

[Prehearing conference]

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Question by Chairman Goldner

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OTHER ISSUES RAISED BY:

Mr. Dexter

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Question by Chairman Goldner

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Question by Cmsr. Simpson

40

DISCUSSION RE: 2-TRACK PROPOSAL FOR LDAC/COG

43

Chairman Goldner

44, 45

Ms. Schwarzer

44

Cmsr. Simpson

44

CLOSING COMMENTS BY:

Mr. Sheehan

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Mr. Kreis

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Mr. Dexter

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Ms. Schwarzer

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Chairman Goldner

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Question by Cmsr. Simpson

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1 with me is Dan Venora, from the Keegan Werlin
2 firm, who has been assisting us in this case.

3 CHAIRMAN GOLDNER: Okay. Very good.
4 Let's move to the Office of Consumer Advocate.

5 MR. KREIS: Good morning, Mr. Chairman,
6 Commissioner Simpson. I'm Donald Kreis, the
7 Consumer Advocate, here on behalf of residential
8 utility customers. With me today is Maureen
9 Reno, our Director of Rates and Markets.

10 CHAIRMAN GOLDNER: And the New
11 Hampshire Department of Energy.

12 MS. SCHWARZER: Good morning, Mr.
13 Chairman. My name is Mary Schwarzer. I was
14 counsel of record in 21-130 and 21-132. And with
15 me is Paul Dexter, who was counsel of record in
16 20-105.

17 CHAIRMAN GOLDNER: Okay. Very good.
18 Order 26,611 noticed four outstanding issues to
19 be addressed at this prehearing conference.
20 I'll read those verbatim: "Whether a
21 reconciliation adjustment to the RDAF factor is
22 approved on a temporary, interim, and
23 provisional basis pursuant to Order Numbers
24 26,541 and 542 [26,542], is necessary and

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1 appropriate, and if so in what amount; (2) The
2 status of the approximately \$4 million R-4 issue,
3 as dismissed without prejudice in Docket Number
4 21-130 by Order 26,535; (3) Whether any tariff
5 administration [interpretation?] issues remain
6 outstanding; and (4) To hear any further
7 argument on the December 27th, 2021 report filed
8 in Docket Numbers 21-130 and 21-132, relating to
9 future process for filing, review, and
10 consideration of future LDAC charge adjustments
11 and cost of gas rates."

12 Addressing the second issue first, as
13 of July 6, 2022, in Docket Number 22-041, has
14 been opened by the Commission in response to the
15 petition filed by Liberty on this issue. As
16 such, we do not need an update on where this
17 issue stands and will not hear from the parties
18 on this issue, Issue Number (2), at the
19 prehearing conference.

20 Okay. So, moving to Item (1). Our
21 understanding of it is Item (1), which is not
22 covered by 22-041, is limited to the RDAF
23 currently in effect based on September 2020 to
24 August 2021 time period, and that any necessary

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1 changes at this point would be implemented
2 November 1st, 2022.

3 On this issue, which was noticed in
4 Order 26,611, and also in the Procedural Order of
5 June 13th, we would like to hear from each party
6 as to whether a recollection adjustment to the
7 presently effective LDAC is appropriate and
8 necessary, and, if "yes", on what basis and in
9 what amount? And, finally, we would like to hear
10 from each party as to whether any additional
11 process is requested prior to the Commission
12 issuing a final order on this issue.

13 So, just beginning with Number (1), and
14 those issues. So, we'll start with the Company,
15 and Attorney Sheehan.

16 MR. SHEEHAN: Thank you.

17 It's our position that nothing needs to
18 be done on this. That the RDAF factor that was
19 approved last November in the cost of gas is
20 correct. It does not include the \$4 million,
21 that was carved out. It is based on the Tariff
22 Number 11, which is the one that was in effect at
23 the time of the reconciliation, and that
24 everything is good. And that this fall we will

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1 do the same reconciliation for the next
2 decoupling year.

3 So, we think that issue could be
4 closed.

5 CHAIRMAN GOLDNER: Okay. Very good.
6 Sorry. Very good. We'll move to the Office of
7 Consumer Advocate, and I'll recognize Attorney
8 Kreis.

9 MR. KREIS: Thank you, Mr. Chairman.
10 To the best of my knowledge, Attorney
11 Sheehan is correct. Although, I defer to
12 anything the Department of Energy wants to tell
13 you, because their analysis of this has been more
14 robust than ours has.

15 CHAIRMAN GOLDNER: Okay. Very good.
16 And Department of Energy, and I'll recognize
17 Attorney Schwarzer.

18 MS. SCHWARZER: Thank you, Mr.
19 Chairman.

20 The Department of Energy has not had an
21 opportunity to do discovery on the full RDAF
22 matter. Frankly, we have been waiting since
23 immediately after the cost of gas case in the
24 fall for Liberty to open this docket. And

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1 understanding that it's a large filing that
2 Liberty has filed, we are unable to fully
3 separate Issue (1) from Issue (2).

4 And, until we are able to review
5 Liberty's arguments, and look at the formulas and
6 analyses that Liberty applied in reconciling the
7 RDAF factor for the 2021-2022 period, we
8 regrettably are uncomfortable fully accepting
9 Liberty's representation that the calculations
10 that were done are fully consistent with the
11 Commission's order and with what should have been
12 done.

13 And, so, we would respectfully ask that
14 the Commission leave this matter open or
15 incorporate it into what has now been identified
16 as "Docket Number 22-041". We sent out some
17 preliminary discovery that, at the beginning, I
18 believe it was July 6th, in the hopes that we
19 might be able to address this more specifically.
20 And Liberty responded last night, did it quickly,
21 timely, no criticism from them, but we have not
22 been able to look even at their response.

23 And, so, we would ask that it remain
24 open at this time.

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1 CHAIRMAN GOLDNER: Okay. Very good.

