

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

NHPUC 1FEB'19PM1:52

January 16, 2019 - 10:04 a.m.
Concord, New Hampshire

RE: DE 18-182
EVERSOURCE ENERGY:
Petition for Adjustment to Stranded
Cost Recovery Charge.

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

Sandy Deno, Clerk

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

Reptg. Residential Ratepayers:
D. Maurice Kreis, Esq., Consumer Adv.
James Brennan, Finance Director
Office of Consumer Advocate

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.
Richard Chagnon, Electric Division

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

**CERTIFIED
ORIGINAL TRANSCRIPT**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

PAGE NO.

WITNESS: CHRISTOPHER J. GOULDING

Direct examination by Mr. Fossum	6
Cross-examination by Mr. Kreis	16
Cross-examination by Ms. Amidon	20, 26
Interrogatories by Chairman Honigberg	25, 42
Interrogatories by Cmsr. Bailey	35
Interrogatories by Cmsr. Giaimo	37

* * *

CLOSING STATEMENTS BY:

Mr. Kreis	44
Ms. Amidon	48
Mr. Fossum	49

QUESTIONS BY:

Chairman Honigberg	54
Cmsr. Bailey	56

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
1	Eversource Energy's Petition for Adjustment to Stranded Cost Recovery Charge, including Testimony of Christopher J. Goulding, with attachments (11-30-18)	<i>premarked</i>
2	Eversource Energy's Technical Statement of Christopher J. Goulding and Updated Attachments (01-11-19)	<i>premarked</i>
3	Comparison of Rates Proposed for Effect February 1, 2019 (4 pages)	<i>premarked</i>
4	RESERVED (Record request to provide bank statements and supporting documentation for RRB information related to CJG-2 within Exhibit 2)	33

P R O C E E D I N G

1
2 CHAIRMAN HONIGBERG: We are here this
3 morning in Docket 18-182, which is Eversource's
4 filing related to its Stranded Cost Recovery
5 Charge for rates effect February 1st, 2019.

6 Before we do anything else, let's
7 take appearances.

8 MR. FOSSUM: Good morning,
9 Commissioners. Matthew Fossum here for Public
10 Service Company of New Hampshire doing business
11 as Eversource Energy.

12 MR. KREIS: Good morning. I am D.
13 Maurice Kreis, sometimes called "Don Kreis". I
14 am the Consumer Advocate here on behalf of
15 residential utility customers, with our
16 excellent Director of Finance, Jim Brennan.

17 MS. AMIDON: Good morning. Suzanne
18 Amidon, for Commission Staff. With me today is
19 Rich Chagnon, an Analyst with the Electric
20 Division.

21 CHAIRMAN HONIGBERG: All right. How
22 are we proceeding this morning? Mr. Fossum.

23 MR. FOSSUM: The Company has a single
24 witness to present this morning, who will

1 explain the rates and we'll ask for approval.

2 CHAIRMAN HONIGBERG: Any preliminary
3 matters we need to deal with before Mr.
4 Goulding takes the stand?

5 MR. FOSSUM: I guess only that we
6 have -- that I have premarked with the Clerk a
7 couple of exhibits that I was going to run
8 through, just so everybody is working off the
9 same numbering.

10 We've premarked for identification
11 the Company's November 30th, 2018 submission as
12 "Exhibit 1" for ID. We've also marked the
13 Company's January 11th update filing as
14 "Exhibit 2" for ID. And I believe that the
15 Clerk has already distributed to you what has
16 been marked for ID as "Exhibit 3", which is a
17 four-page document with a whole pile of numbers
18 on it, that Mr. Goulding will go through in due
19 course.

20 CHAIRMAN HONIGBERG: All right. If
21 there's nothing else, why don't we have Mr.
22 Goulding take the stand.

23 Mr. Patnaude, would you do the honors
24 please.

[WITNESS: Goulding]

1 (Whereupon **Christopher J.**
2 **Goulding** was duly sworn by the
3 Court Reporter.)

4 CHAIRMAN HONIGBERG: Mr. Fossum.

5 MR. FOSSUM: Thank you.

6 **CHRISTOPHER J. GOULDING, SWORN**

7 **DIRECT EXAMINATION**

8 BY MR. FOSSUM:

9 Q Mr. Goulding, could you please state your name,
10 your position, and your responsibilities for
11 the record.

12 A Sure. My name is Christopher Goulding. I'm
13 employed by Eversource Energy as the Manager of
14 New Hampshire Revenue Requirements. In my
15 role, I'm in charge of coordination and
16 implementation of Eversource New Hampshire
17 revenue requirement calculations.

18 Q And, Mr. Goulding, back on November 30th, did
19 you submit testimony and attachments in what
20 has been premarked for ID as "Exhibit 1"?

21 A Yes, I did.

22 Q And was that testimony, and those attachments,
23 were those prepared by you or at your
24 direction?

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 A Yes, they were.

2 Q Do you have any changes or updates to the
3 information in that submission?

4 A No, I do not.

5 Q And do you adopt that testimony as your sworn
6 testimony for this proceeding?

7 A Yes, I do.

8 Q Now, Mr. Goulding, back on January 11th, did
9 you also submit an update technical statement
10 and attachments in what has been premarked for
11 ID as "Exhibit 2"?

12 A Yes, I did.

13 Q And was that statement, and those attachments,
14 were those prepared by you or at your
15 direction?

16 A Yes, they were.

17 Q Do you have any changes or updates to that
18 information this morning?

19 A No, I do not.

20 Q And do you adopt the information in there as
21 your sworn testimony for this proceeding?

22 A Yes.

23 Q Thank you. Could you, Mr. Goulding, since
24 these filings have already been out there a

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 while, we don't need to go into length, but
2 could you very, very briefly explain the
3 Company's request as contained in Exhibits 1
4 and 2 please?

5 A Sure. So, there's lots of rates here, so I'll
6 try to go slow for Steve.

7 In the initial filing, Eversource had
8 calculated preliminary average SCRC rates,
9 including the RGGI adder, consistent with its
10 past practice. The preliminary average SCRC
11 rates, excluding the RGGI adder, calculated
12 were as follows: 1.981 cents per kWh for Rate
13 R customers, compared to the current average
14 rate of 2.147 cents per kWh; and 1.847 cents
15 per kWh for Rate G customers, compared to the
16 current rate of 1.970 cents; 1.538 cents per
17 kWh for Rate GV customers, compared to the
18 current average rate of 1.626 cents; and 0.559
19 cents per kWh for Rate LG customers, compared
20 to the current average rate of 0.607 cents; and
21 finally, for -- 2.133 cents per kWh for Rate
22 OL/EOL customers, compared to the current
23 average rate of 2.253 cents.

