. EPLER: Yes.

CHAIRMAN HONIGBERG: There's the time period between award and confirmation of that, of the award of that contract, basically, choosing the winning bidder and confirming that the contract is valid. And, then, the time period from that to when the rates take effect. And, it's the latter of those two that you're concerned about, right? The first one, I think what you said is you're "not sure that would improve things"?

MR. EPLER: Right. Yes. And, I'm sorry for confusing the two issues. The first one, as I said, we haven't gotten any feedback that that's an issue with the suppliers that we've done business with. As to the second issue, yes, we're just concerned how that might affect the ability to implement contingency plans, if we were to experience a failed auction.

CHAIRMAN HONIGBERG: Ms. Knowlton, I'm

sorry to put you on the spot. But I think it's maybe Liberty that has come in here a few times and said that that time period between when the bids are made and when the contract is confirmed, basically, that there is a risk premium built into the bids that your company believes. Am I understanding that correctly?

MS. KNOWLTON: Yes. I'm going to pass the microphone to Mr. Warshaw.

CHAIRMAN HONIGBERG: Okay. Thank you. Because it's probably Mr. Warshaw -- it's probably Mr. Warshaw who provides that testimony every six months.

MR. WARSHAW: Yes. Based on the discussions that I've had with other -- with our suppliers for default service -- who bid on the default service, they do mention that there is a risk that they have to factor in if, for some reason, between the time that they submit the bid, and the 13 days later when an order is issued approving the rate, that there is some risk that the order cannot approve the rate, our contracts are written such that, if the rates are not approved, then the contract is voided. And, as a result, if there were any costs that the supplier had incurred to hedge that contract, they would then have to, you know, unwind them, and they then may have costs that they were not planning on experiencing.

CHAIRMAN HONIGBERG: And, Mr. Epler, am I correct, and maybe, Mr. Bohan, you could answer this question, that that's not something you've seen or is it not something that you feel is significant? Mr. Bohan.

MR. BOHAN: It's not something that we've seen in the solicitations. One point, too, that I'd add is that Mr. Warshaw mentioned that his contracts are structured such that, if the Commission did not provide approval, that he would essentially unwind those deals. And, that is consistent with our contracts as well.

CHAIRMAN HONIGBERG: Mr. Allegretti.

MR. ALLEGRETTI: Thank you, Mr. Chairman. If I may try to offer the perspective from the bidders. We're a frequent supplier of default service, not just here in New Hampshire, but across the region. We bid on pretty much every auction that comes up, and have been successful in many, many cases.

From the standpoint of our trading desk, when we put a bid in, we price it that morning, just before we submit bids, based on the most current information in the forward market and the spot market. And, as soon as we get a call from the company that day, we begin a process of taking down hedges and putting them in place. It's important to do that, because markets can be very volatile, they can move very quickly. And, we are committed to a fixed price, we need to be able to provide that.

If, down the road, we're advised that, once the contract was put in front of the Commission, the bid was rejected, we have to unwind those hedges, and that can be at a considerable cost. Hence, the need to build in that risk.

Now, it's been a long time since a commission in the Northeast rejected or threatened to reject a bid. But it did happen about -- probably about ten years ago in Connecticut, and it certainly sent a ripple through the bidder community. People suddenly backed up, participation in subsequent auctions was less, prices, I believe, were higher.

I'm not sure that shortening the time will give you an immediate reduction in price that you will see this winter. But, if another Commission were to reject a bid somewhere, having a very expedited process in place in New Hampshire will help to keep confidence on the part of bidders, and avoid seeing the kind of reaction that we've seen in the past. I think, as a prophylactic measure, it's a sensible one. There's very little reason why most of the work can't be done on the front end, in terms of designing the auction, overseeing the auction, making sure it's properly conducted, and that there's adequate participation.

And, I agree that separating approval of the rates, taking more time, is fine. There's no reason not to do that. But, once a bidder gets that call, getting an approval from the Commission sooner than later is something that certainly reduces risk, and ultimately can produce a savings, depending on the circumstances.

So, it seems, unless it's overly burdensome or difficult to do, a very prudent thing to do. Our experience is other commissions have found a way to do it. I think Maine is probably the best. They get the bids in the morning and they can issue an order that afternoon, which is ideal from our perspective.

So, we put that in our comments. We've offered it as a suggestion. And, we'd ask you to consider it.

CHAIRMAN HONIGBERG: Ms. Geiger.

MS. GEIGER: Yes. NEPM would concur with Mr. Allegretti's comments. We also put that point in our comments as a measure that the Commission could take to help reduce or somewhat mitigate the risk premiums that are added to bids to deal with the scenario that Mr. Allegretti described very well. Thank you.

CHAIRMAN HONIGBERG: And, if I understand correctly, that's largely agreed to. I think one of the Staff's premises that everyone seemed to agree with was that. Now, the question is, "can we do that?" What would we need to have happen? We can't issue an order in this docket that would make that happen. If the Companies could agree, we could do it within their specific default service dockets, I think.

Do people agree with that? Is that how we would want to do this?

MS. KNOWLTON: I think we actually have one other comment that we would like to make about the timing of approval of a bidder versus the rate that takes effect, --

CHAIRMAN HONIGBERG: Go ahead.

MS. KNOWLTON: -- before we get to the "how do we do it?"

CHAIRMAN HONIGBERG: Is it going to be Mr. Warshaw? Go ahead.

MR. WARSHAW: Yes. Our concern would be that, if the contracts get approved on a shortened timeframe, but then, when the rates are filed and reviewed, we end up with an order that does not approve the rates and orders the rates to be lower. Now, the utility is in a situation where they have a cost that they're not able to recover at 100 percent. And, that would be -- that would be a concern, if you separated the approval of contracts from the approval of rates.

CHAIRMAN HONIGBERG: Is anyone advocating that the companies be at risk in that scenario? I don't recall, I don't recall that. I thought that the concept that I was seeming in the comments was largely that you were separating reconciliation, but you're not eliminating reconciliation, if the rates don't match up with the costs. You just deal with it in a future period.

Do I have -- am I understanding that correctly? I see a nodding head from Mr. Amidon, and Mr. Allegretti, and Ms. Hatfield, and some others. I mean, does anyone have a different understanding of how that would work going forward?

(No verbal response)

CHAIRMAN HONIGBERG: Good. It seems like "yes". So, does that satisfy the concern, Ms. Knowlton, Mr. Warshaw?

MS. KNOWLTON: Yes.

CHAIRMAN HONIGBERG: Okay. So,

mechanically, would the way to do that be to do it within Unitil's docket, within Liberty's next default service dockets? Because these, I think, are all subject to settlement agreements. So, there's going to have to be notice and hearing before we make any changes to their process, right? Mr. Epler?

MR. EPLER: I'm just thinking out loud here. I suppose what we could do in the -- with the next filing is propose a advanced approval date. Because, currently, in our filing, we include a prayer for relief that has a requested date for approval. And, so, if we were to consult with the usual parties that participate in our cases, the Staff and the OCA, and were to reach an agreement as to, you know, how many days it should be going forward, we could just put that in the next filing. Not have to have a new hearing. In other words, that hearing itself, if you approve it within that timeframe, you'd approve the change.

CHAIRMAN HONIGBERG: Ms. Knowlton, you're conferring back there.

MS. KNOWLTON: I think that would work for us. I think our predominant question is one of mechanics. Given that, as of now, the authority that we have that governs our procurement is the existing

Settlement Agreement. We have proposed a different timeframe in our last default service docket. That wasn't acted on. So, I think we're still acting under the guise of the previously approved Settlement Agreement.

I think we can do what Mr. Epler has proposed as well. I think we want to have complete clarity, though, you know, when the Commission is expecting to see us come in, when it's expecting to see us issue the solicitation, because that's not, I think, completely clear to us at this point where things have been left.

