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STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

December 22, 2020 - 1:08 p.m. DAY 5

[Remote Hearing conducted via Webex]

RE: DE 20-092  
ELECTRIC AND GAS UTILITIES:  
2021-2023 Triennial Energy  
Efficiency Plan

PRESENT:

Chairwoman Dianne Martin, Presiding  
Commissioner Kathryn M. Bailey

Jody Carmody, Clerk  
Eric Wind, PUC Remote Hearing Host

APPEARANCES:

Reptg. Public Service Company of New  
Hampshire, d/b/a Eversource Energy::  
Jessica A. Chiavara, Esq.

Reptg. Unitil Energy Systems, Inc. and  
Northern Utilities, Inc.::  
Patrick Taylor, Esq.

Reptg. Liberty Utilities (Granite  
State Electric) and Liberty Utilities  
(EnergyNorth Natural Gas),  
d/b/a Liberty Utilities:  
Michael J. Sheehan, Esq.

Reptg. N.H. Electric Cooperative, Inc.::  
Mark W. Dean, Esq.

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

1 APPEARANCES: (Continued)

2

3

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4 Madeleine Mineau, Executive Director

5

Reptg. Conservation Law Foundation:  
6 Nick Krakoff, Esq.

6

7

Reptg. The Way Home:  
7 Raymond Burke, Esq. (N.H. Legal Asst.)

8

Reptg. Dept. of Environmental Services:  
8 Rebecca Ohler  
9 Christopher Skoglund

10

Reptg. Southern N.H. Services:  
10 Ryan Clouthier, Dir..)

11

12

Reptg. Residential Ratepayers:  
12 D. Maurice Kreis, Esq., Consumer Adv.  
13 Office of Consumer Advocate

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Reptg. Commission Staff:  
14 Paul B. Dexter, Esq.  
15 Brian D. Buckley, Esq.

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

2 CHAIRWOMAN MARTIN: Good afternoon,  
3 everyone. We're here this afternoon to  
4 continue the hearing in Docket DE 20-092  
5 regarding the 2021-2023 Statewide Energy  
6 Efficiency Plan. We've already made the  
7 necessary findings to hold this as a remote  
8 hearing. I will remind everyone that if you  
9 have a problem during the hearing, as Mr.  
10 Wind just said, please call (603)271-2431.  
11 And in the event the public is unable to  
12 access the hearing, the hearing will be  
13 adjourned and rescheduled.

14 We have to take a roll call  
15 attendance. My name is Dianne Martin. I'm  
16 the Chairwoman of the Public Utilities  
17 Commission, and I am alone. Commissioner  
18 Bailey.

19 COMMISSIONER BAILEY: Good  
20 afternoon, everyone. I like your outfit, Ms.  
21 Robidas. I'm Commissioner Kathryn Bailey.  
22 And my mother, Sheila Mosher, is in the house  
23 with me.

24 CHAIRWOMAN MARTIN: Okay. Let's

1 take appearances. There you are. Let's  
2 start with Ms. Chiavara.

3 MS. CHIAVARA: Good afternoon.  
4 Jessica Chiavara, here for Public Service  
5 Company of New Hampshire, doing business as  
6 Eversource Energy.

7 CHAIRWOMAN MARTIN: Thank you.  
8 And Mr. Sheehan.

9 MR. SHEEHAN: Mike Sheehan for  
10 Liberty Utilities (Granite State Electric  
11 Corp.) and Liberty (Utilities EnergyNorth  
12 Natural Gas.)

13 CHAIRWOMAN MARTIN: Thank you.  
14 Mr. Taylor.

15 MR. TAYLOR: Good afternoon,  
16 Commissioners. Patrick Taylor, on behalf of  
17 Northern Utilities, Inc. and Unitil Energy  
18 Systems, Inc., collectively known as Unitil.  
19 Thanks.

20 CHAIRWOMAN MARTIN: Thank you. And  
21 Mr. Dean.

22 MR. DEAN: Good afternoon. Mark  
23 Dean, representing New Hampshire Electric  
24 Cooperative.

1 CHAIRWOMAN MARTIN: Okay.

2 Do we have anyone from DES?

3 MR. SKOGLUND: Good afternoon,  
4 Commissioners. This is Chris Skoglund,  
5 representing New Hampshire Department of  
6 Environmental Services.

7 CHAIRWOMAN MARTIN: Thank you. I  
8 apologize. I didn't see you at first.

9 MR. SKOGLUND: That's all right.

10 CHAIRWOMAN MARTIN: Oh, not your  
11 fault at all.

12 All right. Mr. Emerson.

13 MR. EMERSON: Thank you. And good  
14 morning. This is Eli Emerson from Primmer,  
15 Piper, Eggleston and Cramer, on behalf of  
16 Clean Energy New Hampshire.

17 CHAIRWOMAN MARTIN: Thank you.

18 And Mr. Krakoff.

19 MR. KRAKOFF: Good afternoon. Nick  
20 Krakoff, here for Conservation Law  
21 Foundation.

22 CHAIRWOMAN MARTIN: Thank you.

23 And Mr. Koester.

24 MR. KOESTER: Good afternoon,

1 everyone. Stefan Koester with the Acadia  
2 Center.

3 CHAIRWOMAN MARTIN: Thank you.

4 Mr. Burke.

5 MR. BURKE: Good afternoon.

6 Raymond Burke from New Hampshire Legal  
7 Assistance, here on behalf of The Way Home.  
8 Thank you.

9 CHAIRWOMAN MARTIN: All right. And  
10 Mr. Clouthier.

11 MR. CLOUTHIER: Good afternoon,  
12 everyone. This is Ryan Clouthier,  
13 representing Southern New Hampshire Services.

14 CHAIRWOMAN MARTIN: Okay. Thank  
15 you.

16 And Mr. Buckley and Mr. Dexter.

17 MR. DEXTER: Good afternoon,  
18 Chairwoman and Commissioner Bailey. This is  
19 Paul Dexter and Brian D. Buckley, appearing  
20 on behalf of the Commission Staff.

21 CHAIRWOMAN MARTIN: All right.  
22 Thank you.

23 Mr. Wind, did anyone indicate they  
24 would like to make public comment today?

1 MR. KREIS: Before you do that,  
2 Madam Chair, the OCA would like to enter an  
3 appearance.

4 CHAIRWOMAN MARTIN: Oh, I  
5 apologize, Mr. Kreis. I did not mean to skip  
6 you. Go right ahead.

7 MR. KREIS: Thank you. I am D.  
8 Maurice Kreis, the Consumer Advocate,  
9 representing residential utility customers.  
10 I'm here at the offices of the OCA with the  
11 office plants. They're contributed plants,  
12 which means they're not in rate base.

13 CHAIRWOMAN MARTIN: All right.  
14 Thank you.

15 Looks like I managed to skip  
16 Mr. Dean, who's right above you on the list,  
17 and now I skipped Mr. Kreis. I don't know  
18 whose turn will be next.

19 Okay. Public comment. Mr. Wind,  
20 anyone who wanted to comment?

21 MR. WIND: None at this time.

22 CHAIRWOMAN MARTIN: All right.  
23 Thank you.

24 Okay. So, for exhibits, I'd just



1           like to revisit this. I know we had some  
2           outstanding issues related to record  
3           requests, and so perhaps we could get an  
4           update on that.

5                       MS. CHIAVARA: Yes. Exhibit --  
6           well, what we had marked as Exhibit 46, which  
7           is the internal administrative costs of the  
8           utilities from 2018 until the present time,  
9           as well as presented in the Plan, that is  
10          ready. I just haven't submitted that because  
11          I was hoping to get Exhibit 45 ready, which  
12          was the Utilities' statement on amortization,  
13          just to submit things in order. And 45 is  
14          pending. It should be ready today. I  
15          apologize that we couldn't get it before the  
16          hearing. But it should be ready by later  
17          today.

18                      CHAIRWOMAN MARTIN: Okay. So it  
19          sounds like if we do end today, we'll leave  
20          the record open for 45 and 46.

21                      Anything else as far as exhibits?

22                      [No verbal response]

23                      CHAIRWOMAN MARTIN: Okay. Seeing  
24          no one, does anyone plan to call or re-call a

1 witness today?

2 MR. SHEEHAN: The Utilities have  
3 decided not to do so after a discussion after  
4 yesterday's hearing.

5 CHAIRWOMAN MARTIN: Okay. And so I  
6 think that leaves us just with admission of  
7 exhibits and closings. Is there anything  
8 else -- oh, Mr. Dexter.

9 MR. DEXTER: Yes. I'm sorry. On  
10 exhibits, during the direct exam of Ms.  
11 Nixon, Staff had asked for the opportunity to  
12 update the tables that she had submitted for  
13 the latest rates that are proposed by the  
14 Utilities. And I wasn't sure if that was  
15 given an exhibit number, and I wanted to make  
16 sure it was.

17 CHAIRWOMAN MARTIN: Yes, we gave it  
18 Exhibit 25B, I believe. And is that -- has  
19 that been filed, or will that be filed? Or  
20 should we leave the record open for that as  
21 well?

22 MR. DEXTER: It has not been filed.  
23 Thank you for reminding me about the exhibit  
24 number. It has not been filed. It will be

1 filed shortly.

2 CHAIRWOMAN MARTIN: Okay. So other  
3 than the exhibits and closings, is there  
4 anything else that needs to be done today?

5 [No verbal response]

6 CHAIRWOMAN MARTIN: Okay. Are  
7 there any objections to admitting the  
8 exhibits that have been marked for  
9 identification?

10 [No verbal response]

11 CHAIRWOMAN MARTIN: Okay. Well,  
12 that makes it a little easier. Without  
13 objection, then we will admit Exhibits 1  
14 through 44, and we will leave -- as full  
15 exhibits -- and we will leave the record open  
16 for Exhibit 25B and Exhibits 45 and 46, which  
17 are in response to the record requests.

18 I do have an additional request  
19 that I would like to raise and hear from the  
20 Utilities as to how difficult it would be.

21 In reviewing this case, I think it  
22 would be most helpful to have an integrated  
23 plan that integrates the changes in the  
24 Settlement Agreement into the Plan that was

1 filed in September. Is that cumbersome? Is  
2 that doable? It would be helpful to me if  
3 it's doable.

4 MS. CHIAVARA: If you could give me  
5 just a moment -- (connectivity issue)

6 [Court Reporter interrupts.]

7 If the Commissioners would like to  
8 give me just a moment, I can try to get an  
9 answer on that right now.

10 CHAIRWOMAN MARTIN: Would you like  
11 to take a few-minute recess to make that a  
12 little bit easier on you?

13 MS. CHIAVARA: That would be great.  
14 Thank you very much.

15 CHAIRWOMAN MARTIN: Okay. Why  
16 don't we return in 10 minutes, at 1:25.

17 [Brief recess was taken at 1:16 a.m.,  
18 and the hearing resumed at 1:40 p.m.]

19 CHAIRWOMAN MARTIN: Let's go back  
20 on the record. Mr. Sheehan or Ms. Chiavara.

21 MS. CHIAVARA: So just a little bit  
22 of clarification on the request might help  
23 because -- so Exhibit 2 provides all of the  
24 math, all of the numbers, the updated budgets

1 and the updated energy savings that are  
2 included in the September 1st Plan. That's  
3 all of the Plan updates, as far as the  
4 budgets and energy savings. Everything that  
5 that entails are in Exhibit 2.

6 If it's the Plan narrative, a full,  
7 complete narrative of the Plan would probably  
8 take a couple of weeks, given the staffing  
9 over the holidays. It would probably take a  
10 couple weeks or so to make a complete,  
11 updated narrative that's reflective of all of  
12 the terms of the Settlement Agreement. But  
13 if there are sections, like economic impacts,  
14 or if there are particular sections of  
15 interest that you'd like updated, staff could  
16 work to try to be responsive of those in the  
17 next -- try to get it turned around in a  
18 shorter timeframe.

19 CHAIRWOMAN MARTIN: No, thank you.  
20 I appreciate that. And that's what I was  
21 looking to find out is how cumbersome it  
22 would be. I think it's most helpful to have  
23 the integrated Plan with the Settlement  
24 Agreement terms built into it, but I do not

1 want to cause any undue burden on anyone over  
2 this next coming week. So I can work with  
3 it. It's just a matter of going back and  
4 forth.

5 MS. CHIAVARA: Okay. Thank you. I  
6 appreciate that.

7 CHAIRWOMAN MARTIN: Commissioner  
8 Bailey, did you have anything you wanted to  
9 follow up on before closings?

10 COMMISSIONER BAILEY: No, thank  
11 you.

12 CHAIRWOMAN MARTIN: I do have one  
13 question I'd like the lawyers to address, if  
14 possible, in the closings. And it may even  
15 be a function of my late entry to this topic.  
16 But in reviewing the statute, I noticed that  
17 it's the EE portion that we are authorized to  
18 increase. And in Attachment C, the LBR is  
19 called out separately, at least by  
20 Eversource. So if counsel could address  
21 that, at the very least Eversource, but any  
22 other counsel, as to our authority to make  
23 changes to the LBR portion, as to whether  
24 that's part of the EE portion or not, I think

1           that would be most helpful to me.

2                       Okay. Well, then, let's proceed  
3 with closing arguments, starting with Mr.  
4 Kreis.

5                               CLOSING ARGUMENTS BY PARTIES

6                       MR. KREIS: Thank you, Chairwoman  
7 Martin. I would like to start by offering up  
8 some thanks, first to my fellow stakeholders  
9 and my fellow Settlement signatories. We all  
10 worked hard, and we had some tough  
11 discussions. Your good cheer and  
12 professionalism were constants even when mine  
13 wasn't.

14                               To the Staff of the Commission, I  
15 extend my gratitude for sticking to the high  
16 road right up to and concluding with my very  
17 useful colloquy yesterday with Ms. Nixon.

18                               And finally, I'd like to thank  
19 Commissioner Bailey and Chairwoman Martin for  
20 their attentiveness and courtesy during what  
21 has been I guess a more contentious than  
22 average hearing.

23                               Turning to the merits. Four years  
24 ago, in Docket DE 15-197, the Commission

1           adopted our state's Energy Efficiency  
2           Resource Standard, and with it the goal of  
3           all cost-effective energy efficiency. This  
4           docket tests the Commission's commitment to  
5           that concept. And by "that concept," I don't  
6           really mean, at least not primarily, the  
7           stated objective of all cost-effective energy  
8           efficiency. That's aspirational. By "that  
9           concept," what I really mean is two things  
10          that flow from the basic concept: One,  
11          reliance on an informal stakeholder  
12          engagement process prior to filing energy  
13          efficiency plans for Commission approval;  
14          two, figuring out what energy savings goals  
15          New Hampshire needs from its energy  
16          efficiency programs and then determining what  
17          charges will pay for them. That's the  
18          opposite of the process that used to prevail.

19                 A year ago, the Commission approved  
20          the new Granite State Test for  
21          cost-effectiveness. That's a big deal. It  
22          means that to be part of the EERS, a program  
23          must save money not for program participants,  
24          but rather for all ratepayers. Therefore,



1 any money we spend on ratepayer-funded energy  
2 efficiency will, by definition, be well  
3 spent.

4 So given all of that, we  
5 stakeholders did what the Commission told us  
6 to do. We met, and we met some more, and  
7 then we met even more than that, beginning  
8 all the way back to last fall. And then this  
9 past August we reached consensus.

10 Specifically, we reached consensus on  
11 ambitious three-year savings goals of  
12 5 percent of electric sales and 3 percent of  
13 natural gas sales. And the program  
14 administrators, who like to call themselves  
15 the "Utilities," filed their Plan for getting  
16 there on September 1st. The only dissenting  
17 voice came not from a party, but rather from  
18 the Commission's own employees. The  
19 Commission's Electric Division decided that  
20 these goals were too expensive, particularly  
21 for commercial and industrial customers in  
22 the Eversource service territory. Well, we  
23 heard them, and so we filed a Settlement  
24 Agreement that did precisely what your Staff

1           asked us to do. We rolled back the system  
2           benefits charges that would apply to  
3           Eversource C&I customers. We made a few  
4           other adjustments, and that took our electric  
5           savings goal from 5 percent to 4.5 percent,  
6           and also reduced our gas savings goals  
7           somewhat. As you've heard over the last  
8           several days of hearings, the representatives  
9           of the Commission's Electric Division don't  
10          think we went far enough. Their advice to  
11          you, reflecting the Electric Division's  
12          longstanding skepticism about  
13          ratepayer-funded energy efficiency, is that  
14          you should make a different policy choice  
15          than we did. Well, of course, you do have  
16          the right to do that. But as you ponder that  
17          possibility, I ask that you keep several  
18          things in mind.

19                        First, you should bear in mind that  
20          every active party to this proceeding,  
21          speaking with one voice, has either signed  
22          the Settlement Agreement or, in the case of  
23          the Department of Environmental Services, has  
24          asked you to embrace the savings goals in the

1 Settlement. There is no actual party in this  
2 virtual room, be they a utility, a ratepayer  
3 advocate, a non-profit organization, or even  
4 a trade group, that is asking you to do  
5 anything other than endorse three-year  
6 savings goals of 4.5 percent of electric  
7 sales and 2 percent of natural gas sales.