24 And for the RGGI adder, Eversource

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 calculated a preliminary RGGI adder rate of
2 negative 0.104 cents, compared to the current
3 rate of negative 0.094 cents.

4 The major components driving the decrease
5 from the current average SCRC rate is a
6 decrease in the RRB charge, which recovers
7 securitized costs, and the removal of
8 approximately \$26 million of costs associated
9 with the non-Scrubber Energy Service under
10 recovery. The decrease from these items was
11 largely, but not entirely, offset by the
12 inclusion of the above-market cost relating to
13 Senate Bill 365, which requires purchases from
14 the biomass facilities.

15 Q So, that was all in the preliminary, in
16 Exhibit 1. Could you please also explain the
17 Company's request as shown in Exhibit 2?

18 A Sure. In the update filing, the Company
19 calculated updated average SCRC rates with more
20 current data. The updated average SCRC rates,
21 excluding the RGGI adder, are 1.887 cents for
22 Rate R customers; 1.760 cents for Rate G
23 customers; 1.488 cents for Rate GV customers;
24 0.522 cents for Rate LG customers; 2.126 cents

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 for Rate OL/EOL customers.

2 And for the RGGI adder, the Company
3 calculated a rate of negative 0.134 cents for
4 all customer classes.

5 The primary drivers of the change from the
6 preliminary rate filing are from updates of
7 actual information for the month of November,
8 an updated forecast based on current energy
9 forecasts, and updates to the RRB charge
10 effective February 1st, 2019 attributable to
11 the submission of the true-up letter relating
12 to the RRBs in Docket DE 17-096.

13 Q Thank you. Now, Mr. Goulding, in your initial
14 discussion, you mentioned the issue of making
15 purchases from certain biomass facilities. Is
16 there an estimate of the costs of those
17 purchases contained in the Company's requested
18 rates?

19 A Yes, there is.

20 Q Mr. Goulding, are you aware of Order
21 Number 26,028 [26,208?] issued in Docket DE
22 18-002 last week?

23 A Yes.

24 Q Could you explain how the Company views the

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 impact of that decision on this rate proposal?

2 A Sure. So, first, we made that update filing
3 before the order was issued. So, the order is
4 not accounted for in any way in this filing.
5 And, based on my understanding of the order,
6 the Commission was trying to address various
7 disagreements amongst the parties relating to
8 the implementation of Senate Bill 365.

9 For the most part, the order does not
10 address any issues specific to this rate.
11 There is one part, however, where Eversource
12 had requested that the Commission provide
13 assurance that the above-market payments made
14 under Senate Bill 365 will be recoverable by
15 Eversource.

16 An estimate of those payments is included
17 in these proposed SCRC rates. The Company
18 understands that for now the Commission decided
19 that it would not separately order recovery of
20 those costs until the constitutionality of the
21 law is upheld.

22 Based on my understanding of the law as it
23 was explained to me, the law is valid for now.
24 Therefore, because, under the law, Eversource

[WITNESS: Goulding]

1 will be required to make above-market payments,
2 and because it shall recover the cost of those
3 payments, those above-market costs have been
4 included in the current SCRC rates.

5 Q Thank you. Mr. Goulding, do you have in front
6 of you what has been premarked for
7 identification as "Exhibit 3"?

8 A Yes, I do.

9 MR. FOSSUM: And I believe that has
10 been distributed to the parties and the
11 Commissioners.

12 BY MR. FOSSUM:

13 Q Could you please describe what is shown in
14 Exhibit 3?

15 A Yes. So, Page 1 of Exhibit 3 is the proposed
16 February 1st, 2019 rates to the current rates.
17 And what you'll see is there is two changes
18 that are going to go into effect for
19 February 1st, or proposed to go into effect for
20 February 1st. One is to the Stranded Cost
21 Recovery Charge and one is to the Energy
22 Service rate.

23 So, if we look at Line 8 -- actually,
24 excuse me, Line 7, it says "Stranded Cost

[WITNESS: Goulding]

1 Recovery Charge". Currently, customers pay
2 \$11.37 for the Stranded Cost Recovery Charge
3 for a customer taking 550 kWh a month; and, on
4 February 1st, they will pay \$9.71. So, a
5 decrease of \$1.66, and that is a negative
6 1.5 percent change or percent change as a
7 percent of their total bill.

8 And then you'll see down that there's also
9 the increase for Energy Service. So, those two
10 changes combined will be an increase in the
11 bill of \$1.49 for a customer taking 550 kWh,
12 which is an increase in their overall bill of
13 1.3 percent.

14 Turning to Page 2, this is the impact of
15 each change on the delivery service bills. So,
16 the first page is just for delivery service
17 portion of the bills. So, for a residential
18 customer, they will see a decrease in the
19 delivery service portion of their bill of
20 2.8 percent. And that goes down the line,
21 you'll see Rate G is a decrease of 2.7 percent.
22 And if we look at the overall, we'll see a
23 total retail decrease of 2.8 percent, for the
24 delivery service portion of bills for the

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 classes of customers.

2 Turning to Page 3. This is for an impact
3 change -- the impact of each change on bills
4 including the Energy Service. So, if we look
5 at a residential customer, their overall bill
6 will go up by 1.3 percent. And you'll see a
7 decrease related to the SCRC of 1.5 percent,
8 and that's offset by an increase in the Energy
9 Service of 2.8 percent, gives you an overall
10 increase of 1.3 percent in the total bill. And
11 we have the same items for the other rate
12 classes.

13 Turning to Page 4. This item has been
14 included to compare the proposed February 1st,
15 2019 rates, compared to the rates that were in
16 effect last winter, January 1st, 2018. And if
17 we look at Line 12, we'll see that the overall,
18 for a 550 -- actually, let's jump to Line 20.
19 For an average customer taking 600 kWh, their
20 total bill last winter would have been \$123.64;
21 and this February 1st it will be \$123.79, for
22 an increase of 15 cents.

23 And if we go specifically to Line 15,
24 which is the Stranded Cost Recovery Charge,

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 there's an increase of \$10.30 related to the
2 change in the SCRC. But then there's a bunch
3 of other changes related to transmission
4 change, and I'll focus on Line 19, which is the
5 Energy Service change, and that one went down
6 \$7.59. But, overall, Line 20, the percent
7 change of total bill is 0.1 percent, from this
8 February 1st to last January 1st.

9 Q Thank you, Mr. Goulding. In light of all that,
10 would you please explain what it is -- what the
11 Company's request is through this filing?

12 A Sure. The Company is requesting that the
13 Commission review and approve the SCRC rates,
14 including the RGGI adder, as proposed in the
15 update filing made on January 11th.

16 Q And, Mr. Goulding, is it the Company's position
17 that the rates that is contained in that filing
18 are just and reasonable rates?

