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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

October 17, 2022 - 9:04 a.m.
21 South Fruit Street
Suite 10
Concord, NH

DAY 2

RE: **DE 22-030**
EVERSOURCE ENERGY:
Petition for Third Step Adjustment.

PRESENT: Cmsr. Carleton B. Simpson, *Presiding*
Cmsr. Pradip K. Chattopadhyay

Alexander F. Speidel, Esq.
(PUC Legal Advisor)

Tracey Russo, Clerk

APPEARANCES: **Reptg. Public Service Company of New
Hampshire d/b/a Eversource Energy:**
Jessica B. Ralston, Esq. *(Keegan Werlin)*
Cheryl Kimball, Esq. *(Keegan Werlin)*

Reptg. New Hampshire Dept. of Energy:
Paul B. Dexter, Esq.
Jay E. Dudley, Electric Group
(Regulatory Support Division)

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

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I N D E X

PAGE NO.

**STATEMENTS REGARDING MOTION TO COMPEL AND
MOTION TO MODIFY PROCEDURAL SCHEDULE BY:**

Ms. Ralston 5

Mr. Dexter 7

QUESTION BY: Cmsr. Simpson 9

RULING BY CMSR. SIMPSON 13

* * *

WITNESS: JAY E. DUDLEY (Resumed)

Cross-examination by Ms. Ralston 13

Interrogatories by Cmsr. Chattopadhyay 101, 140

Interrogatories by Cmsr. Simpson 117

Redirect examination by Mr. Dexter 142

CLOSING ARGUMENTS BY:

Mr. Dexter 146

Ms. Ralston 166

**DISCUSSION RE: ADMISSION OF
CERTAIN EXHIBITS** 170

E X H I B I T S

(The following Exhibits were admitted into evidence)

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
1	Prefiled Testimony and Supporting Attachments of Russel Johnson, David Plante, and James Devereaux, and the Prefiled Testimony and Supporting Attachments of Marisa Paruta and Edward Davis	<i>prefiled</i>
2	Response to Record Request RR 1-001, with attachments	<i>prefiled</i>
5	Emerald Street Substation Response to DOE 1-008, DOE TS 1-006, DOE TS 1-012, single page from DE 20-161, Eversource LCIRP, 3/31/21 Supplement, Appendix B-2, Page 109 of 158, captioned Loading and Capacity	<i>prefiled</i>
6	Pad Mount Transformer - Goffstown, Attachment TS 2-001(B)	<i>prefiled</i>
7	Purchase of Transformers, Att. DOE 1-4, pp. 394-450, Response to DOE 1-006	<i>prefiled</i>
8	Reliability Annual, Attachment DOE 1-014	<i>prefiled</i>
9	Maintain Voltage, Attachment DOE 1-4, pp. 367-380	<i>prefiled</i>
10	Replace Submarine Cable, Supplemental Response to TS 1-008, including Attachment TS 1-008	<i>prefiled</i>

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
12	Responses to DOE First Set of Data Requests	<i>prefiled</i>
13	Responses to DOE First Set of Technical Session Data Requests	<i>prefiled</i>
14	Responses to DOE Second Set of Technical Session Data Requests	<i>prefiled</i>
15	Responses to DOE Third Set of Technical Session Data Requests	<i>prefiled</i>
16	Settlement Agreement approved by the Commission in DE 19-057	<i>prefiled</i>
18	N.H. Dept. of Energy Recommended Disallowances from Step Adjustment Recovery (Letter dated 09-16-22)	100
19	Four Record Request responses by Eversource from the September 20th hearing filed on September 29, 2022	174

P R O C E E D I N G

1
2 CMSR. SIMPSON: So, good morning,
3 everyone. Today is a continuation of the hearing
4 in 22-030 pertaining to Eversource Energy's
5 Petition for a Third Step Adjustment.

6 I know we have a couple of outstanding
7 motions, and I want to just discuss those on the
8 record before we begin. We have a Motion to
9 Compel from the Company and a Motion to Modify
10 the Procedural Schedule, with a response to the
11 Company's Motion to Compel. We were not able to
12 change the procedural schedule, given the
13 pendency of today's hearing.

14 I'd like to offer the Company and the
15 Department an opportunity to speak to these
16 issues. We have some thoughts, but I'll first
17 recognize Attorney Ralston for the Company.

18 MS. RALSTON: Sure. Thank you.

19 So, with respect to the Company's
20 Motion to Compel, one of the key components of
21 our motion was a request to get the Business
22 Process Audit Report that we understand the
23 Department of Energy has. In their testimony on
24 September 20th, they made four recommendations

1 for disallowances based on over budget project
2 costs, and cited to the business process audit as
3 necessary to address an historical pattern that
4 they alleged the Company has engaged in. And,
5 so, it brought it directly into this proceeding,
6 in our opinion, and it's very difficult for us to
7 rebut that presumption without a copy of the
8 Audit Report.

9 So, that is kind of the crux of our
10 motion, is that we think, in the nature of the
11 fairness and transparency, that both the
12 Commission and the Company should have the same
13 information that the Department has.

14 With respect to the Motion to Amend the
15 Schedule, we certainly wanted to go forward
16 today. We are prepared to conduct our
17 cross-examination without the Audit Report. We
18 really want the Audit Report in the record, in
19 case we receive an order that gives weight to
20 those disallowances, just to reserve our rights.
21 But we would like to move forward today, do the
22 cross-examination. And then, perhaps it would
23 make sense to evaluate any additional schedule
24 adjustments in the afternoon, after we've had an

1 opportunity to do our questioning.