CHAIRMAN HONIGBERG: Well, I think that's another issue we're probably going to get to here. Mr. Epler.

MR. EPLER: Yes. Just to clarify, I would have to check, but I don't think that the timeframe for approval is part of our Settlement Agreement. I think the Settlement Agreement intended to the methodology for solicitation and evaluation. But, you know, I would have to check.

CHAIRMAN HONIGBERG: Mr. Fossum, I don't want to leave you out, if you have any comments on this. I think you probably don't, but I just want to make sure.

MR. FOSSUM: Your assessment is accurate

at this time. Yes, we do not have anything to add to this conversation at the moment.

CHAIRMAN HONIGBERG: Does anybody else want to offer anything on this topic? Ms. Amidon.

MS. AMIDON: Okay. I may be restating the obvious, but the process is important. I do think supplemental orders of notice in those dockets indicating that there will be a change is probably important. I also, I think, then internally, the Staff would have to be clear what the Commission expected, for example, when the filing came in, the purpose of the review is to evaluate whether the solicitation, the bid evaluation, and the selection process were conducted in conformance with the Settlement Agreements. I would expect that the Commission would want a recommendation from the Staff. And, I would -- don't know if an order would follow on that basis alone.

But these are the types of mechanics that have to be thought about as we move to resolve this process.

CHAIRMAN HONIGBERG: I think, as long as your -- as long as the process is consistent with the Settlement Agreement, you don't really need much of anything. And, maybe Mr. Epler is right, and, obviously, people are going to have to go and look at specifically what their Agreements provide. To the extent the Agreements, if there's a modification going on, yes, I think there's going to have to be a public process that's part of that.

Now, with respect to what the expectations of Staff would be, I mean, I think that's maybe a bit of an open question. But I think that the comments largely were in line with each other on this topic. That Staff would work closely with the Company to oversee the process. And, once the process was satisfactory, we'd be comfortable that the contracts themselves could be approved. But the rate-setting and whatever reconciliation needed to be done could wait, it's just you wouldn't have the uncertainty for the companies, and to the extent that that's built some premium into their pricing, maybe we can do some good here. Maybe, in the short term, Mr. Allegretti is correct, that it wouldn't be very large, if at all, in the immediate term. But it would help the process going forward.

So, I don't necessarily think there's a lot of process questions that would need to be dealt with, if the conclusion is that's a satisfactory or an appropriate way to go.

Am I missing something, Ms. Amidon?

MS. AMIDON: Well, just as Attorney Epler said, I would have to go back and read the Agreements to see specifically if there are anything that we need to consider. Because the filings were expected to be delivered on one day and the approval to be within five business days for each of the utilities in question, Liberty and Unitil. So, we have to figure out if there needs to be any change to that, because it did reference an order.

CHAIRMAN HONIGBERG: Ms. Knowlton.

MS. KNOWLTON: One thought that I had is that we could go back and each look at our Settlement Agreements and see where the changes would need to be made. Could make a filing at the Commission in the form of a petition, possibly opening up a new docket or in the default service docket for this year. The Commission, I think, because there would be no rate change involved, you know, could possibly issue an order *nisi* approving the change. The order could be published. And, you know, we'd be off and running.

I think, based on my recollection of who was a party to the Granite State Electric Settlement Agreement that came out of restructuring, I think many of the parties are here. Perhaps not. I believe New Hampshire Legal Assistance may have participated. But, in any event, I would just throw that out as a possible procedural mechanism to use for this to be done relatively quickly.

CHAIRMAN HONIGBERG: Thank you for those thoughts. That's helpful. All right. I have a feeling we've run this issue to the ground for now.

Let's move onto something else, and talk about your favorite topic, Commissioner Scott.

COMMISSIONER SCOTT: I have a lot of favorite topics.

CHAIRMAN HONIGBERG: Your favorite topic in this context.

COMMISSIONER SCOTT: So, one interest I had coming into this, and I mentioned at the last conference, is is it advisable to, even if the six-month period for solicitation isn't changed, to move it so it doesn't -- one six-month period doesn't capture the whole wintertime program -- excuse me, the winter peak.

In that line, I read the comments, particularly of UES and Liberty, with great interest. So, I'm going to start with UES, so I understand your comments a little bit better.

So, if I understand properly, one of the concerns raised by Unitil was -- the implication was it would be a bad thing to have solicitations when others are doing -- other larger entities are doing solicitations.

Was that a correct interpretation of your comments?

MR. BOHAN: That is a correct characterization.

COMMISSIONER SCOTT: And, why is that? Because, again, uninformed, to me, I could see, if I'm Mr. Allegretti, for instance, and I'm putting together a bid, I assume I'm gathering a certain amount of -- doing a certain amount of work to get to that process. If there are multiple bids I could serve, granted, size and risk should be considered, but I would assume that same core work would be done. So, I assume there's some economies to doing that. And, maybe I'll ask Mr. Allegretti after. But what am I missing here?

MR. BOHAN: I think your assessment is probably generally correct. But the experience I've had with some bidders during this process is that, when we have gone out at times when there's other entities that are soliciting, we are -- we have been passed over, because they have opted to focus their efforts on other larger utilities. And, I've heard that comment on more than one occasion, at least a few times over the last few years.

Now, granted, over the last -- recently, since we changed our procurement process, we're not generally out at the same time that other utilities are in the region.

COMMISSIONER SCOTT: Okay. That's helpful.

MR. BOHAN: So, --

COMMISSIONER SCOTT: Go ahead.

MR. BOHAN: -- in the attachment in our final comments, Attachment 2, I didn't do a search of every utility in New England or go into the New York area, but I just pulled together some stuff that I was generally aware of, to make the Commission, you know, aware that these other entities are out at specific times during the year.

So, my note of caution here is that, if we start moving our solicitation, pretty much in any direction, we're going to be bumping up against other parties that are out there soliciting.

COMMISSIONER SCOTT: So, on that particular point, help me out. So, I'm looking at

Attachment 2 of your submittal. For example, if we moved your June and December to September and March to start your solicitations, according to your chart anyways, and I understood what you just said, that that wasn't an all-inclusive search. I get that.

MR. BOHAN: Right.

COMMISSIONER SCOTT: But it looks like, at least in the New England area, there would be nobody you would be competing with in September. And, you'd be competing with Emera/Bangor-Hydro in March.

MR. BOHAN: Based on -- based on what I have here, yes. That's correct. But, again, as I said, I did this pretty quickly, and I didn't do an exhaustive search.

COMMISSIONER SCOTT: Okay.

MR. BOHAN: The other bit of a concern that we would have just in our operations is that, at the same time that we solicit for UES, we also solicit for our Massachusetts entity, Fitchburg Gas & Electric Light Company. And, in doing that, what we hope through the bid process is that we bring more load to bid, even though they're separate RFPs, we're bringing more load to bid at any one particular point in time. And, many times in our solicitations, we have parties that bid on both Fitchburg and UES. There also are parties that specifically bid on one versus the other, but there are entities that typically bid on both.

COMMISSIONER SCOTT: And, Fitchburg follows the same model, the six-month, the same timeframe, obviously?

MR. BOHAN: The retail rate-setting is done on a six-month cycle that follows the same periods that we have for UES. However, the solicitation is for a one-year period, and it's for a 50 percent load share for each of the loads that we solicit, not 100 percent.

CHAIRMAN HONIGBERG: Ms. Chamberlin just smiled when you said that.

COMMISSIONER SCOTT: Thank you. So, back to the chart and the September and March. So, it's easier said than done, I guess. I heard what you just said about Fitchburg, obviously. But there doesn't seem to be a lot of competition, if that's a concern, on those months, for instance, and that would allow you to split the winter. Does that sound correct?

MR. BOHAN: It would be correct, yes. So, what that would suggest then is, for a -- the way that this is drawn, I have it as the procurement start dates, not the solicitation periods.