8 Second, the Settlement Agreement  
9 gives you an opportunity to avoid the thorny  
10 question of whether what we are doing here is  
11 an adjudicative proceeding and the  
12 implications for the Commission's  
13 decision-making process if we happen to be  
14 doing something other than that.

15 I raise those issues very  
16 reluctantly, because as the advocate for the  
17 interests of residential utility customers, I  
18 don't think I advance their cause by making  
19 life for the Commission or its Commissioners  
20 more difficult. But a regulatory process  
21 that is fundamentally fair and is transparent  
22 as possible, that is super important and  
23 manifestly in the interest of ratepayers and  
24 utility shareholders alike, which is why I

1 raised those issues in the first place. That  
2 said, I'd rather leave that important  
3 conversation to another day if possible.

4 My third point related to the one I  
5 just made has to do with the nature of what  
6 we do here in the PUC hearing room, whether  
7 we're in the Walker Building or on Webex. In  
8 a legislative hearing, at east in New  
9 Hampshire, the sky is the limit. Lawmakers  
10 can decide nearly anything they want based on  
11 nearly any consideration they want, while  
12 listening to any voice they want, whether  
13 that voice is visible or invisible. Here,  
14 before an independent regulatory agency, the  
15 process is more rigorous. Yes, like  
16 legislators, you have the responsibility to  
17 bring policy imperatives to bear on your  
18 decision-making. That's the reason you  
19 aren't obliged simply to approve a Settlement  
20 Agreement that no party opposes. But the  
21 process also requires you to rely for your  
22 decision on the formal record that we and you  
23 have adduced here, not on what we think  
24 others, who did not become parties to this

1 proceeding, might have to say. With  
2 reluctance, I have to point out that I refer  
3 in particular to members of the General Court  
4 who have submitted comments both opposing and  
5 favoring the Settlement Agreement. This  
6 raises profound constitutional questions that  
7 have to do with delegation and separation of  
8 powers.

9 The Commission is independent, but  
10 it is part of the Executive Branch of state  
11 government. The General Court makes its  
12 wishes known to such an agency when each  
13 chamber passes a bill that has been presented  
14 to the Governor for his signature or veto,  
15 and his veto is overridden if necessary.  
16 That is the only source of legislative  
17 guidance. It is unfair, it is inappropriate,  
18 and it is contrary to the New Hampshire  
19 Constitution for small groups of legislators,  
20 or for legislative leadership, to purport to  
21 supplement that guidance with expressions of  
22 their individual glosses on duly enacted  
23 legislation.

24 Point No. 4. Your factual

1           determinations must have support in the  
2           evidence of record. And the evidence here is  
3           uncontroverted. Yes, the Settlement  
4           Agreement calls for increases in each of the  
5           next three years to the per kilowatt-hour  
6           charges that most customers pay for the  
7           NHSaves programs. But it is also  
8           uncontroverted that each and every one of  
9           those customers, be they a low-income  
10          residential customer or the biggest  
11          industrial customer in the state, can and  
12          therefore should mitigate and even  
13          potentially more than eliminate those bill  
14          impacts simply by participating in the NH  
15          Saves programs.

16                        To the extent your decision turns  
17                        on bill impacts, assuming without conceding  
18                        that it should, then you cannot ignore this  
19                        uncontroverted evidence that participation  
20                        offsets those bill impacts and reflects the  
21                        rational response to the price signal that  
22                        the SBC and natural gas, LDAC, are intended  
23                        to administer.

24                        My fifth point is the pandemic. Some

1           commentators claim that because COVID-19 has  
2           ravaged New Hampshire's economy, this is no  
3           time to increase our investment in energy  
4           efficiency. I respectfully but emphatically  
5           disagree. In fact, the opposite is the case.  
6           Our economy is sorely in need of stimulus  
7           initiatives that will put people back to work  
8           and retain wealth here in New Hampshire  
9           instead of exporting it to places like South  
10          Dakota and Saudi Arabia. Considering the  
11          incontrovertible reality, those who argue  
12          otherwise are those whose ideological  
13          opposition to ratepayer-funded energy  
14          efficiency has been around an order of  
15          magnitude longer than COVID-19 has. They are  
16          the same people who claim, again,  
17          erroneously, that the SBC is a tax, when in  
18          fact it's like any other PUC-approved rate.  
19          It's the price you set of a regulated service  
20          provided to customers.

21                 Point No. 6. Back in 2016, the  
22          Commission endorsed the hypothesis that we  
23          will get better outcomes when it comes to  
24          energy efficiency if we encourage

1 collaboration among the stakeholders before  
2 the program administrators submit plans for  
3 your approval. The Triennial Plan currently  
4 in effect was the result of the hugely  
5 successful example of stakeholder  
6 collaboration that preceded Docket No. DE  
7 17-136. The Settlement Agreement currently  
8 before you, and the proposed Triennial Plan  
9 for 2021 through 2023, is the result of an  
10 even more successful stakeholder  
11 collaboration.

12 As you heard, when the stakeholder  
13 group, known as the EERS Committee, voted on  
14 August 10th of this year, after working for  
15 10 months, every single non-utility  
16 stakeholder endorsed the savings goals in the  
17 program that the program administrators were  
18 proposing. What rebuttal to that?

19 Well, you've heard the representatives  
20 of the Commission's Electric Division were  
21 there, and they did not go along. But here's  
22 the thing: The Electric Division at the PUC  
23 is not a stakeholder. It exists for one  
24 reason only: To help you, the Commissioners,



1 do the best job of regulating our utilities  
2 that you can. The Commission's rules for  
3 adjudicative proceedings provide that the  
4 Staff is treated as if it were a party to  
5 protect the interests of those who really are  
6 parties by subjecting the advice you would  
7 ordinarily get behind closed doors to public  
8 scrutiny. But that doesn't make them a party  
9 or an actual stakeholder.

10 Now, I credit the sincerity of Staff's  
11 disagreement on policy grounds with the  
12 savings goals we have proposed. And please  
13 know that this disagreement received the  
14 respectful attention it deserved during the  
15 stakeholder process. So much so, in fact --  
16 and this is important -- that the  
17 stakeholders agreed to move significantly in  
18 Staff's direction by revising the goals via  
19 the Settlement Agreement. I appreciate the  
20 earnest pitch that we heard yesterday from  
21 Ms. Nixon, that the optimist in her thinks  
22 that only if we had another week, we all  
23 could have agreed on something, even Staff.  
24 The realist in me respectfully disagrees.

1 We've been at this for more than a year,  
2 first via the EERS Committee and now here.  
3 All of the parties agree about what to do,  
4 and your Staff doesn't like the agreement.  
5 It's time for you to decide.

6 However, Staff's failure to convince the  
7 stakeholders of its position is not the basis  
8 for concluding that the stakeholder process  
9 outlined in the Settlement is inadequate. I  
10 would point out that it retains a key feature  
11 of past stakeholder engagement efforts,  
12 independence from the Commission and the  
13 potentially dominating influence of the  
14 Commission Staff.

15 The Settling Parties envisioned an  
16 independent body that would truly be an  
17 advisor to the program administrators, not a  
18 raised eyebrow proposition that results when  
19 the process is under the control of the PUC  
20 Staff. The OCA believes very strongly that  
21 the PUC and its Staff should not dominate and  
22 control the stakeholder engagement process.  
23 You, of course, can disagree and rule  
24 otherwise. But if you do that, you are

1           rejecting what the OCA regards as a key  
2           provision of the Settlement. I just don't  
3           think the stakeholder process will work as  
4           well if it's under the control of the PUC.  
5           That aspect of the process ain't broke, and I  
6           beg you not to fix it.

7           My last point about the stakeholder  
8           engagement process. You will likely be  
9           dooming the future of that process, however  
10          constituted, because what stakeholder will  
11          want to do all the work and invest all the  
12          time necessary for meaningful participation  
13          in the next stakeholder process, knowing that  
14          the results of that process can be tossed  
15          aside for what I will characterize,  
16          respectfully, as "small p" political reasons.

17          I guess this is the best time for me to  
18          address the very distinct question that  
19          Chairwoman Martin raised about whether the  
20          PUC has the authority to raise the lost base  
21          revenue portion of the system benefits charge  
22          when the Legislature has, to some degree I  
23          guess, taken back or undelegated the  
24          authority to set the SBC, except for the

1 energy efficiency portion of the SBC. And  
2 I'm pretty sure that I'm right when I suggest  
3 that when the Legislature talks about the  
4 energy efficiency portion of the system  
5 benefits charges, it also means lost base  
6 revenue, because lost base revenue is, even  
7 though I am not that excited about lost base  
8 revenue as the ratepayer advocate, it is,  
9 from the Commission's standpoint, a  
10 legitimate part of the cost of delivering  
11 ratepayer-funded energy efficiency to  
12 consumers.

13 So by way of conclusion, before I answer  
14 any questions that you might have, the Office  
15 of the Consumer Advocate emphatically  
16 believes in the Energy Efficiency Resource  
17 Standard, not just the Holy Grail of all  
18 cost-effective energy efficiency, but we  
19 believe in the process that says, A, we're  
20 going to do as much as we can to get the  
21 stakeholders in alignment because we get  
22 better results that way; and B, we're going  
23 to set savings goals up front and then adjust  
24 rates accordingly. It is easy to support

1           those ideas in a vacuum or support them  
2           theoretically, or support them when we don't  
3           think anybody's looking. It's harder when  
4           the world seems to be watching, including  
5           those who have a longstanding ideological  
6           disagreement with ratepayer-funded energy  
7           efficiency. I respect those who revere the  
8           free market and say, in effect, that if  
9           energy efficiency were so great, then we  
10          should just give consumers information, and  
11          if they want to invest in energy efficiency,  
12          they will. That might be true if we  
13          consumers were buying our energy in a truly  
14          free market, devoid of other subsidies,  
15          market barriers, and market asymmetries.

16                 From my perspective as the state's  
17          ratepayer advocate, this is not about  
18          ideology. It's about the reality that  
19          negawatts are cheaper than megawatts, and so  
20          we should buy as many negawatts as is  
21          reasonably possible. We should make that  
22          investment not in spite of the pandemic, but  
23          at least in part because of the pandemic.  
24          It's time to stop bleeding jobs and wealth

1 out to our neighboring states that are way  
2 ahead of us when it comes to energy  
3 efficiency. The proposed Triennial Plan, as  
4 conditioned by the Settlement Agreement,  
5 strives to do just that, by truly putting New  
6 Hampshire, at long last, on the path to all  
7 cost-effective energy efficiency. I  
8 therefore respectfully request that you  
9 approve the Settlement and the just and  
10 reasonable rates that the Settlement  
11 proposes.

12 With that, I'd be happy to answer any  
13 questions.

14 CHAIRWOMAN MARTIN: Thank you, Mr.  
15 Kreis.

16 Commissioner Bailey, do you have  
17 questions?

18 COMMISSIONER BAILEY: I do have  
19 questions. Thank you.

20 Mr. Kreis, can you explain to me  
21 why Staff is not considered a party?

22 MR. KREIS: Because it doesn't have  
23 any independent corporeal existence outside  
24 of its role as your employees who advise you.

1           And if, for example, the Staff team doesn't  
2           like the decision you make, they can't  
3           appeal. They have no due process rights.  
4           They can't be aggrieved by what you decide.  
5           What you decide, from their standpoint, is by  
6           definition correct because they're your  
7           employees. Their only recourse, I guess, is  
8           to find a different job or to meet with you  
9           and tell you why they think that you're  
10          wrong. So they don't have a cognizable  
11          interest in the outcome of this case.  
12          They're simply expert resources that are made  
13          available to you so that you can make the  
14          best decisions possible. I think that's the  
15          best answer I can give.

16                        COMMISSIONER BAILEY: I've got some  
17          follow-up questions to that.

18                        In the Designations statute,  
19          "'Party' means an applicant, respondent,  
20          petitioner, participant, defendant,  
21          complainant, or intervenor in an adjudicative  
22          proceeding, or any agent or other person  
23          acting on behalf of the above."

24                        Was Staff a participant in this

1 proceeding?

2 MR. KREIS: No.

3 COMMISSIONER BAILEY: Okay.

4 MR. KREIS: Because if you were to  
5 say that Staff meets the definition of  
6 "participant," as the Legislature used that  
7 word, then that would, I think, render that  
8 whole statute pretty much of a nullity, and  
9 that is not ever a good way to interpret  
10 statutory instructions.

11 COMMISSIONER BAILEY: Okay. You  
12 said that the sole purpose of Staff is to  
13 advise the Commission so that we can make the  
14 best decision possible; is that correct?  
15 About what you said, paraphrasing?

16 MR. KREIS: Yes.

17 COMMISSIONER BAILEY: So if that's  
18 the case, then why do we need to designate  
19 them as "Advocates" if they're a participant  
20 and they're not a party?

21 MR. KREIS: Well, because the  
22 Legislature has basically told you that you  
23 need to do that in certain circumstances.  
24 And I think when the Legislature issued those



1 instructions to you, it was thinking of  
2 exactly the situation we're in now, when the  
3 Staff commits -- or this is one of the  
4 situations the Commission [sic] was thinking  
5 about, when the Staff is so, I guess,  
6 enthusiastically or emphatically committed to  
7 a particular proposition or outcome, that its  
8 ability to be sort of the neutral advisors  
9 and assistants to you is compromised. And so  
10 what you are avoiding when you designate  
11 individual employees as "Staff Advocates" is  
12 the scenario where the due process rights of  
13 actual parties before the Commission are  
14 being compromised because you're basically  
15 getting subjective advice from a bunch of  
16 people who have been participating in a hotly  
17 contested proceeding as if they were a party.  
18 It's just -- the Legislature has acknowledged  
19 that there is something fundamentally unfair  
20 about that. And so I think the risk when you  
21 reject a motion for staff designation isn't  
22 that somebody like me would appeal that  
23 determination to the New Hampshire Supreme  
24 Court and get that determination reversed. I

1 think the more likely scenario is having made  
2 that request, having had it denied, having  
3 suffered an outcome that I deem unacceptable  
4 and then appealing that substantive decision  
5 to the New Hampshire Supreme Court, I have a  
6 pretty compelling due process argument. And  
7 I avoid the scenario in which the justices  
8 say, well, if you were so concerned about  
9 that, why didn't you make a motion for staff  
10 designation, and my answer is, well, that's  
11 exactly what I did, but they denied it.

12 COMMISSIONER BAILEY: And you also  
13 said that Staff is not a stakeholder. So if  
14 another party, not Staff, a stakeholder, were  
15 concerned about the rates, do you think that  
16 the concern would have been -- that you would  
17 have tried to work out that concern?

18 MR. KREIS: Absolutely. We did try  
19 to work out that concern. There were voices  
20 in the room when the EERS Committee met that  
21 were concerned about the rate impacts. I  
22 mean, to be candid with you, Commissioner  
23 Bailey, I'm concerned about the rate impacts,  
24 too. I'm not oblivious to those realities.

1           It's just that I've made certain policy  
2           choices in my role about how to balance  
3           long-term effects and short-term effects. I  
4           do that all the time. You have to do that  
5           all the time. The stakeholder process -- and  
6           here I'm not talking about the Settlement  
7           negotiations that took place within the four  
8           corners of the document. I'm talking about  
9           stakeholder process that preceded the  
10          docket -- was completely open, public and  
11          transparent. I was the presiding chair of  
12          the EERS Committee. We never told anybody  
13          that they weren't allowed to come before our  
14          Committee and raise any concerns that they  
15          wanted. And we heard all kinds of things  
16          from people who were interested in what we  
17          were talking about.

18                        I apologize if I sound like I'm  
19                        testifying. I'm just trying to answer your  
20                        questions as best I can.

21                        COMMISSIONER BAILEY: I appreciate  
22                        that. Thank you.

23                        My last question is, in the  
24                        beginning of your presentation you said that

1 the standard that was set by the Settlement  
2 was to reduce demand by 2 percent for natural  
3 gas sales.

4 MR. KREIS: 2.8 percent.

5 COMMISSIONER BAILEY: 2.8 percent?

6 MR. KREIS: Yes.

7 COMMISSIONER BAILEY: Okay. Thank  
8 you. That's all I have.

9 MR. KREIS: Thank you,  
10 Commissioner.

11 CHAIRWOMAN MARTIN: Okay. Did DES  
12 want to give a closing? I don't see them on  
13 the screen anymore at this point.