2 And I'll -- and, Commissioner Simpson,
3 do you have any questions or any follow-up for
4 the parties?

5 CMSR. SIMPSON: Not at this time. I'd
6 like to proceed through the remaining items on
7 the agenda. Thank you.

8 CHAIRMAN GOLDNER: Okay.

9 MR. SHEEHAN: Could I respond to that?

10 CHAIRMAN GOLDNER: Of course.

11 MR. SHEEHAN: The RDAF factor is
12 separate from the R-4 issue, and, you know, the
13 numbers, the rates that were put in place last
14 fall. And the basis for those numbers and rates
15 was provided in last fall's cost of gas. So, the
16 information has been available since October.
17 Nothing has changed with those spreadsheets and
18 forms, *etcetera*.

19 So, we would not agree with leaving
20 this issue open for further discovery, because
21 that has already happened in the cost of gas.

22 CHAIRMAN GOLDNER: Okay. Let's go
23 around one more time. Attorney Kreis, would you
24 like to comment?

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1 MR. SHEEHAN: I'm sorry.

2 MR. KREIS: I would not.

3 CHAIRMAN GOLDNER: Okay. Attorney
4 Schwarzer.

5 MS. SCHWARZER: Thank you, Mr.
6 Chairman.

7 I believe Liberty is mistaken in its
8 representation that "everything is as it was in
9 October", because the Commission Order itself,
10 issued in April, made further rulings and
11 statements about what the correct RDAF factor was
12 and what the correct application time was.

13 And, while Liberty has the benefit of
14 access to its own information, we, at the
15 Department, have to wait until items are filed.

16 And, so, we respectfully continue to
17 disagree, and ask that it be remain -- that it
18 remain provisional and open.

19 Thank you.

20 CHAIRMAN GOLDNER: Okay. Just in the
21 spirit of resolving the issue, is Department of
22 Energy requesting to, after this prehearing
23 conference, to sort out a procedural schedule
24 with the Company and the OCA?

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1 MS. SCHWARZER: I have to -- it's
2 unclear to me whether this issue would be most
3 easily rolled into the 22-041 docket, which was
4 what I was assuming. And that, in the context of
5 that docket, we would be interested in working
6 out a procedural order with the Company.

7 Unless the Commission has strong
8 feelings to the contrary, it seems best to roll
9 the RDAF-related matters into the new docket.

10 CHAIRMAN GOLDNER: Okay. Okay.
11 Commissioner Simpson, anything at this point?

12 CMSR. SIMPSON: Thank you. No.

13 CHAIRMAN GOLDNER: Okay. Okay, very
14 good. We may come back to Item (1), but let's
15 keep moving.

16 Regarding Item (3), do the parties
17 have any further tariff interpretation issues
18 that remain, following the issuance of Order
19 26,661 [26,611?]?

20 Attorney Sheehan?

21 MR. SHEEHAN: No. The order confirmed
22 that Tariff 11 went into effect whatever the date
23 last fall, and we agree with that.

24 CHAIRMAN GOLDNER: Okay. Attorney

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1 Kreis?

2 MR. KREIS: None from the OCA.

3 CHAIRMAN GOLDNER: And Attorney
4 Schwarzer?

5 MR. DEXTER: It will be Attorney
6 Dexter addressing Number (3).

7 CHAIRMAN GOLDNER: Attorney Dexter, I'm
8 sorry.

9 MR. DEXTER: We have, in the context of
10 the cost of gas/LDAC case last fall, had a tech
11 session with the Company on this R-4 issue. And
12 they explained to us how the problem that led to
13 the \$4 million discrepancy was fixed in the last
14 rate case.

15 And, other than that session, I don't
16 think we've had an opportunity to examine that
17 fix, other than the rate case, which include the
18 tariffs that I signed.

19 The interpretation of the fix made
20 sense at the time. But, on reflection, it's
21 incredibly subtle. And I challenge the
22 Commission and I challenge myself to look at the
23 two tariffs, and actually zero in on where that
24 fix took place. And it has to do with groupings

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1 between customer classes and customer class
2 groups.

3 So, while I don't believe there are any
4 necessary -- necessarily any tariff
5 interpretation issues outstanding, in the context
6 of the R-4 case, it would seem to me appropriate
7 to look at the Number 11 Tariff and confirm that
8 it fixes the problem, number one, the alleged
9 problem, and, number two, that it be as clear as
10 it could be.

11 So, the Department would like the
12 opportunity to examine that tariff language in
13 connection with the R-4 question in DG 22-041.
14 Other than that particular question, I don't
15 believe there are any tariff issues outstanding.

16 CHAIRMAN GOLDNER: Okay. Does the
17 Company object to Attorney Dexter's proposal?

18 MR. SHEEHAN: Not in concept. We don't
19 think any more process is required in 20-105.
20 The tariff has been approved, the language is in
21 operation.

22 If, through the course of the new
23 docket, we dive back into the tariff and find
24 other fixes that are appropriate, we can always

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1 propose them. We think it's fixed. But, as he
2 mentioned, it is a subtle issue. And, if there's
3 a better way, we can do that.

4 But, again, that's not for this docket,
5 or these dockets, that would be for the R-4.

6 CHAIRMAN GOLDNER: Attorney Dexter, is
7 that acceptable?

8 MR. DEXTER: Yes.

9 CHAIRMAN GOLDNER: Okay.

10 MR. DEXTER: Sorry. Yes, I believe it
11 is.

12 CHAIRMAN GOLDNER: Okay. Thank you.
13 Attorney Kreis, any comment?

14 MR. KREIS: I have no problem with
15 that.

16 CHAIRMAN GOLDNER: Okay. Thank you.
17 Okay. I think that closes Item (3).

18 And then, finally, on Item (4), we have
19 some questions for the parties about the December
20 27, 2021 report relating to the cost of gas
21 proceedings generally, and the structure of
22 future cost of gas proceedings.