COMMISSIONER SCOTT: Right.

MR. BOHAN: So, if we were to move our start dates from December to September 1st, that would likely mean a solicitation sometime in the, you know, June/July timeframe.

COMMISSIONER SCOTT: Thank you.

MR. EPLER: Could we take a moment please?

COMMISSIONER SCOTT: Please. And, we do understand we're asking for a lot on the fly here. So, it's understandable.

(Atty. Epler and Mr. Bohan conferring.)

MR. EPLER: Commissioner Scott, correct me if I'm wrong in what I understand you're asking. We're not sure if a September start date would accomplish what -- the end result. I think what we'd be looking for is to try to split up the winter months.

COMMISSIONER SCOTT: Correct.

MR. EPLER: So that you're getting, either at the end tail of one solicitation, December, or December and January, and beginning in the other either January and February or just February.

COMMISSIONER SCOTT: That was my concept.

MR. EPLER: Okay. All right. Thank you.

COMMISSIONER SCOTT: Did you have more?

MR. EPLER: No, I just wanted to clarify that.

COMMISSIONER SCOTT: You're colleague looks like he does, though.

MR. BOHAN: No, I don't know what else to add.

COMMISSIONER SCOTT: That's fine.

MR. BOHAN: I mean, that's the point. You know, I'm just thinking here "what is the end goal?" If the end goal is to have more stable rates throughout the year? You know, there could be a number of ways potentially of getting there. The way that we solicit now, what we've seen over the last couple winters, the winter prices are higher because of winter conditions, and the summer prices have been lower.

I don't -- changing the solicitation isn't, the dates, the solicitation dates and the period, isn't going to necessarily change the bids that we're going to receive for the individual months. Okay? And, I think maybe Mr. Warshaw could speak to it a little bit, too, but he provided a nice chart in his comments that suggests that as well. Just something to keep in mind.

COMMISSIONER SCOTT: And, just to clarify my -- clarify my thinking, I think the seminal issue -- the seminal issue for all, I think, for this docket I think is "what is the intent of default service?" Is it to be a stable mechanism or is it to be a competitive mechanism? Ideally, both, I presume, cost-effective, *etcetera*.

So, again, one thought at least that I had is, if you were able to split that winter peak under the two solicitations, two periods, could you have a little bit of both basically? You'd still have the same competitiveness, perhaps, but you'd have mitigated somewhat the price shocks that we expect to see during the winter, comparatively. I agree, at the end of the day, the ratepayer always pays, I think is understood.

CHAIRMAN HONIGBERG: Well, understand, we're going to circle back specifically to that issue, maybe next, because it's a huge issue. OEP and the OCA both provided some extensive comments on "what is default service?" So, we're going to talk about that in a minute.

But do you want to go to Mr. Allegretti or Liberty on the same issue?

COMMISSIONER SCOTT: Actually, I'll --

maybe I'll do Liberty next, since they were just referenced. And, I will get to you, if you don't mind, Mr. Allegretti.

So, again, I also looked at your submittal. I guess I'll start with Ms. Knowlton, whoever you want to speak to it. So, that would imply, I'd just like a little bit of help on at least reading the chart, which I assume is Mr. Warshaw.

MR. WARSHAW: Yes.

COMMISSIONER SCOTT: So, the implication that I read is that what I just laid out wouldn't help anything. Is that a fair summary?

MR. WARSHAW: Yes. That's a fair summary. You would not see a significant reduction in the differences between, you know, the summer and winter periods, only because the market will take -- does take into account the cost of the winter period. And, the only thing you would end up doing is pushing -- you'd be incurring costs in the winter, but then pushing that recovery from customers out to a later date. But it's no guarantee that that would really reduce the volatility or the difference between the summer and winter period.

COMMISSIONER SCOTT: And that was based on WMECO's information, is that what I understood?

MR. WARSHAW: Yes. I put together four different utilities' retail rates to show how they vary over their period. And, I didn't go in -- and I used just their six-month fixed cost rate, not their -- some of the utilities in Massachusetts also offer a monthly variable rate.

COMMISSIONER SCOTT: Okay. Thank you. Did you want to add anything, before I move to Mr. Allegretti?

MR. WARSHAW: I mean, the only other thing I could add is that, yes, you know, moving a service period from -- for us from November 1st to January 1st, you would -- we would end up having to be very careful about when we would release, you know, our RFP, and when we would expect bids to come in, only because most -- most of the discussions I've had with suppliers have said that, you know, they also have limited staff. And, if they have a choice of participating in a large RFP with 20 blocks or a small RFP with three blocks, they're going to go with the 20-block, only because there's a better chance of them picking up, you know, some winning blocks, as opposed to three, where their chance of having a successful bid is lower.

COMMISSIONER SCOTT: Okay. Thank you.

Mr. Allegretti, so, I had a whole bunch of questions built into that. Do you want me to repeat some of them or are you --

MR. ALLEGRETTI: Yes. Let me see if I can unpack some of this. I sort of see three different issues that we've been talking about here in the last few minutes: The timing, size, and mechanisms to address volatility. I think the comments that Unitil put in on timing were very thoughtful and helpful. We've always had a good relationship with EDCs, with folks like Mr. Bohan, Mr. Warshaw, and Mr. Shuckerow, in informally consulting and helping to point out days that are bad, in terms of the calendar, to go out to bid. You know, the day that somebody in another state has a bigger solicitation is always a bad day to be out there. The morning that gas storage numbers for the month come out is not the best morning to be asking for bids. It's things like that. And, I think that process has worked well. And, we would look forward to continuing to work with the EDCs to help them find, you know, suitable dates on the calendar that don't conflict or create issues.

COMMISSIONER SCOTT: Can you help me there? So, you heard my little back-and-forth. You know, uninhibited by the thought process, I was thinking there could be some economies to wholesalers bidding --

MR. ALLEGRETTI: Getting there.

COMMISSIONER SCOTT: Okay.

MR. ALLEGRETTI: So, the second question is size, right? And, I actually agree with the utilities again, that a larger solicitation is going to attract more participation and more interest. There's more load there to bid on, it's a bigger opportunity. In the past, we've actually seen, when Liberty was part of the National Grid family of companies, a consolidation of the RFPs between the various Grid utilities under a common solicitation. From a bidder's perspective, that was very attractive. I think Mr. Bohan mentioned consolidating the Unitil companies across jurisdictions.

Putting multiple loads into one solicitation, where it's one RFP, it's one bid deadline, but there are slightly different loads we have to analyze has an economy to it.

Two completely different RFPs, run by two companies that haven't coordinated in any way to come out at exactly the same time is double the work. And, so, it becomes an overlap.

So, there are economies of scale, to the extent that there's some consistency, that it's more like a common RFP. It becomes more of an issue when they take very different approaches and go out at exactly the same time. So, I hope that's helpful in understanding that.

And, then, the third issue is winter volatility. And, this question of "could you change the timing of the solicitation, still go with six months?" And, I think you could. You could certainly split the winter costs between the two different solicitations. Another way to do it is solicit 12 months at a time, and you could do that. That becomes a rate design issue. Because, fundamentally, the cost in January and February is going to be higher at the wholesale level. And, so, you are, to some extent, in smoothing the rates out, creating a disconnect between the underlying wholesale cost and the retail prices the customer faces.

On the one hand, that helps to mitigate volatility and rate shock, it may be more attractive and appealing to the consumer. But it does have some other policy implications you should think about. One of which is, it may discourage weatherization, installation of energy efficiency or demand response, because it does somewhat mute the signal. It may also encourage retail suppliers to game, by putting customers on default service in the winter, and then picking them up again in the spring. Hasn't been a problem, really, but it's an issue to be aware of and think about what mechanisms you have in place.

So, in terms of smoothing out the winter volatility, you don't fundamentally affect the cost, but there are some public policy trade-offs. And, I would just offer those for your consideration.

