

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

November 18, 2020 - 10:04 a.m.

[Remote Hearing conducted via Webex]

RE: **DE 20-161**
EVERSOURCE ENERGY:
2020 Least Cost Integrated Resource
Plan. (Prehearing conference)

PRESENT: Chairwoman Dianne Martin, Presiding
Cmsr. Kathryn M. Bailey

Jody Carmody, Clerk
Eric Wind, PUC Remote Hearing Host

APPEARANCES: **Reptg. Eversource Energy:**
Matthew J. Fossum, Esq.

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

Reptg. PUC Staff:
Brian D. Buckley, Esq.
Richard Chagnon, Asst. Dir./Electric
Kurt Demmer, Electric Division

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

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P R O C E E D I N G

1
2 CHAIRWOMAN MARTIN: We're here this
3 morning in Docket DE 20-161 for a prehearing
4 conference regarding the Eversource 2020 LCIRP.

5 I have to make the necessary findings
6 for a remote hearing.

7 As Chairwoman of the Public Utilities
8 Commission, I find that due to the State of
9 Emergency declared by the Governor as a result of
10 the COVID-19 pandemic, and in accordance with the
11 Governor's Emergency Order Number 12, and
12 pursuant to Executive Order 20-04, this public
13 body is authorized to meet electronically.
14 Please note that there is no physical location to
15 observe and listen contemporaneously to this
16 hearing, which was authorized pursuant to the
17 Governor's Emergency Order.

18 However, in accordance with the
19 Emergency Order, I am confirming that we are
20 utilizing Webex for this electronic hearing. All
21 members of the Commission have the ability to
22 communicate contemporaneously during this
23 hearing, and the public has access to
24 contemporaneously listen and, if necessary,

1 participate.

2 We previously gave notice to the public
3 of the necessary information for accessing the
4 hearing in the Order of Notice. If anyone has a
5 problem during the hearing, please call
6 (603)271-2431. In the event the public is unable
7 to access the hearing, the hearing will be
8 adjourned and rescheduled.

9 Okay. We have to take a roll call
10 attendance of the Commission. My name is Dianne
11 Martin. I am the Chairwoman of the Public
12 Utilities Commission. And I am alone.

13 Commissioner Bailey.

14 CMSR. BAILEY: Good morning, everyone.
15 Commissioner Kathryn Bailey. And I am alone.

16 CHAIRWOMAN MARTIN: Okay. Let's take
17 appearances, starting with Mr. Fossum.

18 MR. FOSSUM: Good morning,
19 Commissioners and parties. Matthew Fossum, here
20 for Public Service Company of New Hampshire,
21 doing business as Eversource Energy. And to aid
22 me, if necessary, this morning, our Vice
23 President of System Planning, Digaunto
24 Chatterjee, has joined.

1 MR. CHATTERJEE: Good morning,
2 Commissioners and parties. This is Digaunto
3 Chatterjee.

4 CHAIRWOMAN MARTIN: Good morning.
5 Welcome. And Mr. Kreis.

6 MR. KREIS: Good morning,
7 Commissioners, colleagues. I am D. Maurice
8 Kreis, the Consumer Advocate. And, as everybody
9 knows, my purpose here is to represent the
10 interests of the residential customers of
11 Eversource.

12 CHAIRWOMAN MARTIN: Welcome. Thank
13 you. Mr. Buckley.

14 MR. BUCKLEY: Thank you, Madam Chair,
15 Commissioner Bailey. My name is Brian Buckley.
16 I am a Staff Attorney for the Public Utilities
17 Commission. I am here representing the
18 Commission on behalf of the Commission Staff.
19 And joined with me in, I believe, the audience
20 today are Mr. Kurt Demmer, an analyst with the
21 Electric Division, and Mr. Richard Chagnon, who
22 is the Assistant Director of the Electric
23 Division.

24 CHAIRWOMAN MARTIN: All right. Thank

1 you. And welcome to all of you as well.

2 Preliminary issues. I have that
3 Eversource has requested confidential treatment
4 of energy infrastructure information and
5 substation status information, pursuant to Puc
6 203.08.

7 Any objections to that request? We
8 haven't received any.

9 Mr. Buckley.

10 MR. BUCKLEY: On behalf of Staff, we
11 might just ask that those materials be treated as
12 confidential for the duration of this proceeding,
13 but the Commission wait on ruling regarding the
14 confidentiality of those materials until the end
15 of the proceeding.

16 CHAIRWOMAN MARTIN: Okay. We will
17 treat the information identified as confidential
18 for today's purposes, and issue an order then.

19 Okay. Let's take initial positions,
20 unless there's something else that we need to
21 cover first? Anything?

22 *[No verbal response.]*

23 CHAIRWOMAN MARTIN: All right.

24 Mr. Fossum.

1 MR. FOSSUM: Thank you.

2 Consistent with the Settlement
3 Agreement on Eversource's last LCIRP docket, that
4 was DE 19-139, on October 1st, 2020, the Company
5 made a full LCIRP filing addressing the various
6 elements of the LCIRP law, as well as the
7 additional items that were called for in that
8 Settlement.

9 One of the specific items that was
10 noted in that Settlement was the development of
11 the Distribution System Planning Guide, and the
12 shift that guide would mean for Company planning.
13 That guide is now complete, and is a fundamental
14 document in this filing. It builds upon the
15 Company's legacy planning standards and criteria,
16 but takes a meaningful and significant step
17 forward in our ongoing process of evaluating and
18 planning our system.

19 That guide creates a more expansive and
20 comprehensive view of planning, that includes
21 traditional planning considerations for expanding
22 the system to avoid capacity, voltage, and
23 reliability violations, alongside advanced
24 planning concepts related to non-wire solutions,

1 battery energy storage systems, and other DER
2 applications, as well as integrated load, DER
3 forecasting, with EV adoption.