14 Mr. Wind, do you know if they  
15 wanted to give a closing?

16 MR. WIND: No, I do not believe  
17 that they planned to comment or give a  
18 closing.

19 CHAIRWOMAN MARTIN: Okay. Well, if  
20 you hear from them, just promote them and  
21 we'll let them speak.

22 MR. WIND: Okay.

23 CHAIRWOMAN MARTIN: How about Mr.  
24 Emerson?

1 MR. EMERSON: Thank you, Madam  
2 Chair. First, I have nothing to add to Mr.  
3 Kreis's input on the statutory question you  
4 asked. I agree with that. And then I would  
5 seek your permission to have Ms. Mineau give  
6 Clean Energy New Hampshire's closing  
7 argument.

8 CHAIRWOMAN MARTIN: Okay. Ms.  
9 Mineau.

10 MS. MINEAU: Thank you,  
11 Commissioner. Clean Energy New Hampshire's  
12 mission is to promote clean energy and  
13 technologies through education and advocacy  
14 for a stronger economic future. Although  
15 this statement does not explicitly mention  
16 energy efficiency, I can assure you --

17 CHAIRWOMAN MARTIN: Ms. Mineau, I  
18 apologize for interrupting. Mr. Dexter just  
19 raised his hand.

20 Mr. Dexter, I can't hear you.  
21 Still can't hear you. No. Shows that you're  
22 on mute. Can't hear you now and it still  
23 shows you -- now the mute came off. Let's  
24 try -- no, can't hear you. We can't hear you

1 at all, Mr. Dexter.

2 COMMISSIONER BAILEY: Maybe you  
3 should try logging out and coming back in.

4 CHAIRWOMAN MARTIN: That's what  
5 worked for me. We'll pause for a moment.

6 (Pause in proceedings)

7 CHAIRWOMAN MARTIN: Back on the  
8 record. Mr. Dexter, start again.

9 MR. DEXTER: Yes. I raised my hand  
10 to raise an objection to the closing  
11 statement of Clean Energy New Hampshire being  
12 delivered by Ms. Mineau rather than Clean  
13 Energy New Hampshire's attorney of record.  
14 My concern, as was confirmed in the very  
15 first sentence, is that this closing argument  
16 will include testimony rather than argument,  
17 as evidenced by the fact that the very first  
18 sentence talked about Clean Energy's purpose  
19 in this proceeding, which is not on the  
20 record anywhere.

21 Staff respectfully submits that if  
22 Ms. Mineau wants to provide testimony, she  
23 needs to do so like all the other parties in  
24 this case, and Staff, who have provided

1 testimony subject to discovery and  
2 cross-examination. Staff understands that  
3 the Commission rules allow for non-attorneys  
4 to appear before the Commission in an effort  
5 to reduce litigation expenses and to allow  
6 the process to be more accessible to  
7 non-attorneys. However, in this case, Clean  
8 Energy New Hampshire is represented by  
9 counsel. And in order to avoid their  
10 argument including testimony, Staff  
11 respectfully requests that the closing be  
12 delivered by Attorney Emerson.

13 CHAIRWOMAN MARTIN: I'm happy to  
14 hear from Mr. Emerson on this, but I am  
15 planning to overrule your objection because I  
16 do not believe we're going to swear in Ms.  
17 Mineau, and she will not be providing  
18 testimony as evidence in this proceeding.  
19 And so long as that's clear through her  
20 counsel and to her, I think we can all  
21 understand where we are.

22 Mr. Emerson, do you want to add  
23 anything?

24 MR. EMERSON: I would -- sorry.

1           There's an echo. I would only add that this  
2           is a practice that has happened before. In  
3           fact, we've done it in a docket recently, so  
4           there is precedent for it.

5                       CHAIRWOMAN MARTIN: Mr. Dexter, any  
6           response to what I've just said?

7                       MR. DEXTER: No, I have nothing  
8           further. Thank you.

9                       CHAIRWOMAN MARTIN: Okay. Ms.  
10          Mineau, you can proceed.

11                      MS. MINEAU: If it would be  
12          helpful, I can skip telling you about how  
13          passionate I am about energy efficiency, if  
14          that would make Attorney Dexter feel better.

15                      I will resume where I was. I can  
16          assure you that promoting energy, the  
17          efficient use of energy, is something we are  
18          passionate about. The benefits of the energy  
19          efficiency programs in the proposed Plan, as  
20          modified by the Settlement, clearly far  
21          outweigh the costs. This ambitious energy  
22          efficiency plan will not only allow our  
23          economy to rebuild, but build back better,  
24          cleaner and more efficiently. These programs



1           save all ratepayers money, create jobs, and  
2           benefit the environment. During challenging  
3           times such as these, we should not retreat  
4           and give up. We should ramp up our efforts  
5           to offer more opportunities to utility  
6           customers to better manage and reduce their  
7           energy use to lower their bills and reduce  
8           costs for other ratepayers, too. This  
9           includes opportunities for low-income  
10          customers. Rather than using limited funds  
11          to pay for bill or fuel assistance, the  
12          proposed efficiency programs can lower energy  
13          burdens for good and make those limited  
14          assistance funds go further.

15                        The Commission directed  
16          stakeholders to work within the EERS  
17          Committee of the EESE Board to develop the  
18          Plan for the next triennium. We followed  
19          your direction, and we invested a tremendous  
20          amount of our time and resources into  
21          participating fully in that planning process  
22          for over a year. The Plan that was submitted  
23          by the program administrators represents the  
24          outcome of that process.

1           The Plan is a comprehensive  
2           approach that includes a suite of  
3           interrelated goals, programs, measures, and  
4           desired outcomes. And it is the only  
5           comprehensive plan that has been presented to  
6           you.

7           We are particularly pleased to see  
8           the inclusion of advanced demand response  
9           programs because I would like to remind you  
10          that, according to ISO-New England, New  
11          Hampshire is the only New England state  
12          projected to have increasing peak demand.  
13          These peak demand events disproportionately  
14          drive system costs and require that we fire  
15          up the most expensive and dirtiest forms of  
16          generation. The solution to curbing our  
17          growing peak demand is more efficiency and  
18          flexible load, which are both delivered by  
19          this proposed EERS Plan.

20          Maximizing cost-effective energy  
21          efficiency is a clearly stated goal of New  
22          Hampshire's current 10-year energy strategy  
23          developed by this Administration. The  
24          recently completed potential study

1 recommended more than 6 percent electric  
2 savings as a moderate goal. The Settlement,  
3 proposing 4-1/2 percent electric savings and  
4 2.8 percent gas savings over three years, is  
5 balancing maximizing cost-effective energy  
6 savings while also being sensitive to limit  
7 SBC increases.

8 Clean Energy New Hampshire strongly  
9 urges you to approve the Plan as modified by  
10 the Settlement Agreement for the jobs and  
11 economic benefits it will bring to our state  
12 and communities. Implementing the proposed  
13 Plan would generate over \$619 million in net  
14 benefits and more than \$1.3 billion in energy  
15 cost savings. These are real savings and  
16 benefits for our state and our economy.

17 There is overwhelming evidence in  
18 the record that the Plan as submitted by the  
19 Utilities and amended by the Settlement  
20 Agreement is just and reasonable, serves the  
21 public interest, is cost-effective, and is  
22 consistent with Order 25,932. It is a plan  
23 that is the result of a lengthy and detailed  
24 stakeholder process that was mandated by

1 Order 25,932. And it is the only plan before  
2 the Commission, let alone one for which there  
3 is any evidence that meets those standards.  
4 An alternative to the proposed Settlement  
5 Plan is not available, and not approving the  
6 Settlement by the end of this year would  
7 cause significant delays and disruptions for  
8 contractors, customers and employment  
9 supported by the programs. Staff has not  
10 proposed any specific plan or alternative  
11 savings targets. In fact, their sole focus  
12 on SBC rates and equity in rates is not how  
13 the governing framework would set an  
14 efficiency program. For all those reasons,  
15 the Commission should approve the Settlement.  
16 Thank you.

17 CHAIRWOMAN MARTIN: Commissioner  
18 Bailey, do you have questions?

19 [Commissioner Bailey indicating in the  
20 negative.]

21 CHAIRWOMAN MARTIN: Okay. Thank  
22 you.

23 Mr. Krakoff.

24 MR. KRAKOFF: I didn't quite hear

1           you, Madam.

2                         CHAIRWOMAN MARTIN: I said, Mr.  
3           Krakoff.

4                         MR. KRAKOFF: Okay. Thank you.  
5                         The Settlement Agreement, as  
6           supported by virtually all the parties in  
7           this docket, is exactly what the Commission  
8           mandated when it established the EERS a  
9           little over four years ago in Order 25,932.  
10          In that Order, the Commission decided to  
11          abandon the CORE program which set budgets  
12          first, let the Utilities decide what savings  
13          could be bought with those budgets, in favor  
14          of setting a goal of achieving all  
15          cost-effective energy efficiency. Under this  
16          paradigm shift, rather than set budgets and  
17          rates first, the Commission instructed the  
18          parties developing the EERS to set energy  
19          goals and develop rates and budgets around  
20          those goals -- energy efficiency goals, and  
21          to build rates and budgets around those  
22          goals. That Order, as well as Orders 26,095  
23          and 26,207, instructed the parties to develop  
24          the 2021-2023 EERS through a stakeholder

1 process, and particularly through the EERS  
2 Committee of the EESE Board. The 2021-2023  
3 Energy Efficiency Plan filed with the  
4 Commission, as modified by the Settlement,  
5 adheres to the Commission's orders of  
6 developing an energy plan through a robust  
7 stakeholder process that achieves all  
8 cost-effective energy efficiency over a  
9 reasonable timeframe. The Plan also comports  
10 with RSA 378:37, which declares that it is  
11 the energy policy of New Hampshire to  
12 maximize the use of cost-effective energy  
13 efficiency. Because the Plan, as modified by  
14 the Settlement, accomplishes these goals, CLF  
15 urges the Commission to approve the Plan, as  
16 modified by the Settlement, without further  
17 modifications.

18 Over the past year, the  
19 stakeholders on the EERS Committee worked  
20 virtually during a global pandemic to develop  
21 a strong energy efficiency plan for the next  
22 three years. Shortly after the Utilities  
23 released its first draft to the Committee,  
24 the pandemic hit and the Utilities had to

1 return to the drawing board to revise its  
2 Plan in light of the pandemic and economic  
3 situation. At times the proceedings became  
4 contentious. However, out of these  
5 disagreements the stakeholders were able to  
6 reach broad consensus on the Plan that was filed  
7 with the Commission in September. An  
8 overwhelming number of the members of the  
9 EERS Committee pushed for more ambitious  
10 savings targets of 5 percent for electric and  
11 3 percent for natural gas, and nearly all the  
12 public comments regarding the process  
13 supported such ambitious targets. In fact,  
14 despite one of the members of the Committee  
15 now experiencing second thoughts over the  
16 Plan, the vote on the Plan was unanimous.  
17 While there has been insinuation in these  
18 proceedings that the EERS Committee did not  
19 reach consensus in developing the Plan, it is  
20 difficult to fathom how a unanimous vote of  
21 the EERS Committee does not represent  
22 consensus.

23 With regard to the substance of the  
24 Plan, as modified by the Settlement, it sets

1 still ambitious savings targets of 4.5  
2 percent electric and 2.8 percent for natural  
3 gas. This represents a significant  
4 improvement over the past Triennial Plan.  
5 Through reducing fossil fuel generation, the  
6 Plan has numerous environmental and public  
7 health impacts. Specifically, the Plan will  
8 reduce greenhouse gas emissions by  
9 4.4 million tons, which is the equivalent of  
10 taking 949,313 passengers off the road for  
11 one year. Without a doubt, this reduction in  
12 greenhouse gas emissions will have a positive  
13 impact at a time of crisis in New Hampshire.

14 The Plan will also have numerous  
15 benefits for New Hampshire's low-income  
16 residents and will create jobs, which is  
17 essential during this COVID-related economic  
18 situation.

19 However, the Plan is also highly  
20 beneficial from a ratepayer perspective. It  
21 is axiomatic that, because nearly all the  
22 measures proposed in the Plan passed the  
23 Granite State cost-benefit test, the Plan  
24 will save ratepayers money, compared to the



1 alternative of acquiring energy from  
2 supply-side options. The Plan will also  
3 avoid price increases that would result from  
4 large capital investments in distribution and  
5 transmission. While some ratepayers may  
6 experience short-term rate increases, over  
7 the lifetime of the Plan's measures, most  
8 ratepayers will experience lower bills.

9 Staff's approach in this docket  
10 would essentially turn back the clock on  
11 energy efficiency in New Hampshire to when  
12 the CORE program existed. Staff has never  
13 proposed alternative savings targets that it  
14 thinks should be adopted for the next  
15 three-year plan. Rather, it has vaguely  
16 objected to the proposed Eversource C&I rate  
17 increases on the grounds that they are too  
18 high, without ever proposing different  
19 savings targets. This is basically no  
20 different from the CORE program that the  
21 Commission decided to leave behind four years  
22 ago. Here, Staff is drawing a vague rate  
23 line in the sand and saying that New  
24 Hampshire must not cross that line. Just

1           like when the Utilities were given a budget  
2           under which to establish energy efficiency  
3           programs, Staff wants to start with a level  
4           of rates it deems acceptable and their  
5           commensurate budgets and then determine what  
6           level of energy efficiency is achievable with  
7           those rates. Yet, the Commission explicitly  
8           precluded this approach when it established  
9           the EERS four years ago.

10                         Staff's approach would also negate  
11           and undo the EERS Committee's intense  
12           deliberations over the past year. Despite  
13           the stakeholders' numerous differences, the  
14           EERS Committee was able to reach consensus  
15           after eight months of deliberations. If  
16           Staff's recommendations were followed, not  
17           only will the EERS Committee's work be  
18           undone, but the Commission will be acting  
19           contrary to its order from four years ago  
20           establishing the EERS and the stakeholder  
21           process for developing future energy  
22           efficiency plans in New Hampshire.

23                         Moreover, as you heard in these  
24           proceedings, if the Commission were to reject

1           the rate component of the Settlement, the  
2           whole Plan would fall apart, and it would be  
3           extremely difficult for the Utilities to  
4           reassemble a workable Plan in the short  
5           timeframe dictated by the time constraints of  
6           this docket.

7                         Staff essentially proposes an a la  
8           carte approach to the energy efficiency plan,  
9           meaning the Commission should accept what  
10          Staff likes in the Plan and reject what Staff  
11          opposes. However, as the Utilities would  
12          have testified, such an approach would likely  
13          cause the whole Plan to collapse.

14                        Additionally, if the Commission  
15          were to lower the savings targets from those  
16          included in the Settlement, many of the  
17          Settling Parties, including CLF, would be  
18          unable to support such a change to the Plan.

19                        In response to concerns about SBC  
20          rate impacts from Staff and others, CLF  
21          joined with the Settling Parties in support  
22          of a reasonable approach that lowers rates  
23          but still retains ambitious savings targets  
24          for the next triennium. Yet, Staff declined

1 to join this reasonable settlement supporting  
2 an approach to rates that, if adopted, would  
3 essentially maintain the status quo with  
4 regard to efficiency savings for the next  
5 three years. The reduction in savings  
6 targets from what was included in the  
7 original September Plan to the Settlement  
8 Agreement already represents a significant  
9 compromise, and CLF would likely be unable to  
10 support further reductions in savings  
11 targets.

12 Staff has myopically focused on the  
13 short-term rate impacts of the Plan while  
14 ignoring the myriad of benefits arising from  
15 the Plan. Energy efficiency is a bit like  
16 routine vehicle maintenance. While vehicle  
17 owners might not immediately experience the  
18 benefits from spending money on car  
19 maintenance, in the long run vehicles will  
20 run better and live longer due to  
21 maintenance, and vehicle owners will pay less  
22 than the high costs that result from failing  
23 to maintain a vehicle. Similarly, although  
24 there may be SBC rate increases resulting

1 from the energy efficiency plan, in the long  
2 run, most New Hampshire ratepayers will be  
3 better off from the Plan and pay less for  
4 electricity and natural gas than without the  
5 Plan. And New Hampshire, as a whole, will be  
6 better off due to the environmental and  
7 health benefits arising from emitting less  
8 fossil fuel emissions.

9 Rule 203.20 of the PUC's rules  
10 provides that the Commission "shall approve  
11 disposition of any contested case by  
12 settlement if it determines that the result  
13 is just and reasonable and serves the public  
14 interest." All of the parties in the docket  
15 have either joined the Settlement or signaled  
16 their support of it. Because the Plan, as  
17 represented in the Settlement, will result in  
18 overall lower bills for most ratepayers, and  
19 the Plan will result in numerous economic,  
20 environmental and health benefits for New  
21 Hampshire, the Settlement comports with Rule  
22 203.20.

23 Accordingly, CLF urges the  
24 Commission to approve the Settlement

1 Agreement. Thank you.

2 CHAIRWOMAN MARTIN: Thank you, Mr.  
3 Krakoff.

4 Commissioner, do you have any  
5 questions?

6 COMMISSIONER BAILEY: Yeah, I have  
7 just a couple.

8 Mr. Krakoff, in the beginning of  
9 your remarks, did you cite to a statute that  
10 says we're required to maximize energy  
11 efficiency? And if you did, can you tell me  
12 what statute that is?