19 A Yes.

20 MR. FOSSUM: Thank you. That is what
21 I have for direct.

22 CHAIRMAN HONIGBERG: Mr. Kreis.

23 MR. KREIS: Thank you, Mr. Chairman.

24 Good morning, Mr. Goulding. I have just a few

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 questions for you.

2 **CROSS-EXAMINATION**

3 BY MR. KREIS:

4 Q The first thing I want to do is see if I can
5 press you to the limits of your knowledge about
6 the changes in the RRB charges. Can you
7 address at all what components of the RRB
8 charge are decreasing and which are increasing?

9 A It's not so much a matter of the components of
10 the RRB charge increasing or decreasing. So,
11 the original RRB charges were set for May 1st.
12 And there was a shortened sales forecast period
13 to collect the first year's principal and
14 interest associated with those RRB charges.

15 Year two principal and interest is very
16 similar to the first year, but you have a
17 longer sales period to collect it over, so it
18 put downward pressure on the RRB charges.

19 Q Thank you. Now, I want to turn to the SB 365
20 question. Where -- excuse me -- where would I
21 look in the schedules that are attached to
22 Exhibit 2 to determine what the effect of SB
23 365 is on the Stranded Cost Recovery Charge?

24 A So, if we turn to Bates Page 024, and there's

[WITNESS: Goulding]

1 Line Numbers 7, 8, 9, and 10, that has the
2 "Wood IPP Ongoing costs".

3 Q Which exhibit are you looking at?

4 A Excuse me. Exhibit 2, Attachment CJG-1, Page 5
5 of 6. Bates Page 024.

6 MR. FOSSUM: I believe you're in
7 Exhibit 1.

8 WITNESS GOULDING: Oh, excuse me.
9 Exhibit 2.

10 CHAIRMAN HONIGBERG: Exhibit 2
11 doesn't have 24 pages.

12 MR. KREIS: Right.

13 CHAIRMAN HONIGBERG: Is it Page 7 of
14 Exhibit 2?

15 WITNESS GOULDING: My tabs are
16 backwards.

17 MR. KREIS: Ah. His tabs are
18 backwards.

19 CHAIRMAN HONIGBERG: It's opposite
20 day.

21 WITNESS GOULDING: Tricking me.

22 **BY THE WITNESS:**

23 A Okay. So, Bates Page 007, Lines 7, 8, 9, and
24 10. Those -- that is where the costs

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 associated with the wood contracts would appear
2 for what's included in the SCRC rate.

3 BY MR. KREIS:

4 Q And there's nothing else included in those
5 Lines 7, 8, 9 or 10?

6 A That's just the costs associated with the wood
7 contracts.

8 Q Thank you. In your direct testimony, you
9 referenced Order Number 26,208, which the
10 Commission issued on January 11th of this year.
11 And you indicated some familiarity with that
12 order, did you not?

13 A Yes.

14 Q I'm going to read you a sentence from the
15 order, and then I'm going to ask you to explain
16 how your request is consistent with this
17 determination that the Commission made on
18 January 11th.

19 The Commission said, at Page 24 of the
20 order we're talking about, "Until the
21 constitutionality of the statute is
22 determined", meaning SB 365, "and the authority
23 for recovery of over-market charges from
24 customers is upheld, the Commission cannot

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 order rate recovery of over-market costs
2 associated with compliance with the statute."

3 My question is, how is your request
4 consistent with that language from Order
5 Number 26,208?

6 CHAIRMAN HONIGBERG: Mr. Fossum.

7 MR. FOSSUM: Thank you. Yes, I was
8 going to say -- I was going to see if Mr.
9 Goulding would be attempting an answer first.
10 But, yes, I would object to that. That's
11 asking for a legal opinion or interpretation by
12 Mr. Goulding.

13 MR. KREIS: Well, Mr. Chairman, he
14 testified about that. He offered his
15 opinion --

16 CHAIRMAN HONIGBERG: I think if
17 you -- I think, if we went back and looked at
18 the transcript carefully, I'm fairly certain
19 what Mr. Goulding said is "I was told a number
20 of things, and therefore I did certain other
21 things".

22 What he was told, from my memory of
23 his testimony, was he was advised what that
24 order means, and he has done what his lawyers

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 have told him to do. He can confirm that, my
2 understanding. But I don't think it's fair to
3 ask Mr. Goulding to interpret the order
4 himself.

5 MR. KREIS: Thank you, Mr. Chairman.
6 If that is indeed the answer that Mr. Goulding
7 is prepared to give to my question, that's
8 perfectly acceptable from my standpoint.

9 **BY THE WITNESS:**

10 A That is my answer.

11 MR. KREIS: Thank you. Those are all
12 the questions I have.

13 CHAIRMAN HONIGBERG: Ms. Amidon.

14 MS. AMIDON: Good morning, Mr.
15 Goulding. How are you doing?

16 WITNESS GOULDING: Good. And you?

17 MS. AMIDON: Yes. Not bad.

18 BY MS. AMIDON:

19 Q I wanted to begin by asking a question about
20 some numbers related to the calculation
21 presented in your exhibit -- or, Attachment 8,
22 that's at Bates 021. It's a letter from Robert
23 Bersak, Chief Regulatory Counsel, to the
24 Commission, concerning the "Periodic RRB Charge

[WITNESS: Goulding]

1 True-Up Mechanism Advice Filing". Are you
2 there?

3 A I am there.

4 Q Okay. Now, as I understand it, and please
5 correct me if I'm wrong, this filing is made
6 pursuant to the order you referenced in the
7 first sentence of this letter, Order
8 Number 26,099. Is that right?

9 A Yes.

10 Q So, are you -- have you read this letter?

11 A I have.

12 Q Okay. And maybe you could help me understand a
13 couple of things. First of all, this letter,
14 is it filed on an annual basis? I wasn't part
15 of that prior proceeding, and so I just wanted
16 to ask if it was filed on an annual basis or
17 every six months?

18 A I believe it's contemplated to be filed every
19 six months. But it could be filed more
20 frequently, depending on if there's a shortfall
21 in the amount of dollars that needed to be in
22 the trust account to satisfy the principal and
23 interest obligations for the rate reduction
24 bonds.

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 Q And how -- where does the -- what is the source
2 of information about "a potential shortfall"
3 for the RRBs? I honestly do not understand the
4 process. So, does that come from an
5 institution or --

6 A Yes. There's a trustee bank that has the funds
7 of the account. So, there's a group within
8 Eversource that monitors the funds that are in
9 that trust account, what the upcoming principal
10 and interest payments are going to be, and do
11 an analysis to make sure that the forecasted
12 funds that are coming in, plus the funds in the
13 account, are going to meet the principal and
14 interest payments to satisfy those payments.