4 That guide is now used by our
5 experienced team of planners and engineers
6 throughout the Eversource Energy group to better
7 collaborate in developing meaningful solutions to
8 system issues, with the goal of finding the best
9 solutions at the lowest reasonable cost for
10 serving our customers.

11 At the end of the day, all of the
12 planning and analysis that we do is geared
13 toward providing the best service for our
14 customers, by reaching all of our customers, with
15 sufficient capacity and capability to meet their
16 needs, to do so safely, reliably, prudently,
17 while balancing those needs with cost
18 considerations.

19 While that Planning Guide is key to the
20 filing, it doesn't cover everything. And the
21 means and methods for demonstrating how
22 Eversource makes prudent, responsible investment
23 decisions are laid out in other parts of the
24 Plan.

1 I'll acknowledge that there are a few
2 additional items yet to be delivered. We stand
3 ready to provide those. Specifically, when the
4 guide was adopted, it required us to review some
5 of our prior solution selection forms that were
6 done using the old criteria. The review of those
7 items is taking place now, and those studies will
8 be provided as soon as they are available. It
9 should be no later than March 31, 2021, and
10 earlier, if possible.

11 Additionally, under the Settlement in
12 DE 19-139, we would work with the Staff and the
13 OCA to select a site for a detailed analysis of a
14 potential non-wires solution. While we have
15 exchanged some information and had some
16 discussions with the Staff and OCA, we have yet
17 to settle on a site. Once that is done, we will
18 complete the required analysis and provide it.

19 The last two items that are yet to be
20 delivered have grown out of the Rate Case
21 Settlement that is currently pending before the
22 Commission, and, specifically, the system
23 assessment and customer survey. Initial work on
24 both has begun in anticipation of a decision on

1 that Settlement, and the deadline for submitting
2 those in this docket is March 31, 2021. We are
3 working now to assure that those materials will
4 be ready to be provided on time.

5 In sum, the information already
6 provided, along with the additional materials I
7 just discussed, shows and will show that
8 Eversource has a Plan that aligns with the
9 state's goals, as outlined in the law, and in our
10 assessment, the Plan should be approved as
11 consistent with the relevant law.

12 Thank you.

13 CHAIRWOMAN MARTIN: Mr. Fossum, you
14 mentioned the "non-wires solution", and that
15 would be "filed when completed". Do you have any
16 expectation on time?

17 MR. FOSSUM: At the moment, I do not.
18 It requires, as I had said, some further
19 discussion with the Staff and the OCA, which I
20 hope can happen fairly quickly.

21 Once we settle on a site, it's my
22 understanding that the actual analysis doesn't
23 take -- wouldn't take a whole lot of time,
24 because we've done some initial work to get ready

1 for that.

2 So, I would expect that to be sometime
3 very early 2021 as well.

4 CHAIRWOMAN MARTIN: Okay. Thank you.
5 Commissioner Bailey, did you have any questions?

6 *(Commissioner Bailey indicating in the*
7 *negative.)*

8 CHAIRWOMAN MARTIN: Okay. Mr. Kreis.

9 MR. KREIS: Thank you, Chairwoman
10 Martin.

11 At the risk of taxing everybody's
12 patience, I am not going to step away from my
13 role as the Diogenes of least cost integrated
14 resource planning in New Hampshire. The least
15 cost integrated resource planning statute, at
16 Section 39 of RSA 378 says, in relevant part,
17 that, and I'm reading, "In deciding whether or
18 not to approve the utility's plan, the Commission
19 shall consider potential environmental, economic,
20 and health-related impacts of each proposed
21 option." And, as I've said before, it's clear
22 from the statute that, by "each proposed option",
23 what the general court means is "actual options
24 this company has considered for making investment

1 decisions."

2 And yet, there is literally nothing in
3 the Least Cost Integrated Resource Plan the
4 Company has submitted that actually lists options
5 and compares them to each other with respect to
6 potential environmental, economic, and
7 health-related impacts of each proposed option.

8 It is difficult for me to see or to
9 think of or to imagine a more concerted and
10 deliberate effort to simply ignore the plain
11 meaning of the instructions that have been issued
12 to utilities and the PUC via RSA 378:39.

13 It is true that, right before RSA
14 378:39, there's a waiver provision, and it says
15 that the Commission can waive, for good cause, a
16 bunch of things about least cost integrated
17 resource planning. Those things are in Section
18 38 of the statute, not Section 39 of the statute.
19 The Company and the PUC must comply with RSA
20 378:39.

21 It's also striking that there is
22 absolutely no reference in the Least Cost
23 Integrated Resource Plan submitted by Eversource
24 to "RSA 378:37". RSA 378:37 is the state's

1 energy policy. I'm not going to read it.
2 Everybody else is familiar with it. But the fact
3 is, that according to the least cost integrated
4 resource planning statute, everything about least
5 cost integrated resource planning is supposed to
6 be aimed at achieving the objectives stated in
7 that energy policy. And that is not even -- this
8 Least Cost Integrated Resource Plan openly defies
9 that.

10 I'm looking at Page 37 of the Company's
11 submission, their Least Cost Integrated Resource
12 Plan, and it says, and now I'm reading: "The
13 fundamental purpose and design of the Company's
14 distribution planning and investment plan is to
15 establish the foundation for enhanced
16 reliability, resilience, operational efficiency
17 and the incorporation of grid-modernization
18 investments, which is a necessary precursor to
19 grid modernization."

20 Well, that's all well and good. But
21 what the Company is supposed to be doing is
22 advancing the state's energy policy as
23 articulated in RSA 378:37.

