

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

**CERTIFIED
ORIGINAL TRANSCRIPT**

July 24, 2018 - 10:33 a.m.
Concord, New Hampshire

RE: DG 18-094
NORTHERN UTILITIES, INC.
PETITION FOR AUTHORITY TO
OPERATE AS A PUBLIC
UTILITY IN THE TOWN OF EPPING

(Prehearing Conference)

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Kathryn M. Bailey
Commissioner Michael S. Giaimo

Sandy Deno, Clerk

NHPUC 2018UG18w10:02

APPEARANCES:

Reptg. Northern Utilities, Inc.:
Gary Epler, Esq.

Reptg. Town of Epping:
Eric A. Maher, Esq. (Donahue, Tucker...)

Reptg. Liberty Utilities (Energy North...)
Michael J. Sheehan, Esq.

Reptg. Office of the Consumer Advocate:
D. Maurice Kreis, Esq.

Reptg. Commission Staff:
F. Anne Ross, Esq.
Alexander Speidel, Esq.
Stephen P. Frink - Dir. Gas & Water Div.

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

{DG 18-094} [Prehearing Conference] {07-24-2018}

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

2 CHAIRMAN HONIGBERG: Good morning,
3 everyone. Please be seated. We're here this
4 morning in Docket 18-094, which is a petition
5 by Northern Utilities to expand its franchise
6 territory into Epping. We're here for a
7 prehearing conference, which will be followed
8 by a technical session. I know we have some
9 petitions to intervene, which we'll get to in
10 a moment. But before we do that, let's take
11 appearances from Northern, the OCA and Staff.

12 MR. EPLER: Good morning, Mr.
13 Chairman and Commissioners. Gary Epler,
14 appearing on behalf of Northern Utilities.
15 Thank you.

16 MR. KREIS: Good morning. I'm D.
17 Maurice Kreis, the Consumer Advocate, here on
18 behalf of residential utility customers.

19 CHAIRMAN HONIGBERG: Let's hear
20 from the prospective intervenors. Mr. Maher,
21 I see you back there.

22 MR. MAHER: Good morning. Eric
23 Maher, Donahue, Tucker & Ciandella, on behalf
24 of the Town of Epping.

1 CHAIRMAN HONIGBERG: Mr. Sheehan.

2 MR. SHEEHAN: Good morning. Mike
3 Sheehan from Liberty Utilities (EnergyNorth
4 Natural Gas) Corp.

5 CHAIRMAN HONIGBERG: Is there
6 anyone else here that wants to intervene or
7 is representing a prospective intervenor?

8 [No verbal response]

9 CHAIRMAN HONIGBERG: All right.
10 Mr. Epler, is there any -- I'm sorry. I
11 skipped Staff. I've done that before.

12 MS. ROSS: Good morning,
13 Commissioners. Anne Ross for Commission
14 Staff. And with me today is Steve Frink,
15 director of the Gas and Water Division, and
16 Alex Speidel, Staff attorney.

17 CHAIRMAN HONIGBERG: Sorry about
18 that, Ms. Ross.

19 Mr. Epler, does the Company have
20 any position on its Petition to Intervene?

21 MR. EPLER: Yes, Mr. Chairman.
22 Thank you. We have no objection -- sorry.
23 We have no objections to the Town of Epping's
24 petition, but we do object to the petition of

1 Liberty Utilities.

2 CHAIRMAN HONIGBERG: Have you filed
3 anything?

4 MR. EPLER: No, we haven't filed.
5 I am prepared to address it orally this
6 morning if you wanted to take argument.

7 CHAIRMAN HONIGBERG: Sure. What is
8 your position then?

9 MR. EPLER: Well, first, let me
10 state, you know, normally we appreciate the
11 opportunity to work with our brethren
12 utilities, and we have many times in the
13 past. We currently work with the utilities
14 and appreciate the collegial relationship
15 that we have. But in this instance, we do
16 oppose their intervention in this docket,
17 essentially for three reasons. One is we
18 don't believe that the rights that they claim
19 or the interests they claim are really ripe
20 for consideration as an intervenor. We note
21 that RSA 374:27 states that any grant of a
22 franchise by the Commission must be exercised
23 within two years. Northern Utilities can
24 stand before you today and say that if we