15 Q Thank you. On Page 2 of the letter, which is
16 Bates 022, at the top of the page there's a
17 line that says "Most recent RRB payment date
18 for which payment data is available", and that
19 is "February 1, 2019". And I'm assuming the
20 words in quotations "Measure Date" is something
21 referenced in the Securitization Agreement?
22 You may not know that, Mr. Goulding. I just
23 thought I'd ask.

24 A No, I'm not familiar with that term. I think I

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 know what it means. It means the date that
2 they're going to begin to measure whether the
3 funds -- what funding level needs to be in the
4 account, from the starting period to the next
5 target date, when the principal and interest
6 payments -- the next principal and interest
7 payments become due.

8 Q Thank you. And so, that sort of -- that
9 coincides with the rate period that Eversource
10 has beginning February 1?

11 A That's correct.

12 Q Thank you. And if we go down to the small
13 table at the bottom, I'm calling it a "table",
14 I don't know what else to call it, the one that
15 has the "Rate Classes" and goes -- and it
16 continues on. And the last item is "R" --
17 well, strike that. The next to the last item
18 is "Forecasted kilowatt-hour sales". Do you
19 see that line?

20 A I do.

21 Q But, when I go to Exhibit 2, I guess it's Bates
22 Page 003, let me know when you're there.

23 CJG-1, Page 1 of 6.

24 A Okay. I'm there.

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 Q Okay. So, on this page, which uses the rate
2 that is presented in Mr. Bersak's letter, if
3 you go to Line 4, that has, instead of,
4 "kilowatt-hours", it has "Forecasted
5 megawatt-hour sales". Do you see that?

6 A I do.

7 Q And those numbers, when calculated to a
8 kilowatt-hour basis or a unit, are not the same
9 as the ones that appear in the letter. Could
10 you explain the difference for that, and will
11 we see that again in the future?

12 A Yes. There will always be a mismatch, because
13 the forecasted sales used to create the RRB,
14 it's the same forecast, but it's not the same
15 forecast period. So, with the RRBs, they have
16 to ensure that the amounts are remitted to the
17 trust account in time to make those payments.
18 So, if there's something that's billed in
19 December, there's about a -- there's a roughly
20 30-day billing lag between when the dollars are
21 collected, so they have to make sure they
22 account for that difference in the billing lag,
23 to make sure that the dollars are available to
24 be sent over to the trust account.

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 So, it's a difference between the
2 forecasted methodologies for the -- or, excuse
3 me, the calculation of the SCRC rate and the
4 calculation of the RRB rate. So, there's about
5 a ten-month -- this looks about -- like about
6 ten months' worth of sales. So, what that does
7 is it says we want to make sure we have
8 February through -- February through November
9 sales, to ensure that all the dollars are in
10 the trust account by February 1 that have
11 billed by December 1st.

12 Q Is there --

13 CHAIRMAN HONIGBERG: I'm with you,
14 Ms. Amidon.

15 BY CHAIRMAN HONIGBERG:

16 Q Is there a simpler way to explain the
17 difference between the numbers in the letter
18 and the numbers on Bates Page 003, with respect
19 to forecasted sales?

20 You talked about a time, being projected
21 over a different period. Is it a different
22 number of months as well?

23 A It's a different month period for the forecast.
24 For the SCRC, we use forecast period

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 February 1st to January 31st. So, that's a
2 twelve-month period.

3 Q And so, that's what on Page 3?

4 A That's what's on Page 3.

5 Q Okay.

6 A And then, what's on Bates Page 022 is ten
7 months of forecasted kilowatt sales. And the
8 difference is made up for in -- if you look up
9 in "Collections expected to be realized in the
10 upcoming remittance period from prior RRB
11 charges: \$15,340,458". That's roughly two
12 more months of remittance, RRB remittances.

13 So, combined, that equals about -- that
14 equals twelve months of RRB remittances. It's
15 just kind of in the presentation of how it
16 shows up on here.

17 CHAIRMAN HONIGBERG: Okay.

18 Ms. Amidon.

19 MS. AMIDON: Okay. Thank you for
20 that further explanation.

21 BY MS. AMIDON:

22 Q And so, my second question was "will the
23 Commission continue to see this type of
24 discrepancy in the future", based on your

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 explanation?

2 A Yes.

3 Q Okay. Thank you. Could we now go to
4 Exhibit 2, Page 7. And this is CJG-1, Page 5
5 of 6.

6 A Okay. I'm looking at it.

7 Q All right. So, Line 10 on this page, if we go
8 to the far right, gives the total estimated
9 over-market cost associated with contracts with
10 the wood IPPs that are contemplated by SB 365.
11 Is that fair?

12 A Yes.

13 Q And so, the reason that we see these numbers
14 varying from month to month is because, for
15 example, in February, the market cost of power
16 is higher than it is, say, in May. Is that --
17 is that right?

18 A That's correct. And then, also, the amount of
19 production on a monthly basis will change or
20 forecast production on a monthly basis would
21 change. So, you have the IPP costs changing
22 and also the market costs associated with those
23 IPP energy.

24 Q Now, do you recall in your testimony in the

[WITNESS: Goulding]

1 Energy Service docket you set -- calculated the
2 adjusted Default Energy Service rate derived
3 under the statute was 7.68 cents per
4 kilowatt-hour?

5 A 7.768 cents, yes.

6 Q And was that the number used when you -- when
7 this forecast was established?

8 A Yes. We used that for the full twelve months.

9 Q Okay. Very good. Thank you. The next line,
10 Line 11, has the Burgess BioPower above-market
11 cost, is that right?

12 A That's correct.

13 Q And so, for the next twelve months, that's
14 estimated to total \$38.2 million?

15 A Yes.

16 Q Is that just the energy price here?

17 A No. That is energy, capacity, and cost
18 associated with purchasing the RECs.

19 Q Okay. So, it's all costs with that contract.
20 Are you familiar with the Burgess BioPower PPA
21 provision of a cumulative reduction factor or
22 fund?

23 A Yes.

24 Q Is there an updated estimate that you could

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 give to the Commission about when that
2 \$100 million overpayment threshold will be
3 reached?

4 A No. I don't have that with me.

5 Q Okay. Now, on this page, there are a number of
6 things we don't see, which are mentioned in the
7 2015 Divestiture Settlement Agreement approved
8 by the Commission in Docket 14-238. And I have
9 one page of that Agreement. It talks about
10 stranded costs and the elements that would be
11 included in Part 2 of the SCRC. And among
12 those costs are "prudently incurred
13 decommissioning, environmental, and any other
14 residual costs or liabilities related to such
15 generation assets, shall become Part 2 costs
16 with continued recovery". Do we see any of
17 those items in this filing on Page 7?