23 The OCA's letter submitted on the same
24 date as the report raised issues relating to

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1 procedural protections built into the
2 Administrative Procedures Act and the
3 Commission's rules. The OCA's letter -- the
4 OCA's letter concedes that an expedited process
5 is appropriate in certain circumstances, such as
6 routine cost of gas filings, but may not
7 always -- but may not always be appropriate.

8 The OCA argued that the Commission must
9 provide an opportunity to be heard on the
10 question of what schedule should apply to the
11 proceeding, when requested, pursuant to
12 203.15(a). And that the Commission is authorized
13 to convene an adjudicative proceeding in matters,
14 such as the cost of gas docket, prior to the
15 receipt of the Company's petition by RSA
16 541-A:31, II(a).

17 We would like to hear from the parties
18 any replies or further thoughts on these
19 recommendations, and whether the cost of gas and
20 LDAC should be split into separate dockets, so
21 that the LDAC adjustment can proceed on a
22 procedural schedule that is not expedited. And
23 we'll begin with Attorney Sheehan.

24 MR. SHEEHAN: On that last thought, of

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1 whether to separate LDAC and cost of gas, it's
2 our position that what we put in that report is
3 sufficient. The LDAC is now to be filed
4 August 1, just LDAC components, and then the cost
5 of gas component filed September 1, given that
6 it's market-based. So, it does -- we've provided
7 more time.

8 Admittedly, it's still a short docket.
9 But so much of the information necessary to do
10 the LDAC filing isn't available until roughly
11 then. We're just now getting the numbers in June
12 and July that inform the August 1 filing. So,
13 you really can't back that filing date up any
14 more.

15 If you carved it out to a completely
16 docket, and wanted to add several months to the
17 process, you'd probably have to change the
18 effective date of the LDAC, roll it into February
19 of the next year or something like that.

20 We think that the provision in the
21 Agreement to carve out one-off issues is
22 sufficient to solve the problem that was raised
23 by the R-4 issue last fall. Admittedly, the R-4
24 issue was a complex issue that shouldn't be

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1 crammed into a six-week docket. The resolution,
2 although it took us a while to get there, was to
3 carve it out, and it's on its own docket, the
4 process worked.

5 This fall, if there are no "one-off
6 issues" so-called, the new schedule should be
7 sufficient. So, that's our position.

8 CHAIRMAN GOLDNER: Okay. Attorney
9 Kreis.

10 MR. KREIS: Mr. Chairman, I don't have
11 a great deal of additional insight to contribute
12 beyond by written filing that I made on the same
13 day that the Department and the Company made
14 their joint filing.

15 Ultimately, I think the best answer is
16 that which allows the Commission to hear the
17 evidence it needs to make good decisions on
18 behalf of the people of the State of New
19 Hampshire. And I'm prepared, the OCA is prepared
20 to cooperate with whatever process you put in
21 place in order to get you there.

22 I think that we're in an era, both on
23 the natural gas and the electric side, where
24 nothing seems routine anymore. And, so,

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1 processes that worked when certain procurement
2 processes were operating in nominal fashion was
3 one thing.

4 But, in a situation like the one we
5 have now, where the economy and the energy
6 economy are in kind of a crazy condition, it's
7 hard to just put in place expedited processes
8 that simply assume that nobody is going to want
9 the opportunity to be heard, nobody is going to
10 want the opportunity to contest issues, and
11 nobody has any rights.

12 So, I'm not sure what else I can add
13 that would be useful at this point.

14 CHAIRMAN GOLDNER: Okay. Thank you.
15 Attorney Schwarzer.

16 MS. SCHWARZER: Thank you. Thank you,
17 Mr. Chairman.

18 The Department agrees with Liberty that
19 the plan put into the December report from 21-130
20 that separated the LDAC issue should be given an
21 opportunity to proceed. We think it's
22 sufficient, and we'd like -- we would like to try
23 that in the upcoming fall docket.

24 We do have some concerns to raise with

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1 regard to the December report. At that time,
2 neither Liberty, nor the Department, anticipated
3 that there would be mid-season cost of gas
4 adjustment filings, as there truly hasn't been
5 one since 2014, and it's remarkably unusual.
6 But, of course, this year has proven to the
7 contrary.

8 We would ask that Liberty and the
9 Department, and if the OCA would like to
10 participate, they're certainly welcome, add
11 additional language -- excuse me -- add
12 additional language to the reports from December
13 to provide that, absent an unforeseen emergency,
14 with an explanation provided, that even
15 mid-season cost of gas adjustments will be filed
16 35 days before their effective date, which would
17 be roughly at the time that trigger filings are
18 customarily filed and required at this time.

19 So, by way of illustrative example, if
20 there were a request to adjust the cost of gas
21 rate in June, effective June 1st, that filing
22 would be made at the end of April, no later than
23 five days before the end of that month. And
24 then, although that would be a remarkably

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1 expedited schedule, with very minimal provisions
2 for discovery, the Department feels it would have
3 an opportunity to participate, as would the OCA
4 and any other interested party, and the
5 Commission itself would have an opportunity, even
6 if the hearing were in the last week of that
7 period, albeit expedited, an opportunity to fully
8 consider the issues raised.

9 So, we do expect to negotiate language
10 that would add that to both the Keene report and
11 the EnergyNorth report.

12 We noted the OCA's concern with wanting
13 to have a prehearing conference, and I believe
14 Liberty incorporated a prehearing conference into
15 the proposed procedural schedule that was filed
16 with their petition in the fall, even though we
17 had not explicitly agreed to do that. And I
18 think that is workable, and I think the parties
19 are amenable to doing that, if that's acceptable
20 to the OCA, and if that is a system that works
21 with the Commission's schedule, own scheduling.
22 It's not clear to us at this time how we might
23 coordinate with the Commission, but we tried and
24 it worked in the fall.