CHAIRMAN HONIGBERG: Well, the Legislature has spoken on this. OEP put in language from legislation, from the statutes, about default service that's pretty, I think, stark on what default service needs to be; protection from price volatility, stability. And, I think there are customers who can't shop in the market. They're legally prohibited from it. They have to take default service.

And, so, when you combine those two, the fact that the Legislature has told us stability is a prime directive, and the existence of customers who have no choice, literally have no choice, don't we kind of have to take that into account? I'm asking now everybody. And, I'm looking at Mr. Allegretti, because he just said it and sort of prompted it. But, I mean, I would want Ms. Hatfield, Ms. Chamberlin, you know, to articulate this again, and I want to hear from some of the others, about "what is the prime directive here?" If we have to follow the market as the prime directive or do we have to provide stability? Is that the prime directive? Because I don't think you can assure yourself that you can achieve both. You know, sometimes you can, when there's not a lot of volatility in the market. And, you know, at some bright, shiny day in the future, when we don't have any constraints on supply, and the prices in January are the same as the prices in August, but that day is not any time soon.

So, what is the prime directive here? Who wants to start? Ms. Chamberlin, you moved.

MS. CHAMBERLIN: Last year's rates done under the current methodology reflected a snapshot in time of the market, but they didn't really result in an effective market rate. Because weeks later the market was much lower, and residential customers ended up paying the highest rate that ever occurred during that period. So, when the utilities say "we're doing it this way, because it's reflecting the market", it's like, "well, no, not exactly. It reflects the market in a particular time."

So that when we say -- when we say "we want to reduce volatility", that's not the same as saying "we're not reflecting the market." You can reduce volatility by having a 12-month solicitation. That is still a market price. It still reflects the market. Having laddering reflects the market. I mean, these are all market tools. So, there isn't just one way to reflect the market. And, in fact, the one way that was chosen really didn't reflect the market. It was a market anomaly that resulted in a -- and it was just a timing issue.

The Maine PUC went out for their bids and got 6 or 7-cent rates, because they bid a couple of months later. I mean, it just was -- it was just the way the market was looking at that particular point in time.

So, I find the argument that it's "we have to do it this way, because it's a market price" is simply not -- it's just not accurate. There are different ways to put together a market price. And, there -- ignoring the customers' experience from last winter is a very risky proposition. We could go forward with six months again and just cross our fingers and hope it doesn't happen again. But I don't think that that's a reasonable response, and I also don't think it's reflective of the market. I mean, I think we can have a market response that takes into consideration the small customer.

CHAIRMAN HONIGBERG: Ms. Hatfield, do

you want to pile on on this one or are you --

MS. HATFIELD: Sure. Thank you, Mr. Chairman. I agree with what the Consumer Advocate has just said. And, I think, you know, a major consideration, I think, and something that we're all struggling with, is that, when we look at the statute and when we just, you know, talk to customers, I think we understand we do need to mitigate against price volatility, but we also need to try to do it in a way, as the statute says, that does not unduly harm the development of competitive markets.

So, I don't think either our office or OCA is saying "let's do something that moves away from markets". But I, you know, I think, at the end of the day, the Commission's job is to balance the interests of customers and utilities. And, because, in this case, the utilities really are neutral, I mean, this is just a pass-through. I think that you see in our comments that we're really urging you to do something that we think customers want.

You know, if a customer wants to experience the market, I think things have evolved since the days of the Settlement Agreements that govern how default service is procured now. So, now, if you want to test it out and see what it's like, people have more options even down to the residential customers.

But I think there's an expectation that the default, if you do nothing, is not going to increase 100 percent within a given year. And, maybe this winter was an anomaly, and we can all hope that it was. But it does seem like we need to take small, careful steps to try to prevent it from happening again.

CHAIRMAN HONIGBERG: Let me run something by you. I think you just flipped an argument around that we had heard in response to something that the OCA proposed in connection with somebody's procurement, I don't remember which. OCA said "price it for the year". And, the response was "people who want to price for the year can get that in the market." And, what you're saying is, those -- what we're looking at is people who don't or can't go out in the market, those are the people who should be offered that flat rate. It's people who want to go out in the market and want to expose themselves to risk. Have I got the sense correct from you?

MS. HATFIELD: Yes. And, I think, for those of us who have gone out into the market and tried it, you know, there are lots of different things available, but sometimes they're only available for longer than a year. You know, it really depends on what the competitive suppliers are offering.

So, I mean, I really -- the utilities and the competitive suppliers who are participating in the docket, obviously, have more knowledge than we do about how this works. And, I certainly do not want to do something that would harm the competitive market. So, a year may not be the answer. But, I think, at a minimum, shifting our six-month periods just seems to make a lot of sense. And, I think it might be a little clunky in the beginning, because, if we're going to do it, the next period would need to be longer than six months, potentially, to catch us up to a different six-month window. But, you know, as PSNH said in their comments, they think January and July makes sense. That's how they do it. Obviously, they haven't been exposed completely to the market. But it seems like, at a minimum, we should move in that direction.

CHAIRMAN HONIGBERG: Ms. Amidon.

MS. AMIDON: Thank you. If I may, Amanda Noonan put together a list of the competitive suppliers in the state and the products they offer in the various electric utility franchises. And, I made copies of this, in case you would like to review that, and I have copies available for other parties. But it does demonstrate that, you know, there are 6 months, 12 months, 16 months, 18 months, 24 months, 36 months, different terms of coverage for residential customers.

So, if you would like to see this, I can -- I'll ask that it be introduced as an exhibit. And, Ms. Noonan is available, obviously, for any questions you may have.

COMMISSIONER SCOTT: I'd like to see that.

CHAIRMAN HONIGBERG: Sure. Well, why don't you distribute it.

MS. AMIDON: Okay.

(Atty. Amidon distributing documents.)

CHAIRMAN HONIGBERG: Let's mark it as an exhibit, since we're here, and it's a new piece of paper that isn't in the file already. This is "Exhibit 1".

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

COMMISSIONER SCOTT: Director Noonan, would you mind just walking us through this. And, I'll thank you for your insight in knowing what we would want to see.

CHAIRMAN HONIGBERG: Just get near a

microphone.

MS. NOONAN: And turn it on.

CHAIRMAN HONIGBERG: Ms. Martin, we'll get to you after Ms. Noonan.

MS. MARTIN: Okay.

MS. NOONAN: Sure. These are the -- as noted at the bottom, the publicly available prices as of today, for those suppliers that are actively serving residential customers in New Hampshire, with the various offerings and pricings, and broken out by utility. Some suppliers are offering different prices to different utility service areas, and others are offering the same price to all utility service areas for their product offerings.

And, as Ms. Amidon said, they range from three months to some as long as 36 months, a mix of green, non-green, wind, *etcetera*, as you go through the prices. And, you'll notice not all suppliers are offering to all utilities.

So, this past winter, as we look forward to this coming winter, those customers most impacted by the high winter prices had the fewest options for competitive suppliers.

CHAIRMAN HONIGBERG: Ms. Martin, you

wanted to say something?

MS. MARTIN: Hi. I just wanted to remind people that people who have -- who participate in programs like HeatSmart, I believe they do have to go with the default supplier.

CHAIRMAN HONIGBERG: Mr. Allegretti.

MR. ALLEGRETTI: Just one additional thought for your consideration. I didn't mean to imply in my remarks that it's all or -- all one or the other, or that it's inappropriate to just smooth out the volatility, but that there are some competing policies you might want to weigh.