1 were granted our petition by the Commission,
2 we could definitely fulfill that requirement.
3 Liberty, I believe, cannot. Their interests
4 and their ability to serve Epping is
5 completely dependent on the completion of
6 their Granite Bridge project that's before
7 you in another docket. And there are a
8 number of approvals that they must receive
9 not only from this Commission, but from the
10 Site Evaluation Committee as well, and then a
11 significant construction project with a
12 lengthy time period. So, certainly before
13 any possibility of serving Epping, all those
14 contingencies would have to be met. And
15 given that it is such a large project, the
16 significant amount of capital and
17 construction, I think it's hard to say
18 exactly when they would be able to serve
19 Epping. So I don't think that their interest
20 is ripe at this time.

21 Secondly, they seem to tie their
22 intervention on the issuance of a request for
23 proposal that the Town of Epping issued on
24 July 16th. I don't know if the Commission

1 has seen that RFP. I believe that the Staff
2 just recently received the copy. I do have
3 copies here I can provide the Commission if
4 you'd like to see that.

5 CHAIRMAN HONIGBERG: Sure, we'll
6 take it. I don't think we're aware of what
7 you're talking about, though.

8 (Mr. Epler distributes document to
9 Commissioners.)

10 MR. EPLER: And I don't want to
11 speak for the Town of Epping. I think they
12 could address this if they want to. But our
13 understanding of this RFP is that the Town is
14 looking for information from utilities
15 interested in serving the town so that they
16 can make a recommendation to the Commission.
17 So we don't really have any objection to this
18 RFP, and we intend to respond and to provide
19 information to the Town, because if the Town
20 is an intervenor, they would have the
21 opportunity to request similar information
22 through discovery. So, either way, we
23 welcome the opportunity to provide
24 information to the Town. We have presented

1 to the Town, to the board of selectmen, our
2 proposal to serve the town. And we have
3 indicated to the Town, to its attorneys, that
4 we're available to meet at any time to give
5 further detail on that application.

6 But Liberty's petition states that
7 their intent to compete for the franchise --
8 well, before that, they say that they're
9 intending to respond to this RFP. And, if
10 selected by Epping, Liberty intends to file a
11 franchise request with the Commission.

12 Again, while we respect the Town of Epping's
13 request for information and understand their
14 interests, given that the impact that any new
15 utility service would bring to a town, we
16 don't think that the Town really has any
17 authority here over the grant of a petition.
18 That's solely within the discretion of the
19 Commission. And the reasons for that are
20 obvious: If towns had authority over the
21 grant of petitions, you could wind up with
22 really a patchwork of situations where towns
23 ask for different types of things, taking
24 into account the different types of interests

1 than the interests that the Commission is
2 tasked with considering when considering the
3 grant of a franchise. In fact, you could
4 have a situation where a town could
5 strategically block any further expansion by
6 any utility because of the location they
7 happen to be in. So, clearly the statute
8 scheme is to give the authority to the
9 Commission.

10 So, tying their intervention to the
11 outcome of the Town's consideration really
12 doesn't seem to make any sense. Certainly we
13 filed our petition on or about, I think,
14 June 4th. And if Liberty is interested in
15 serving, they're welcome -- they could have
16 filed a petition to serve the franchise in
17 the interim. You know, since we filed,
18 they're welcome to file, obviously, a
19 petition with the Commission at any time.
20 But certainly intervening in our application
21 doesn't make sense at this point.

22 We'd also note that the other
23 consideration that the Commission should take
24 into account in considering intervention is

1 if the interests of justice and the orderly
2 conduct of the proceedings would not be
3 impaired by allowing the intervention. We
4 believe in a situation like this, where any
5 possibility of service by Liberty to Epping
6 would be so contingent on Granite, that we
7 think this would really confuse the
8 proceeding, and there would be these other
9 issues involved that would really distract
10 from what is I think a very clean petition by
11 Northern to serve the town.

12 See if there's anything else. I'm
13 available to answer any questions. And
14 certainly, if the Commission would prefer, we
15 could follow up by a written response. But
16 I'm willing to take your advice on it.