13 MR. KRAKOFF: Sure. The statute is  
14 RSA 378:37. And this is one of the statutes  
15 that the Commission previously relied on in  
16 establishing the EERS in Order No. 25,932.

17 COMMISSIONER BAILEY: Okay. Thank  
18 you.

19 And a couple times you referred to  
20 or implied that virtually all the parties  
21 support the Agreement or that the parties  
22 either supported or didn't object. Are there  
23 parties other than Staff that you are  
24 referencing? I mean not that Staff's is a

1 party. But are there parties -- I'm not  
2 asking about Staff -- that were involved but  
3 didn't sign and didn't object?

4 MR. KRAKOFF: Yeah. I was just  
5 referring to DES and, I believe, the Acadia  
6 Center. I know they didn't technically sign  
7 on, but I think they filed a document with  
8 the Commission saying they support the  
9 Agreement. So I was just raising that  
10 distinction.

11 COMMISSIONER BAILEY: So you  
12 weren't referring to Staff.

13 MR. KRAKOFF: Correct, I was not  
14 referring to Staff.

15 COMMISSIONER BAILEY: Okay. Thank  
16 you. That's all.

17 MR. KRAKOFF: Thank you.

18 CHAIRWOMAN MARTIN: Okay. Thank  
19 you.

20 Mr. Koester, would you like to make  
21 a closing argument?

22 MR. KOESTER: Yes, please. Thank  
23 you. Good afternoon. And thank you,  
24 everyone and Commissions.

1                   The Acadia Center wishes to express  
2                   our support for the proposed Settlement  
3                   Agreement for the New Hampshire Energy  
4                   Efficiency Plan as filed on December 3rd.  
5                   While Acadia Center was not party to the  
6                   Settlement, we support the continued progress  
7                   toward acquisition of all cost-effective  
8                   energy efficiency resources across all fuel  
9                   types and sectors, believing that this helps  
10                  New Hampshire residents, businesses,  
11                  institutions, and that low-income families  
12                  meet their energy needs while reducing the  
13                  cost of energy and supporting jobs in the  
14                  state. While the Agreement's energy savings  
15                  are not as robust as the September 1st  
16                  proposed Plan, we believe that it represents  
17                  an effective energy efficiency plan for  
18                  action over the next three years.

19                  [Court Reporter interrupts.]

20                  The Acadia Center understands that  
21                  we face unprecedented challenges due to the  
22                  COVID-19 pandemic and commends the New  
23                  Hampshire Utilities' efforts to continue  
24                  providing energy efficiency services to its



1 customers. New Hampshire needs an ambitious  
2 energy efficiency planning process over the  
3 next three years, and while noting that the  
4 Granite State also lags behind its New  
5 England neighbors in overall energy  
6 efficiency policies and progress. While the  
7 state has improved its energy efficiency  
8 savings standards and targets in recent years  
9 with the initial adoption of the EERS as the  
10 core of this program, the state must do more  
11 to become a regional leader on energy  
12 efficiency. The Acadia Center believes this  
13 Settlement Agreement will be able -- will  
14 empower the state to do just that.

15 New Hampshire residents and  
16 businesses deserve to reap the full benefit  
17 of robust NHSaves programs, which not only  
18 reduce energy use and costs, but improve  
19 public health, support economic growth,  
20 employment in energy efficiency sectors, and  
21 are consumer-friendly. The proposed Plan  
22 allows goals, programs and budgets to be  
23 adjusted during the triennium as needed,  
24 while recognizing that the cost-effectiveness

1 savings needed to drive energy efficiency  
2 improvements ensure that consumers realize  
3 the benefits of these programs.

4 Acadia Center also wishes to  
5 acknowledge that the 2021-2023 electric and  
6 natural gas savings and budgets are more  
7 challenging to predict, calibrate, adjust and  
8 establish and that traditional analysis and  
9 adjustments to the Plan may be likely, given  
10 the COVID pandemic.

11 We also recognize that New  
12 Hampshire Utilities will continue to revise  
13 and submit additional data on the energy  
14 efficiency program planning and  
15 implementation in the face of unforeseeable  
16 constraints. Savings goals are impacted by a  
17 variety of factors, including program costs,  
18 availability of workforce necessary to carry  
19 out efficiency programs and public policy,  
20 such as equity and carbon emissions.

21 However, Acadia Center recommends the New  
22 Hampshire Utilities continue to strive for  
23 these programs -- strive for the savings  
24 proposed in the Three-Year Plan Settlement

1 and that the PUC approves the Settlement as  
2 finalized by the parties -- by the signatory  
3 parties, thereby sending a clear signal to  
4 the residential, commercial and industrial  
5 efficiency markets, and creating a level of  
6 certainty that encourages more investment in  
7 cost-effective energy efficiency. Thank you  
8 for your time.

9 CHAIRWOMAN MARTIN: Thank you, Mr.  
10 Koester.

11 Commissioner Bailey, any questions?

12 [Commissioner Bailey indicating in the  
13 negative.]

14 CHAIRWOMAN MARTIN: All right. How  
15 about Mr. Burke?

16 MR. BURKE: Thank you, Madam Chair  
17 and Commissioner Bailey. The Way Home  
18 supports the Settlement and asks that the  
19 Commission approve it without modification.  
20 We believe Ms. Peters' testimony on  
21 December 16th about the impact that this Plan  
22 will have on low-income ratepayers probably  
23 did a better job than we can do here, but we  
24 would like to highlight a few reasons why The

1 Way Home supports the Plan as modified by the  
2 Settlement Agreement before you.

3 As you heard from several of the  
4 witnesses, low-income ratepayers tend to have  
5 higher energy burdens than non-low-income  
6 ratepayers. The low-income energy efficiency  
7 measures that will be offered through this  
8 Plan and Settlement via the Home Energy  
9 Assistance Program are some of the best tools  
10 that we have to address affordability and to  
11 lower energy burdens. The savings that HEA  
12 participants will experience as a result of  
13 this Plan will not only help them afford  
14 their utility bills, but it will help them to  
15 be able to afford their other basic needs as  
16 well. This Plan will serve more low-income  
17 households, which is important, because as  
18 the Commission knows, there has historically  
19 been a wait list for the HEA program of  
20 several thousand income-eligible households.  
21 And estimates show that roughly 20 percent of  
22 the New Hampshire population are eligible for  
23 the program based on their income.

24 The Way Home did not enter into

1           this Settlement lightly, given that the  
2           Agreement increases the SBC rate for  
3           Eversource's residential customers as  
4           compared to the September 1st filing.  
5           However, The Way Home ultimately joined the  
6           Settlement Agreement because it believes it  
7           is just and reasonable and in the public  
8           interest and that it will provide needed  
9           energy efficiency services for all  
10          ratepayers, not just low-income ratepayers.

11                       As the Commission stated in Order  
12          No. 25,932, which established the EERS,  
13          low-income customers face greater hurdles to  
14          investment in energy efficiency, but are the  
15          customers who need energy efficiency the  
16          most. As several witnesses testified, the  
17          economic harm of the pandemic makes it more  
18          important to pursue energy efficiency,  
19          especially for the low-income households who  
20          have been hit hardest by the pandemic and who  
21          need energy efficiency the most. This Plan  
22          improves the HEA program by adding additional  
23          offerings, serving more low-income customers  
24          and addressing workforce development issues,

1 to name a few highlights. In addition, New  
2 Hampshire recently studied the non-energy  
3 impacts that result from low-income energy  
4 efficiency measure. And as you heard, these  
5 impacts included improved health outcomes,  
6 such as lower asthma rates, which are more  
7 important in light of this pandemic.

8 The robust stakeholder process that  
9 led to the filing of the Plan that you heard  
10 about at length over the course of this  
11 proceeding took into account the reality of  
12 the pandemic as it unfolded. The Plan was  
13 further modified during this docket via the  
14 Settlement Agreement to reasonably and  
15 equitably account for those concerns.

16 When considering whether to join  
17 this Settlement Agreement and how to balance  
18 the short-term and long-term impacts of the  
19 Plan before you, The Way Home considered this  
20 Plan in the context of the other available  
21 tools at the state's disposal to address  
22 affordability and the impacts of the  
23 pandemic. These include the federal and  
24 state relief efforts that have already been

1           made available to New Hampshire residents and  
2           businesses to address the pandemic, as well  
3           as the longstanding programs that existed  
4           before the pandemic hit New Hampshire.

5                        As the Commission is aware, in New  
6           Hampshire we have several programs that help  
7           low-income households pay for energy costs,  
8           including the Electric Assistance Program,  
9           the Gas Discount Program, and the Fuel  
10          Assistance Program. These programs are  
11          crucial to addressing short-term  
12          affordability issues, and the recent changes  
13          to the Gas Discount Program and the Fuel  
14          Assistance Program will help address the  
15          impacts of the pandemic. But while these  
16          programs are important, they don't address  
17          the underlying costs of energy. To do that,  
18          we need a robust, low-income energy  
19          efficiency program.

20                       To the extent more needs to be done  
21          to address the impact of the pandemic, we  
22          believe that stakeholders and the Commission  
23          could explore other ways of addressing those  
24          concerns in Docket IR 20-089, which, as you

1 know, was opened to investigate the impacts  
2 of the pandemic and to consider any changes  
3 that might be necessary to policies and  
4 practices, ratemaking, and customer  
5 assistance, among other issues.

6 Before wrapping up, I would like to  
7 note a few other aspects of the Plan and  
8 Agreement that were important to The Way  
9 Home. These include the increase to the  
10 project cap as proposed in the Plan, the move  
11 to a true three-year planning structure, and  
12 the Stakeholder Advisory Council and process.  
13 The Way Home believes these are also  
14 important improvements to the statewide plan.

15 The Way Home appreciates all of the  
16 work and efforts that went into the  
17 stakeholder process in this docket and looks  
18 forward to continue working with the parties,  
19 stakeholders and Staff toward the EERS goal  
20 of achieving all cost-effective energy  
21 efficiency.

22 In regard to the Commission's  
23 question about the statute governing the  
24 energy efficiency portion of the SBC, we also



1 do not have anything to add to the Consumer  
2 Advocate's response and do agree with his  
3 statements.

4 Again, The Way Home respectfully  
5 requests that the Commission approve this  
6 Plan, as modified by the Agreement, and  
7 believes this request is supported by the  
8 record and evidence before you. Thank you.

9 CHAIRWOMAN MARTIN: Thank you, Mr.  
10 Burke.

11 Commissioner Bailey, any questions?

12 [Commissioner Bailey indicating in the  
13 negative.]

14 CHAIRWOMAN MARTIN: I have one  
15 question. You mentioned that one of the  
16 important pieces of the Settlement Agreement  
17 for The Way Home is the Stakeholder Advisory  
18 process. Can you explain that?

19 MR. BURKE: Sure. Just that we  
20 believe that the terms of the Agreement that  
21 discussed the Stakeholder Advisory Council  
22 are important for the Plan and moving forward  
23 with not only implementation of this  
24 Three-Year Plan before you, but for planning

1           for consideration of future energy efficiency  
2           plans for the next triennium.

3                   CHAIRWOMAN MARTIN: I guess what  
4           I'm trying to get at is what is it, in your  
5           position, that are more usable in this  
6           approach than what currently exists.

7                   MR. BURKE: I just think the terms  
8           of the Settlement shore up the process that  
9           has already been underway and ensures that it  
10          will have continued support of a consultant,  
11          which I think was key in the stakeholder  
12          process of the past roughly year or ten  
13          months. I forget the exact timeframe. And I  
14          think it ensures that, in particular, in  
15          regard to planning for future three-year  
16          plans, that perhaps the process starts even  
17          earlier.

18                   And I guess I would also note,  
19          given that we support the move to a true  
20          three-year plan, we think it's going to be  
21          important to have ongoing stakeholder input  
22          under the framework that this Plan and the  
23          Agreement modifies, which would be different.  
24          You know, we did have the working groups that

1           came about during the last Three-Year Plan,  
2           but those weren't initially envisioned in the  
3           initial filing back in 2017. Those kind of,  
4           as I recall, came about as issues came up in  
5           the update filings or that weren't able to be  
6           resolved in the initial docket.

7                         CHAIRWOMAN MARTIN: Okay. Thank  
8           you. I appreciate that.

9                         MR. BURKE: Sure. Thank you.

10                        CHAIRWOMAN MARTIN: All right. Mr.  
11           Clouthier, would you like to make a closing?

12                        MR. CLOUTHIER: Yes. Thank you,  
13           Madam Chair, and thank you, Commissioner  
14           Bailey. SNHS would like to thank all parties  
15           who participated in this docket, including  
16           anyone who may have participated in the  
17           docket but didn't join in the Settlement.  
18           Everyone involved provided great value in  
19           helping to develop the Settlement before you  
20           today. SNHS feels that the settlement is  
21           just and reasonable, and therefore we  
22           respectfully ask the Commission's approval.

23                        SNHS would like to particularly  
24           thank the parties for recognizing the

1 importance of the HEA low-income program and  
2 the financial challenges that contractors and  
3 Community Action Agencies are continually  
4 faced with when performing energy efficiency  
5 upgrades through the HEA program. SNHS  
6 strongly supports the adoption of the \$20,000  
7 HEA rebate incentive as proposed in the  
8 September 1st Plan and in the Settlement  
9 Agreement. This will allow the HEA program  
10 to perform complete weatherization on  
11 eligible low-income households without  
12 leaving cost-effective energy savings  
13 measures on the table due to a lower rebate.

14 Given today's date, we are very  
15 hopeful that the Settlement will be approved.  
16 If not approved, there's potential for a  
17 devastating impact to the network of  
18 contractors involved in New Hampshire's  
19 energy efficiency programs. Of particular  
20 concern is the impact it will have on the  
21 most vulnerable low-income population served  
22 through the HEA program. Come January 1st,  
23 we'll have many families who will be in dire  
24 need of energy efficiency upgrades to their

1 homes. Two of the most important reasons  
2 being January is the heart of winter in New  
3 England and therefore a time when low-income  
4 families are faced with the coldest  
5 temperatures of the year. Secondly, the  
6 COVID-19 impact on low-income families has  
7 left many households unemployed or with  
8 little to no funds to pay for heating and  
9 electricity costs, therefore making energy  
10 savings that much more important.

11 For all of these reasons mentioned,  
12 and for our belief that this Settlement is in  
13 the public interest, SNHS would again  
14 respectfully ask for Commission approval.  
15 Thank you very much.

16 CHAIRWOMAN MARTIN: Thank you, Mr.  
17 Clouthier.

18 Commissioner Bailey, any questions?

19 COMMISSIONER BAILEY: I do have one  
20 question for Mr. Clouthier. Thank you.

21 You said that a delay in the  
22 decision beyond December 31st would cause a  
23 problem for low-income families in January.  
24 Are the results of this Settlement Agreement

1 really going to be implemented in January, or  
2 would that be -- I assume you're talking  
3 about HEA improvements for those families  
4 that would happen in January?

5 MR. CLOUTHIER: I'm particularly  
6 talking about the HEA improvements, yes.

7 COMMISSIONER BAILEY: And aren't  
8 those already scheduled from last year's  
9 funds for January? Or would they be  
10 scheduled in January if we approve this by  
11 December 31st?

12 MR. CLOUTHIER: I couldn't speak to  
13 how the projects are handled from the  
14 Utilities' aspect on that, so I'm not sure if  
15 that would be through carryover or not.  
16 So...

17 COMMISSIONER BAILEY: Okay. Thank  
18 you.

19 CHAIRWOMAN MARTIN: Okay. Mr.  
20 Dexter.

21 MR. DEXTER: Thank you, Chairwoman  
22 Martin and Commissioner Bailey, for the  
23 opportunity to be heard at closing, and more  
24 importantly, I guess, for the opportunity to

1           have been heard over the course of these  
2           hearings over the last 10 days or so.

3                       I want to start by talking about  
4           Staff's role in this. It seems to have drawn  
5           a lot attention. Staff's role in this case,  
6           and I believe Staff's role in all cases, is  
7           to work hard to adduce information that  
8           provides the Commission a full record upon  
9           which to make a decision. Often this is done  
10          by settlements, sometimes it's not. In this  
11          case -- it depends on what's in a settlement.  
12          In this case, as should come to no surprise  
13          to anyone on the EERS Committee, Staff chose  
14          not to sign the Settlement because of the  
15          belief that the balance that needs to be  
16          struck between SBC increases and savings  
17          goals was out of whack. We raised this  
18          concern as far back as February of 2020, when  
19          the EERS Committee was meeting in person, and  
20          continued to have the concern that the  
21          Settlement doesn't create the right balance.  
22          We have stated our views in the EERS  
23          Committee, in prefiled testimony, and in  
24          these hearings, despite what strikes me as

1 unusual opposition from the Settling Parties  
2 in the form of motions filed the day of the  
3 Plan, or the day after the Plan, repeated  
4 objections, motions for rehearing, et cetera.  
5 Despite all that, we believe we've had the  
6 opportunity to make Staff's view known, and  
7 we appreciate that.