24 This is not just a hypothetical or law

1 professorish concern to lay before the
2 Commission. It has very concrete and practical
3 implications for this utility, its regulation,
4 and the State of New Hampshire. And that comes
5 to the fore when you think about energy
6 efficiency. When you look at what the Company
7 says about energy efficiency in its Least Cost
8 Integrated Resource Plan, it basically lists what
9 the Company is doing, entirely, by the way, with
10 ratepayer money, at no expense or risk to the
11 Company whatsoever to implement the NHSaves
12 Program funded by the System Benefits Charge.
13 And, when it does that, the Company just assumes
14 that it has checked off the "energy efficiency"
15 box for purposes of complying with the least cost
16 integrated resource planning statute.

17 That is not how this is supposed to
18 work. The Company is supposed to analyze how
19 every energy efficiency option at the Company's
20 disposal compares to other investment options it
21 might choose to deploy its capital. It doesn't
22 even pretend to do that.

23 Now, I've been sounding this alarm
24 since I took office back in 2016. But this time

1 I intend to reward this Company's obduracy on
2 grid modernization, and by that I mean the
3 Company's rehearing motion in IR 15-296, by
4 taking this problem all the way to the New
5 Hampshire Supreme Court, should that be
6 necessary.

7 That's all I have to say.

8 CHAIRWOMAN MARTIN: Thank you, Mr.
9 Kreis.

10 I had would like to hear from other
11 counsel on the issues that Mr. Kreis just raised
12 regarding the "each proposed option" language he
13 referenced and the energy policy. But I can
14 either move forward with Mr. Buckley, and he can
15 address it, and then come back to Mr. Fossum.
16 Maybe that's the best way to do it.

17 Commissioner Bailey, do you have any
18 other questions you want to ask Mr. Kreis in the
19 interim?

20 CMSR. BAILEY: No. I had the same
21 question, though. So, I'd like to hear
22 Mr. Fossum's response, after Mr. Buckley.

23 Thank you.

24 CHAIRWOMAN MARTIN: Okay. Okay, go

1 ahead, Mr. Buckley.

2 MR. BUCKLEY: Thank you, Madam Chair.

3 So, the purpose of this docket is for
4 the Commission to review Eversource's Least Cost
5 Integrated Resource Plan for consistency with the
6 New Hampshire's least cost planning statute, and
7 the Company's commitments via settlement through
8 by order of this Commission in DE 19-139, the
9 Eversource 2019 LCIRP docket.

10 Because those statutes require an
11 assessment of the Company's distribution system
12 requirements, and that Settlement and associated
13 orders set forth required substance in this Plan
14 relating to planned investments, rather than just
15 the Company's investment planning process, the
16 Commission Staff intends, via discovery and other
17 mechanisms of the adjudicative process, to review
18 facts relating to the necessity of those planned
19 investments, ensuring that those facts make it
20 into the record in this proceeding for the
21 Commission's review.

22 To that end, we appreciate the
23 Company's inclusion of Appendix K and L of its
24 LCIRP, which represent its Grid Needs Assessment

1 and Project Planning forms. These documents, and
2 their future iterations, will serve as important
3 indicators of whether the Company is actually
4 planning its distribution system at the lowest
5 reasonable cost to ratepayers. Make no mistake,
6 these documents, along with the Company's
7 planning criteria and procedures, are the heart
8 and soul of least cost planning.

9 And, just to address a point made by
10 the Consumer Advocate a moment ago, these
11 documents, the Project Approval forms that you
12 see at Appendix L of the LCIRP, present a number
13 of options for each identifies their needs.

14 Now, normally, the Company goes through
15 and looks at the economic factors and other
16 reliability-related factors, considers economies
17 of scale and scope, to decide what the best
18 investment is to design a specific grid need.

19 I cannot recall offhand whether
20 Eversource, in particular, considers
21 environmental attributes of a given alternative,
22 whether it considers health attributes or impacts
23 of a given alternative. I do know that, within
24 these types of approval forms, at least one other

1 utility does consider environmental attributes of
2 a given alternative. And this is a wide range of
3 environmental attributes. We're not just talking
4 about emissions or what have you here. We're
5 talking about, you know, any necessary
6 environmental remediation that may need to occur
7 at a substation, that sort of thing.

8 So, I think Staff would posit that, if
9 there is a place to think harder about how the
10 Company can better integrate the portion of the
11 statute, which the Consumer Advocate has
12 identified as an item of interest, it is directly
13 within those forms, which are internal forms that
14 the Company uses.

15 So that, I suppose, is just what I
16 would note for the Commission with respect to
17 that portion of the statute.

18 So, while we do appreciate Appendix K
19 and L of the LCIRP, Staff is somewhat concerned
20 about what has become a recurring issue in the
21 LCIRP dockets, and the LCIRPs filed by
22 Eversource, which is the Company's planning
23 horizon. Eversource's five-year Grid Needs
24 Assessment, filed as Appendix K, present only a

1 single project that is anticipated to be in
2 service on a horizon of more than 25 months, when
3 Eversource has consistently provided planning
4 documents in discovery that demonstrate the
5 Company plans far further into the future than
6 25 months.

7 Likewise, the Company committed to
8 providing project authorization and planning
9 forms, which it has done in Appendix L. However,
10 it provides documents relating only to six
11 projects. Surely, this is a company that is
12 planning more than six projects over the required
13 cost threshold during the next five years.

14 Now, to be fair, as identified by
15 Company counsel, the Company has provided some
16 justification for the limited scope of the
17 planning documents it provided. That it recently
18 changed its planning criteria. But it has not
19 made clear whether the projects planned under its
20 previous criteria will continue with deployment,
21 or what projects may now be deployed under its
22 new criteria.