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1 The Department does have an ongoing
2 concern that the standard cost of gas mechanism,
3 whereby companies identify an initial rate, and
4 then a 25 percent swing, is something that is
5 maintained. It allows the Department to compare
6 a company's request historically to what has been
7 requested in the past, and estimate market
8 influence and bill impacts accordingly. It makes
9 it easy to anticipate comparing it to future
10 dockets that are filed that way.

11 And it, frankly, reduces the number of
12 hearings the Commission is required to hold
13 because of the 25 percent swing, and we support
14 efficient use of Commission and Department and
15 party resources.

16 So, although a flat rate was granted in
17 the Northern docket, which is not subject to this
18 report, and perhaps that's something that can be
19 raised at that time. And the Commission is
20 hearing a docket tomorrow that, again, proposes a
21 flat rate from the company. The Department would
22 respectfully ask that figures be filed in that
23 standard format, and adjudicated in that way, if
24 possible.

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1 The Department will also just raise
2 here, we are concerned about dockets that combine
3 the winter and summer determinations, because it
4 seems to us challenging for a summer rate to be
5 predicted in November. And there may not be a
6 necessity for a full hearing, but that, for other
7 reasons I won't go into here, a full hearing may
8 be the fastest and easiest way to both have
9 cost-effective market rates and other
10 efficiencies.

11 So, that was not a consideration for
12 the parties to consider when the Joint Report was
13 filed. I don't think it's likely that the
14 parties will reach agreement in a week on that
15 issue. But I did want to bring it to the
16 Commission's attention.

17 And let me check with my senior
18 counsel.

19 *[Atty. Schwarzer conferring with*
20 *Atty. Dexter.]*

21 MS. SCHWARZER: Okay. Thank you.
22 Those are the Department's comments at this
23 time.

24 CHAIRMAN GOLDNER: Thank you. Just one

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1 question, before I move to Commissioner Simpson.

2 And I'm looking at the December 27th
3 filing, and --

4 MS. SCHWARZER: I'm sorry, Mr.
5 Chairman, is that I only printed out the one for
6 Keene, which is 21-132. And, unfortunately, I'm
7 having trouble with the internet connection,
8 although I've restarted it, and I may be able to
9 get in.

10 CHAIRMAN GOLDNER: Okay.

11 MS. SCHWARZER: I'm not sure which one
12 you're looking at.

13 CHAIRMAN GOLDNER: Okay. And if we
14 need to come back to it, that's fine.

15 But the reason -- the question I'd like
16 to ask is that I don't see on the schedule, and
17 maybe I just missed it, when the LDAC hearing
18 with the Commission would be contemplated? It's
19 not clear to me when reading the schedule.

20 MS. SCHWARZER: I believe we separated
21 the filings for the purposes of discovery, and to
22 give the Commission additional time to look at
23 the LDAC issue.

24 Ultimately, the LDAC and the cost of

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1 gas hearing were combined. So, Mr. Chairman, you
2 would have only seen probably we identified it as
3 a "cost of gas hearing" that was intended to
4 adjudicate both the LDAC and the cost of gas.

5 We did that for a couple reasons. Many
6 of the issues are overlapping. And, ultimately,
7 the change in the cost of gas is impacted by any
8 change in the LDAC. And it seemed more likely to
9 create extra work with separate hearings, and
10 relatively two expedited hearings for each
11 current cost of gas matter for Liberty, and
12 perhaps also for Northern. And we thought that
13 this elongated process, providing extra time,
14 and, as Liberty noted, where the LDAC information
15 is not available really much sooner than
16 August 1, we felt it was beneficial to keep all
17 changes in the EnergyNorth docket focused on that
18 initial cost of gas determination, with possibly
19 just a cost of gas proceeding in the summer that
20 would not determine an LDAC, but just the cost of
21 gas.

22 CHAIRMAN GOLDNER: Okay. So, I think,
23 from a Commission perspective, our issues are
24 similar to that of the OCA and Department of

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1 Energy, in that an expedited process, if we're
2 asked to look at this in the last week in October
3 for a November 1st implementation, it's no easier
4 for us, than it is for you, to look at something
5 on that kind of speed and make any kind of
6 intelligent resolution.

7 So, I guess what I'd like to explore is
8 a process that allows the Commission also, you
9 know, sufficient time to properly review and
10 analyze, and is that better to do what Attorney
11 Sheehan suggested, which is to just make the
12 effective date later than November 1st, or is it
13 to pull this process forward and give the
14 Commission, you know, two, three, four weeks to
15 review?

16 MS. SCHWARZER: Mr. Chairman, just
17 initially, initial thoughts.

18 The tariffs define the winter period
19 and the summer period, with the winter period
20 defined in the tariff as starting November 1st.
21 And, so, although it's difficult to think of the
22 Commission having three or four weeks, certainly
23 it might be possible for us to look at the
24 schedules we've negotiated, and anticipate that

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1 the Commission would hold a hearing two weeks
2 before the end of October, a mid-October hearing,
3 if that might be sufficient to meet the
4 Commission's needs.

5 I haven't spoken with any other party,
6 and, certainly, they're free to comment at this
7 time.

8 It would be challenging for us as well
9 to give the Commission much more time than two
10 weeks, although, understandably, it is expedited,
11 because the discovery period is already very
12 tight for us. And we, as a group of parties, I
13 think trying try to flesh out any questions and
14 potential irregularities before hearings, so that
15 you don't need to do that.

16 But that's my initial response. Thank
17 you.

18 CHAIRMAN GOLDNER: Thank you. And just
19 before moving to Commissioner Simpson, let me
20 give Attorney Sheehan and Attorney Kreis an
21 opportunity to comment.