We've been floating an idea around internally at Constellation that's sort of a little of both. Which is, to pick a fixed multiplier, a differential, to say "winter prices will be X percent higher in winter periods than in the summer period". And, to put up, say, 12 months to bid, the bidder gives the EDC a fixed price, but the rate design is one where you have winter rates and summer rates, and they differ by a fixed percentage. That percentage may not reflect all of the cost differential between summer and winter, as the supplier actually incurs and builds into their bids. But it does help to send some of the signal that energy is more available in the winter and people ought to do more to conserve it. It does help to minimize the value associated with potentially gaming or arbitraging between the two parties. And, it could represent a compromise that would address Ms. Chamberlin's concern with a very sharp price spike in the winter could result in rate shock, without necessarily taking all of the differential out.

And, again, just floating it for consideration. It's not a concept we fully developed. I don't know of another jurisdiction that does it. But we did do some work with one of our consultants and came up with the concept.

CHAIRMAN HONIGBERG: Ms. Hatfield.

MS. HATFIELD: Thank you, Mr. Chairman. I did just want to point out that, because New England is now a summer peaking region, you know, we might find ourselves in a situation where winter isn't the problem in some future period. So, that's why one of the reasons that we are advocating a six-month period that picks up a little of both seasons, rather than making changes specifically for winter, and then, you know, we may be back in a few years when -- if we have summer issues. You know, not that we can't change it from time to time to reflect realities, but I guess I'm a little sensitive to making a change just to address winter, rather than trying to think a little longer term.

CHAIRMAN HONIGBERG: Well, let's talk a little bit about Ms. Chamberlin's proposal, that sounds like it matches what Fitchburg is doing. Where you bid out half of the load for a 12-month period every six months. I mean, it's -- what do people think about that? Mr. Epler, you want to start?

MR. EPLER: Certainly, I can start, and Mr. Bohan may want to add to what I say.

It has worked for Fitchburg. However, I'd point out, in the latest experience, is that our rates in the winter, this past winter, 2014-2015, were not as high, although there was still a price spike, but they were not as high in comparison to other utilities. But our summer rates are high. And, so, there was less of a decrease, and a lot of the utilities are experiencing significant decreases now, and Fitchburg is not.

So, there's that potential to occur. And, what that does then is during the summer you increase the risk of large migration to competitive suppliers. You have a large migration to competitive suppliers, you have a smaller load that you're bringing to market the next time.

And, so, you know, there are multiple effects. That I don't think you're going to kind of hit on the sweet spot in terms of what you do. Certainly, we have experience doing it, it's something that we could do.

Mr. Bohan, I don't know if you have any additional comments?

MR. BOHAN: I just want to -- again, I'm going to add a word of caution, and I apologize if that doesn't help us move forward here. But not too long ago, and I'll identify the transcript, and I'm certainly not going to read from it, but I'll leave that to parties that want to look at this. But, on September 14th, 2011, Unitil was here testifying, my supervisor was the witness. And, the OCA and my supervisor got into a discussion about the length of terms that we were soliciting for. And, if you go in and you look at that transcript, the conclusion that comes out of that is, "would the Company consider a shorter timeframe?" And, my supervisor indicated "Yes, we would. And, we would be making a proposal to that effect."

So, I'm just issuing a word of caution that it's not too long ago that we were here in a scenario where we had these longer term contracts, and we were being asked in exploring the option of going to a shorter period of six months. Now, we're talking about proposals that may take us back in the other direction. And, I just want to make sure that we don't end up with that same issue that Mr. Epler has referred to here, is that the prices get a little bit out of whack in comparison to what other competitive suppliers are offering or what other electric utilities have for default service prices. And, then, the question becomes "well, what are we doing perhaps incorrectly?"

CHAIRMAN HONIGBERG: Commissioner Scott.

COMMISSIONER SCOTT: Can I get you to elaborate a little bit? Obviously, in some respects, the best reflection of the market would be real-time pricing, right?

MR. BOHAN: Absolutely.

COMMISSIONER SCOTT: So, we have that extreme to three-year contracts or whatever, right? So, there's a huge continuum here. So, you're implying, which I think is correct, based on that September discussion, six months at the time was arrived at is, to use Mr. Epler's words, is the "sweet spot". Or, what was the thinking behind that? I mean, obviously, you could go to one month, you could go to daily.

MR. BOHAN: Correct. And, again, I think probably in the back of our minds here, when you think about six months, there's nothing particularly unique about six months, other than the fact that it works out nicely to be twice a year and gives us two default service solicitations. Whether the right answer is "three months", "six months", or "one month", you know, that would -- the closer we get to one month, or even real-time hourly pricing, then you'd really see some volatility and some changes.

So, whether six months is the right horizon or not? I don't know. We just, in my view, in thinking about what the purpose of default service is, I think six months provides a good balance between revealing some market pricing and providing some protection with a fixed six-month price.

COMMISSIONER SCOTT: Thank you.

CHAIRMAN HONIGBERG: Ms. Amidon.

MS. AMIDON: Staff agrees with that. We experienced Unitil's work with laddering. And, the Company ultimately decided that that was working at a disadvantage to customers, because the long-term contracts resulted in higher prices overall. And, we've also considered the default service periods. And, we believe that the six-month default service period is an appropriate balancing between prices that reflect the market and price stability. And, as you know from looking at these filings, when, and I'll just say "Unitil", when Unitil goes out for a bid for residential customers, they get monthly prices. So, you will see perhaps, let's say it was a 22 cent price in December, that price is blended already. It's already blended with the other months, some of the shoulder months. And, in that sense, you're already smoothing the price.

We did look at the periodicity of the six months. And, especially Amanda Noonan, our Director of Consumer Affairs, agrees that we need to try to adopt what Commissioner Scott was saying, which is to try to separate the winter months, so that they don't all fall in one default service period.

So, in the perfect world, and I don't know how this coincides with the competition from other bids, the period would be perhaps August to January and then February to July, to avoid placing all of those winter months in six-month period.

So, those are some of the thoughts we have. So, we agree that the six months is an appropriate period, because it balances the market costs, and giving some price stability and price certainty to residential customers.

CHAIRMAN HONIGBERG: Ms. Knowlton or Mr. Warshaw, you want -- do you have any comments on either Ms. Chamberlin's proposal or what Staff just floated? Do you want to think about it for a minute? And, Mr. Warshaw, you look like you're ready to go.

MR. WARSHAW: Well, I concur with Staff's approach. We could do it, you know, any six-month period. Again, we are concerned that, you know, we'd end up with solicitations that, you know, overlap other companies, and other much larger companies, and could be, you know, at a disadvantage.

The other issue I have with Ms. Chamberlin is the market timing. I mean, sure, September was expensive. But that was the only time that we can go out for that -- the November 1st period, you know, six-month period. Maybe, you know, maybe the market would have -- could have gone up, you know, if we had a January 1st period, and we were going out and getting bids, instead of September, bids in November, there just is a likelihood that the November market prices that we received for the next six-month period could have been higher than what was actually seen in September.

None of us have a crystal ball that know what's, you know, is it good now to pull the trigger and buy it now or do we wait a couple of months? I mean, that's like, you know -- you know, my father kept looking at, you know, these big, you know, flat-screen TVs. And, you know, when he first looked at one, it was $5,000. And, he goes "hmm". And, the next year it was 4,000, and he was like going "well, I don't want to pay 4,000." And, then he bought one for 3,000. And, the next year they were down to, you know, $2,000. And, he felt like, you know, that he spent too much money. The thing is, you have to make a decision, and you have to buy when you make that decision.

CHAIRMAN HONIGBERG: Commissioner Scott.

COMMISSIONER SCOTT: Not to take us back to our earlier discussion, but I will. Help me with the granulation a little bit of the solicitation. So, if, for instance, you know, we had the discussion already about, if there's too much competition, as far as larger load going out for RFPs, then you may not get bidders for your solicitation. Does that need to be the whole month or are we really talking within the same, you know, if you do it in the same two-week period? Can you help me with that? You know, there's got to be some timeline where you're not overlapping. But I can't imagine it's a full month. You can't do it in this month, you have to wait a whole nother month. Is that -- am I correct?