8 Moving to the substance, I'd like  
9 to focus on two things. One is I'd like to  
10 review what we've learned in the hearing  
11 process, and then, secondly, I'd like to look  
12 at what should be done by the Commission in  
13 light of what's been learned.

14 Two points to make before we get to  
15 the specifics. First of all, I don't believe  
16 any party in this case, including Staff,  
17 supports a mere extension of the existing  
18 Three-Year Plan, or the third year of the  
19 existing Three-Year Plan, for one more year.  
20 I believe all the parties, the Utilities and  
21 other parties, have indicated that there are  
22 several improvements built into the new Plan  
23 that should be adopted and would be lost if  
24 the old Plan were merely extended.



1           Secondly, Staff supports approval  
2           of the gas programs that are proposed in the  
3           Plan and as modified by the Settlement.  
4           There doesn't seem to be any objection from  
5           any of the parties for the gas EE programs  
6           that were proposed either on September 1st or  
7           in the Settlement. Staff's position on the  
8           gas programs is that they strike a better  
9           balance between SBC increases, or LDAC  
10          increases and energy savings goals, a more  
11          moderate balance than is present on the  
12          electric side of the equation. So the  
13          remainder of my comments will focus on the  
14          electric program.

15                 So, again, I ask: What did we  
16                 learn in these hearings? Starting with  
17                 savings goals, we learned that the savings  
18                 goals are increasing significantly from the  
19                 last triennium, up to 4.5 percent of 2019  
20                 electric sales statewide. We learned that  
21                 the 4.5 percent does not apply to all  
22                 utilities. We learned that Eversource will  
23                 strive to achieve and Eversource customers  
24                 will therefore pay for more than the

1           4.5 percent while all the other utilities  
2           will earn less than 4.5 percent. We learned  
3           that the savings goals were established in a  
4           stakeholder process, and we learned in that  
5           stakeholder process that the significant  
6           stakeholder representing C&I customers, as  
7           well as the Commission Staff, expressed  
8           concerns over continued significant SBC rate  
9           increases as far back as February 2020,  
10          before the pandemic took hold. We learned  
11          that the savings goals were set in this  
12          Committee and that the savings goals drive  
13          the budgets, which in turn drove the proposed  
14          rates. As all parties have indicated, it is  
15          the foundation of the EERS process. We  
16          learned that there's no particular magic to a  
17          4.5 percent goal or a 5 percent goal, as  
18          demonstrated by the fact that in the EERS  
19          Committee, different goals were kicked around  
20          and studied. And in fact, on September 1st,  
21          5 percent was proposed, and in Settlement  
22          that savings goal has now been reduced to  
23          4.5 percent. It's Staff's view the  
24          stakeholder process, which was established in

1 DE 15-137 by Settlement -- a Settlement that  
2 Staff did sign, by the way. There was some  
3 confusion other day as to whether or not  
4 Staff was a party to that settlement. But I  
5 want to state for the record that Staff was a  
6 party to that settlement and supports it.

7 Staff's view of the Committee  
8 process is that it is not the end of the EERS  
9 process, but merely the beginning, or perhaps  
10 the middle, but certainly not the end. The  
11 process that was established back in that  
12 case was that the parties and stakeholders  
13 would get together and make a proposal to the  
14 Commission. It's the proposal to the  
15 Commission that counts. We can look back at  
16 the EERS process, and look at it and decide  
17 whether or not everyone was heard, decide  
18 whether or not the votes were valid, decide  
19 whether or not there are any minutes  
20 supporting the meetings when the votes were  
21 taken for context. We can look at all that  
22 stuff. But in reality, what matters is the  
23 vote that the Commission has to take at the  
24 end of this process. The Commissioners have

1 the only vote that counts. And the  
2 Commissioners are charged with striking the  
3 appropriate balance between energy efficiency  
4 and energy efficiency rates.

5 We learned that 85 percent of all  
6 the planned energy savings are coming from  
7 the C&I and municipal sector. We learned in  
8 the hearing process that the new energy  
9 efficiency dollars -- that is, the spending  
10 increases that are proposed in this docket --  
11 will be directed towards programs where the  
12 dollars per kWh saved are higher than in the  
13 last plan. So by definition, dollars spent  
14 in this triennium will be less productive  
15 than dollars spent in the last triennium.  
16 That's not a criticism of the Plan. It's a  
17 statement of reality, and mostly as a result  
18 of the Utilities' efforts over the past years  
19 to transform the energy efficiency market and  
20 through improvements in the EM&V process --

21 [Court Reporter interrupts.]

22 MR. DEXTER: It's a result of the  
23 Utilities' efforts to transform the energy  
24 efficiency market and through improvements in

1 the EM&V process whereby savings are  
2 measured. I bring this up not as a criticism  
3 of the Plan, but just as a reality that the  
4 Commission should keep in mind now and in the  
5 future when evaluating the energy efficiency  
6 proposals.

7 Staff agrees with all the folks  
8 that have spoken before us, that all the  
9 programs before you in the Settlement, that  
10 were in the September 1st Plan, are  
11 cost-effective under the Granite State Test  
12 that were agreed to and approved by the  
13 Commission.

14 What have we learned with respect  
15 to the rates that are proposed? There are  
16 rate increases proposed, particularly for the  
17 C&I class, where Eversource and Unitil  
18 propose to more than double the SBC over  
19 three years. Staff would urge the Commission  
20 to look at Exhibit 25, which was produced not  
21 by the Utilities but by Staff, where the  
22 percentage increases for all the proposed  
23 rates are laid out clearly. And Staff has  
24 agreed to update that exhibit because of some

1 changes to the rates, I think yesterday. But  
2 I don't think the changes are going to be  
3 significant. But the Commission ought to  
4 look at Exhibit 25 as it is, and the update  
5 when it comes in, and take a close look at  
6 the rate increases that are expressed and  
7 laid out in that schedule.

8 We learned that the residential SBC  
9 increases will amount to about a 50 percent  
10 increase over a three-year period and that  
11 those rate increases for several of the  
12 utilities are heavily weighted towards 2021,  
13 despite the COVID pandemic. Now, Staff has  
14 not contested -- or Staff does not oppose the  
15 proposed residential SBC increases or the  
16 proposed residential goals, although we are  
17 concerned about the large percentage of those  
18 goals that are going to fall in 2021. A  
19 50 percent rate increase over a three-year  
20 period is not something that Staff would  
21 normally endorse in any other regulatory  
22 proceeding that we can think of. It's an  
23 unusual increase. It's a large increase.  
24 But it's supportable by the fact that energy

1 efficiency will produce savings, and that  
2 strikes an appropriate balance between the  
3 long-term savings that would be achieved and  
4 the short-term rate impacts. We want to go  
5 on the record that Staff isn't in the habit  
6 of routinely endorsing 50 percent rate  
7 increases on any particular item over a  
8 three-year period. That has to be looked at  
9 carefully.

10 We learned that the Plan calls for  
11 and the Settlement calls for sector-specific  
12 SBCs, where the large increases in the C&I  
13 programs will be paid for by C&I customers  
14 and the smaller proposed increases will be  
15 paid for by residential customers. When all  
16 is said and done, the residential systems  
17 benefit charge will be around 1 percent for  
18 all the Utilities. And for the C&I  
19 customers, the SBC will be above 1 percent  
20 for the New Hampshire Electric Co-Op and  
21 Liberty. They'll all be above 1 percent,  
22 with Unitil being over 1.5 cents per kilowatt  
23 hour, and Eversource is essentially 2 cents  
24 kWh when rounded, a hair under 2 cents for

1 kWh. The current SBC rate for all customers  
2 is around .7 cents per kWh.

3 Commissioner Bailey went through a  
4 detailed exercise quantifying correctly what  
5 the increase in the SBC would be under the  
6 proposed Settlement. Staff wants to point  
7 out that that analysis, as I'm sure  
8 Commissioner Bailey knows, focuses on the  
9 increases to the SBC, not the underlying SBC  
10 the customers are already paying. At .7  
11 cents per kWh and at 625 or 650 kWh per  
12 month, currently a residential customer pays  
13 about \$52 per year under existing programs,  
14 for energy efficiency programs. Commissioner  
15 Bailey's numbers -- or the Utilities' numbers  
16 that were provided in response to  
17 Commissioner Bailey's questions would be on  
18 top of that \$52 per year for residential  
19 customers.

20 We've learned that the funding and  
21 finance group has been unable to identify any  
22 grants that would supplant reliance on the  
23 SBC for energy efficiency funding, despite  
24 the group working for more than two years.



1 Staff supports the funding and finance group,  
2 supports its continued meeting, and hopes  
3 that additional funding will be found. But  
4 for now, these energy efficiency programs are  
5 essentially entirely funded through the SBC,  
6 with some small offsets for Forward Capacity  
7 Market revenues and RGGI revenues.

8 What have we learned about bill  
9 impacts? The first thing we've learned I  
10 think about bill impacts is that the Settling  
11 Parties urge you not to look at rates but to  
12 look at bills. But as the Utilities  
13 witnesses testified yesterday, the only rate  
14 that's at issue in this case is the SBC rate  
15 and the LDAC. Diluting its effect by  
16 grouping it with other rate elements that are  
17 not at issue in this case serves only to  
18 disguise, in Staff's view, what's being  
19 proposed. The Commission needs to, when  
20 striking this appropriate balance between  
21 rates and savings, needs to look at the SBC.  
22 That's what's at issue in this case.

23 The Utilities have provided  
24 Attachment M to demonstrate the overall bill

1 impacts to customers over a long period of  
2 time. We've heard that the figures that are  
3 presented on Attachment M evaluate customer's  
4 total bills over a period. But what's  
5 displayed on those charts is an analysis over  
6 the lifetime of the energy efficiency  
7 increase, which I believe was testified to be  
8 about 10 or 11 years for residential  
9 customers and 15 years for commercial and  
10 industrial customers.

11 There are a lot of charts in  
12 Exhibit M, and there's been a lot of  
13 attention drawn to Exhibit M. Staff would  
14 submit that the only real conclusion that  
15 could be drawn from exhibit -- from  
16 Attachment M is that high-savings  
17 participants will save money over the life of  
18 the measures that are being installed. Those  
19 high-savings participants are represented by  
20 the large blue bars in the bar charts. All  
21 the other bars in those charts Staff submits  
22 are relatively small, and given the concerns  
23 that were expressed over the study as to how  
24 savings were assumed to be passed back to

1 customers, and the fact that the measure  
2 lives, although depicted for 10 or 12 years,  
3 actually go on for longer than 10 or 12  
4 years. Some of the measure lives have 25  
5 years --

6 [Court Reporter interrupts.]

7 Again, the conclusion that Staff  
8 draws from these graphs is that high-savings  
9 participants will benefit over the life of  
10 these installations.

11 There is some talk -- there has  
12 been some talk that unregulated fuels were  
13 not represented in the graphs on  
14 Attachment M, and Staff understands that.  
15 The notion that the energy efficiency  
16 programs save unregulated fuels is a concept  
17 that applies only to the residential  
18 customers. Staff does not contest the  
19 residential programs or the residential rates  
20 that are proposed here, with the possible  
21 exception that those residential rates are  
22 too heavily weighted towards 2021. But in  
23 general, the rates proposed for the  
24 residential class are reasonable.

1                   We heard the Consumer Advocate's  
2                   Witness Mosenthal indicate that a residential  
3                   customer could install three light bulbs and  
4                   offset the entire SBC increases that are  
5                   proposed in this case. Again, Staff doesn't  
6                   propose -- or Staff does not oppose the  
7                   residential rates or programs that are  
8                   suggested here.

9                   The lesson that Staff learns from  
10                  Attachment M is that participation is key.  
11                  But the record contains very little  
12                  information on participation in rates. Staff  
13                  was able to do some calculations that were  
14                  presented by Ms. Nixon yesterday about  
15                  participation rates, and it indicated that,  
16                  on an annual basis, about 7 percent of C&I  
17                  customers would participate per year. That  
18                  leaves a large number of C&I customers who do  
19                  not participate, who will bear the brunt of  
20                  the majority of the rate impacts that are  
21                  proposed here, but will not participate in  
22                  the program. Now, participation rates can  
23                  vary. Everyone wants everyone to  
24                  participate. But it is simply not possible

1 for all customers to participate over the  
2 next three years. The budgets don't allow  
3 for it and -- (connectivity issue)

4 [Court Reporter interrupts.]

5 MR. DEXTER: -- and the  
6 practicalities of implementation don't allow  
7 for it.

8 I will speak up. I'm rarely  
9 accused of speaking softly.

10 With respect to budgets, I'd like  
11 to review what we learned about budgets in  
12 the hearing process. We've learned that the  
13 total cost of the Plan is \$340 million for  
14 electric customers and \$42 million for gas  
15 customers. On the electric side, this is  
16 nearly a five-time increase as compared to  
17 the spending of just five years ago, where  
18 the electric budget for the Three-Year Plan  
19 from 2015 to 2017 sat at \$72 million.

20 This, I think, demonstrates two  
21 things. One, there has been suggestions that  
22 the New Hampshire -- that New Hampshire has  
23 been dragging its heels or falling behind on  
24 energy efficiency programs. I don't think

1           any reasonable person can conclude that a  
2           nearly five-fold increase in energy  
3           efficiency budgets over a five-year period  
4           can be considered heel-dragging or not  
5           aggressive.

6                         There has been attention paid to  
7           the rankings provided by ACEEE of utility  
8           progress -- or utility stance in the energy  
9           efficiency world. Staff would like to point  
10          out that the ACEEE is not a regulator and is  
11          not charged with the goal or with the -- is  
12          not charged with balancing between savings  
13          goals and rate impacts. That's the job of  
14          the regulator, the Commission, not ACEEE.  
15          Having said that, we have heard for years  
16          from parties to this case about New Hampshire  
17          ranking 20th out of 50th in the ACEEE, or  
18          21st out of 50th. And upon examination in  
19          this case, I believe that it demonstrated  
20          that that criteria that's been looked at is  
21          the wrong criteria. The criteria that most  
22          accurately represents what's at issue in this  
23          case -- in other words, utilities-sponsored  
24          energy efficiency programs -- has ranked New

1 Hampshire 13th in the exhibit that I  
2 provided, which was the 2019 ranking. And I  
3 guess there have been references made of the  
4 updated studies, which, as I understand it,  
5 has not been put in evidence, that New  
6 Hampshire's rank went up a little bit higher,  
7 maybe to 11 or 12 or whatever. But the fact  
8 of the matter is you have the ranking in the  
9 record I provided for you as an exhibit. New  
10 Hampshire ranked 13th out of 50 states with  
11 respect to utility-sponsored energy  
12 efficiency programs.

13 We've learned that the budget  
14 proposed on September 1st and through the  
15 Settlement more than doubles the budgets from  
16 the Plan last year. Last year's Plan was  
17 \$154 million for electric versus the \$350 --  
18 now \$340 million proposed, more than  
19 doubling.

20 We have learned that 55 percent of  
21 the proposed budget will be spent on C&I  
22 customers, C&I and municipal customers,  
23 versus only 50 percent of the Plan last time.  
24 Significant shift in the budget away from

1 residential to C&I.

2 With respect to performance  
3 incentives, which are included in the  
4 budgets, we've learned that under a base case  
5 scenario, if the Settlement is approved and  
6 implementation goes according to plan,  
7 Utilities will earn \$18.5 million in  
8 performance incentives, with the potential to  
9 go up to \$23 million over the Three-Year  
10 Plan. And if you look closely at the  
11 schedules that I went over in  
12 cross-examination, you'll see a footnote that  
13 says, in small print, that these figures are  
14 in 2021 dollars. So I believe when the time  
15 comes for the incentive to be earned three  
16 years from now, those number will even be  
17 higher. We learned from Eversource's witness  
18 that this represents a 49 percent increase in  
19 the performance incentive that is expected to  
20 be earned under base case in 2021 versus  
21 2020. This should not come as a surprise to  
22 anyone, because as we also learned in the  
23 hearings, performance incentive is based on  
24 spending. And we have learned that increased



1 goals needs to increase spending, therefore  
2 increased performance incentive.

3 We learned that the Utilities have  
4 called for reducing the current performance  
5 incentive thresholds for achieving its  
6 performance incentives. Staff has opposed  
7 the reduction of these thresholds as  
8 unwarranted for several reasons. Primarily,  
9 the Utilities control the energy efficiency  
10 programs. The Utilities have the ability to  
11 remedy any lack of participation in the  
12 programs with greater marketing, program  
13 design changes, other efforts which included,  
14 in 2020, increasing rebates to customers to  
15 over 90 percent, none of which requires  
16 Commission approval. Efficiency portfolios  
17 comprise a diversified set of measures and  
18 programs, and the Utilities can manage and  
19 deploy these measures and programs to reach a  
20 desired performance outcome. They have  
21 significant control over their programs and  
22 should be held accountable for the  
23 performance. There is simply nothing in the  
24 record to indicate that these thresholds

1           should be reduced. The Utilities proposed  
2           the goals of 5 percent, and now 4.5 percent,  
3           and should be held to the performance  
4           incentive thresholds that are currently in  
5           place.