22 MR. SHEEHAN: Thank you.

23 I think the draft schedule, if you
24 will, in the report is -- we may be able to give

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1 you a bit more time, but it would be nibbling
2 around the edges.

3 To the extent I'm hearing from the
4 Chair that you're really looking at substantially
5 more time, I don't think there's any other way
6 than moving the effective date. As Ms. Schwarzer
7 said, yes, that would require a number of tariff
8 language changes to carve out effective dates,
9 *etcetera*, which is something that can be done.

10 So, and as -- well, I'll stop there.
11 Yes, it could be done, and it would just become a
12 separate docket for LDAC.

13 CHAIRMAN GOLDNER: Okay. Thank you.
14 Attorney Kreis.

15 MR. KREIS: Again, I'm prepared to do
16 whatever the Commission thinks is most conducive
17 to it having the time and opportunity it needs to
18 do the kind of thinking and deliberating and
19 evidence-taking that it deems necessary.

20 But, subject to all of that, I think I
21 agree with what I just heard Attorney Sheehan
22 say. And, you know, the fact that a tariff
23 change might become necessary, that is what it
24 is. The Commission has the authority to change

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1 tariffs.

2 CHAIRMAN GOLDNER: Thank you, Attorney
3 Kreis. Any final comments, Attorney Schwarzer or
4 Attorney Dexter?

5 MS. SCHWARZER: Perhaps the Chair could
6 speak a bit more to the comment that it seems
7 receptive to from Liberty that the tariff could
8 be changed?

9 It's not clear to me if you're
10 contemplating changing the effective date for the
11 LDAC and for the cost of gas, keeping them
12 linked, or if you wanted to keep them separate?
13 Or, if the Commission felt that more than two
14 weeks was essential to review?

15 If there were a prehearing conference,
16 as the Commission has done in the past, I suppose
17 there could be record requests at that this time,
18 or we could have a mid-season status conference,
19 where the parties might comment on issues or
20 responses that seemed helpful to the parties.

21 And that's just off the top of my head,
22 and I don't have authority from leadership to
23 make that statement. But it's an idea.

24 CHAIRMAN GOLDNER: Well, I think, just

[Prehearing conference]

1 speaking generally, and I'll ask Commissioner
2 Simpson for comments as well, I think, you know,
3 whether it's default service or cost of gas,
4 those being on an expedited basis makes perfect
5 sense, and that we need to have a process that
6 supports an expedited process.

7 But keeping those simple is something
8 that is not only helpful, I think necessary, in
9 order to properly digest all the data. So, to
10 separate out all of the, you know, LDAC or other
11 sort of factors that need calculation and need
12 contemplation, and a lot of people looking at and
13 analyzing, it makes sense to separate those
14 processes, at least initially, in terms of
15 hearing the comments today, and, you know, trying
16 to sort through how we can all have time to
17 properly analyze the data.

18 MS. SCHWARZER: Do you think we might
19 try the advanced LDAC filing for the fall and see
20 if that works?

21 CHAIRMAN GOLDNER: Yes. I think, I'm
22 always hesitant to rule from the Bench, but I
23 think it's something to consider. Yes,
24 absolutely. Yes.

[Prehearing conference]

1 Commissioner Simpson, would you care to
2 comment.

3 CMSR. SIMPSON: I would just echo the
4 sentiment with respect to the commodity element
5 of the historical docket, in that we recognize
6 that the market fluctuates, and that we have
7 timelines to follow historically, and those costs
8 can generally be understood in the compressed
9 timeline.

10 The other elements, LDAC, can be more
11 complex, and require some more thought and
12 deliberation, both from the Commission and from
13 the parties.

14 So, I think, ultimately, I would
15 appreciate any comments that the parties might
16 offer, because I'm in favor of the most
17 transparent process that we can support as a
18 Commission.

19 CHAIRMAN GOLDNER: Attorney Sheehan.

20 MR. SHEEHAN: On the electric side, we
21 have default service, which doesn't have much
22 else to it. I think, for us, the RECs are
23 included. But the transmission charges are
24 reconciling charges that are in a separate

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1 docket, the adjustment to veg. management,
2 *etcetera*.

3 So, there is a model for carving these
4 out. So, it would, I think, be a bit of a
5 cut-and-paste to apply it to the LDAC
6 appropriately, but it seems to make sense.

7 CHAIRMAN GOLDNER: Attorney Kreis?

8 MR. KREIS: I have nothing to say,
9 other than agreement.

10 CHAIRMAN GOLDNER: Okay. We can use
11 hand signals in the future.

12 Attorney Schwarzer or Attorney Dexter?

13 MS. SCHWARZER: Nothing further. Thank
14 you.

15 CHAIRMAN GOLDNER: Okay. Thank you.
16 Any other comments on this issue?

17 CMSR. SIMPSON: Not on this issue.
18 Just, when the moment is appropriate, I'd like to
19 return to the RDAF. I have a couple of comments.

20 CHAIRMAN GOLDNER: Okay. Very good.
21 Let's do that.

22 CMSR. SIMPSON: So, I'm encouraged by
23 the statements from the parties here today. I
24 think I would note Attorney Dexter's comment of

[Prehearing conference]

1 the "subtlety" that exists within both the rate
2 design and the tariff, and the amounts at issue
3 here concerning any potential adjustment.

4 I'm open to a forum. It doesn't have
5 to be this docket or this assortment of dockets,
6 or another docket. At the end of the day, my
7 motivation is to ensure that the reconciliation
8 is appropriate and in line with the tariff, as
9 approved within both the rate design and the
10 tariff language itself.

11 I understand that the parties seek to
12 collaborate and dig more deeply into this issue.
13 That would be extremely helpful. And a
14 recommendation from the Consumer Advocate's
15 Office or the Department of Energy, along with
16 position of the Company, with respect to any
17 future reconciliation pertaining to RDAF would be
18 of great value to the Commission.