18 A No. I have not forecasted any costs to be
19 included. As they're incurred, I would include
20 those.

21 Q We would anticipate that this, you know, would
22 not be an insignificant amount of money. So,
23 do you have any idea when the Company is going
24 to be able to provide this information to the

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 Commission?

2 I mean, for example, will it be in
3 connection with the rate adjustment for
4 August 1, if you do have to wait until the end
5 of a financial year? Or when would this
6 information be available?

7 A Well, for the ongoing costs, those would as
8 they're incurred. I'm wondering if they're
9 referring to the true-up of the securitization
10 amount that was -- the securitization -- the
11 securitized amount that was issued, versus what
12 needed to be issued.

13 Q Well, what I'm talking about, for example, the
14 environmental -- costs of the environmental
15 mitigation at Schiller, those types of costs,
16 or any other residual costs or liabilities.

17 A For the environmental mitigation, there was
18 insurance policies that were purchased. I
19 believe those -- there was an estimate included
20 in the securitization amount. So, there would
21 just be a true-up of those.

22 Q Okay.

23 A I believe that -- I think that was relatively
24 minor. Because I think the policies were

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 somewhere around a million dollars for both
2 policies. If you're referring to the Schiller
3 Boiler Removal Project?

4 Q Yes.

5 A That project isn't complete yet. In the
6 securitized amount, there was an estimate of
7 \$44 million in there. And I'm not sure what
8 the final number is going to be at this time.

9 Q And do you know how that project is proceeding
10 or do you have any idea when -- what the
11 expectation is of the Company in getting that
12 done?

13 A I believe it's in the wrap-up stages now. And
14 I think it's supposed to be completed within
15 the next couple of months.

16 Q And the Company, obviously, would be letting
17 Staff know when that was about to occur, right?

18 A Yes. And we make monthly status update filings
19 that provide updates on kind of where the
20 project is, when the expected completion date
21 is, and current project cost and current
22 project completion estimates.

23 Q And has the Company started to make any
24 property tax stabilization payments in

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 connection with the Divestiture Agreement?

2 A No. We have not yet.

3 Q And do you know when that might -- the
4 Commission might see that information?

5 A That I do not know. I haven't seen any
6 communication on where that stands.

7 Q Okay. That's fair. CJG-2, which is Bates
8 004 -- wait a minute, I've got the wrong --
9 hold on a second. I've got the wrong page,
10 excuse me. It is Page 4 of CJG-2, but it's
11 Bates Page 012.

12 A Okay. I'm looking at it.

13 Q Is it possible, and I would, if it is possible,
14 I'd do this through a record request, or
15 perhaps get this informally, but can the
16 Company provide documentation which reflects
17 the balances on this attachment, for example,
18 monthly bank statements or something of that
19 nature?

20 A Yes. So, I have the -- I can get copies of the
21 General and Excess Funds Accounts that would
22 support the amounts that appear on CJG-2,
23 Page 4, Bates Page 012, and the amounts that
24 appear on Bates Page 011, where it shows the

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 total RRB charges remittances.

2 CHAIRMAN HONIGBERG: So, Ms. Amidon,
3 you'd like to make that a record request?

4 MS. AMIDON: Yes, I would. Though, I
5 would say the timing is probably, you know,
6 this order has to be issued before the end of
7 the month, so -- but it seems like it's
8 something they have, they could probably give
9 it to us fairly easily.

10 But, yes, a record request, Exhibit 4
11 please.

12 **(Exhibit 4 reserved)**

13 CHAIRMAN HONIGBERG: Mr. Goulding,
14 how long do you think it would take you to
15 collect that information?

16 WITNESS GOULDING: A few days.

17 CHAIRMAN HONIGBERG: Mr. Fossum,
18 we're good with this?

19 MR. FOSSUM: I believe so. My
20 only -- I guess my only question would be as a
21 point of clarification, is for what period are
22 we covering? All the way back to the
23 establishment of the RRBs or some shorter
24 period? Because I know they were only

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 established in the middle of last year, and so
2 it would seem it be the entire period, but I
3 would like to be certain.

4 CHAIRMAN HONIGBERG: Mr. Goulding.

5 WITNESS GOULDING: Yes. So, what I
6 have is the end-of-the-year bank statement that
7 I can reconcile to the forecasted January 31st,
8 2019 forecasted balance. So, it will be for
9 the period of May to December 31st actuals, and
10 then one month of forecasts.

11 CHAIRMAN HONIGBERG: Ms. Amidon, that
12 works for you?

13 MS. AMIDON: Yes, it does. Thank
14 you.

15 CHAIRMAN HONIGBERG: Mr. Fossum, do
16 you understand the request now?

17 MR. FOSSUM: I do.

18 CHAIRMAN HONIGBERG: All right. You
19 may proceed, Ms. Amidon.

20 MS. AMIDON: I have no further
21 questions. Thank you.

22 CHAIRMAN HONIGBERG: That's one way
23 to proceed.

24 Commissioner Bailey.

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 BY CMSR. BAILEY:

2 Q Mr. Goulding, do you know how much the cleanup
3 of the Schiller boilers has cost to date?

4 A If I recall, in the most remittance -- or, the
5 most recent status report, it was somewhere in
6 the range of 42 million through November. I
7 have not finalized December's yet.

8 Q And is the majority of work completed or is
9 there a lot of work to be done to finish it?

10 A There was a decent amount of work in the month
11 of December being done, and then there is some
12 in January, and then the rest is cleanup, or
13 just kind of finalization, cleanup of the site,
14 like housekeeping.

15 Q Okay.

16 A There, just to add on, sorry, as part of that
17 status report, there is an updated forecast of
18 what the project will cost, and I believe it
19 was 47 million-ish, in that range.

20 Q Thank you. Could you tell me what the SCRC
21 rate would be without including the over-market
22 wood plant purchases?

23 A Yes. Is there a specific average SCRC rate
24 you're referring to? Or, would you like each

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 individual one?

2 Q If you have it by rate class, that would be
3 great.

4 A Well, I have the average SCRC rates. For Rate
5 R, --

6 Q That's what I meant.

7 A Okay. So, the filed amount was 1.753 cents,
8 that would decrease to 1.388 cents; for Rate G,
9 the filed amount is 1.626 cents, and that would
10 decrease to 1.281 cents; for Rate GV, the filed
11 amount is 1.354 cents, and it would decrease to
12 1.064 cents; for Rate LG, the filed amount is
13 0.388 cents, and that would decrease to 0.286
14 cents; and for Rate OL/EOL, the filed amount is
15 1.992 cents, and that would decrease to 1.586
16 cents. And those are inclusive of the RGGI
17 adder.