6                         We heard a number of times that the  
7           Utilities testified that, quote, "We're on  
8           the hook for meeting these savings." And in  
9           Staff's view -- Staff wants to be clear on  
10          this. The Utilities are not "on the hook"  
11          for anything when it comes to energy  
12          efficiency. Utilities receive 100 percent  
13          cost recovery for every dollar prudently  
14          incurred. They receive it on an ongoing  
15          basis. And in the event there's an  
16          under-recovery or an over-recovery, there's  
17          interest applied to the over- and  
18          under-recoveries. So there is 100 percent  
19          cost recovery of any dollars that the  
20          Utilities expend over these programs. They  
21          are not "on the hook."

22                         Secondly, if the Utilities are  
23          successful in reducing sales as a result of  
24          these programs, the Utilities receive

1 compensation through a lost base revenue  
2 mechanism or a decoupling mechanism to make  
3 them whole for the programs being successful.  
4 The performance incentive is not an  
5 entitlement. It's designed to ensure  
6 exemplary performance, and it must be earned;  
7 therefore, it's important that those  
8 thresholds remain meaningful.

9 We learned that in 2020, Eversource  
10 fell \$4 million short of its 2020 spending  
11 goal of \$24 million. In other words, the  
12 goal was 24 million -- their budget was  
13 24 million, and they were only able to spend  
14 20 million due to the pandemic. In 2021,  
15 under the proposed Settlement, Eversource  
16 proposes to nearly double that budget to  
17 \$38 million; in 2022, another 10 million, and  
18 in 2023, another 10 million. When Staff  
19 asked what if they were to fall short in  
20 2021, the answer was, well, the beauty of a  
21 three-year plan is that if you fall short of  
22 your spending or your goals in year one, you  
23 can make up for it in year two or year three.  
24 Staff is concerned that it is not realistic

1 to expect the Utilities to be able to double  
2 their budget, nearly double their budget in  
3 C&I programs in 2021 in light of the ongoing  
4 COVID-19. These are unprecedented times.  
5 The result of setting budgets and SBCs that  
6 high would be large over-collections, which  
7 don't serve anyone any good.

8 We've learned through the course of  
9 these hearings and in reviewing the program,  
10 that for income-eligible customers, the Plan  
11 will double -- well, excuse me -- will  
12 increase the HEA budget proportional to the  
13 overall budget increases, which we believe is  
14 more than a doubling since the last  
15 triennium, and that's as a result of the  
16 17 percent rule and the 20 percent rule that  
17 we've talked about.

18 We've learned that HEA program  
19 participants receive 100 percent rebates --  
20 in other words, it's a no-cost  
21 participation -- and that they enjoy many  
22 non-kWh savings in the form of oil and  
23 propane savings from building insulation and  
24 things like that. It should come as no

1 surprise to the Commission that advocates for  
2 low-income programs are supportive of this  
3 Settlement. It represents a very good  
4 program for low-income customers. And Staff  
5 supports that, by the way.

6 For non-income-eligible residential  
7 customers, the Plan provides 75 percent  
8 rebates in 2021 -- again, meaning that for  
9 the installations, the customer will be  
10 responsible for 25 percent of the  
11 installation and the Utilities will pick up  
12 75 percent. And as I discussed, the SBC  
13 increases are more reasonable than the C&I  
14 increases. It should come as no surprise to  
15 the Commission that the advocates in the  
16 process for residential customers are  
17 supportive of this Plan because of those  
18 reasons.

19 The customers who will not do as  
20 well under this Plan are C&I customers, with  
21 the exception of those who are, quote,  
22 "high-savings participants," as described on  
23 Attachment M. These customers will bear the  
24 brunt of the increased costs and the

1           increased SBC increases. It's up to the  
2           Commission to strike the balance between the  
3           low-income, the residential and the C&I.

4                        So I've tried to highlight a lot of  
5           things that we've learned over the course of  
6           the last five days in this virtual hearing  
7           room, and I'd like to now suggest what should  
8           be done as a result of what was learned.

9                        First, as I've said many times,  
10          there needs to be a balance struck. As all  
11          the parties to DE 15-137 said, including  
12          Staff, when the EERS construct was developed,  
13          and I quote from that Settlement, "The  
14          Settlement Parties" -- "The Settling Parties  
15          agree that the savings goals balance the  
16          goals of capturing more cost-effective energy  
17          efficiency and benefits to ratepayers with  
18          the goal of gradually increasing funding for  
19          efficiency while minimizing the impacts on  
20          all ratepayers." The Settlement -- and Staff  
21          signed that.

22                        The Settlement in this case, which  
23          Staff chose not to sign, in its view tilts  
24          too far towards increased spending and

1 savings goals and performance incentives and  
2 does not appropriately balance rate  
3 increases. The Settlement does not, as it  
4 claims in its introductory terms, quote,  
5 "address the concerns of Staff and C&I  
6 customers."

7 First, if it addressed the concerns  
8 of Staff, Staff would have signed it.  
9 Secondly, when asked about how the concerns  
10 of C&I customers were addressed, the  
11 Utilities stated that they did not consult  
12 any C&I customers about the Settlement.  
13 Instead, they quibbled with words like  
14 "addressing" versus "resolving" and whether  
15 or not the sentence in the Settlement was  
16 punctuated correctly to get across what it  
17 was they were trying to say. Let's be clear.  
18 Deciding to back off from the more than  
19 tripling of the C&I SBC, as was proposed on  
20 September 1st, to a mere doubling plus some  
21 as proposed in the Settlement, neither  
22 addresses nor resolves Staff's concerns, nor  
23 do we believe address or resolve the concerns  
24 of anyone remotely interested in promoting

1 rate gradualism.

2 When the EERS was first approved in  
3 Order 25,932, at Page 54, the Commission  
4 stated, "We are mindful of and do not take  
5 lightly the short-term increases in customer  
6 rates."

7 So in this case, Staff recommends  
8 that the Commission order a re-balance so  
9 that the Utilities will be more "mindful" of  
10 and "not take lightly" the short-term  
11 increases that are proposed in the Settlement  
12 as you stated was the goal back in 2016, in  
13 Order 25,932. It is Staff's opinion, based  
14 on months of participation in the stakeholder  
15 process that produced the proposed Plan in  
16 the Settlement process, and in these  
17 hearings, that those who signed and presented  
18 the Settlement proposal did not take heed of  
19 this fundamental balance point and instead  
20 regarded its proposal as increasing rates "a  
21 little bit." Such a re-balance could be  
22 accomplished through the Commission ordering  
23 either lower savings targets or lowering SBC  
24 rates, or a combination of both. One Utility



1 witness described this approach as the  
2 Commission, quote, "acting by fiat." Staff  
3 disagrees with that assessment and believes a  
4 more accurate assessment of such an approach  
5 would be that the Commission weighed all the  
6 evidence before it, evidence that was  
7 produced through a stakeholder process,  
8 Settlement process, hearing process, and  
9 reached a decision based on that evidence  
10 that better adheres to the concepts of  
11 least-cost planning and just and reasonable  
12 rates, as the statutes provide.

13 So, specifically, Staff recommends  
14 that the Commission reject the Settlement  
15 because the rates proposed are not just and  
16 reasonable.

17 Staff recommends that the  
18 Commission order the Utilities to present a  
19 more balanced electric Plan that embraces the  
20 many improvements that are present in its  
21 Three-Year Plan that all the parties talked  
22 about, including the three-year structure,  
23 net to gross figures, the realization rates,  
24 the consensus planning structure, and the

1 others that were discussed, but with lower  
2 savings goals and lower SBC rates for Unitil  
3 and Eversource.

4 Staff urges the Commission to  
5 reject the reduction of the proposed  
6 performance incentive thresholds, to reject  
7 the ADR, the demand reduction performance  
8 incentives, and require the Commission --  
9 require the companies to develop a  
10 performance incentive that bears a more  
11 reasonable relationship to the program costs.

12 Staff recommends that the  
13 Commission cease the performance incentive  
14 for the Smart Start Program as unnecessary  
15 and duplicative of the other performance  
16 incentives in place. And Staff recommends  
17 that the Commission not increase the  
18 per-installation cap on the HEA program,  
19 which currently sits at \$8,000. Staff's  
20 recommendation is to increase that to \$12,000  
21 per installation and not to \$20,000 as has  
22 been proposed.

23 Staff recommends that the  
24 Commission order the ADR pilots -- again,

1 active demand reduction pilots -- must be  
2 evaluated and presented before they can be  
3 considered -- before they can be implemented  
4 as a full program.

5 And finally, if the Commission does  
6 approve the Settlement, Staff requests that  
7 they not approve the rates that have been  
8 proposed by Liberty Utilities because, as we  
9 learned yesterday on the witness stand, there  
10 are mistakes in Liberty Utilities' rate  
11 calculation that need to be corrected.

12 Staff recommends that the  
13 Commission continue the existing SBCs for a  
14 short time while the Utilities make this  
15 re-filing, keeping in mind that the Utilities  
16 went from a 5 percent savings goal to a  
17 4.5 percent savings goal in a matter of a  
18 couple of weeks, as we understand.

19 So, again in closing, I'd like to  
20 thank the Commission for the opportunity to  
21 be heard. And that concludes Staff's  
22 remarks.

23 CHAIRWOMAN MARTIN: Thank you, Mr.  
24 Dexter.

1                   Commissioner Bailey, do you have  
2 any questions?

3                   COMMISSIONER BAILEY: I think I  
4 have a couple questions. See if I can find  
5 them.

6                   Mr. Dexter, in your discussion  
7 about Attachment M and what it says, you say  
8 that it clearly demonstrates that the savings  
9 for high-participant customers are  
10 beneficial, but that the benefits are not  
11 there for the other classes or customers.  
12 Did you mean that there are no benefits, that  
13 the costs don't outweigh the benefits for  
14 non-participants, or that it's just not as  
15 clear?

16                  MR. DEXTER: Well, certainly it's  
17 not as clear. And I will point out that this  
18 study was done by Synapse. Synapse was not  
19 present in the case to present it. But if  
20 you were to look at these charts and accept  
21 them on face value, there are a lot of big  
22 blue bars on this chart next to high-savings  
23 participants. And that goes to all the  
24 companies. If you look at the other bars

1           that are either just above or just below the  
2           line of zero, those are not nearly as  
3           significant as displayed by the bars for the  
4           high-participant savings. And when making  
5           that assessment, I think the Commission needs  
6           to keep in mind that these are the results of  
7           the companies spending \$340 million over a  
8           three-year period, and the benefits are  
9           measured over either a 10- or 15-year period,  
10          and some of the measures go out to 25 years.  
11          So if the results of your analysis are  
12          showing these tiny little bars either above  
13          or below the break-even point, I think the  
14          Commission has to question whether or not the  
15          Utilities should be spending \$340 million of  
16          ratepayer money to get this little above or  
17          below, you know, in an analysis that's sort  
18          of attached to the Plan and probably requires  
19          some further explanation. But it also has  
20          some shortcomings that Ms. Nixon pointed out,  
21          in terms of the assumption that the benefits  
22          that are displayed in those blue bars are  
23          assumed to have passed back to ratepayers on  
24          an ongoing yearly basis, which we

1 demonstrated is not the case.

2 COMMISSIONER BAILEY: And in that  
3 discussion, you also tried to make a point  
4 about unregulated fuel savings that aren't  
5 accounted for in Attachment M. And you made  
6 a point that I didn't understand about it's  
7 included for residential but not included for  
8 C&I, or something like that. Can you go over  
9 that for me again, please?

10 MR. DEXTER: Yes. Yes. In the  
11 benefit-cost analysis, as I understand it --  
12 well, first of all, there's a threshold that  
13 requires that all these savings that are  
14 produced by these programs, there has to  
15 be -- at least 5 percent of those savings  
16 have to be electric. That's a minimum  
17 threshold for the portfolio. So there are  
18 non-energy -- there are non-electric savings  
19 in the portfolio. Most of those, if not all  
20 of those, fall in the residential class, not  
21 the C&I class. Those non-energy -- I'm  
22 sorry -- non-electric benefits are not  
23 depicted on the charts for the residential,  
24 or to the extent they exist, the C&I

1 customers in Attachment M.

2 My point simply was that that is a  
3 valid consideration for the Commission, that  
4 when evaluating these programs, although they  
5 are not -- although they are in the  
6 cost-benefit analysis, those non-regulated  
7 savings do exist, but they exist for the  
8 residential customers. I wanted to point out  
9 that Staff, nor any of the other parties, is  
10 opposing the residential program --

11 COMMISSIONER BAILEY: So does that  
12 mean that all the savings that are counted in  
13 that analysis for C&I customers are electric  
14 savings?

15 MR. DEXTER: I believe so. I would  
16 urge the Commission to defer that question  
17 maybe to the Utilities or to the staff, or to  
18 Synapse, who's not available. But my  
19 understanding is that the non-regulated fuel  
20 savings in this portfolio of programs exists  
21 within the residential class, not the C&I  
22 class.

23 COMMISSIONER BAILEY: Okay. And  
24 just to confirm, I think I heard you say that

1 Staff believes the benefit-cost test results  
2 of the Granite State Test programs have all  
3 benefit-cost test ratio -- have passed that  
4 benefit-cost test ratio; is that right?

5 MR. DEXTER: Well, yes. Staff does  
6 not oppose the Plan on any grounds that it's  
7 not cost-effective. Again, there are details  
8 about which programs are more cost-effective  
9 and what happens if a program is borderline.  
10 You heard Mr. Eckberg talk about the  
11 behavioral programs, the potentially sort of  
12 on the border of 1.0, and if they were to  
13 fall below 1.0, they could still be included  
14 as a marketing tool of another program, the  
15 Home Performance with Energy Star Program.  
16 You heard Ms. Nixon talk about the ADR  
17 programs hovering around 1.0, with the  
18 potential to drop below 1.0 when the updated  
19 Avoided Energy Cost Study comes through.

20 So there are some concerns on the  
21 fringe. But on the whole, Staff, in  
22 agreement with I believe all the other  
23 parties in this virtual room, agree that the  
24 portfolio that was presented satisfies the



1 Granite State Test, as that test was done.

2 CHAIRWOMAN MARTIN: Commissioner,  
3 while you're looking at your questions, could  
4 I follow up on that one?

5 Mr. Dexter, I was going to ask you  
6 a question following up on Ms. Nixon's  
7 testimony, related to your statement about  
8 all programs proposed are cost-effective.  
9 And you just addressed it in part by saying  
10 they are currently cost-effective. But Ms.  
11 Nixon raised a concern about the potential  
12 for some of them to become not cost-effective  
13 in the very near future.

14 What is Staff's, I guess, purpose  
15 in raising that point, and how would Staff  
16 suggest addressing it?

17 MR. DEXTER: Well, the purpose in  
18 raising it was to point out that the Avoided  
19 Energy Study is done every three years, my  
20 understanding. Done periodically. I believe  
21 it's every two years or every three years.  
22 That study is due to be finalized in the  
23 first part of 2021. I think March or April.  
24 And that will affect the benefits that flow

1           into the benefit-cost analysis, the so-called  
2           "Granite State Test." And the consensus --  
3           or in Ms. Nixon's view, it appears apparent  
4           that the avoided costs are going to go down;  
5           therefore, the benefits are going to go down.  
6           There exists the real possibility that some  
7           of the programs will not be cost-effective.  
8           So that's the issue. That's why we rose it,  
9           because we believe it's a reality that needs  
10          to be brought to the forefront in this case.

11                        As to what can be done about it,  
12          one of the reasons Ms. Nixon proposed that  
13          any party be able to propose a mid-term  
14          modification was to handle things like that.  
15          You know, in addition, there are other  
16          studies that are done throughout the course  
17          of a three-year plan, evaluation and  
18          monitoring studies, and those results can  
19          have similar impacts. The point that Ms.  
20          Nixon was trying to make is that either the  
21          Plan or the Settlement, and I think both,  
22          sort of delegated the opportunity for  
23          mid-term modifications to be raised only by  
24          the Utilities. Staff's position on that is

1           that any stakeholder, including Staff, should  
2           be able to raise the mid-term modification  
3           and let you, the Commission, decide whether  
4           or not -- I think there was some talk about  
5           there'd be frivolous mid-term modifications  
6           or whatever. But it would give you the  
7           opportunity as Commissioners to decide  
8           whether or not this was a significant enough  
9           impact to be reviewed.

10                       CHAIRWOMAN MARTIN: Okay. Thank  
11           you.

12                       COMMISSIONER BAILEY: The last  
13           point that you made was that the Liberty  
14           rates may not be accurate. Yet, I think they  
15           filed three iterations of the rates, and I  
16           thought that the last Exhibit 44 was -- I  
17           don't remember hearing that that was  
18           inaccurate. Can you tell me a little bit  
19           more about what you meant by that?