17 CHAIRMAN HONIGBERG: All right.
18 We'll circle back in a moment. Let's deal
19 with the Town of Epping real quick. I assume
20 there is no objection to the Town's
21 intervention?

22 [No verbal response]

23 CHAIRMAN HONIGBERG: All right.
24 That intervention is granted.

1 Mr. Sheehan, you want to respond to
2 Mr. Epler?

3 MR. SHEEHAN: Yes, please. Our
4 reason for intervening in this docket is not
5 to oppose Northern's request. It's just
6 simply to advise the Commission of what
7 you've been advised of this morning, that the
8 Town of Epping has started a process where it
9 intends to choose which of the two companies
10 it prefers. I agree that the Town of Epping
11 does not have authority to grant a franchise.
12 That is for you. However, the franchise
13 statutes do place weight on the preferences
14 of the town under the public interest
15 standard. That was a factor that caused the
16 Commission pause in the Hanover-Lebanon
17 docket. And I think you would look carefully
18 at what Epping preferred in this docket.

19 Epping has expressed to us -- we
20 have met with them many times -- that the
21 timing of us beginning service is not an
22 issue. Mr. Epler is correct that it will be
23 a few years until we could serve Epping. The
24 Granite Bridge pipeline needs to be approved

1 and built. That does not cause Epping
2 problems. If they decide Liberty is a --
3 offers a better package of service than
4 Northern and they choose Liberty, they're
5 willing to wait. It is obviously a
6 many-decade commitment, and they're not going
7 to get hung up on the start of it being held
8 up by a couple years.

9 So, as I stated in the Petition to
10 Intervene, we are here because we want to
11 advise the Commission that awarding Northern
12 the franchise now would interfere with our
13 ability to request a franchise in the future
14 should Epping select us as a winner of their
15 RFP. We do have rights, therefore, in this
16 proceeding to put a pause on that until the
17 Commission can adequately weigh Epping's
18 concerns or preferences.

19 CHAIRMAN HONIGBERG: That doesn't
20 sound right to me. How is -- you have no
21 petition on file. So how can a hypothetical,
22 thought-deeply-about petition have rights?
23 It makes it different from the situation with
24 Hanover-Lebanon, where by the time we got to

1 the first prehearing conference, we had two
2 petitions. And we did grant intervenor
3 status to Liberty in the Valley Green
4 petition, and to Valley Green, I think, in
5 the Liberty petition. There were limits
6 placed. You couldn't see confidential
7 information. There was some restrictions
8 placed. But you got intervenor status in
9 those. But in those two situations, both
10 petitions were on file. This seems different
11 here.

12 MR. SHEEHAN: It is in the regards
13 you just mentioned. That's obviously a very
14 easy difference to fix. We obviously did not
15 intend to file for Epping until the Granite
16 Bridge project was a little further along.
17 And Northern, by filing this petition, has
18 kind of advanced the issue in the time line
19 for us. We intended to just have this -- I
20 didn't quite get to the bottom line of what
21 we hoped for, and that is simply to have a
22 schedule that allows for the RFP process to
23 proceed and conclude, which I suspect is a
24 matter of a few months and not anything

1 longer.

2 If Epping chooses Northern, we
3 won't file and we walk away and that issue is
4 over. So it would be -- we thought it would
5 be sort of pointless to file a petition now
6 that would be -- you know, it would have the
7 timing issue and then withdraw it if we
8 don't -- aren't selected. If they do select
9 us, we would file -- we can certainly file
10 tomorrow if you think that is necessary to
11 trigger the intervention question. But it
12 seems a procedural step. And I get it.
13 There is more than just procedure.

14 CHAIRMAN HONIGBERG: All right.
15 We'll circle back to you, Mr. Epler. Does
16 Mr. Kreis or Ms. Ross or Mr. Maher want to
17 offer anything here?

18 Mr. Kreis, you look like you want
19 to grab the mic.

20 MR. KREIS: I do. Thank you, Mr.
21 Chairman. Thank you for recognizing me.

22 I believe that Liberty does meet
23 the standard for intervention. And I think
24 Mr. Epler, perhaps inadvertently, did a good

1 job of explaining to you why in fact Liberty
2 is entitled to intervention. It's true that
3 they haven't filed their petition. But the
4 standard for intervention in the statute is
5 that the petitioner has to state facts
6 demonstrating that its rights, duties,
7 privileges, immunities or other substantial
8 interests may be -- and the operative word is
9 "may be" -- affected by the proceeding.