18 Q Okay. Thank you. I don't -- tell me if you
19 know this, or if you -- well, answer it however
20 you can, but do you expect Eversource will
21 begin purchasing energy from the wood plants on
22 February 1st?

23 A I do not know.

24 CMSR. BAILEY: All right. That's all

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 I have. Thank you.

2 CHAIRMAN HONIGBERG: Commissioner
3 Giaimo.

4 CMSR. GIAIMO: Good morning, Mr.
5 Goulding.

6 WITNESS GOULDING: Good morning.

7 BY CMSR. GIAIMO:

8 Q I'll start with a relatively easy question.
9 Instead of assuming a flat RGGI rate, is there
10 any value in using a trend line?

11 A Are you referring to the -- how we forecast the
12 clearing price that the RGGI allowances are
13 going to be sold at?

14 Q Right. The clearing price, which then you take
15 the top -- the dollar off, and then it gets
16 rebated back to ratepayers. So, I was just
17 wondering if you ever thought about using that
18 as a forecast, rather than just using the last
19 auction clearing price?

20 A No. I've never considered it.

21 Q Is it worth considering?

22 A The price has fluctuated pretty significantly
23 over the past couple of years from auction to
24 auction. So, it might bounce all around.

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 But --

2 Q It sounds like you just considered it. So,
3 thank you. Sounds like you had a good reason
4 why you use the flat rate?

5 A Yes.

6 Q Okay. You've briefly spoke about the \$100
7 million cap. And you said you don't have that
8 number on the top of your head. Do you have
9 any idea where that number sits today? A
10 guesstimate? A ballpark?

11 A I don't. Unfortunately, I don't recall where
12 it was when we submitted it last time. So, I
13 don't even -- I couldn't venture to guess where
14 we were. If I had to, I think we were at
15 around 70 million, but I don't know what period
16 of time that was through.

17 Q Okay. Would there be an expectation that that
18 100 million would hit at the end of the year or
19 next year? Or, you're so uncertain with the
20 number, you don't even want to guess?

21 A I'm so uncertain of when it was. I know it was
22 -- it's coming up, I just don't recall if it
23 was a year out or two years out.

24 Q Okay. So, if I were to look at one of your

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 schedules, let's use Exhibit 2, Bates 007.

2 Now, if I'm looking at Line 11, correct me if
3 I'm wrong, but that is not the number I would
4 use to tally up and determine whether and when
5 the 100 million cap gets hit?

6 A No. But, if we turn to Bates Page 008, we've
7 broken out that line into more detail per a
8 past request. And we have the energy,
9 capacity, and REC costs broken out separately.
10 So, Line 3 I believe is the number you would be
11 looking for.

12 Q Okay.

13 A And that's the above-market energy costs.

14 Q Okay. So, we're seeing numbers that range
15 generally between just under a million to
16 between -- to two and a half million?

17 A Yes.

18 Q Okay. While we're looking at schedules, can
19 you help me understand Exhibit 2, Bates 007,
20 and Exhibit 1, Bates 024? And --

21 A Okay.

22 Q We're there. Can you help me understand how
23 the numbers changed so significantly in the
24 course of I guess, what, 45 days? And I'm

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 specifically looking at Line 10 and 11, where,
2 in February 2019, on Bates 024, Exhibit 1, you
3 had credits going back to the consumer to the
4 tune of almost a million on Line 10, and then
5 it becomes a cost of 630,000 on Exhibit 2. How
6 does that happen? What accounts for that?

7 A So, when the above-market costs are calculated,
8 it's based on forecasted energy prices. So,
9 when the forecasted energy prices were
10 calculated for the November 30th filing, they
11 were higher than the forecasted energy prices
12 that were calculated -- or, that were used for
13 the January 11th filing. So, forecasted energy
14 prices have decreased from the January filing
15 to the November filing, causing upward pressure
16 on above-market costs.

17 CHAIRMAN HONIGBERG: You said that in
18 reverse. They have increased from the November
19 filing to the January filing, right?

20 WITNESS GOULDING: Yes.

21 BY CMSR. GIAIMO:

22 Q Okay. There are, on Line 10 -- I'm sorry, on
23 Line 11, there is a \$9 million number. And I
24 am on -- I'm sorry, I'm on Bates 007 of

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 Exhibit 2. To me, that \$9 million number just
2 jumps off the page. Can you speak to that?
3 I'm on Line 11, for "July 2019". And then, we
4 see it again in October, 8 million, almost
5 8 million.

6 A Yes. So, it might help to turn to Bates Page
7 008.

8 Q Okay.

9 A And what's driving that is the delivery of the
10 RECs that we have to purchase. They're
11 delivered on a lag. So, as we take delivery of
12 those and pay the vendor -- or, pay Burgess,
13 we're charging those to customers.

14 Q Thank you.

15 A So, that's why you see it spike more quickly.

16 Q That makes a lot of sense. And my last
17 question is, with respect to January of 2020,
18 and I'm on Exhibit 2, Bates 007, I see a
19 \$46 million credit on Line 10. And so, I guess
20 what I've heard, what I'm hearing you is that
21 is a function of anticipated high market --
22 wholesale market -- electricity market prices
23 in January?

24 CHAIRMAN HONIGBERG: You meant

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 "46,000", right?

2 CMSR. GIAIMO: 46 -- "46,000",

3 correct. Sorry.

4 **BY THE WITNESS:**

5 A Yes. The forecasted market price would exceed
6 the contract price for energy.

7 BY CMSR. GIAIMO:

8 Q Okay. And in your forecast, that's the only
9 month where that happened?

10 A I'd like to correct that, actually, if we turn
11 again to Bates Page 008. Excuse me. We're
12 referring to the woods. That's correct.
13 Sorry, I was thinking we were still on Burgess.
14 But, yes, that's accurate.

15 CMSR. GIAIMO: Okay. Thanks for
16 walking me through that. That's all the
17 questions I have.

18 BY CHAIRMAN HONIGBERG:

19 Q Mr. Goulding, in the normal course, when would
20 the next time rates change?

21 A August 1st.

22 Q If, hypothetically, we ordered you to use the
23 rates you gave Commissioner Bailey, that is
24 without the wood plant numbers, and then

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 something magical happened over the next 30,
2 60, 90 days, and there were purchases being
3 made and resold at a loss. When would you
4 think the Company would want to put those into
5 rates?

6 A I would assume as soon as we're making
7 purchases and we're absorbing the costs
8 associated with those contracts, that they
9 would want to be recovered through rates,
10 consistent with the law.

11 Q And your calculations could look back, look
12 forward, and set it up so that the numbers
13 reconciled to over a shorter period or longer
14 period as necessary, right?