20                       MR. DEXTER: The last question I  
21           asked Ms. Tebbetts was about a \$1 figure for  
22           a month on the calculation of interest on  
23           balance of lost base revenues, and she agreed  
24           that that \$1 figure was wrong.

1                   Secondly, I asked a series of  
2                   questions -- and this may not be considered a  
3                   mistake, but it certainly was an issue that  
4                   Staff thinks needs to be resolved. In  
5                   calculating the under-recovered balance of  
6                   lost base revenues over the course of 2021,  
7                   the schedule presented included no revenues;  
8                   it included only expenses. Therefore, the  
9                   under-recovered balance grew month by month  
10                  by month, whereas you would expect that it  
11                  would be offset by revenues.

12                  In response to the notion that  
13                  Liberty Utilities represented that they are  
14                  no longer collecting lost base revenues in  
15                  2021, I pointed the Commission to the rate at  
16                  the very bottom of that page, I think it was  
17                  .00098, or something with 9s and 8s in it at  
18                  the bottom corner of Bates 473, I believe it  
19                  was, indicating that in fact, and Ms.  
20                  Tebbetts agreed, that if that rate were  
21                  approved for LBR, that rate would start to be  
22                  collected on January 1st, 2021. So in  
23                  Staff's view, that schedule that indicates  
24                  there are no LBR revenues in 2021 is

1 incorrect, and therefore the calculation of  
2 the interest on the over/under-recovery -- in  
3 this case, under-recovery -- is not correct.  
4 So there are really two errors that I wanted  
5 to point out.

6 COMMISSIONER BAILEY: Thank you. I  
7 guess my last question is, if we reject the  
8 Settlement and we direct the parties to lower  
9 the savings targets and the rates for Unitil  
10 and Eversource C&I sectors, how would we --  
11 what would we tell them to reduce it to? And  
12 if we said 4 percent, would that be  
13 arbitrary?

14 CHAIRWOMAN MARTIN: You're on mute,  
15 Mr. Dexter.

16 MR. DEXTER: Excuse me for pausing  
17 for a sip of water. Well, I think, you know,  
18 the preface to that would be a conclusion by  
19 the Commission that the rate increases as set  
20 forth on Exhibit 25 are unacceptably high in  
21 the instance of Unitil and the Eversource C&I  
22 rate, that in your view, those rate increases  
23 strike the wrong balance. And so then you  
24 have to ask yourself: Well, how do I go

1           about re-balancing? And we've heard from all  
2           the witnesses about the three-legged stool or  
3           the four-legged stool or however many legs  
4           there are on the stool, that it's all a  
5           balance. And the factors that have to be  
6           balanced are the savings targets, the budgets  
7           that result from the savings targets, and the  
8           rates that result from those savings targets,  
9           and the assumptions that go into those  
10          savings targets. We, as Staff, and I believe  
11          you as Commissioners, don't have access to  
12          the information that the Utilities have to  
13          balance all those things in a manner that  
14          produces a Plan that is achievable because it  
15          is the Utilities that roll out these plans.

16                 So I would suggest that if you send  
17          that signal, that that one leg of the stool  
18          is out of whack, that the Utilities respond  
19          to that signal and come back with a plan  
20          that's better balanced. Whether or not you  
21          indicate to them that the savings are too  
22          high or that the rates are too high, you  
23          know, I guess that would be up to you. I  
24          believe picking a savings target might be

1           worth it. But I think as we've seen, there  
2           is a degree of arbitrariness associated with  
3           setting savings targets.

4                         We have heard that after a long  
5           process, the Settling Parties came upon  
6           5.0 percent. And we learned that that number  
7           was reduced to 4.5 percent. We learned that  
8           there is no statute setting this, that it's a  
9           balance. So, you know, one possibility might  
10          be for the Utilities to provide the  
11          Commission with a couple of scenarios so that  
12          you would have choices. What you've  
13          basically been presented here is a "take it  
14          or leave it" situation. And it's like a  
15          giant Jenga pile. If you pull out one peg,  
16          the whole thing collapses.

17                        It's now December 22nd. Keep in  
18          mind that we, as a group, in a Settlement  
19          that was signed I think in the second-year  
20          update, agreed that the filing date for this  
21          case would be July 1st, not September 1st as  
22          it had been over the past few years. And all  
23          the parties signed that Settlement that said,  
24          no, this needs to come in on July 1st. Well,

1           it didn't come in on July 1st. We can look  
2           back and blame it on the pandemic, or we can  
3           blame it on the studies that weren't  
4           completed that were supposed to be completed.  
5           The fact of the matter is you didn't get this  
6           case until September 1st, and you are being  
7           put in a very, very difficult situation. And  
8           that's the way it is.

9                         But, you know, I don't think it  
10           would be unreasonable for the Utilities to  
11           submit to you a couple of scenarios that  
12           better balance -- in other words, you give  
13           directions, and they come back with a couple  
14           scenarios that address those directions. And  
15           I guess the more clear the directions are,  
16           based on your view of the evidence in this  
17           case, you know, that will guide them more  
18           effectively.

19                         COMMISSIONER BAILEY: Thank you  
20           very much, Mr. Dexter.

21                         MR. DEXTER: Thanks for the  
22           opportunity.

23                         CHAIRWOMAN MARTIN: Okay. I think  
24           Ms. Chiavara is up next.



1 MS. CHIAVARA: Commissioners,  
2 Attorneys Taylor and Sheehan had prepared the  
3 closing statement for the joint New Hampshire  
4 Utilities. I can follow that. I've got a  
5 statement of support as well. And I can  
6 address the LBR issue that you requested me  
7 to speak to.

8 CHAIRWOMAN MARTIN: Okay. That's  
9 fine.

10 Mr. Sheehan or Mr. Taylor, who  
11 would like to go first?

12 MR. TAYLOR: I'm happy to lead.  
13 And I thank the Commissioners for the  
14 opportunity to speak. One of the downsides  
15 of following so many well-argued closings is  
16 that there are likely to be some inevitable  
17 redundancies in my statement, and I  
18 appreciate your patience as I run through  
19 those.

20 In Docket 15-137, the Commission  
21 approved the Settlement Agreement supported  
22 by all parties, including the Commission  
23 Staff, establishing the Energy Efficiency  
24 Resource Standard, a guiding principal of

1           which was achieving all cost-effective energy  
2           efficiency. The EERS supplanted what were  
3           known as the "CORE programs," which were  
4           funded by an SBC charge that remained static  
5           for almost 15 years. In other words, funding  
6           was established first, and programs had to be  
7           designed within the limits of that funding,  
8           without regard for savings potential. As a  
9           result, the State missed opportunities to  
10          achieve cost-effective energy efficiency.

11                       Establishing an EERS was, as the  
12          Commission itself noted, remarkable because  
13          it was based not on funding and budgets, but  
14          savings targets. The Commission recognized  
15          that it was this framework, the framework  
16          that produced the Plan and the Settlement now  
17          before the Commission, that would move the  
18          state forward and achieve the objectives of  
19          the 10-year state energy strategy and other  
20          policy priorities.

21                       The Commission also acknowledged  
22          that implementation of the EERS would further  
23          the business community's interest in staying  
24          competitive in today's economy. The

1 customers that choose to participate in  
2 energy efficiency programs developed to meet  
3 EERS targets will see reduced gas and  
4 electric bills, and that all utility  
5 customers will see reduced costs for electric  
6 and gas supply over the long term. It was in  
7 this context that is in light of the benefits  
8 of increased energy efficiency that the  
9 Commission concluded that short-term  
10 increases in customer rates were justifiable.

11 When the Commission approved the  
12 adoption of the EERS standard, it also  
13 approved a planning process pursuant to which  
14 stakeholders, the EESE Board, and an  
15 independent planning expert would collaborate  
16 to develop a three-year plan. The Staff, as  
17 one of the Settling Parties, endorsed this  
18 process. And that is the process that  
19 resulted in a Plan that the Utilities  
20 submitted to the Commission.

21 The Plan represents the consensus  
22 of a wide range of stakeholders. It is a  
23 true three-year plan that will better allow  
24 the Utilities to achieve energy savings goals

1 while providing greater stability for  
2 relationships with contractors and customers.  
3 Though the Settlement amends that Plan to  
4 address certain concerns raised in the course  
5 of the docket, the Settlement retains the  
6 structure and the spirit of the Plan, as  
7 evidenced by the broad support of the  
8 Settling Parties, who largely represent the  
9 stakeholders that developed the Plan.

10 The Settlement before the  
11 Commission today is consistent with the EERS  
12 policy and process adopted almost five years  
13 ago. Critically, the programs included in  
14 the Plan are cost-effective. No one disputes  
15 this fundamental criterion. That means that  
16 benefits delivered to customers through the  
17 programs will outweigh the cost of those  
18 programs, and customers will pay less in the  
19 long term.

20 Utilities acknowledge that the  
21 savings goals in the Settlement are  
22 challenging, but they are achievable and will  
23 provide direct benefits to customers, as well  
24 as broader system benefits and benefits to

1 the state generally.

2 CHAIRWOMAN MARTIN: Mr. Taylor, I  
3 apologize for interrupting. We just lost  
4 Mr. Dean.

5 Mr. Dean, can you hear me?

6 [No verbal response]

7 CHAIRWOMAN MARTIN: Looks like a  
8 bandwidth issue.

9 MR. TAYLOR: Well, it's late in the  
10 day and I am droning on, so he may have  
11 simply decided to leave the room.

12 CHAIRWOMAN MARTIN: I'm sure not.  
13 Let's just give it a minute in the hopes that  
14 he'll return. Off the record.

15 (Pause in proceedings)

16 CHAIRWOMAN MARTIN: Okay. We'll go  
17 back on the record. Ms. Chiavara.

18 MS. CHIAVARA: Yes. I just  
19 received an e-mail from Mr. Dean. His  
20 computer crashed. He's attempting to rejoin  
21 the meeting. He said please proceed without  
22 him.

23 CHAIRWOMAN MARTIN: Okay. Thank  
24 you.

1           Mr. Taylor, you can continue.

2           MR. TAYLOR: Thank you. The  
3           Utilities acknowledge that the savings goals  
4           in the Settlement are challenging, but they  
5           are achievable and will provide direct  
6           benefits to customers, as well as broader  
7           system benefits, and benefits to the state  
8           generally. And they are consistent with the  
9           Commission's goal of achieving all  
10          cost-effective energy efficiency, as well as  
11          the legislative goal as expressed in RSA  
12          378:37 of maximizing the use of  
13          cost-effective energy efficiency.

14          Staff has been critical of the Plan  
15          and, by extension, the Settlement, largely  
16          due to increases in the systems benefits  
17          charge; yet, the Staff has provided no  
18          evidence, no analysis, and candidly, not even  
19          a firm opinion demonstrating what it believes  
20          a reasonable SBC would be, although it has  
21          suggested that a 30 percent increase seems  
22          reasonable. By its own acknowledgment, Staff  
23          has not presented any analysis or evidence  
24          demonstrating that this is appropriate, nor

1 has it presented any evidence or testimony  
2 showing that the programs are not  
3 cost-effective or that customers will not  
4 enjoy benefits in excess of the program  
5 costs. And critically, notwithstanding what  
6 Mr. Dexter just recommended, Staff has  
7 presented no viable alternative for the  
8 Commission to consider that is based on any  
9 sort of evidence or analysis, despite having  
10 had ample opportunity to do so.

11 Mr. Dexter himself said this is a  
12 process that has been going on for a long  
13 time. And the Staff's recommendations came  
14 today at the -- in a closing. The Utilities  
15 had no opportunity to understand or perhaps  
16 rebut and address for the Commission the  
17 ramifications of holding over the SBC and  
18 coming up with a new Plan to recommend to the  
19 Commission. There has been no discussion of  
20 what that process would look like and how  
21 long it would take. These are programs that  
22 are scheduled to start taking effect on  
23 January 1st. These are programs that cannot  
24 simply stop. The energy efficiency benefits

1 cannot stop being delivered in the state of  
2 New Hampshire, and Ms. Nixon made reference  
3 to that in her testimony yesterday.

4 While I'm not going to reiterate  
5 everything that was stated in the Utilities'  
6 rebuttal testimony or their witnesses'  
7 responses to questions over the last several  
8 hearing days, Staff has made several  
9 recommendations that the Commission should  
10 not adopt.

11 First, the Settlement allows for a  
12 streamlined mid-term modification process  
13 that would require notification to the  
14 Commission upon clearly defined triggers.  
15 Staff, on the other hand, recommends a much  
16 looser and undefined process, whereby any  
17 interested party could request a mid-term  
18 modification at any time, for any reason.  
19 Such a process is rather obviously  
20 susceptible to overuse or misuse, would be  
21 unpredictable, and would almost certainly  
22 result in the inefficient use of Utility  
23 Commission and stakeholder resources.

24 Staff also recommends retaining a



1           75 percent performance incentive threshold  
2           for most PI components -- when I say "PI," I  
3           mean performance incentive. Staff argues  
4           that such a high threshold is necessary to  
5           ensure exemplary performance. But no one  
6           disputes, and this has been acknowledged,  
7           that the Utilities have consistently  
8           endeavored to achieve exemplary performance  
9           over the period of time that they have been  
10          administering energy efficiency programs. By  
11          settling energy -- by setting challenging  
12          energy efficiency targets, the Utilities have  
13          taken on additional risk. As one witness  
14          noted, achieving 65 percent of savings  
15          targets in the Settlement is equivalent to  
16          achieving 92 percent of current targets. The  
17          Utilities should not be penalized for rising  
18          to the challenge of achieving all  
19          cost-effective energy efficiency, and the  
20          proposed 65 percent thresholds are  
21          appropriate and integral to the proposed  
22          Settlement.

23                   All this is not to say that the  
24          Utilities don't appreciate the Staff's input

1 and efforts over the years relative to energy  
2 efficiency programs. But Staff's position in  
3 this docket seems to be that the Commission  
4 should revert to a process in which the SBC  
5 is set first and savings targets and program  
6 design are going to be based on the available  
7 funding. And to the extent that the Staff is  
8 suggesting that the Commission limit SBC  
9 increases to an arbitrary amount across all  
10 the Utilities, that would be the result; so  
11 limited, the savings targets that could be  
12 set under the EERS would effectively be  
13 capped. There is no evidence or analysis on  
14 the record upon which the Commission could  
15 base a fundamental change to the EERS  
16 framework. It is this process that the  
17 Commission and all interested stakeholders,  
18 including the Staff, decided to leave in the  
19 past when the EERS was adopted.

20 Respectfully, Staff's position in  
21 this case is not consistent with the EERS  
22 paradigm or the state's policy of achieving  
23 all cost-effective energy efficiency. It's  
24 also not workable to suggest, as the Staff

1 has in its testimony during the hearing, that  
2 energy savings goals be based on an approach  
3 in which rates are based on an arbitrary  
4 maximum increase and companies' redesigned  
5 programs, not based on where savings  
6 opportunity exist, but on the funding  
7 generated by the mandated rates.

8 The Settlement Agreement is the  
9 outcome of over a year of collaboration with  
10 Staff, Settling Parties, and third-party  
11 consultants. It is not simply a set of rates  
12 and a set of annual savings goals that can be  
13 toggled up and down. The Agreement submitted  
14 for your consideration advances the energy  
15 policy of the state and the Commission, not  
16 only through energy-saving programs, but  
17 through pilots, workforce development,  
18 marketing and education, robust research and  
19 evaluation, and continued collaboration. It  
20 is cost-effective, and it will deliver  
21 benefits to customers in the state generally  
22 that exceed program costs. The Settlement is  
23 just and reasonable and in the public  
24 interest and should be approved by the

1 Commission.

2 CHAIRWOMAN MARTIN: Thank you, Mr.  
3 Taylor.

4 Commissioner Bailey, do you have  
5 questions?

6 COMMISSIONER BAILEY: Mr. Taylor,  
7 do you disagree with Staff that the goal of  
8 achieving all cost-effective energy  
9 efficiency should look at balancing the  
10 savings goal, the rate impacts and the "third  
11 leg of the stool," which I can't remember, of  
12 the top of my head?

13 [Court Reporter interrupts.]

14 MR. TAYLOR: Can I go ahead? Okay.  
15 Well, I'm going to restart my answer to the  
16 question, I guess, because I fear that  
17 inherent in the question is the idea that  
18 perhaps the stool is out of balance. The  
19 Staff has argued that has -- argues that it  
20 is. But as we presented this to the  
21 Commission, all of these programs are  
22 cost-effective. They can't be in the Plan if  
23 they're not cost-effective. As Mr. Kreis  
24 stated earlier, more eloquently than I can,

1           if they are cost-effective, then by  
2           definition they are returning more benefits  
3           than they cost. And when we present this  
4           Plan to the Commission, I mean, yes, these  
5           are challenging savings targets. But they  
6           are comprised entirely of cost-effective  
7           programs. And so in the long run, these are  
8           going to provide greater benefits to all  
9           customers. And so I think balance is --  
10          well, I suppose in reality, when you're  
11          talking about a stool, balance isn't  
12          subjective. It's out of balance if it's out  
13          of balance.