23 Likewise, the Company did not provide a
24 benefit/cost analysis justifying its recently

1 changed bulk substation planning criteria, which
2 it committed to providing in the 19-139
3 Settlement. And it justified this shortcoming by
4 identifying that it has since dropped that
5 criteria, which is entirely understandable.
6 However, it also presents a new criteria for
7 non-bulk substations, which is accompanied by no
8 cost/benefit analysis.

9 Now, to be fair, the Company has noted
10 in numerous places in Appendix L that it plans to
11 update its filing with supplemental information
12 remedying the above described shortcomings, which
13 one might arguably describe as material
14 deficiencies within this filing. Staff
15 appreciates this commitment, and other
16 commitments and efforts the Company has made
17 towards other provisions within the last
18 settlement, including working with Staff and the
19 OCA on identification of non-wires solutions.

20 Staff appreciates these commitments,
21 and looks forward to working with the parties
22 during the discussion following this prehearing
23 conference to consider a timeline for remedying
24 these aforementioned identified shortcomings.

1 Thank you.

2 CHAIRWOMAN MARTIN: Okay. Thank you.
3 Commissioner Bailey, do you have questions for
4 Mr. Buckley on that?

5 *(Commissioner Bailey indicating in the*
6 *negative.)*

7 CHAIRWOMAN MARTIN: All right. Then,
8 we'll go to Mr. Fossum to hear your response.

9 MR. FOSSUM: I suppose I will begin
10 more or less where Mr. Buckley left off. Which
11 is that, yes, we have, because of our new
12 criteria, and what is contained in the Planning
13 Guide, we will be submitting more. Had we not
14 perhaps been under the deadline to make sure to
15 get this filed by October 1st, we could have
16 incorporated many, perhaps most or all by the
17 filing deadline.

18 But I think the ultimate point is that
19 the information is there and will be provided as
20 soon as it is available. To the extent that
21 there may be a view that what is there now is
22 somehow deficient, I would argue that what we
23 provide will cure significantly, perhaps
24 entirely, that deficiency.

1 Getting to the other issue that was
2 raised by the Consumer Advocate, and in
3 particular the reference to "RSA 378:39", I
4 suppose my immediate and first answer would be to
5 direct the Commission's view back up a couple of
6 sections to RSA 378:38. That is the section of
7 the law that sets out what it is that the LCIRP
8 is to include. And states that "Each such plan
9 shall include, but not be limited to, the
10 following as applicable:", and it lists a series
11 of things. Among them, a "forecast of future
12 demand", "an assessment of demand-side programs",
13 "an assessment of supply options", "an assessment
14 of distribution and transmission requirements",
15 so on.

16 I don't see in there, nor have I ever
17 seen in there, a requirement that each option for
18 each project undertaken by a company be provided
19 as part of the submission of a plan. So, I would
20 argue that Eversource has been and is in
21 compliance with the requirements of the law to
22 provide a plan that fits within 378:38.

23 As to 378:39, that's the section of the
24 law that applies to the Commission, and speaks to

1 how the Commission is directed to undertake its
2 evaluation. Personally, it's never been clear to
3 me exactly what the "each proposed option"
4 language means. It is, I suppose, possible to
5 interpret that as meaning that "every single
6 project undertaken by a company must be reviewed
7 under that lense." I would submit that that is
8 not a reasonable reading. So, it must probably
9 mean something else.

10 What exactly that is and how that's to
11 be interpreted I suppose is somewhat for the
12 Commission to decide. And I would argue that
13 over the last however many years that the
14 Commission has approved plans that have been
15 filed, that the Commission has, in fact, decided
16 how to interpret that. And it reviews the
17 various companies' planning methodologies, their
18 general analysis of how they do what it is that
19 they are expected to do; it reviews the
20 assessments that are provided consistent with the
21 law; and determines whether the various options
22 that are to be considered, as stated in those
23 filings, are appropriate.

24 So, that is, I think, the way that the

1 Commission has interpreted that language over the
2 years, and that's, I think, a reasonable and
3 appropriate determination. Consistent with that,
4 our filing meets the requirements that are stated
5 in there.

6 I understand there may be a measure of,
7 let's say, disagreement over the degree to which
8 it complies with that. And, certainly, that's
9 what this docket process is intended to discover.
10 And we are ready to explain, to provide
11 additional information, and to entertain the
12 possibility that we need to make changes and
13 updates to what is provided in there.

14 As to the energy policy, I'm not
15 entirely certain what it is that the Consumer
16 Advocate is looking for. The requirements of
17 that policy state that we are to be planning for
18 "the energy needs of the citizens and businesses
19 of the state at the lowest reasonable cost while
20 providing for reliability and diversity of energy
21 sources"; "to maximize energy efficiency"; "to
22 protect safety and health", and a few other
23 items.

24 I don't know that we need to make

1 specific reference to each and every one of
2 those. But I would argue that the planning that
3 we have set out in our Plan, and that we follow,
4 meets those requirements and is consistent with
5 those requirements, which, and I'll close with
6 this, at the end of day, is what the Commission
7 is looking to do. Is to evaluate the consistency
8 of our Plan with this subdivision of the statute.

9 So, I believe our Plan is consistent.
10 I believe it is appropriate. I believe it is
11 sufficient. And we will take the opportunity
12 provided by this proceeding to demonstrate that
13 that is so.

14 CHAIRWOMAN MARTIN: Okay. Thank you,
15 Mr. Fossum.

16 Mr. Kreis, I'd like to hear your
17 response to Mr. Fossum's assertion that it
18 doesn't require those projects be submitted.

19 MR. KREIS: Thank you, Chairwoman
20 Martin. I was going to start gesticulating and
21 asking you and Commissioner Bailey whether you
22 would like to hear my response to what I've
23 heard. And I'm glad that you popped up and asked
24 me before I could ask you for leave to offer that

1 response.