15 A If we came in for an adjustment in between
16 those periods?

17 Q Uh-huh.

18 A Yes. It would change the forecast period, and
19 look back, and adjust the rate accordingly.

20 Q But the lovely thing about your spreadsheets is
21 they're all set up to do that already, right?

22 A Yes, they are.

23 CHAIRMAN HONIGBERG: All right. I
24 don't think I have any other questions. There

{DE 18-182} {01-16-19}

[WITNESS: Goulding]

1 may be a discussion with counsel in the
2 closings about this topic.

3 Mr. Fossum, do you have any further
4 questions for Mr. Goulding?

5 MR. FOSSUM: No thank you.

6 CHAIRMAN HONIGBERG: All right. Mr.
7 Goulding, you can either stay where you are or
8 return to your seat, it's up to you.

9 There are no other witnesses,
10 correct?

11 MR. FOSSUM: Correct.

12 CHAIRMAN HONIGBERG: All right.
13 Without ID, we will strike -- I'm sorry --
14 without objection, we'll strike ID on Exhibits
15 1, 2, and 3. We'll hold Exhibit 4 open as a
16 record request that we expect will be -- will
17 come in in the next couple of days, based on
18 Mr. Goulding's statements when he was
19 testifying.

20 If there's nothing else, we will hear
21 from the parties in closing. Mr. Kreis, why
22 don't you start us off.

23 MR. KREIS: Thank you, Mr. Chairman.
24 Thank you, Mr. Goulding, for your helpful

{DE 18-182} {01-16-19}

1 testimony.

2 I realize that it's not Shakespeare
3 Week anymore, but I can't resist. As King Lear
4 said, in Act 5, Scene 3: "Howl, howl, howl,
5 howl!" With reference in particular to the
6 number that appears on Line 10 of Bates Page
7 007, of Exhibit 2, and that number is
8 "23,348,000". I cannot believe that this
9 Company is before you today asking to recover
10 that sum from its customers, when it has made
11 clear it believes the collection of that sum
12 from customers is illegal, because it believes
13 that SB 365 is unconstitutional, a view that
14 the Office of the Consumer Advocate shares and
15 is assiduously pressing on the tribunal that is
16 in the best position to make that
17 determination.

18 You concluded, just a few days ago,
19 in your Order Number 26,208, that "Until the
20 constitutionality of the statute is determined,
21 and the authority for recovery of over-market
22 charges for customers is upheld, the Commission
23 cannot order rate recovery of over-market costs
24 associated with compliance with the statute."

1 I do not know what part of that Eversource does
2 not understand.

3 That sum should be stricken from the
4 Company's request for recovery in the Stranded
5 Cost Recovery Charge, and the rates that you
6 should approve are those that Commissioner
7 Bailey very helpfully adduced from Mr. Goulding
8 during his testimony. The fact that he had
9 those numbers so readily calculated suggest to
10 me, and should suggest to you, that the Company
11 knows that that is the correct rates for you to
12 approve in this proceeding.

13 Now, earlier, on Page 24 of Order
14 Number 26,208, the Commission said "While the
15 federal preemption challenge to the legality of
16 RSA 362-H remains unresolved, however, we are
17 not willing to separately order recovery of
18 stranded costs from Eversource customers for
19 the reasons explained below."

20 I suppose the Company is hanging its
21 request here on that word "separately". But I
22 don't think that flies. The Company asked you
23 to determine that these costs were recoverable
24 while these constitutional issues are sorted

1 out, and you unambiguously answered that
2 question in the negative.

3 I think you have to apply that
4 determination here. In part, because you've
5 already made that determination, and in part --
6 and if somebody doesn't like that
7 determination, the rehearing period is still
8 running. It remains in effect. But also
9 because RSA 374-F, Section 3, says that, in
10 order to be recoverable, stranded costs must
11 be, among other things, "constitutional".
12 These stranded costs are unconstitutional, and
13 you should disallow them.

14 The Company has made clear that it
15 has the wherewithal to come back later and seek
16 recovery of those costs, should the -- or, in
17 the unlikely event that it turns out that SB
18 365 is unconsti -- is constitutional. But, in
19 the meantime, it is clear that the right rates
20 here are those that Mr. Goulding laid out for
21 Commissioner Bailey. And I strongly urge you
22 to order that result in this docket.

23 Subject to all of that, everything
24 else about the Company's rate proposal here and

1 Stranded Cost Recovery Charge reconciliation
2 pencils out nicely and results in just and
3 reasonable rates. And so, subject to those
4 changes, I respectfully request that you
5 approve them.

6 And I believe that's all I have to
7 say, unless there are any questions.

8 CHAIRMAN HONIGBERG: Ms. Amidon.

9 MS. AMIDON: Thank you. Staff has
10 reviewed the filing, and we believe that the
11 Company has appropriately calculated, as it
12 does in -- it has in previous filings the Part
13 2 SCRC costs. And as we understand it, the RRB
14 costs are supported by a true-up letter.
15 Hopefully, that will be supported by the
16 information we requested in our record request.

17 As to the Senate Bill 365 issue, I
18 know that the Company has calculated what they
19 anticipate to be the estimated costs for
20 complying with purchases from the wood power
21 plants. So, that information is already there
22 for them. They can update it.

23 So, Staff believes that it's
24 appropriate to exclude those costs from this

1 particular recovery request. And once the PPAs
2 are submitted and we have a start date for the
3 procurement by Eversource of that power from
4 the wood power plants, the Commission can hold
5 an expedited hearing and, you know, say, for
6 example, it happens March 15th, beginning
7 April 1, the Company would be able to develop a
8 rate for that month through July to recover the
9 costs associated with those contracts. So, we
10 don't see any urgency at this point to approve
11 the inclusion of those costs.

12 Although, we do understand, at the
13 time that they made the filing, they had no --
14 they did not have the order referred to by Mr.
15 Kreis and the Commissioners.

16 Having said that, we believe that,
17 with the exclusion of those particular costs,
18 the resulting rates will be just and
19 reasonable, and would recommend that they be
20 approved for inclusion in rates effective
21 February 1.

22 Thank you.

23 CHAIRMAN HONIGBERG: Mr. Fossum.

24 MR. FOSSUM: Thank you. As has been

1 my want of late, I'll start broad and narrow
2 down.

3 Generally, the Company believes that
4 it has accurately and appropriately accounted
5 for and delimited its costs in this filing, and
6 has calculated rates that are just and
7 reasonable, and request that they be approved.

8 Relative to the Senate Bill 365
9 costs, a few comments I believe are in order.
10 First, I think it fair to say we were -- the
11 Company, that is, was not surprised at the
12 reaction this morning to the inclusion of those
13 costs, as by way of explaining why Mr. Goulding
14 did have that information available to him.