MR. WARSHAW: No. Yes, we have moved over, like when Granite State was sold to Liberty, one of the things I did soon thereafter was to move the solicitation period a week off of Grid, so that we would receive our final bids a week after -- a week before Grid would receive their final bids.

COMMISSIONER SCOTT: And was that successful, in your eyes?

MR. WARSHAW: And that has been -- that has worked. Got us off of everyone looking at Grid and looking at us. So, you know, as long as we can schedule and understand what other utilities are doing at the same time, we would probably be okay.

COMMISSIONER SCOTT: And, Mr. Allegretti, does that sound correct to you also?

MR. ALLEGRETTI: Yes. No, I would agree.

CHAIRMAN HONIGBERG: Are we generally correct that no one's advocating that we do one consolidated RFP, run by Ms. Amidon?

MS. AMIDON: No. I mean, Staff did --

Staff doesn't support a statewide solicitation.

CHAIRMAN HONIGBERG: I forget, is there anybody who does? Ms. Chamberlin.

MS. CHAMBERLIN: We are not recommending that in this investigation. Once we get the largest utility, there may be some value to it.

CHAIRMAN HONIGBERG: Oh. So, it will be one solicitation run by Mr. Fossum then?

MS. CHAMBERLIN: Yes. Exactly. That's exactly what I had in mind. But we were looking for things that could be done very quickly to get ready for the next winter. So, it may be something to look at in the future.

CHAIRMAN HONIGBERG: Mr. Chattopadhyay.

MR. CHATTOPADHYAY: Yes. I guess I just sort of wanted to respond to the point that Liberty Utilities was making and in response to Susan Chamberlin's points.

Really, if you think about it, I mean, as opposed to going for 100 percent of the load, if you're going for 50 percent of the load at any point in time, you're sort of looking at diversification. So, it might happen that at any point in time the market signals are spurious. They're not really fundamental. And, so, it sort of leads to very high prices, but at least you have only bought 50 percent of the load. And, going forward, you're going to buy the next 50 percent, hopefully that was a bad signal, things would improve, and you will have the ability to have, you know, a more sort of prudent purchase. So, that's one point I wanted to make.

Number two, the OCA's proposal, I mean, we're not talking about setting rates that are going to be fixed for 12 months. The rates would still be set for six months. The only thing we are saying is, at any point in time, when you have run the auctions, the relevant auctions, for the next six months you have price information about 100 percent of the load for those six months and 50 percent of the load for the subsequent six months. And, you're going to use that information to set the rates for the next six months.

So, I just want people to understand that's how I'm viewing it.

CHAIRMAN HONIGBERG: Thank you for that. Commissioner Scott.

COMMISSIONER SCOTT: Help me out, flesh that out a little bit more. Because what I think I'm hearing also is, if we were to say "split the solicitation and do a laddered approach", what I think I'm hearing from the utilities is the smaller your load that you're asking for an RFP to be answered, the less responsive, the less price -- the less -- you're not getting the price signal you want necessarily, is it? So, would a downside of what you're suggesting be to have the load that's going out for any solicitations?

MR. CHATTOPADHYAY: Like somebody else pointed out, I mean, you're not going to get the perfect solution here. So, I mean, it's really about judging "what do we mean by "default service"?" And, in terms of the experience that we are having, I mean, we can't, even though you might have retail markets that are competitive right now by statute, it doesn't mean that those markets are necessarily competitive.

Right now you're going to work on this transitional period. And, so, we're sort of grappling with that issue. So, I understand the point that, if you're going to go from 100 percent, 50 percent, we have to deal with the relatively less liquid situations, and that has some implications. But, you know, if it's really -- there's a balancing that we need to take care of.

COMMISSIONER SCOTT: Thank you.

CHAIRMAN HONIGBERG: What else do people

want to talk about? People responded at some level to the Briar Hydro proposal. Ms. Amidon.

MS. AMIDON: Thank you. We do not support Briar Hydro's comments. Briar Hydro has the ability to wheel its power and sell it at a market price. And, the proposal that they have is -- would probably add some risk and uncertainty to default service providers. Because, right now, pursuant to the Settlement Agreement, and just as a matter of logic, they go out for load that will follow -- I mean, supply that will follow the load. If you take a piece of that out, and knowing the variability of hydro, that presents a risk for any supplier, if they're trying to determine how much an independent power producer is going to provide versus the rest of the supply, and that supplier is going to build in a risk for that.

So, we think it's not workable. We think that the current situation where Briar Hydro is eligible for short-term avoided costs is appropriate. And, would agree with that, for any of these companies, in this case, Liberty and utility -- Liberty and Unitil, who go out for default service, we believe they have to go out for 100 percent and have supply that follows the load.

CHAIRMAN HONIGBERG: Mr. Locke.

MR. LOCKE: Thank you. Just as a precursor, Mr. Richard Normand is also here with me for Briar Hydro. I'll start at a high level, and then respond to Ms. Amidon's -- Ms. Amidon's comments, excuse me. The reason we're involved in this docket is because, when we started looking at the market over the last couple of months, we were very concerned to see the spread between what was being recovered under the default rates and what we were receiving as a QF in the real-time rates.

So, as an example, as recently as last month, the spread between what was being recovered by Unitil was a 15 cent rate, and we were paid, on average, a two and a half cent rate. So, our concern, as a QF, is that we were being -- we were not having a fair shot at the market.

Obviously, this docket is looking also at the costs being borne by the ratepayers. And, so, internally, we described this as a "lose/lose situation". The ratepayers are paying a high cost and we were missing out on -- we were being paid low rates.

(Court reporter interruption.)

MR. LOCKE: Okay. We are not asking to be included as part of default service. The way we're approaching this is we're trying to come up with an alternative solution to address the issue of the spike in the default service rates. And, our proposal focused on treating Briar, a QF, as a load-reducer.

Currently, under the current Power Services Agreements, using Unitil as an example, the document envisions that there is a possibility of load risk -- or, load reductions, down to zero. And, what we are saying is we are a resource in the area that could be treated as a load-reducer. Under LEEPA, we're entitled to avoided cost rates. The Settlement Agreement determined that that would be the real-time rate. However, since that time, we've seen the implementation of these all-requirement contracts. And, so, there's been effectively this gap that's grown between what we're receiving as a real-time rate and what the utilities are selecting as the default -- or, excuse me, what the utilities are passing through as a default rate.

Our counsel believes that there is an issue there that needs to be addressed. That's not for -- that's not for this docket to be addressed. But LEEPA does allow for us to enter into contracts directly with utilities. So, what we're proposing is a solution that we think will create a win/win. It will allow us to reduce the overall rate, because we are offering a solution where we'd be paid a discount to the default rate. So, no matter what the rate was, we were going to be able to drive that rate down overall by taking -- providing power at a discount to that default rate being collected. And that allows us, as a QF, to be more competitive in the market. It also helps overall taking -- helps stakeholders, in terms of allowing us to continue to support QFs in the region, which, you know, we provide jobs, taxes, *etcetera*, *etcetera*.

As Staff has pointed out, though, that they're concerned that us being involved -- or, QFs being involved in this process is going to reduce the competitive nature of the bid. As we've asked for -- we've asked for evidence to that point, we're certainly happy to look at it, but there's been no evidence to that end.

And, so, short of any other solution, we're prepared now to enter into this -- into an agreement. And, I think you opened this docket sort of talking about "what are things that can be done immediately?" We're offering a solution that could be implemented immediately, tomorrow, if it was possible.

CHAIRMAN HONIGBERG: Thank you. Mr. Allegretti.