2 What I just heard from both Staff and
3 the Company have collectively taken about a
4 decade off of my life. I'm just -- I'm
5 incredulous.

6 I mean, what Staff has basically --
7 what your Staff is basically telling you is "Oh,
8 don't worry, Commissioners. We will meet the
9 Company's burden for you. We'll pour through,
10 we'll conduct discovery, we'll pour through the
11 attachments to their filing. And we will compile
12 a record that will allow you to determine that
13 the Company is conducting least cost integrated
14 resource planning in a proper fashion." That is
15 totally at variance with Section 18-a [17-a?] of
16 RSA 363, which says that "The Commission", and
17 therefore its Staff, "are supposed to be the
18 arbiter between the interests of the company's
19 shareholders and the company's ratepayers."

20 And I would like to remind everybody,
21 with respect, that least cost integrated resource
22 planning, at the macro level, is really a
23 ratepayer protection mechanism. Because, before
24 there was least cost integrated resource

1 planning, and this goes all the way back to the
2 days of vertically integrated utilities, it was
3 so easy for companies to gain Commission approval
4 or Commission non-rejection of individual
5 investment decisions, because, considered in
6 isolation, each of those decisions inevitably
7 looks pretty reasonable.

8 So, what least cost integrated resource
9 planning is all about is "Hey, regulator, take a
10 holistic review or look at every investment
11 decision this company is making and every option
12 it's considering, and determine whether that
13 combination of things that this company is doing,
14 in managing its operations and in discharging its
15 obligations as a franchise holder, take a look at
16 all of that and determine that all of that is
17 being deployed in a manner that is least cost
18 from the standpoint of ratepayers, who are the
19 only place where all the money comes from at the
20 end of the day." That is what this process is
21 supposed to be about.

22 Now, what Mr. Fossum is telling you is
23 "Gosh, you know, we've checked all the boxes in
24 Section 38, and that's all you can expect us to

1 do." And, "Oh, yeah. There is this sentence in
2 RSA 378:39 that says that you're supposed to
3 consider each proposed option, and, gosh, we
4 don't know what that means. And, so, because we
5 can't tell you what it means, and because we
6 can't bring ourselves to agree with what the
7 Consumer Advocate says it means", which is the
8 plain meaning of the word "option", "you should
9 just kind of ignore that and rely on your own
10 previous discussions," which themselves don't
11 enforce the LCIRP statute, and allow this to
12 clunk along just as it has for, gosh, for at
13 least as long as I've been Consumer Advocate.

14 Well, that's not good enough. The
15 Commission has to apply the law. I'm sorry that
16 the law is not the most coherently and cogently
17 worded statute ever adopted by the general court.
18 But you know, your Staff knows, the Company
19 knows, and I know what least cost integrated
20 resource planning is. The Company is either not
21 doing that or it's not meeting its burden to
22 demonstrate that it's doing that in its LCIRP
23 filing. And neither I, nor your Staff, nor you,
24 as Commissioners, should backfill and make

1 excuses for the Company's failure to do that.

2 CHAIRWOMAN MARTIN: Just one second,
3 Mr. Buckley. Commissioner Bailey, do you have
4 any questions?

5 CMSR. BAILEY: I have a question for
6 Mr. Fossum. But I think Mr. Buckley might have a
7 question for Mr. Kreis, I don't know. So, he can
8 go before me then.

9 CHAIRWOMAN MARTIN: Okay. Mr. Buckley,
10 did you want to respond? You're on mute.

11 MR. BUCKLEY: I swear we'll be over
12 this pandemic before I figure that out.

13 Just to sort of respond briefly to what
14 is arguably a slight mischaracterization of what
15 Staff had stated in its opening. The Staff is
16 not intending to make the Company's case for it.
17 My statements around the finding of facts through
18 discovery relate really to what the role of Staff
19 has traditionally been within proceedings, which
20 is to help build the record within that
21 proceeding for which the Commission can make its
22 decisions upon.

23 Obviously, the Company makes filings.
24 It would not have made a filing in this

1 proceeding if it didn't think that its filing was
2 adequate. And, of course, the Consumer Advocate
3 has its opinion on whether that filing was
4 adequate as well. But I want to make clear here
5 that the Staff's role is not to backfill any
6 deficiencies by the Company, but rather to try
7 and bring all of the best information forward.

8 Now, the Staff, you know, had time to
9 review the entirety of the Company's filing, and
10 noticed that, you know, there are arguably some
11 shortcomings there. But the Company has
12 committed in several instances to try and
13 supplement the filing to relieve the
14 shortcomings. And, in Staff's view, that seems
15 fairly reasonable.

16 Now, to, I guess, Mr. Fossum's point
17 about the LCIRP statute not requiring a review of
18 individual projects, you know, it is, to some
19 degree, true that in the past the Commission has
20 not looked at individual distribution system
21 projects for specific options or alternatives,
22 but we are now a restructured jurisdiction. This
23 is a company that is a distribution company
24 through and through. Its options relate to its

1 distribution projects.

2 Now, it's somewhat understandable if
3 it -- maybe the Company is not reviewing the
4 environmental, health-related and economic
5 impacts of those projects at this time in its
6 internal planning documents, that that could
7 maybe be remedied, and maybe this docket is the
8 place to remedy that.

9 But, you know, to -- clearly, the
10 Company has within its filings made certain
11 assessments related to environmental or economic
12 or energy efficiency related attributes of what
13 it just does more broadly. But, you know, Staff
14 is somewhat sympathetic to the positions set
15 forth by the Consumer Advocate that, really, we
16 should be looking at options, but we would
17 clarify that those options are the various
18 distribution system needs and, you know, one
19 approach would be to -- for the Company to, at
20 least moving forward, consider exactly those
21 attributes, which are considered within 378:39,
22 or what the Commission should consider within
23 378:39, within its internal planning documents;
24 cost, reliability, environmental, economic, and

1 health-related impacts.