10 That's clearly the case here. The Company,
11 meaning Liberty, has explained that they may,
12 given how future events turn out, be seeking
13 a franchise authority in Epping. And their
14 ability or the desirability from their
15 standpoint as a business of doing that will
16 be affected by the outcome of this
17 proceeding. So the standard is super broad.
18 And I think they've met it, even though this
19 is different than the Hanover-Lebanon
20 situation where you literally had two
21 competing petitions pending at the same time.

22 CHAIRMAN HONIGBERG: You read the
23 language, but then when you explained it, I
24 think you put the "may" in a different place.

1 You put the "may" in the existence of the
2 right, duty or privilege, and then said that
3 will be affected rather than the other way
4 around. What is the right, duty and
5 privilege that may be affected? I get the
6 second part. I understand how something may
7 be affected. But what's that right, duty and
8 privilege we're talking about?

9 MR. KREIS: Well, it's not just
10 right, duty and privileges or immunities,
11 it's "other substantial interests."

12 CHAIRMAN HONIGBERG: So you think
13 it's the "other substantial interests" then.
14 And please articulate -- I mean, Mr. Sheehan
15 did it, but what's your view of what the
16 interest is?

17 MR. KREIS: I think that the
18 Company has a substantial interest in the
19 form of its strategic business opportunity
20 that it may or may not be in a position to be
21 taken advantage of. And I care about this as
22 a ratepayer advocate because, A, there's case
23 law that says in the electric realm that
24 franchises aren't necessarily exclusive.

1 CHAIRMAN HONIGBERG: I wondered
2 when we'd get to that.

3 MR. KREIS: And, B, obviously I
4 want to get the best deal that I possibly can
5 for residential utility customers both in
6 Epping and outside of Epping. And while I --
7 I think taking a step back and thinking about
8 why the Public Utilities Commission exists in
9 the first place is useful. And Mr. Epler
10 made this point very well. The whole reason
11 there are PUCs is because before there were
12 PUCs, you had these municipal franchise
13 decision-making processes that really weren't
14 in the public interest because they resulted
15 in sort of municipalities playing themselves
16 off against each other and extracting
17 inappropriate concessions from utilities.
18 And frankly -- well, I guess that's all I'll
19 say about that.

20 So this creation of PUCs in the
21 early 20th Century was designed to create the
22 very kind of rational decision-making process
23 that we're embarked upon here. So, part and
24 parcel of that is having all the parties

1 whose rights, duties, privileges, immunities
2 or other substantial interests may be
3 affected participating here as parties. Much
4 of what Mr. Epler told you really goes to the
5 merit of whether this petition should be
6 granted and/or whether some hypothetical
7 petition from Liberty should be granted. But
8 it's clear that if Liberty cares to devote
9 the research to doing so, it has the right
10 kind of substantial interests to entitle it
11 to party status here.

12 CHAIRMAN HONIGBERG: Ms. Ross, does
13 Staff have a position?

14 MS. ROSS: Staff does not object to
15 Liberty's intervention in this case, and we
16 haven't done any specific analysis on "other
17 substantial interests." But I would just
18 observe that I believe the Commission has
19 allowed competitors in many contexts to
20 intervene in dockets when they have a
21 potential interest in future business. So I
22 don't think it's beyond the pale to find that
23 a future franchise interest would be "and
24 other substantial interests" under our

1 standards.

2 CHAIRMAN HONIGBERG: Mr. Maher,
3 does the Town have any position?

4 MR. MAHER: The Town would support
5 Liberty's Motion to Intervene. And just to
6 piggyback off of what Mr. Sheehan and Mr.
7 Kreis have said, the Town is looking for a
8 long-term partner when it comes to the
9 provision of natural gas into the town. And
10 I know from Northern Utilities' application,
11 it appears that this is part of a much larger
12 strategy. I believe there are references in
13 their application that, you know, the idea
14 here is to build out this distribution system
15 to reach hundreds, if not thousands, of
16 potential new customers. So the Town is
17 considering the potential impact that this
18 will have upon the commercial and residential
19 properties in the community. It wants to see
20 as many players at the table as possible.
21 That's what the purpose of the RFP is, is to
22 obtain competitive proposals. The Town,
23 knowing the long-term strategic plans of the
24 community, as well as the various businesses

1 in the town and the needs of the town, are in
2 a particularly unique position to be able to
3 weigh and provide some input to the
4 Commission when it's determining whether to
5 grant a franchise here.