MR. ALLEGRETTI: Thank you, Mr. Chairman. We're not supportive of the Briar Hydro proposal. And, I want to try again giving you the perspective of a wholesale supplier of default service. We see this issue come up all the time in connection with net metering programs. And, there is a tendency to confound two fundamentally different products in the marketplace. One is wholesale energy and the other is retail electric service. When we bid to provide a default service, we are offering to provide what is fundamentally retail electric service down to the customer meter. And, this includes a lot of things. It includes energy, ancillary services, line losses, but it also includes a bid component, which is managing the variable load risk. Electricity is a completely unique product, in that it has to be manufactured and delivered in the same instant that it is consumed, without anyone telling you in advance how much they're going to buy. That's a very tricky thing to provide. And, it requires a large amount of portfolio management. We have to put together a portfolio of hedges, manage weather risk, bid the load into the day-ahead market, we have to look at outage risks, we have to look at gas prices. We do all of this from our trading floor with a lot of people and a lot of effort. And, the cost of providing all of that service is bundled down into a single number, a cents per kilowatt-hour. That is the number we bid in a default service solicitation. It includes all of these components, all of this service that comes around the basic concept of energy.

By contrast, there is a wholesale price of energy. If you happen to have some, you'd like to sell it, there's a wholesale spot price, there's a day-ahead price and a real-time price. And, we've been implementing PURPA in this state and across the region in reliance on this, this wholesale market, with either the day-ahead or the spot price representing the avoided cost. Because that's really the value of wholesale energy, that comes without being scheduled well in advance, without coming in a known schedule.

If we were to try and manage with variable load risk on a portfolio of constantly changing demand, and we add to that an unknown variability in the supply coming out of a facility like Briar Hydro, it actually creates more of a variable load risk, this variable risk. It makes it more expensive and difficult to manage that portfolio.

So, the idea that the value of the energy coming out of Briar Hydro is comparable to the retail electric price of default service is simply confounding the two different products. And, we don't believe that the proposal would result in lower costs to the consumers. We think it would actually have the opposite effects. That in states struggling with net metering programs have discovered, the math ends up not adding up. And, the EDCs end up having to sell the energy back into the wholesale market, and then recover the difference through reconciliation charges to customers.

So, there is a subsidy here. If you want to subsidize hydroelectric generation, that's a matter of state policy. There are more efficient ways to do it than creating more variable load risk for default service. So, we would strongly argue against adopting the Briar Hydro proposal.

CHAIRMAN HONIGBERG: Does anyone on the other side of the room want to comment on anything that was just said by either Mr. Allegretti or Mr. Locke? Looks like the answer to be "yes". Mr. Warshaw.

MR. WARSHAW: I do concur with Mr. Allegretti's comments. And, you know, Briar Hydro has to, you know, has to define "well, who is their competition?" They're not a retail provider, they're a wholesale generator. The other competition in that arena is other wholesale generators.

CHAIRMAN HONIGBERG: Thank you. Mr. Locke, go ahead.

MR. LOCKE: I have a comment, then Mr. Normand will have a comment.

Just it's been raised twice now about the "variability of hydro". All I will say to that is that we have a 20 to 30 year history of a record of generation that you can rely on in terms of a general trend with what we're going to generate. So, I question whether it's that variable. I can tell you with a certain degree on any given year what we're going to produce month to month, and I make our financial projections based on that.

The other thing I would add is this. It's been raised that this is going to make it a more complicated thing to manage. And, I'm actually encouraged by what Mr. Allegretti said, in terms of the resources they have already set up to handle the variable risks in any of these markets, whether it's weather, customer migration, *etcetera*. So, I would argue that Constellation is well suited -- excuse me, I won't speak for Constellation, but most of these competitive suppliers have built their business learning how to manage risks in the system. So, this would be one of many risks involved in the system.

CHAIRMAN HONIGBERG: Mr. Normand, you want to add something?

MR. NORMAND: Please. I might say that, if Mr. Allegretti and other companies like that didn't know that Briar Hydro existed, and if the load projections that we reported, that were provided by Unitil, Liberty, and Public Service incorporated the historical generation, it wouldn't be any different, I think, than the residential load or the commercial load that was being forecasted.

And, as Mr. Locke has indicated, the variability, in terms of customer defections, and the variability in terms of weather, I don't think are very much different. And, as Mr. Locke has indicated, we've got 30 years of generating history with regard to Briar.

But I'd also point out that there is a fundamental conflict here that properly should be dealt with in a subsequent proceeding. And, that relates to the settlement agreements that were entered into in the late 1990s and early 2001, in which they point to the fact that the utilities are discharging their responsibilities by pointing to an ISO-New England market, be that day-ahead or real-time.

With a fully -- with utilities who now own no generation and are going out for bid, theoretically, the bid establishes the market price. PURPA says QFs should receive the market price. It's our belief, and as we've indicated in our proposal to Unitil, we were willing to take a discount off the market price. But, from a legal perspective, we think we're entitled to the discount price. And, when you look at the objection that Staff offered, they stated "Staff doesn't agree that the default service procurement process should mandate utilities to purchase from QFs for default service power supply." We agree. We think the utilities should buy and purchase the power under the provisions of PURPA. After they have done that, then the default service could be free to settle as they would have.

So, we think, technically, that Staff -- the basis of Staff's objection just is not a proper way to look at the matter. Thank you.

CHAIRMAN HONIGBERG: Are there other issues that people want to discuss?

(No verbal response)

CHAIRMAN HONIGBERG: We're still -- I mean, what Commissioner Scott and I were just chatting about, while Mr. Warshaw was talking, was -- apologize for that, Mr. Warshaw -- what is the next step for us? We're in an investigation docket. And, we're not certain, and we've discussed it internally, about what we're going to do next. So, we'll entertain other issues right now, if people want to discuss them. But we'll also entertain suggestions. Mr. Fossum, looks like he wants to speak.

MR. FOSSUM: He does?

CHAIRMAN HONIGBERG: Oh, I'm sorry. I thought you were gearing up there?

MR. FOSSUM: No. But I can. I suppose, from our perspective, we had been -- our perspective has somewhat changed through the course of this docket, for reasons that are, I think, very well publicized lately. And, I believe it's our expectation that what would happen, at least in the docket as it's structured right now, is there would have been either some joint recommendation or a series of recommendations that would result in a -- not necessarily an order of the Commission, but of a findings, perhaps, of the Commission, conclusions, about how, in general, default service should be procured and provided. And, that those findings or recommendations would serve as the base upon which Eversource would structure its future procurement, when it gets down to that point, assuming that it does so.

So, with that said, I guess that would be what I would anticipate to see out of this docket is, I don't know that we can get quite to a joint recommendation of everybody in the room, perhaps we can on a great many issues, but I don't believe that it's likely to happen on all of them. But, then, the result would be some document that provides guidance on, and perhaps not too specifically, but guidance on how this should be done. So that, when the time comes for us to begin doing so, we can do so in line with the Commission's expectations, and with -- also with state policy, and with the expectation -- with actions that meet the expectations of the stakeholders in this process.

So, and I know that's a lot of words that don't say a whole lot, but that's what we had expected to see. I don't know that we had expected to see an order of the Commission that set out a step-by-step process, but a series of findings or conclusions that we might be able to follow.

CHAIRMAN HONIGBERG: Thank you. Others? Ms. Geiger.

MS. GEIGER: Thank you. The only other point that NextEra made in its submissions is relative to a further way to mitigate the risk premiums that are often embedded in the bids that suppliers submit in response to RFPs for default service. And, one of those provisions would be to require that the default service contracts contain within them "change in law" provisions, that would pass through directly to the ratepayers any unexpected market events that result in increased costs, if not foreseen at the time that the bids were submitted. So that is something that we have provided in our written comments I think a couple of times now, and was one of the comments that was highlighted in our final submission.

CHAIRMAN HONIGBERG: Commissioner Scott.

COMMISSIONER SCOTT: Thank you, Attorney Geiger. Can you flesh that out a little bit? What would trigger something like that? Obviously, a change of law, I get that part.