2 Now, the Company does consider a number
3 of those options when it is thinking about its
4 grid needs and what options and alternatives it
5 has. Maybe there's room for improvement, and
6 maybe this is the docket to do that.

7 But I sort of have faith that all of
8 the people sitting around this table,
9 figuratively, are reasonable people, and we can
10 come to some sort of -- or maybe we won't come to
11 some sort of, but, you know, I have faith that we
12 will, collective interpretation and path forward
13 through the course of this docket related to that
14 issue.

15 CHAIRWOMAN MARTIN: Okay. Thank you.
16 Commissioner Bailey, did you have a question for
17 Mr. Fossum?

18 CMSR. BAILEY: Yes. Thank you.

19 Mr. Fossum, is there a difference
20 between a "least cost resource plan" and "least
21 cost resource planning"?

22 MR. FOSSUM: I suppose I'm not entirely
23 sure how to answer that. You know, I think, sort
24 of at the very surface level, obviously, a "plan"

1 is a set thing that directs how or at least the
2 intended direction for how something ought to be
3 done, and that that's the planning itself.

4 But that seems a little too simplistic
5 to provide, I think, an answer along the lines of
6 what you're looking for.

7 I will say that, you know, our planning
8 has evolved over time, as indicated by this -- in
9 particular, our newly adopted Distribution
10 Planning Guide. So, "planning" is an
11 ever-changing thing. And, in this case, you
12 know, how we plan and what we plan for has
13 changed over time.

14 The Plan that we put before you is a
15 snapshot of that. It is a description of what we
16 do. So, "planning" is a dynamic and ongoing
17 thing. We're always doing it. We're always
18 looking to improve how we do it. And the Plan,
19 as we have provided for you, is a snapshot in
20 time of what we are doing and how we are
21 attempting to do it.

22 So, I think perhaps that that's a
23 degree of answer there.

24 As for, you know, "planning" in light

1 of public policy, which may be also part of your
2 question, and I think is covered somewhat by some
3 of the other arguments you've just heard, I
4 think, if the Commission is willing, I would turn
5 to Mr. Chatterjee to speak just for a moment
6 about how we incorporate public policy into our
7 planning, you know, views on energy efficiency,
8 demand-side resources, distributed energy
9 resources and the like. Because I think Mr.
10 Chatterjee certainly has a much better view of
11 and understanding of our planning in light of
12 public policy than I do.

13 So, if the Commission is willing, I'd
14 like to have Mr. Chatterjee speak to that for a
15 moment.

16 MR. KREIS: Okay. I don't know whether
17 the Commission is willing, but I am not willing.
18 This is not an evidentiary hearing. The
19 Commission should not swear in Mr. Chatterjee.
20 He should not testify. That is not the purpose
21 that we're here for today.

22 MR. FOSSUM: And I was not offering Mr.
23 Chatterjee to testify.

24 CHAIRWOMAN MARTIN: Just a minute,

1 folks. Let me hear from Commissioner Bailey.

2 CMSR. BAILEY: Okay. I don't think we
3 need to hear from Mr. Chatterjee today. Thank
4 you.

5 My question really is more about, you
6 have a planning process that, in the past, the
7 Commission has approved. And you're saying that
8 we get to look at the description of what you're
9 doing at this moment in time.

10 And my question is, shouldn't your
11 planning process result in a plan? And does it?
12 Or, if it doesn't, why doesn't it?

13 MR. FOSSUM: Well, certainly, it does.
14 You know, as we look at system needs, and we say
15 "our view is that there's a particular need on
16 the system to address an issue", we use the
17 planning processes that we've set out, and that
18 we've put before you, to develop a plan to
19 address those system needs.

20 So, sort of at the more micro level,
21 yes, the planning leads to a plan for how to
22 deploy particular projects or how to, quite
23 frankly, how to avoid deploying those projects
24 when they're not needed.

1 And, so, yes. Our planning does lead
2 to plans about how to build/fix issues on the
3 system, how to enable our system to incorporate
4 new resources and -- as they are developed and
5 deployed, by us, or by customers, or by others.

6 CMSR. BAILEY: And do you develop a
7 five-year plan that looks, you know, that looks
8 out five years?

9 MR. FOSSUM: My understanding of our
10 planning process is that there is a longer term
11 view that is taken five years out, to try to
12 identify in the farther years the system needs
13 that may come up. You know, essentially, "we
14 don't have a problem today, but, if things
15 continue along this path, we will." And we
16 develop a plan to move in that direction to
17 address those issues.

18 However, when it comes to actually, you
19 know, building something or budgeting to, you
20 know, provide a solution of some kind, that is on
21 a shorter timeframe. That's, you know, more like
22 a year, or two, depending on the size of the
23 project and the measure of the need.

24 So, yes, there is a horizon that is

1 looked at for need. But, generally speaking, the
2 budgeting for those kinds of things is on a
3 shorter timeline, because, you know, quite
4 frankly, we don't have unlimited money and we
5 can't build everything. And, so, we have to be
6 judicious about the way that we spend money,
7 ultimately, for the protection of customers, as
8 the Consumer Advocate would like us to, and as
9 we, quite frankly, have a obligation to.

10 CMSR. BAILEY: And that five-year look
11 into the future that you could call a plan that
12 you may need to address a certain evolving, maybe
13 problem, when you're planning to address that
14 problem, do you look at different options?