19 That's all I have. Thank you.

20 CHAIRMAN GOLDNER: Would anyone like to
21 comment?

22 MR. SHEEHAN: Sure. Commissioner
23 Simpson, the recommendation you're referring to
24 is not the so-called "R-4 issue". It's the

[Prehearing conference]

1 possibly lingering question of whether the RDAF
2 factor, as implemented last year, is correct or
3 needs adjustment. Is that fair?

4 CMSR. SIMPSON: That's correct.

5 MR. SHEEHAN: Okay.

6 CMSR. SIMPSON: Looking at the
7 September 2020 to August 2021 timeframe, and
8 whether we determine a resolution to that issue
9 in this proceeding or in another proceeding, I'm
10 open to that. But I note Attorney Schwarzer's
11 comment that the Department requires more time,
12 in order to more thoroughly analyze that issue.

13 And, ultimately, the recommendation and
14 the collaboration from all the parties here today
15 that will inform any future recommendation is
16 extremely helpful.

17 And I just note that I recognize the
18 potential for an adjustment and the amount of
19 dollars at issue in that, and I emphasize that
20 point and the importance of that for customers.

21 MR. SHEEHAN: So, what I'm hearing then
22 is, that statement, Ms. Schwarzer's statement
23 that they would like to dig into that issue a bit
24 more, and the suggestion that maybe it happens

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[Prehearing conference]

1 under the umbrella of the new RDAF filing,
2 perhaps we agree to some discovery on that topic
3 in the RDAF schedule, simply because it's going
4 to happen. And then, maybe what comes out of
5 that is DOE and OCA saying "Everything looks
6 good", and that's the report that gets filed.
7 Or, "we've now dug in and we seek an adjustment
8 of \$12,000, and we'll make that at the next
9 time."

10 Is that kind of what you're
11 anticipating -- or, hoping for, I should say?

12 CMSR. SIMPSON: Whatever forum and
13 process --

14 MR. SHEEHAN: Okay.

15 CMSR. SIMPSON: -- provides an amenable
16 means for the parties to work together and
17 provide the evidence to the Commission that we
18 need in order to make an informed determination,
19 supported by a recommendation, is ultimately what
20 I'm hoping to receive.

21 MR. SHEEHAN: Thank you. That's
22 helpful.

23 CMSR. SIMPSON: Thank you.

24 CHAIRMAN GOLDNER: So. Let me maybe

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1 make this proposal, to see if the parties would
2 be amenable to this.

3 Perhaps combine Item (1) and Item (2)
4 in Docket DG 22-041, you know, subject to
5 discovery, and handle those issues, because
6 they're all RDAF issues, it's just a question of
7 time period, perhaps just manage all those in
8 that docket. Would that be acceptable to all the
9 parties?

10 *[Atty. Schwarzer indicating in the*
11 *affirmative.]*

12 MR. SHEEHAN: That's fine with Liberty.
13 Thank you.

14 CHAIRMAN GOLDNER: Okay.

15 MS. SCHWARZER: Yes. Thank you, Mr.
16 Chairman.

17 CHAIRMAN GOLDNER: OCA?

18 MR. KREIS: Yes, on behalf of the OCA.

19 CHAIRMAN GOLDNER: Okay. So, that
20 resolves Issues (1) and (3), and -- or, (1) and
21 (2), rather. And I probably should have,
22 Attorney Dexter, included (3) in that. You had
23 kind of a nuance in 105. Just making sure, but I
24 think discovery, having access to discovery,

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1 resolves your concern?

2 MR. DEXTER: Yes. Sorry. Yes. I
3 think Item (3) would be addressed in that other
4 docket as well. In other words, if there were to
5 be some refinements to the tariff language
6 concerning decoupling and the RDAF, that would
7 take place in 22-041.

8 CHAIRMAN GOLDNER: Okay. Is that
9 acceptable, Attorney Sheehan?

10 MR. SHEEHAN: Yes.

11 CHAIRMAN GOLDNER: Okay. Thank you.
12 Okay, very good.

13 So, that resolves (1), (2), and (3).
14 And we will issue a short procedural order after
15 this hearing to document these, these
16 conclusions.

17 Attorney Dexter?

18 MR. DEXTER: Yes. I regrettably want
19 to add a (5) to this list.

20 There's an outstanding issue from the
21 rate case. That the ball's been in the
22 Department of Energy's court for a while, that
23 has to do with rate case expenses.

24 When the Order came out last fall in

[Prehearing conference]

1 the cost of gas/LDAC case, the rate case expenses
2 were not approved pending a recommendation from
3 the Department of Energy on the rate case
4 expenses from 20-105. We are committed to making
5 that recommendation by July 27th in 20-105. And
6 the hope is that we would be able to resolve the
7 rate case expense issue in time for collection in
8 the upcoming fall LDAC.

9 CHAIRMAN GOLDNER: Okay. Attorney
10 Sheehan, any concerns?

11 MR. SHEEHAN: No. That's an agreeable
12 process.

13 CHAIRMAN GOLDNER: Okay.

14 MR. SHEEHAN: And, if -- well, I have a
15 couple of unrelated things to raise before we
16 close.

17 CHAIRMAN GOLDNER: Okay. Okay. No
18 problem. I still have to go to Number (4).

19 But I just want to make sure I
20 understand, Attorney Dexter. So, you're
21 suggesting the rate case expenses are managed
22 inside of 20-105, as opposed to -- as opposed to
23 22-041, or some other docket?

24 MR. DEXTER: Yes.

[Prehearing conference]

1 CHAIRMAN GOLDNER: Okay.

2 MR. DEXTER: I think that's where it's
3 appropriate.

4 CHAIRMAN GOLDNER: Okay. Thank you.

5 CMSR. SIMPSON: And then, just for my
6 own understanding, that would make the rate case
7 expense the last outstanding issue in 20-105?