15 I would like to point out a couple of
16 things, as was pointed out in Mr. Goulding's
17 testimony, and reiterated by Staff just now
18 however, at the time that this filing was made
19 the Commission's order had not been issued.
20 So, the findings in it did not, at that point,
21 form any part of the Company's request.

22 Moreover, retaining those dollars,
23 those costs, within this rate calculation is
24 not a reflection of a change in position of

1 Eversource relative to the propriety of Senate
2 Bill 365. That statute states that the Company
3 shall recover certain costs, and so those costs
4 are included. It's not -- the Company is not,
5 by doing so, claiming that Senate Bill 365 is
6 constitutional or appropriate in any -- and is
7 not in any way attempting to change any
8 positions it has taken previously.

9 In the Commission's order, at Page
10 24, it does state that "until the
11 constitutionality of the statute is determined,
12 the Commission cannot order rate recovery."
13 Respectfully, I don't understand that to be
14 necessarily the case. It is with some
15 regularity that our Legislature passes laws
16 that, for one reason or another, are never
17 challenged on a constitutional basis. Their
18 constitutionality is sort of presumed. And
19 rates would go into effect, to the extent that
20 it was necessary to implement those statutes.

21 CHAIRMAN HONIGBERG: I understand
22 what you're saying there, but that's not this
23 context.

24 MR. FOSSUM: There is a pending

1 challenge, and we understand that. That
2 challenge, however, has not been seen through
3 to fruition and has not been ruled upon.

4 CHAIRMAN HONIGBERG: But we also
5 don't have an agreement to review for
6 compliance with the requirements of the
7 statute.

8 MR. FOSSUM: I understand that. And
9 that I believe would be sort of a separate
10 issue. The issue that Mr. Kreis has pointed
11 out, and as is contained in the order,
12 specifically states that "until the
13 constitutionality is determined, rate recovery
14 cannot be ordered." That's the issue that I'm
15 trying to focus on just at the moment.

16 CHAIRMAN HONIGBERG: And I don't
17 think we're -- I don't want to get into an
18 argument with you about the meaning of that
19 order or any specific language in it.

20 I think it's sufficient broadly to
21 state that the context of the situations you
22 posited are not the context we are sitting in
23 today. I think you'd agree with that, although
24 you're making a more specific argument with

1 respect to including the number here.

2 I interrupted you. You can proceed.

3 MR. FOSSUM: No, but I believe you
4 understand the point that I'm trying to make.
5 And I do not disagree that there are at present
6 no agreements sitting before the Commission for
7 its approval.

8 The last point I'll make here is, as
9 noted, the possibility of the Company returning
10 in some mid period point to reset rates, I
11 would -- I believe it fair to say we would like
12 to avoid doing so, if possible. That one,
13 shifting rates with some regularity is --
14 begets customer confusion, which is not
15 something we're inclined to create. It also
16 puts the Company at potential risk, if we come
17 in, and we start making payments as of a date
18 certain, but do not have a Commission order
19 allowing recovery, the Company is at risk for
20 those dollars, at least until such time as it
21 gets -- receives an order allowing that
22 recovery. That risk may not be significant,
23 but it does exist.

24 So, I guess, to that extent, I would

1 say we have kept the calculation of those costs
2 within the rate that is proposed. Because, in
3 the first instance, we did not know that this
4 order would come out and say what it says. And
5 secondly, because the statute, which is
6 constitutional until told otherwise, says that
7 the Company shall recover those costs.

8 Ultimately, we will abide by whatever
9 the Commission orders. And we would ask that
10 the Commission approve the rate as filed with
11 those costs in it.

12 CHAIRMAN HONIGBERG: Thank you,
13 Mr. Fossum. I have a couple of questions.

14 If we were to approve the rates as
15 filed, and there were no contracts entered
16 into, the statute was declared
17 unconstitutional, never able to be enforced,
18 when would you -- when would we be adjusting
19 rates to return that money to ratepayers?

20 MR. FOSSUM: I think, consistent with
21 what Mr. Goulding has said, if we were to do it
22 in the normal course, that would be, you know,
23 whenever the next periodic rate adjustment
24 would be, in this case, probably August 1st.

1 However, if the Commission -- if, in fact, some
2 entity was to declare it unconstitutional and
3 it would never be in force, we either could
4 request, the Staff or the OCA could request, or
5 the Commission of its own accord, could request
6 that we come in more quickly than that.

7 CHAIRMAN HONIGBERG: And I guess none
8 of us has mentioned, although there's also a
9 possibility that legislation could move us all
10 in a different direction to amend what the
11 Legislature did last year.

12 MR. FOSSUM: Quite certainly, that is
13 a possibility.

14 CHAIRMAN HONIGBERG: The second
15 question, and it's not so much a question,
16 although I probably could phrase it as a "would
17 you agree with me", that you and the OCA and
18 Staff and the Commission, Commissioners, could
19 all exercise appropriate judgment in the event
20 that circumstances changed, and there were
21 agreements presented and needed to be dealt
22 with on an emergency basis. In the other
23 direction, if we were to approve the rates as
24 filed, and something happened to change the

1 state of play, and it made sense to do it
2 urgently, you, the OCA and Staff, and the
3 Commissioners could exercise appropriate
4 judgment, you'd agree with that, right?

5 MR. FOSSUM: Certainly. If something
6 happens that requires adjustment one way or the
7 other, I think we would stand ready to deal
8 with that in an efficient a way as possible,
9 certainly.

10 CHAIRMAN HONIGBERG: Thank you.
11 Commissioner Bailey.

12 CMSR. BAILEY: I'm sorry, I have to
13 ask a naive question. But you're asking us to
14 be allowed to recover over-market costs for
15 something that you haven't agreed to pay yet,
16 because the statute says you can recover the
17 over-market costs, but you haven't signed a
18 contract to pay. So, there aren't any
19 over-market costs yet, are there?

20 MR. FOSSUM: Well, no, there are no
21 costs yet. But this entire rate filing is
22 forecasted and predictive in nature. Just
23 because it hasn't happened as of today, doesn't
24 mean it couldn't happen next week or sometime

1 prior to February 1st. I simply don't know
2 whether it will occur by then or not.

3 But, yes. We are requesting that,
4 because the statute provides that we shall
5 recover those costs, at the moment we would
6 anticipate incurring costs, and we are
7 requesting that we be permitted to recover it.

8 CMSR. BAILEY: Okay. Thank you.

9 CHAIRMAN HONIGBERG: All right. Is
10 there anything else we need to do?

11 *[No verbal response.]*

12 CHAIRMAN HONIGBERG: All right. We
13 will adjourn the hearing, keep the record open
14 for the record request. And we'll issue an
15 order as quickly as we can on this. Thank you
16 all.

17 ***(Whereupon the hearing was***
18 ***adjourned at 11:10 a.m.)***