15 MR. FOSSUM: Certainly. Sometimes it,
16 you know, I think it's fair to say that, at times
17 in the past, we have not been as wide-ranging in
18 our view as we could have been, and we are
19 changing, we have changed that. So, we will look
20 at the traditional, you know, what some would
21 call the "poles-and-wires" solution to something.
22 But it very well could be that, you know,
23 strategic and intentional use and deployment of
24 distributed resources could address particular

1 needs on the system. It could well be that, if
2 it's a capacity concern, that energy efficiency
3 may be part of, perhaps all of the solution. So
4 long as whatever these other solutions are can
5 provide the kind of reliability that we need them
6 to, then they are certainly part of the analysis
7 in determining what should be built and at the
8 lowest reasonable cost for doing so.

9 CMSR. BAILEY: But your filing doesn't
10 include any of those analyses?

11 MR. FOSSUM: It does have some. But
12 they are, as I said, some of them need to have --
13 need to be redone. They were done under, you
14 know, previous criteria, and using previous
15 analytical benchmarks that we are not using any
16 longer. And, so, they are being redone as we
17 speak, and we're prepared, you know, to finish
18 those as quickly as possible and provide them
19 when they're available, and they will
20 demonstrate, and the ones we have provided, I
21 believe, demonstrate, and these others
22 demonstrate that we do analyze multiple solutions
23 when determining what ought to be planned for,
24 budgeted for, and deployed.

1 CMSR. BAILEY: So, I understand your
2 position about 378:39, that that's directing
3 directions to the Commission, and how we should
4 evaluate your plans. But, in deciding whether or
5 not to approve the plan, we have to consider
6 environmental, economic, health-related impacts
7 of each proposed option. So, how do we do that
8 if you don't give us that information?

9 MR. FOSSUM: Well, as I said, I think
10 the Commission has historically looked at its
11 responsibility as basically looking at how the
12 utility plans for the various options that it has
13 for deployment of investment on its system,
14 generally speaking, as opposed to specific
15 individual projects.

16 I think also, just as a matter of
17 practicality, it seems a bit strange to me to
18 undertake, you know, a project-by-project
19 analysis in this docket, and then, when it would
20 come time for a more general rate case, you know,
21 there would be another perhaps project-by-project
22 review. That would seem sort of unnecessary to
23 me, and duplicative.

24 I think, here, the options that are

1 referred to are sort of more general. So, to,
2 you know, the utility's assessments of various
3 things is you look at the options that are
4 provided under those assessments, rather than the
5 options for a particular project that might fit
6 into one of those categories.

7 CMSR. BAILEY: Well, I think the
8 analysis in a planning docket is different than
9 the analysis in the rate case, which is whether
10 you followed the plan and whether all the
11 decisions you made along the way were prudent to
12 ultimately invest in whatever you decided to
13 invest in. I think the planning or review of the
14 plan is broader than that.

15 And wouldn't you agree that, since this
16 statute has changed, everybody has struggled in
17 the last at least several orders that the
18 Commission has issued on least cost planning? We
19 have said that future plans are going to have to
20 comply with all the requirements in the statute.

21 MR. FOSSUM: Whether folks have
22 struggled since it changed in 2014, I mean, I
23 suppose I would argue there has been a measure of
24 struggle in how it was to be interpreted even

1 before that.

2 But I agree with you, in the orders
3 that I have seen, there have been statements to
4 the effect that, you know, there's an expectation
5 that utilities would be diligent in adhering to
6 the requirements of the law. And I would submit
7 that we have done that. The requirements for the
8 utility plan are set out in 378:38. And we have
9 provided that, as well as additional information
10 that we had agreed to provide. And, ultimately,
11 your analysis, at the end of the day, will be
12 whether what we have provided demonstrates
13 consistency with the energy policy of the state.

14 So, yes, I understand that, you know,
15 there has been a measure of differing
16 interpretation and application. There has been
17 some struggle over the years in how to implement
18 this law, and what it actually means for
19 day-to-day planning, rather than just what it
20 means for a filing. But I would submit that the
21 Company has complied with the requirements, as
22 well as with the Commission's expectations.

23 CMSR. BAILEY: Okay. Thank you.

24 That's all I had, Madam Chair.

1 CHAIRWOMAN MARTIN: Okay. I just have
2 a follow-up question.

3 Mr. Fossum, you said that, when you
4 submit the submittals you mentioned will be
5 coming, after they are done under the new
6 criteria, they will demonstrate that you do
7 analyze multiple options. Do you anticipate that
8 you will include those specific options? Is that
9 a change? Or can you clarify what you were
10 saying there?

11 MR. FOSSUM: It is -- the inclusion of
12 options would not be a change. If you look back
13 at the prior LCIRPs, and some of the
14 documentation we have provided in there, it shows
15 that, you know, for the various projects, the
16 various things that we have looked at, that
17 alternatives have been considered, and they have
18 been reviewed. And, so, doing that in this case
19 is not a change.

20 What may be a change with the new
21 Planning Guide is, for instance, and I'll note
22 the same thing that Mr. Buckley had noted, that
23 there was a change, for example, in transformer
24 loading criteria. And, so, there may be

1 instances where certain plans would have gone
2 forward using the old transformer loading
3 criteria that would not go forward under the new
4 planning criteria. But, in both instances,
5 alternatives would have been considered to deal
6 with a potential transformer loading issue.

7 CHAIRWOMAN MARTIN: Okay. Thank you
8 for the explanation. I was actually trying to
9 get at whether you now plan to include the
10 options for consideration as part of this
11 process?

12 MR. FOSSUM: Well, I think what we're
13 going to provide are our updated documents that
14 show that for, you know, particular issues, when
15 we have gone to select solutions, we have
16 reviewed, you know, alternatives and the like.
17 That's the kind of documentation that we will be
18 providing.

19 Those alternatives, I would say, at
20 least implicitly, and some perhaps explicitly,
21 account for some of the various criteria that
22 we're discussing. So, that's what's coming.