14                         But what we're talking about today,  
15          I think that the programs that have been  
16          presented to the Commission are in fact in  
17          balance and that everything as it works  
18          together is in the interest of the state,  
19          it's in the interest of ratepayers generally,  
20          and it's in the interest of program  
21          participants. And I think that the Plan as  
22          presented is consistent with the state energy  
23          policy, both articulated in the 10-year  
24          energy plan and the EERS orders, and in the

1           legislation that encouraged the Utilities to  
2           maximize cost-effective energy efficiency.

3                       COMMISSIONER BAILEY:   Okay.  Thank  
4           you.

5                       CHAIRWOMAN MARTIN:   Okay.  Thank  
6           you, Mr. Taylor.

7                       Mr. Sheehan.

8                       MR. SHEEHAN:   Thank you.  And as  
9           Mr. Taylor just said, there's probably less  
10          ground for me to cover, but I do think  
11          there's some value in hearing different  
12          articulations of what may be repetitive  
13          topics.  So I will go quickly, but maybe  
14          you'll hear something different from me in a  
15          different way that rings true.

16                      A couple random clearing-it-up  
17          points.  There was a suggestion that all of  
18          the other utilities have savings goals of  
19          less than 4.5 percent.  That's not true.  
20          Liberty's electric savings goal was  
21          4.58 percent.  Eversource is a bit higher.  
22          But Liberty does have a savings goal in  
23          excess of the overall standard.  And for  
24          reference, that's Exhibit 2, Bates 449.

1           So, first, I have three basic  
2           topics to cover. First is Staff's decision  
3           not to sign the Settlement Agreement should  
4           not deter the PUC from approving it.

5           Yesterday in testimony, Ms. Nixon  
6           said Staff does not take a position on the  
7           settlement, neither support nor oppose.  
8           Again, we heard something different a few  
9           minutes ago, which was news to all of us.  
10          But Staff, whether they support it or not,  
11          that's fine. They have a role to play, and  
12          that role is, as Ms. Nixon said, to develop a  
13          balanced record on which the Commission can  
14          make a decision. Their role is not to  
15          advance the interest of a particular  
16          constituency because, as Mr. Kreis argues,  
17          they don't have one. They don't represent,  
18          like we do, the Utilities, or as Mr. Kreis  
19          does, the residential customers, et cetera.  
20          Staff's role is different. They're advisors  
21          to the Commission. Their job is to make sure  
22          the Commission makes good decisions by  
23          putting all the evidence on the record and  
24          commenting on it. It's important to hear

1           what Staff members have to say. But at the  
2           end of the day, it's just a recommendation on  
3           which ultimately, of course, you make a  
4           decision.

5                         But what did Staff say? And it was  
6           supplemented in Mr. Dexter's closing. They  
7           support the three-year term. They support  
8           the basic program mix. They support all of  
9           the gas programs as articulated. They agree  
10          they're all cost-effective. And I'll add to  
11          that cost-effective argument that the overall  
12          portfolio of all the gas and all the electric  
13          programs, the cost-benefit ratio is 2.5 to 1.  
14          So there's a big margin of cost-effectiveness  
15          as a whole. Certainly some programs are  
16          closer than others. And that's the benefit  
17          of the three-year program is that it gives  
18          the Utilities the flexibility to make sure we  
19          spend the money on the ones that remain  
20          cost-effective. So as an aside, even if the  
21          Avoided Energy Study comes back with much  
22          lower benefit calculations, there's still a  
23          lot of room to deliver this entire portfolio,  
24          remaining above 1 BC ratio.



1                   So Staff, mostly through Ms.  
2                   Nixon's testimony, and somewhat confirmed by  
3                   Mr. Dexter, is supportive of the bulk of the  
4                   Settlement Agreement. Their big objection,  
5                   of course, is the SBC rate for the Eversource  
6                   commercial and industrial because it does not  
7                   strike the right balance between rates and  
8                   savings. Again, it's fine for Staff to make  
9                   that recommendation. But that's ultimately  
10                  the policy job for the Commission, for you,  
11                  to make.

12                  And when Mr. Dexter talked about  
13                  some of this being arbitrary, of course it  
14                  is. Staff's conclusion that it's too high is  
15                  arbitrary just as much as -- not "arbitrary,"  
16                  but "subjective" is a better word -- as it is  
17                  the Settling Parties' position that it is an  
18                  appropriate balance. So, yes, there is  
19                  subjectivity here. The 4.5 percent or the  
20                  5 percent are subjective numbers, but they  
21                  came about after a long process dictated by  
22                  the prior EERS order. So it's not just the  
23                  Utilities making a proposal. Remember, it is  
24                  a broad group of people before you making

1           this proposal and urging you to find that it  
2           is the appropriate balance.

3                         Otherwise, Staff's critiques, and  
4           in Mr. Dexter's case, suggestions that the  
5           Commission rejects things, are pieces of the  
6           overall Plan. They're important pieces. But  
7           at the end of the day, they don't add up to a  
8           reason to reject the entire Settlement. It  
9           really comes down to Staff's disagreement  
10          that the rate impacts are reasonable.

11                        So looking at that, the second  
12          point is -- so the first point is, as I  
13          mentioned, Staff does support a lot of the  
14          Settlement Agreement -- I would argue the  
15          bulk of it -- and it's this one piece of the  
16          SBC rate for Eversource's C&I customers that  
17          is their sticking point. We provided a lot  
18          of evidence to give you comfort and to  
19          support a decision that the Plan as filed, as  
20          amended by the Settlement Agreement, does  
21          strike the balance properly. First, there  
22          were substantial changes to the September 1  
23          Plan to address this concern. Second,  
24          through Commissioner Bailey's questions, we

1 put a fine point on the bill impacts.

2 And going back to the subjectivity,  
3 it appears to me, and it appears to the  
4 Settling Parties, that a residential bill  
5 impact of \$60 or \$70 over three years is  
6 reasonable, and that the \$2,000 to \$3,000  
7 total bill impact for those typical  
8 commercial customers over three years is  
9 reasonable. Staff disagrees. And again,  
10 that's the ultimate decision for you to make.

11 We're not disguising the SBC rate  
12 increase through these numbers. We are  
13 trying to contextualize them to show what's  
14 reasonable. If the SBC rate was very low and  
15 it went, say from .1 to .5, that's a  
16 five-fold increase. But if the numbers are  
17 small in reality, then it could be considered  
18 reasonable. Similarly here, you could look  
19 at numbers in a lot of different ways to make  
20 your arguments. And the bill impact we think  
21 is the most reasonable way to examine the  
22 reasonableness, the balance of the Plan. And  
23 again, these impacts, the bill impacts can be  
24 offset by participation. There's no question

1           about that. And with increased budgets, with  
2           higher savings goals, more people will be  
3           participating and more people will be  
4           lowering their bills.

5                     And we've discussed how the fossil fuel  
6           savings are not in the calculation, and  
7           they're substantial. We've discussed how the  
8           Plan is consistent with the current COVID-19  
9           pandemic crisis due to all the economic  
10          benefits it provides.

11                    At bottom, approving the Plan is by  
12          definition more beneficial to all customers  
13          than not. And again, that goes back to the  
14          cost-effectiveness. And a gross  
15          over-simplification is, even though the  
16          numbers are large -- and Mr. Dexter talked  
17          about the 24 million or the 35 million -- we  
18          can spend that money on cost-effective energy  
19          efficiency or we can spend that money to keep  
20          the coal plant in Bow burning coal. And it  
21          seems wiser and smarter and more reasonable  
22          to spend the money on the negawatts, as Mr.  
23          Kreis says.

24                    The last point I wanted to make is, and

1           it's been highlighted by Staff's  
2           recommendations in closing, is there are  
3           really no reasonable, workable alternatives  
4           to approving the Settlement. Yes, it is a  
5           "take it or leave it" in some sense, but that  
6           "take it or leave it" Plan came about as a  
7           result of this stakeholder process that the  
8           Commission established. That process worked.  
9           It came up with this Plan you see in front of  
10          you, a comprehensive, organized, rational  
11          plan. And the stakeholder process in prior  
12          orders did not direct the parties to come up  
13          with a half-dozen options from which we could  
14          choose. That's not practical. So that's  
15          what we have before us.

16                 It's impractical to continue the 2020  
17          funding into 2021, given various changes.  
18          There's no way we could even meet the 2020  
19          savings in 2021, given market changes and  
20          some of the program changes in the Plan. We  
21          can't simply adjust the programs to meet the  
22          savings targets or impose SBC. Again, back  
23          to the three-legged stool. There are too  
24          many moving pieces to pull one lever and

1           assume all the other changes would result in  
2           a comprehensive, effective plan. And we  
3           can't implement the Plan as three one-year  
4           plans. That's not something that would work  
5           either with the foundation we've built here  
6           today.

7           So we obviously recommend that the PUC  
8           approve the Plan as amended by the Settlement  
9           Agreement for all the reasons you've heard  
10          many times today.

11          And as a very last note on the Liberty  
12          rates that was just discussed, our  
13          understanding is the questions between Mr.  
14          Dexter and Ms. Tebbetts yesterday did not  
15          result in an acknowledgment that the rates  
16          were incorrect. There was a discussion over  
17          them, but we believe they are correct. We  
18          will certainly be able to reconvene  
19          informally over the next couple days and  
20          hopefully confirm that with Staff on the  
21          side, if you will. But there should be no  
22          prohibition or no hurdle to simply approving  
23          the rates that are contained in Exhibit 44  
24          for Liberty Electric.

1           So I'd be happy to answer any questions  
2           as well and get us finished before the 4:30  
3           deadline today.

4           CHAIRWOMAN MARTIN: Thank you, Mr.  
5           Sheehan.

6           Commissioner Bailey.

7           COMMISSIONER BAILEY: Thank you.  
8           Mr. Sheehan, can you point me to  
9           evidence in the record that would support  
10          your statement that a \$2,000 to \$3,000 bill  
11          cost to C&I customers using 10,000 kilowatt  
12          hours a month is not unreasonable?

13          MR. SHEEHAN: I don't think that's  
14          a fact in the record. "Reasonable" is, by  
15          definition, an evaluation of evidence that  
16          we've all come at from different  
17          perspectives. Again, 2,000 might be  
18          reasonable for one person and unreasonable  
19          for the next. I don't think there's any --  
20          there's not a red light, green light there or  
21          a it's a wrong answer, right answer.  
22          Ultimately, that's a decision you have to  
23          make. It is a lot of money.

24          I just looked at the charts we were

1 reviewing yesterday. And for the typical  
2 commercial customer, and this is real  
3 back-of-the-envelope math, they have a  
4 monthly bill and/or an annual bill. And I  
5 multiplied it by 3, and it came out to  
6 \$65,000 or \$70,000 over that three years. So  
7 you put \$2,000 compared to \$70,000. Is that  
8 an unreasonable addition or not? On the  
9 residential side, you take the 120 bucks a  
10 month times three years, it's \$4,000, give or  
11 take. And we talked about a \$65-, \$70-  
12 increase. And again, is that reasonable or  
13 not? So that was the basis for those  
14 numbers.

15 COMMISSIONER BAILEY: Okay. Thank  
16 you. That's all I have.

17 CHAIRWOMAN MARTIN: Okay. Thank.

18 Ms. Chiavara, did you want to make  
19 a statement now?

20 MS. CHIAVARA: Yes, please. Thank  
21 you. First I'll address the Chair's question  
22 about lost base revenue.

23 In Commission Order 25,932, in  
24 Docket DE 15-137, that explicitly



1 incorporates LBR into the EE portion of the  
2 SBC by establishing LBR as the mechanism for  
3 recovering lost revenue resulting from energy  
4 efficiency program adoption until each  
5 utility's next rate case after the conclusion  
6 of the current triennial period. While LBR  
7 is separated in the Plan, so it is clear what  
8 portion of the EERS budget goes to programs  
9 and what portion goes to lost revenue  
10 recovery, it is nonetheless a cost component  
11 of the energy efficiency programs. LBR,  
12 therefore, is a part of the energy efficiency  
13 SBC rate, which the Commission has the  
14 authority to increase under RSA 374-F:3, VI.

15 And as for the -- in regards to the  
16 Settlement Agreement, I just have a brief  
17 statement in support, as we completely --  
18 Eversource completely supports the statements  
19 just made by Attorneys Taylor and Sheehan.

20 Eversource likewise strongly  
21 supports the 2021-2023 Triennial Plan as  
22 proposed through the Settlement Agreement, as  
23 it represents a clear and attainable vision  
24 for the next phase of New Hampshire's EERS.

1 Eversource customers are both a necessary  
2 element and exemplary of that vision. They  
3 have the opportunity to achieve much greater  
4 energy savings with the programs as proposed  
5 than that of previous program offerings, both  
6 from the immediate and direct financial  
7 benefits of program participation and from  
8 the perpetual savings on their energy bills  
9 that will result from reduced energy usage.

10 Eversource urges the Commission to  
11 approve the Settlement Agreement in its  
12 entirety to create a strong future for energy  
13 efficiency in New Hampshire. Thank you.

14 CHAIRWOMAN MARTIN: Thank you, Ms.  
15 Chiavara. That was a very helpful response  
16 to my question.

17 Commissioner Bailey, do you have a  
18 question?

19 COMMISSIONER BAILEY: Ms. Chiavara,  
20 can you tell me if you think -- or that  
21 Eversource thinks that a \$3,000 cost for your  
22 10,000-kilowatt-hour-per-month C&I customers  
23 is reasonable?

24 MS. CHIAVARA: I would have to

1 agree with Attorney Sheehan's previous  
2 statement, that "reasonable" is a somewhat  
3 subjective interpretation of whether the  
4 programs have been designed in accordance  
5 with the direction that we'd like energy  
6 efficiency policy to take in New Hampshire.  
7 I believe that the figures as proposed in the  
8 Plan, including that \$3,000, is an  
9 appropriate articulation of the design of  
10 this Plan. And as it's modified by the  
11 Settlement Agreement, I believe that that  
12 Settlement Agreement is a clear and  
13 comprehensive vision for the EERS.

14 COMMISSIONER BAILEY: Okay. Thank  
15 you.

16 CHAIRWOMAN MARTIN: Thank you, Ms.  
17 Chiavara. Off the record for a moment.

18 (Discussion off the record)

19 CHAIRWOMAN MARTIN: Commissioner  
20 Bailey, do you have any last questions?

21 COMMISSIONER BAILEY: No, thank  
22 you.

23 CHAIRWOMAN MARTIN: Okay. I think  
24 we've heard from everyone. Unless there are

1 any last issues...

2 [No verbal response]

3 CHAIRWOMAN MARTIN: Mr. Kreis.

4 MR. KREIS: Thank you. Thank you,  
5 Commissioner. I don't think it would be  
6 appropriate or useful for me to attempt to  
7 rebut anything that I heard that I might  
8 disagree with. But I just wanted to make  
9 sure that the Commission is not mislead,  
10 because I heard Staff suggest to you that you  
11 should reject the Settlement Agreement and  
12 instruct the Utilities to come back with an  
13 alternative. And you could do that, and I  
14 don't know whether the Utilities would go  
15 along with that willingly. But even if they  
16 do, you should keep in mind, because Mr.  
17 Dexter did not allude to this, that the  
18 Utilities are not the only signatories to  
19 this Settlement Agreement. I would urge you  
20 to reread the paragraph on the next to last  
21 page of the Settlement Agreement that begins  
22 with the sentence, "This agreement is  
23 expressly conditioned upon the Commission's  
24 acceptance of all of its provisions without

1 change or condition." That paragraph secures  
2 certain rights to the Settlement signatories,  
3 including the Office of the Consumer  
4 Advocate. I typically have not employed a  
5 "scorched earth" attitude or strategy with  
6 respect to litigating at the Commission, but  
7 there is no issue more important to me as  
8 Consumer Advocate than energy efficiency.  
9 And I will consider asserting every single  
10 right that I can think of asserting, both  
11 under the Settlement Agreement and under  
12 statute and under the state constitution if I  
13 have to. This is a very serious case, and  
14 you should consider very carefully how you  
15 decide to address it at this point.

16 CHAIRWOMAN MARTIN: Thank you, Mr.  
17 Kreis. I can assure you the Commission is  
18 very well aware of its role that it has to  
19 play in this proceeding.

20 Okay. Well, with that, we will  
21 close the record, other than for the record  
22 requests that I assume will be filed shortly,  
23 and for Exhibit 25B, and take the matter  
24 under advisement and issue an order. Thank

1           you. We're adjourned.

2                           COMMISSIONER BAILEY: Thank you,  
3 everyone. Have a nice holiday.

4                           (Whereupon the Day 5 Session was  
5 adjourned at 4:08 p.m.)

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Susan J. Robidas, LCR/RPR  
Licensed Shorthand Court Reporter  
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