8 MR. DEXTER: Yes. To my knowledge,
9 yes.

10 CMSR. SIMPSON: Okay. Very good.
11 Thank you.

12 CHAIRMAN GOLDNER: All right. And
13 then, we could close the docket as soon that was
14 resolved to everyone's satisfaction.

15 So, we'll move to Number (4), Attorney
16 Sheehan, and then I'll come back to any other
17 concerns.

18 So, I'm just trying to sort out in my
19 mind the best way to resolve this. I think that,
20 Attorney Schwarzer, your suggestion is to follow
21 the December 27th memo with a hearing on the LDAC
22 by mid-October, to sort of prototype the process
23 to see if that works well?

24 MS. SCHWARZER: I think the agreed-upon

[Prehearing conference]

1 process was to roll the LDAC hearing into the
2 cost of gas hearing, so they were heard at the
3 same time.

4 CHAIRMAN GOLDNER: Would you want to
5 have that hearing mid-October or end of October?

6 MS. SCHWARZER: Well, in light of the
7 Commission's concerns, we would be happy to
8 adjust our process to mid -- we had anticipated,
9 in the December draft, that the Commission would
10 hold a hearing in the last week of October. We
11 could look back and try to adjust dates or
12 schedules to accommodate a mid-October hearing,
13 you know, with at least two weeks for the
14 Commission to review hearing testimony and issue
15 a decision. If that's acceptable?

16 CHAIRMAN GOLDNER: So, what strikes me
17 as helpful is if we just have the cost of gas
18 hearing the last week of October, which I think
19 would be to everyone's mutual benefit, to give
20 the maximum time to cost of gas, and that we
21 adjusted the tariff for the LDAC.

22 MS. SCHWARZER: If I could just speak
23 briefly to that.

24 Generally, the agreed-upon schedule in

[Prehearing conference]

1 the December report anticipates that, absent a
2 truly extraordinary circumstance, no adjustment
3 would be made within 30 days of the hearing.
4 Because, although I understand the season is
5 quite different, historically, any NYMEX change
6 could be accommodated within the 25 percent
7 swing.

8 And, so, although the Department
9 appreciates the Commissioner's wish to allow for
10 maximum market input, generally, any market input
11 is accommodated within that swing figure, and
12 that, historically, has worked. And, so, I think
13 it would be possible for us to provide for a
14 hearing on both elements, if agreeable to the
15 Commission, in the middle of October, in both the
16 EnergyNorth and the Liberty-Keene dockets. The
17 Liberty-Keene docket does not have its own LDAC,
18 it accepts the LDAC adjudicated in the
19 EnergyNorth docket. So, it's not quite as much
20 work as it sounds. Although, it's certainly a
21 busy season.

22 And, in the unlikely event that there
23 were some unforeseeable extraordinary change,
24 then, consistent with the Department's agreement

[Prehearing conference]

1 with Liberty, we would anticipate that they might
2 file an updated petition closer in time than 30
3 days before effective date.

4 I think that's a fair -- I haven't -- I
5 have not read the reports this morning. I don't
6 have a very clear memory. I hope the other
7 parties think -- feel that my representation is
8 accurate.

9 CHAIRMAN GOLDNER: Maybe what I think
10 I'd like to request is, really, a two-track
11 proposal from the parties.

12 So, Track 1 is keeping LDAC and cost of
13 gas together, when would that hearing be? And,
14 you know, what would that entail and so forth?

15 And then, what would it look like on
16 separate tracks? And what would the -- how would
17 the tariff need to change, in order to
18 accommodate the separate tracks?

19 MS. SCHWARZER: How much time would the
20 Commission prefer to adjudicate the LDAC in its
21 entirety, if they were to be on separate tracks?

22 CHAIRMAN GOLDNER: Let me confer with
23 Commissioner Simpson, if you don't mind.

24 *[Chairman Goldner and Commissioner*

[Prehearing conference]

1 *Simpson conferring.]*

2 CHAIRMAN GOLDNER: So, Attorney
3 Schwarzer, what we're thinking is, maybe with the
4 two-track proposal, you could come back and tell
5 us how much time you could give us, and then we
6 could take that back to, you know, the Commission
7 and sort out which track we would prefer.

8 MS. SCHWARZER: In terms of how much
9 time we could give you, would that -- if the LDAC
10 implementation date changes, from November 1st,
11 probably unlimited time. I mean, it's at your
12 discretion.

13 CHAIRMAN GOLDNER: Then, it would be a
14 recommendation on what the parties would prefer.
15 You know, would you prefer January 1st, would
16 that be cleaner? Would you prefer February 1st?
17 When would you want to make it effective?

18 CMSR. SIMPSON: I think we're open to
19 comments with respect to realizing efficiencies
20 in the process, and whether everybody would
21 benefit by just looking at the cost of gas, and
22 to handle that individually. And, if we were to
23 do so, what would that timeframe look like?

24 MS. SCHWARZER: If memory serves, many

[Prehearing conference]

1 factors have different implementation dates and
2 effective dates.

3 CMSR. SIMPSON: Uh-huh.

4 MS. SCHWARZER: For example, in the
5 cost of gas, November 1st; the RDAF program year
6 is September to August.

7 When you're asking "what tariff changes
8 would be necessary", although the parties might
9 ultimately prefer alignment of many of those
10 periods in the shortest timeframe, that seems
11 unworkable. And I hope that your request about
12 "what tariff changes would be necessary" would be
13 simply, literally, the LDAC provision?