6 CHAIRMAN HONIGBERG: Mr. Epler,
7 what do you want to respond to here?

8 MR. EPLER: I'll try to respond to
9 everything I've heard so far, if I could.

10 First of all, I'll respond to the
11 argument of the attorney for Liberty. What
12 was requested by Liberty can occur without
13 them intervening in this docket. He said two
14 things. One, he said the intent -- first of
15 all, they don't oppose our petition. Second,
16 he said that their interest was informing the
17 Commission of their interests in serving the
18 town. Well, they've done that. And then
19 third, they said that their intent is to
20 respond to the RFP from the Town of Epping.
21 They can do that. So all this can occur
22 without them intervening in this petition.
23 They haven't given you an argument as to why
24 they need to be here in this case, in this

1 docket.

2 As to the Consumer Advocate's
3 argument that he's looking to try to get the
4 best deal for the interests that he
5 represents, I completely understand that.
6 But you don't get that from an intervenor.
7 You get that if the competing party files a
8 petition for a franchise and puts down on
9 paper what deal they're going to offer, what
10 their costs are and what their planned route
11 is, the areas they plan to serve, the number
12 of customers, the expertise that they have,
13 how they're doing the financing, all the
14 kinds of things that's in our petition. That
15 dealing doesn't occur by someone intervening
16 in our proceeding, where we have laid all of
17 that out. That's really not fair.

18 It also raises considerable
19 concerns we have over confidentiality
20 because, as our petition indicates, we have
21 highly confidential cost of service
22 information that we've provided and other
23 information that we've provided and we've
24 requested confidential treatment for. And so

1 any proceeding that follows this prehearing
2 conference, technical session and so on, is
3 going to be fraught, you know, with can we
4 talk about that, can we not talk about this,
5 and thus it gets to the question of, you
6 know, interfering with the proceeding that
7 also needs to be taken into account when
8 considering a Petition to Intervene.

9 And again, I think the Chairman was
10 correct in focusing on the first part of the
11 intervention statute, the rights, duties,
12 privileges and immunities. And I go back to
13 what I raised initially. Liberty's ability
14 to serve Epping is completely dependent on
15 the success of the Granite Bridge project.
16 That project is a long way towards actually
17 existing. There's -- my understanding,
18 there's a procedural schedule that has --
19 that doesn't have hearings before you until
20 January. And whether or not that gets done
21 sooner or later, I mean, you know, it's
22 not -- it's out of our hands. But then
23 there's the Site Evaluation Committee, and
24 then you have a substantial construction

1 period. So, certainly before they have any
2 possibility of serving Epping, a lot has to
3 occur.

4 One other fact that I would like to
5 put before you is that, although in our
6 petition we did not ask for expedited
7 treatment, since we filed, we've become aware
8 that the Department of Transportation is
9 doing some upgrading along Route 27, about
10 3500 feet or so of Route 27, along our
11 proposed route this summer. And if we were
12 able to take advantage of that construction,
13 that would be a significant savings for our
14 proposal to be able to lay pipe while they're
15 doing that construction. So there is some
16 urgency behind our petition now, given the
17 construction that's occurring this summer.

18 COMMISSIONER BAILEY: Mr. Sheehan,
19 if Liberty is not going to oppose the
20 petition, what are you going to do?

21 MR. SHEEHAN: As I said, we're
22 going to wait for the Epping RFP to finish.
23 If Epping chooses us, we would then oppose
24 Northern's petition, to the extent it's

1 inconsistent with Epping's wishes.

2 What I meant to say when I said
3 we're not opposing it is that Northern is
4 certainly a company capable of serving
5 Epping. We're not saying they're not a good
6 company that can provide service. We're just
7 saying that give the Epping process a chance
8 to play out. If we are chosen, we will file,
9 and at that point we would object to Northern
10 on the basis of the Epping recommendation.