23 CHAIRWOMAN MARTIN: Okay. Thank you.
24 Any other questions, Commissioner Bailey?

1 *(Commissioner Bailey indicating in the*
2 *negative.)*

3 CHAIRWOMAN MARTIN: All right.
4 Anything else we need to cover, before you head
5 to your technical session?

6 MR. KREIS: Begging everybody's
7 indulgence, I, as I've listened to the colloquy
8 that has unfolded over the last few minutes, I
9 would urge the Commission not to sweep under the
10 rug the really incisive question that I heard
11 Commissioner Bailey ask a few minutes ago. She
12 said -- she asked about the difference between
13 "plan" and "planning". And, in some ways, that's
14 just the difference between a "kilowatt" and a
15 "kilowatt-hour". And that was sort of the way
16 the discussion unfolded.

17 But what she's really asking is, I
18 think, look at the title of what Eversource has
19 submitted here. It says "Report on Least Cost
20 Integrated Resource Planning". That is not the
21 same thing as a "Least Cost Integrated Resource
22 Plan". The Company was supposed to file a Least
23 Cost Integrated Resource Plan, instead it filed a
24 report on its planning process.

1 I, as I listened to that, found myself
2 thinking "maybe it would be useful if the OCA
3 filed some kind of motion to dismiss this whole
4 proceeding, based on the facial inadequacy of
5 what the Company has filed." I offer that up as
6 a possibility, because actually I would like to
7 be helpful.

8 I mean, in the ordinary course, we'd
9 run through this whole docket, and at the end the
10 Staff and the Company will enter into a
11 settlement agreement, which I won't sign. And
12 then, after that, I could either just sort of
13 fold and sit quietly at the hearing, or I could
14 raise all of my objections at that point. And
15 then, if I don't like the Commission's order,
16 because it doesn't agree with me, then I can take
17 the case to the State Supreme Court.

18 I could do it that way, or I could just
19 sort of force these issues now at the beginning
20 of the docket. Either way will work for me.

21 I guess I just sort of throw that out
22 as a question for the group, and maybe the
23 Commissioners ultimately to answer, "what would
24 be the better way to proceed here?"

1 CHAIRWOMAN MARTIN: Does any other
2 counsel want to respond to that? I see your
3 hand, Mr. Fossum.

4 MR. FOSSUM: Yes. I mean, a couple of
5 things.

6 One, I have some question about, I
7 mean, Mr. Kreis has decided on his own what
8 Commissioner Bailey's question was meant to get
9 at or intended to do. And maybe he's right, but
10 maybe he's not. And I hesitate to go too far
11 down the line there.

12 But, as to the perhaps more immediate
13 issue of a motion to dismiss or, you know, how
14 ultimately the OCA decides to participate in the
15 docket will be for the OCA to determine. But,
16 for today, to argue that our Plan is inadequate
17 because the title doesn't quite look like what he
18 would expect it to, I think is the ultimate of
19 raising form over substance.

20 The document that we have put before
21 you is a plan, or it indicates how planning is
22 done. But, ultimately, the intent and purpose
23 are the same. And I don't think calling it one
24 thing over another somehow justifies throwing it

1 out.

2 CHAIRWOMAN MARTIN: Thank you. Mr.
3 Buckley.

4 MR. BUCKLEY: I would just note
5 sympathy for the OCA's consideration that, you
6 know, simply for the fact that the OCA considered
7 moving to have the Commission reject this Plan as
8 inadequate, the Staff considered a similar
9 approach. Based, in part, on the fact that
10 Appendixes K and L, I think it is, which is the
11 Grid Needs Assessment and the Project Planning
12 Forms are, at this time, not entirely complete.

13 That is the Grid Needs Assessment only
14 has projects out as far as 25 months, when really
15 this is a five-year docket or a five-year plan,
16 and that the Project Planning Forms only
17 represent six projects. Truly, this Company is
18 planning more than six projects. There was a
19 threshold discussed within the Settlement
20 Agreement in the last docket.

21 That said, the Company has committed to
22 remedying those shortcomings in a supplement.
23 So, at least at this time, the Staff has decided
24 not to take that course of action.

1 Ultimately, I think that the
2 distinction between "Report on Least Cost
3 Planning", the processes, and an actual "Least
4 Cost Plan" that describes the foreseeable
5 projects, that's an important distinction. And
6 both of those things are important for the
7 Commission to ensure that the Company is planning
8 its system in a least cost manner and a manner
9 which complies with the statute.

10 But Staff looks forward to what appears
11 to be a March 31st filing where, from what we
12 understand, there will be further supplementing
13 of Appendixes L and K. And those appendices, you
14 know, they may not be in the perfect form of
15 what, you know, from Staff's understanding, would
16 be a Least Cost Integrated Resource Plan. But
17 they contain a lot of the important material to
18 help this Commission understand if the planned
19 projects are truly the least cost projects.

20 So, I would just note that.

21 CHAIRWOMAN MARTIN: Commissioner
22 Bailey, any follow-up from you?

23 CMSR. BAILEY: No. I mean, I guess I
24 would just urge the parties to talk a little bit

1 more about this in their technical session,
2 because I think that there is a difference
3 between "planning" and a "plan".

4 CHAIRWOMAN MARTIN: And I think I would
5 respond to the larger issue raised by Mr. Kreis,
6 by saying that, and I speak for myself, I
7 appreciate the raising of these important and
8 significant issues early. I think it's helpful
9 to the process. And I think it makes the
10 prehearing conference meaningful and useful.

11 With that, I will let you get off to
12 your technical session. And thank you, everyone.
13 We are adjourned.

14 **(Whereupon the prehearing conference**
15 **was adjourned at 11:04 a.m., and a**
16 **technical session was held**
17 **thereafter.)**

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