MS. GEIGER: I think that's primarily the one that we were thinking of. Is, if there was some market anomaly that was unexpected, that that would also be considered as a pass-through. But, other than the sort of "change in law" I think is the shorthand version for, obviously, a change in a regulatory policy, ISO or a commission policy or a statute, that triggered increased expenses that were not reflected in the bids.

COMMISSIONER SCOTT: Thank you.

CHAIRMAN HONIGBERG: Could rates go down as well under that proposal?

MS. GEIGER: I think that the thought is that this is a tool to mitigate or to help reduce risk premiums. And, obviously, a "premium" connotes a price increase. So, I'm not certain of any areas or any situations where the price would go down. I mean, a bid is a bid. And, what we're trying to do is solicit bids that are as low as possible. And, obviously, a "change in law" would help to keep the bids lower, although the customers may end up paying an increased price, if there were a change.

CHAIRMAN HONIGBERG: I just wanted to make sure I understood.

COMMISSIONER SCOTT: So, inherent in that line of thinking I think is there's -- so, what the suggestion is is there's a risk premium being built in, because there's such a fluctuation of laws and ISO rules and FERC rulings, that type of thing? Is that what you're suggesting?

MS. GEIGER: I believe that's -- I believe that's the thought behind that, yes.

CHAIRMAN HONIGBERG: And, there's a

nodding of heads, while you were looking to your right, over to the left, there were people nodding their heads from the utility side of the equation.

COMMISSIONER SCOTT: And they weren't falling asleep?

CHAIRMAN HONIGBERG: No, they're not. They were right with the point you were making.

Are there other thoughts people want to share with us? I think what we're going to ask you to do is hang out for a few minutes, and I think we're going to caucus. But are there things you want to say before we step out of the room for a few minutes? Yes, Mr. Warshaw.

MR. WARSHAW: Yes. The only thing I have to say about having a regulatory, you know, a "change in law" provision is, for contracts that are relatively short, three months to six months, there's probably a -- the risk of change in law is very small. As you extend contracts out to a year or even two years, you then end up with a risk that becomes larger.

The other issue is then becomes, if there is a "change in law" provision, is how is that interpreted by the supplier versus the -- you know, the buyer? There could be, you know, some disagreement as to what that means.

And, with a change in law, it then results in "well, how do you end up being able to change the rates midterm or does that then become an additional cost that gets included in your reconciliation?"

CHAIRMAN HONIGBERG: Ms. Chamberlin.

MS. CHAMBERLIN: I just wanted to submit the policy consideration that the RFPs should be tailored to reflect the market structure. So, a settlement agreement from four years ago is an extremely long time in these markets today. So, the fact that a party was arguing that they should be shorter four years, that's fine, that was appropriate four years ago. Now, we're looking at a market structure where we know we are short gas capacity in the winter. It's just a well known fact that we're going to have these spiking conditions. So, it's appropriate that the RFP recognize that this is a market condition and be tailored to meet that. And, I would expect in a few years we would change it. I don't see that this is something that we should try to set for multi-years at a time.

CHAIRMAN HONIGBERG: Thank you. And, I don't think -- I know the comment you're responding to. And, I actually think that the larger point I think there, and I think you agree with it, is that circumstances do change, and it's the point you just made. And that, you know, in this instance, in some ways, we're fighting -- we're always fighting the last war. But we're also in a situation where all decisions are final until changed.

And, so, we can, you know, work with the situation we have on the ground now, going forward, particularly if there's agreement, which makes things much, much easier, on how to proceed today, and for the foreseeable future. Because, beyond the foreseeable future, we can't foresee what's going to happen. I mean, we have ideas. Commissioner Scott has many ideas about what the future energy market is going to look like. But who knows if he's right. We certainly hope he is. But it's going to be different, I think we all agree with that.

Is there anything else people want to share with us before with take probably a ten-minute break?

(No verbal response)

CHAIRMAN HONIGBERG: Seeing none, thank you. We'll return quarter to three.

(Recess taken 2:31 p.m. and resumed at 2:47 p.m.)

CHAIRMAN HONIGBERG: Thank you all for

your thoughts, the written comments that you shared, the work that you did, the discussions you had internally, and then your willingness to share comments with us today, many of which were off-the-cuff, I think, and we appreciate all of that.

We have been thinking, similarly to what Mr. Fossum said near the end about what might come of this, certainly, if there was some sort of joint recommendation from everybody, that would have been great, but we anticipated that we would probably need to identify some things that we thought were important or good ideas out of what we read and heard. And, I think we're going to do that with you.

There's two things we'd like to see if we can do, with the Companies consulting with whoever is interested here, in terms of the suppliers, Staff, the OCA, the OEP, on the first issue we talked about today, which is shortening the time from bid to approval, and separating the reconciliation process and the rate-setting. And, then, moving us to a different six-month period. Not at this time changing other structures and doing laddering or anything like that right now. But time-shifting the six-month period, so that the winter is split. And, we would ask the Companies to work with, again, anybody who's interested in working with them, in particular, Staff, OCA, and perhaps the OEP, if they want to participate, on whether that transition happens for this winter, which would -- which might require some short bid periods, or whether there is a longer bid period next time to move us to splitting the winter. Clearly, the concern that opened up this docket was "the coming winter".

So, to the extent that, and I've forgotten which of the two Companies has rates that take effect November 1 and which is December 1. One of you goes -- starts November 1, you have a potential, you know, you could look at a three-month solicitation, or you could do your six months, and do the next solicitation for a longer period to move you into the winter. I would encourage you to discuss how best to do that with Staff.

For Unitil that starts, I think, December 1, I'm not sure how best to discuss that with you, whether it's an eight-month solicitation or something like that on the next one, so that it would start next year, or whether you would, I mean, I think there would be a lot of risk to doing a two-month or a one-month, to get to January or February. But, again, we're not -- we're not trying to work out all those details. This is an investigation docket. We're trying to give you the guidance, the things that sounded interesting and appealing to us that came out of all those written comments and all the discussion we just had.

So, I think, Unitil and Liberty, this really is mostly directed at you, to work with Staff, and directed to Staff and OCA and everybody else whose here to work with the Companies, on seeing if that transition is workable now, whether it needs to wait, what the best way to proceed would be.

Does anybody have any questions? Do I need to clarify anything? Wouldn't be the first time. Ms. Hatfield.

MS. HATFIELD: Thank you, Mr. Chairman. Did you want a filing from anybody willing to work on that or did you want to set a timeframe or --

CHAIRMAN HONIGBERG: Well, the time -- there's a timeframe built in to the Company's solicitations. They need to act, because they have rates that expire at the end of October and the end of November, respectively, and they need to get their RFPs together. So, there's a timeframe built in. I don't think we need to set one. I think they know how to do that. I think they will work to get their filing together, and I think the filing is going to come from them.

I think that we, within this structure, within the investigation structure, you can continue this discussion. If someone wants to make a filing, we wouldn't stop you. But I don't think it's -- I don't think we're going to require it. I think the real work is outside of that.

Other comments or thoughts? For now, the other issues, they may come up. And, to the extent that you all can continue your discussions, we can keep this docket open, to see if there's agreement on other issues going forward. There may be some, there may be none. But, in the short-term, that's where we are. Mr. Chattopadhyay.

MR. CHATTOPADHYAY: No. I'm sorry.

CHAIRMAN HONIGBERG: Oh. I thought your hand was going up. You were just hanging on every word.

MR. CHATTOPADHYAY: I really was.

CHAIRMAN HONIGBERG: I appreciate that. Commissioner Scott is speculating, perhaps you were just holding your head.

MR. CHATTOPADHYAY: It's still there.

CHAIRMAN HONIGBERG: Are there any other comments for now?

(No verbal response)

CHAIRMAN HONIGBERG: All right. Well, we thank you very much. And, we'll adjourn this hearing.

(Whereupon the hearing was adjourned at 2:53 p.m.)