11 COMMISSIONER GIAIMO: I guess my
12 question is for Mr. Epler. If and when
13 Liberty submits a petition, will you
14 intervening in that docket, in their
15 proceeding?

16 MR. EPLER: It really depends when
17 that occurs. And if it were to occur, I
18 would assume at that point that there may be
19 a Motion to Consolidate the dockets or
20 something like that. If our docket is moving
21 along, there may be no need for us to do
22 that.

23 CHAIRMAN HONIGBERG: I want to
24 confer with my colleagues. We're going to

1 take five minutes.

2 (Brief recess was taken at 10:57 a.m.,
3 and the hearing resumed at 11:02 a.m.)

4 CHAIRMAN HONIGBERG: Be seated.

5 Mr. Sheehan, we're going to deny
6 your intervention petition for now. We view
7 the difference between being the type of
8 intervenor you would be today if we granted
9 intervention status and the status that you
10 can have as an active monitor and even some
11 level of informal participant. But not
12 having access to confidential information in
13 either case is not much different today.
14 Your situation may change. Your status may
15 change. And that may change the nature of
16 your level of participation in this docket.
17 But that's the decision for today on
18 intervention. But that, again, does not mean
19 you can't stay for the technical session and
20 confer with the parties, Mr. Kreis and the
21 Town and Staff and Mr. Epler, to make sure
22 that you have the information that you feel
23 you need to monitor actively and understand
24 what's going on and work with the Town on

1 whatever the Town's process is to inform the
2 Town, as it wants to participate in this.

3 Anybody have any questions on that
4 ruling?

5 [No verbal response]

6 CHAIRMAN HONIGBERG: All right.
7 Anything else we need to do before we hear
8 the preliminary positions of the parties?

9 [No verbal response]

10 CHAIRMAN HONIGBERG: All right.
11 Let's start with you, Mr. Epler, and then
12 we'll go to Mr. Maher and Mr. Kreis and
13 Ms. Ross.

14 MR. EPLER: Mr. Chairman, if you
15 can just give me a minute. My computer shut
16 off and...

17 Okay. Thank you, Mr. Chairman and
18 Commissioners. The Company has submitted
19 what it believes to be a very straightforward
20 petition to expand its franchise territory
21 into the town of Epping. We currently serve
22 the adjacent towns of Brentwood and Exeter.
23 The expansion into Brentwood would bring --
24 excuse me -- the expansion into Brentwood

1 brought Northern's distribution network to
2 within a mile of the Epping town line. Our
3 current plan is to install slightly less than
4 6 miles of main along state roads 27 and 125,
5 including the commercial development that is
6 clustered near the intersection of those two
7 roads. The Company believes that there is
8 significant opportunity to serve residential
9 and commercial customers in Epping and looks
10 forward to providing services to homeowners
11 and businesses in the town. The Company
12 believes the petition is very much in the
13 public interest. The project meets the
14 Company's discounted flow analysis and is
15 economical. Expansion of natural gas service
16 into Epping will provide economic benefits to
17 the residents and businesses.

18 I would note, as I indicated
19 earlier, that although we did not request
20 expedited consideration of the petition,
21 we've become aware that this summer the
22 Department of Transportation is undertaking
23 some road improvements along approximately
24 3500 feet of our proposed route along

1 Route 27, and there would be significant
2 savings if we were able to take advantage of
3 this construction to lay pipe in this area.

4 We look forward to working with
5 Staff and the OPA in this docket, as well as
6 with the Town of Epping and other interested
7 parties, and appreciate your time this
8 morning.

9 CHAIRMAN HONIGBERG: We know you
10 meant to reference the OCA.

11 MR. EPLER: Oh, my goodness. Yes.

12 CHAIRMAN HONIGBERG: We knew who
13 you meant.

14 MR. EPLER: I did mean to do that,
15 but my line here on the computer said "OPA,"
16 and I was dutifully reading what I had
17 written. So, my apologies.

18 MR. KREIS: Mr. Chairman, we love
19 the Office of the Public Advocate, our
20 counterpart in Maine, and we're happy to be
21 associated with them and their good work.