14 And I see Mr. Chairman nodding. So,
15 thank you very much.

16 CHAIRMAN GOLDNER: Yes. Pardon me,
17 yes. That's the request. I think -- I think,
18 ultimately, having a better alignment on
19 timelines would be helpful to everyone. But, for
20 purposes of this particular proceeding, I don't
21 want to try to boil the ocean here.

22 So, okay. Very good. Let me turn back
23 to Commissioner Simpson, and see if there's
24 anything else that he would like to address on

[Prehearing conference]

1 (1) through (4)?

2 CMSR. SIMPSON: Attorney Dexter, can
3 you reiterate your Number (5) for me?

4 That was -- oh, I'm sorry. That was
5 rate case expenses, correct?

6 *[Atty. Dexter indicating in the*
7 *affirmative.]*

8 CMSR. SIMPSON: Okay. Nothing else on
9 (1) through (4), or (1) through (5). Sounds like
10 we have a few more comments that some of the
11 parties might like to make, so would I. We'll
12 await with anxious anticipation.

13 Thank you.

14 CHAIRMAN GOLDNER: Attorney Sheehan?

15 MR. SHEEHAN: Sure. The most central
16 one I had in mind is we intend to follow the
17 schedule and make the August 1 filing. It's the
18 folks behind me are hard at work at it as we
19 speak. Understanding that perhaps the schedule
20 for that hearing may change, which is fine.

21 On that topic, just to throw out
22 another option, the Energy Efficiency component
23 of LDAC changes effective January 1. So, we
24 already have two LDAC dates. And, so, maybe we

[Prehearing conference]

1 could align those. And, obviously, we'll talk to
2 the others. Which could allow for an early
3 December hearing, or something like that.

4 And a brief comment on the rate case
5 expense, although decided in 20-105, the numbers
6 are actually approved for rates in the cost of
7 gas. So, we will take the number that DOE
8 recommends, the Commission approves, put that
9 number in the LDAC. So, it is a -- it bridges
10 both dockets.

11 And we can save all the bigger
12 questions of "do we separate cost of gas again or
13 not?" They were separate for many years, and we
14 combined them, because the summer was a routine,
15 simple hearing, that was, frankly, deemed
16 unnecessary, because things didn't move that
17 much. That's changed this year. And the
18 question is "Do we reconfigure that, in reaction
19 to one off year, or is this the new normal?" I
20 think that's kind of the question, and time will
21 tell.

22 Thank you.

23 CHAIRMAN GOLDNER: Thank you. Attorney
24 Kreis?

[Prehearing conference]

1 MR. KREIS: I have nothing to add to
2 any of that.

3 CHAIRMAN GOLDNER: Okay. It's sort of
4 like, let's say, "closing comments" as well. So,
5 I don't think we'll come back around after this
6 round. So, I just want to make sure you have an
7 opportunity.

8 MR. KREIS: Okay. Well, by way of
9 closing comment, I want to say that I have
10 appreciated the opportunity to hear what the
11 Commission thinks and what its concerns are.

12 And I am optimistic that we can all
13 work together on some process and schedule that
14 meets everybody's needs, because I heard a lot of
15 willingness to address these questions
16 creatively, cooperatively, and in good faith.

17 So, my crystal ball says that we will
18 be able to do that and present something that you
19 will like.

20 CHAIRMAN GOLDNER: Okay. Thank you.
21 Attorney Schwarzer or Attorney Dexter, or both?

22 MR. DEXTER: I concur with what
23 Attorney Sheehan said, regarding the rate case
24 expenses. In other words, the number would be

[Prehearing conference]

1 determined in 20-105, but the collection would
2 occur in the LDAC case.

3 CHAIRMAN GOLDNER: Thank you.

4 CMSR. SIMPSON: And just as a quick
5 question on that.

6 So, if we -- if the parties are able to
7 resolve final rate case expenses, and the
8 Commission approves them for recovery within the
9 cost of gas proceeding, I just want to be crystal
10 clear, in the Department's view, that's the last
11 remaining issue in 20-105?

12 MR. DEXTER: Yes.

13 CMSR. SIMPSON: Thank you.

14 MS. SCHWARZER: Thank you, Mr.
15 Chairman, Commissioner.

16 The only comment I would make, with
17 regard to separating the winter and the summer,
18 is that the Summer of 2021 also turned out to be
19 fairly problematic, to the extent that the
20 maximum cost of rate was implemented for the
21 duration of that month at EnergyNorth, is my
22 understanding, and as a result of that, Liberty
23 had initially asked for a 40 percent swing figure
24 in the fall, which was denied.

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[Prehearing conference]

1 So, summers have been somewhat more
2 problematic than just this certainly more highly
3 problematic current summer.

4 CHAIRMAN GOLDNER: Very good. And it
5 strikes me that it might be easier to just, you
6 know, schedule a hearing, and it can always be
7 cancelled later. A lot easier to cancel a
8 hearing than to create one late in the process,
9 as we'll find out, you know, we had the issue in
10 the hearing tomorrow as well, right?

11 So, Commissioner Simpson, anything
12 else?

13 CMSR. SIMPSON: Nothing from me. Thank
14 you.

15 CHAIRMAN GOLDNER: Okay. And we'll
16 give the Company one last chance to comment
17 before we break.

18 MR. SHEEHAN: I have nothing further.
19 And I also appreciate the opportunity to have
20 these conversations. Thank you.

21 CHAIRMAN GOLDNER: Okay. Thank you.
22 Okay. Well, we'll issue a procedural order to
23 address the issues raised today.

24 And I'll just check one last time, is

[Prehearing conference]

1 there anything else that we need to cover?

2 MS. SCHWARZER: No thank you, Mr.

3 Chairman.

4 CHAIRMAN GOLDNER: Thank you. Okay.

5 Thank you, everyone. We are adjourned.

6 ***(Whereupon the prehearing conference***

7 ***was adjourned at 9:51 a.m.)***

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