22 MR. EPLER: We all love the Public
23 Advocate in Maine.

24 I also came across one mistake

1 that's in our petition on Bates Page 8. The
2 second paragraph states that the expansion
3 into Brentwood brought Northern's
4 distribution network to within a mile of the
5 "Exeter town line." That should read "Epping
6 town line." So, my apologies for that. And
7 thank you very much.

8 CHAIRMAN HONIGBERG: Mr. Maher.

9 MR. MAHER: At this time, the Town
10 of Epping doesn't have a position either for
11 or against the proposal. As has been alluded
12 to, the Town is going through the RFP
13 process. It is anticipating receiving
14 responses from Northern Utilities, at which
15 time the Town intends on reviewing those
16 responses with the Town's utility consultant
17 and the board formally meeting to take a
18 position on the application at that time.
19 The Town does not oppose the schedule right
20 now as proposed by Mr. Epler. But the Town
21 does want to have opportunity to make sure it
22 is able to digest the responses and prepare
23 prefiled testimony in light of those
24 responses so that they can make their

1 position known before the Commission.

2 CHAIRMAN HONIGBERG: Mr. Kreis.

3 MR. KREIS: Thank you, Mr.

4 Chairman. Much as the -- much like the Town
5 of Epping, the Office of Consumer Advocate
6 doesn't have a position either for or against
7 the petition of Unitil at this time. As I
8 said earlier this morning, our concern is
9 maximizing benefits to residential utility
10 customers and making sure that existing
11 customers of a particular utility do not
12 provide undue or unfair subsidies to new
13 customers and/or end up indemnifying a
14 utility for what could prove to be
15 improvident business decisions. So that, as
16 in any docket of this type, is a concern that
17 we hope to vindicate through the process.

18 As I suggested earlier, the 1996
19 decision of the New Hampshire Supreme Court
20 in appeal of Public Service Company of New
21 Hampshire declared that utility franchises
22 for electric utilities are non-exclusive.
23 And I think the reasoning in that case is
24 easily extended to other utilities and other

1 industries, and so that becomes an issue that
2 we might have to vindicate through this case.
3 And we look forward to working with the other
4 parties in bringing this case to a successful
5 conclusion that's consistent with the public
6 interest.

7 I appreciate the request that
8 Unitil is making for what is something like
9 expedited consideration. But I think that,
10 given the complexity of the issues in this
11 case and the various interests that are at
12 issue here, I think the Commission may not be
13 able to provide that kind of fast-paced
14 decision-making, and that becomes, in
15 essence, a cost of the regulatory process
16 that gets imposed on the situation.

17 So I think that's all I have to
18 say.

19 CHAIRMAN HONIGBERG: Ms. Ross.

20 MS. ROSS: Yes, Staff just observes
21 that in this case there is no anchor tenant
22 who is committed to taking service. So Staff
23 will be looking carefully at the DCF
24 analysis, as well as assumptions, modeling

1 assumptions regarding customer acquisition.
2 And we would also be looking at how
3 successful the model has been in the past at
4 predicting future customer acquisitions. So
5 we will be issuing discovery.

6 And with regard to non-exclusive
7 franchises, we do caution the Commission that
8 whatever decisions we make with regard to
9 distribution franchises should be made so
10 that the system is economically efficient,
11 and that often means we don't want to
12 duplicate distribution networks in the same
13 area because it becomes redundant and
14 expensive. Thank you.

15 CHAIRMAN HONIGBERG: All right. I
16 think that is all we need from the prehearing
17 conference, unless there's anything else the
18 parties need from us.

19 [No verbal response]

20 CHAIRMAN HONIGBERG: All right. We
21 will leave you to your technical session and
22 adjourn. Thank you.

23 (Hearing concluded at 11:12 a.m.)
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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public
of the State of New Hampshire, do hereby
certify that the foregoing is a true and
accurate transcript of my stenographic
notes of these proceedings taken at the
place and on the date hereinbefore set
forth, to the best of my skill and ability
under the conditions present at the time.

I further certify that I am neither
attorney or counsel for, nor related to or
employed by any of the parties to the
action; and further, that I am not a
relative or employee of any attorney or
counsel employed in this case, nor am I
financially interested in this action.

Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)

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