2 CMSR. SIMPSON: Okay. Thank you,
3 Attorney Ralston. Attorney Dexter.

4 MR. DEXTER: Well, I'm not prepared to
5 address the Motion to Compel today in any detail.
6 It was 30 pages long, and it was submitted in
7 writing, and I'd like the opportunity to respond
8 in writing, which I believe I have the right to.
9 What I will say is that the Motion of Compel
10 never should have been filed.

11 If Eversource had a need to issue data
12 requests in this case, Eversource should have
13 filed a Motion to Amend the Schedule, and they
14 didn't do that. Instead, what Eversource did at
15 the hearing last time was say "We may hear some
16 stuff today that we want to rebut to, and we
17 reserve the right to recall witnesses in that
18 event." The Department of Energy said "That
19 sounds fair. We don't know what the issues are,
20 but, in general, that sounds fair." And that was
21 the proceeding -- that was the schedule that we
22 left with.

23 Instead of filing -- instead of
24 following the procedure that Eversource

1 themselves proposed, and to which the Department
2 agreed, and presumably the Bench would agree,
3 they chose to file data requests instead, which
4 were not provided for in the schedule. They
5 filed data requests on an issue that has not been
6 established as being relevant in this case. They
7 filed 30 data requests, most of which they know
8 the answer to. And the obvious way to get the
9 information that they asked for is to do exactly
10 what they said in the first place, which is to
11 recall a witness, to put on evidence, to rebut
12 stuff that Mr. Dudley testified to. So, the
13 motion never should have been filed, number one.

14 Number two, it's inappropriate to file
15 30 discovery requests, when the Department is
16 preparing for hearings, for the obvious reasons,
17 we're in the hearing stages.

18 So, what I want to point out is that it
19 is the Commission that drives the procedural
20 schedule in this case, not Eversource.
21 Eversource is not allowed to just file data
22 requests because they feel like it. The
23 appropriate approach to this would have been for
24 them to file a Motion to Extend the Schedule to

1 file data requests, so that our witnesses could
2 answer the data requests, if they were ever
3 established relevant, which they aren't, and then
4 we would proceed with the hearing.

5 So, that's my thoughts on the Motion to
6 Compel. I fully intend to respond to it in
7 writing within the timeframe allowed under the
8 rules.

9 The Motion to defer the hearing is
10 obvious, because we're in the middle of a
11 hearing, we're trying to prepare for the hearing,
12 and yet we're getting almost daily filings from
13 Eversource, none of which are provided for in the
14 procedural schedule, and we can't do both. And
15 that's just a simple reality. That's why we have
16 a procedural schedule. So, I think it's time for
17 the Commission to tell Eversource that the
18 Commission drives this case, the Commission runs
19 the schedule, not Eversource.

20 CMSR. SIMPSON: The only question I
21 have for you, Attorney Dexter, is did the
22 Department rely on any findings in this draft
23 Business Process Audit Report within the scope of
24 this case?

1 MR. DEXTER: Well, that would have been
2 a great question for Mr. Dudley. I'll answer it,
3 or I could have Mr. Dudley answer it. The answer
4 is -- the answer is, essentially, "no." And what
5 I want you to do is look at the question that I
6 asked Mr. Dudley.

7 I asked Mr. -- we were discussing the
8 Goffstown Pad Mount Transformer Project. Mr.
9 Dudley pointed to Eversource's analysis and said
10 "This analysis overlooked obvious siting facts
11 that should have been considered in the decision
12 to go forward with the Goffstown Project." And
13 all of which was confirmed later on cross -- or,
14 earlier on cross-examination by the Eversource
15 witnesses. Mr. Dudley said "Yes, those siting
16 facts were not" -- "were overlooked." And I --
17 and Mr. Dudley offered that this was a pattern
18 that he had discovered from the rate case where
19 he had looked at hundreds of Eversource projects,
20 and found a pattern of costs -- obvious siting
21 costs being overlooked. And I asked him "Wasn't
22 that one of the underpinnings for the reason for
23 the business process audit?" And he said "Yes."
24 His testimony did not say that he "relied on the

1 business process audit", it said, in response to
2 a question by me, that "Yes, this was one of the
3 underpinnings for the business process audit."

4 That question is not a great
5 revelation. In fact, the reason for the business
6 process audit is set forth in the Settlement in
7 19-057. So, this is a complete smokescreen by
8 Eversource, designed to divert attention from the
9 issues in this case, which are the prudence of
10 Eversource's decisions. And, now, we've turned
11 it into an attack on the business process audit,
12 which hasn't even been issued yet. And is -- it
13 is progressing according to a schedule that the
14 Parties laid out in 19-057.

15 They now, in their latest filing,
16 claimed that the business process audit can't be
17 valid, because Staff's commenting on a decision
18 and we're influencing the business process audit,
19 none of which is relevant to this step
20 adjustment. Possibly relevant in 19-057, if,
21 when the report comes out, and if Eversource
22 actually reads it, and then decides maybe that
23 there's a problem with it, they can file
24 something in 057, if it's allowed under the

1 Settlement. That's something for the Commission
2 to decide in 19-057.

3 This is a complete smokescreen, a
4 complete diversion from the issues in this case,
5 which is the prudence of Eversource's decisions
6 in 2021, before the audit even started.

7 CMSR. SIMPSON: Okay. Thank you. With
8 respect to any ongoing comment or objection
9 period for these two motions, I'm going to waive
10 that. I want to rule from the Bench. This
11 report is not before me. It's not before
12 Commissioner Chattopadhyay. It wasn't submitted
13 in the record. I don't view the report as
14 relevant to this proceeding.

15 I'm going to deny both motions, for the
16 Motion to Compel and the Motion to Change the
17 Procedural Schedule. I want to proceed with this
18 final hearing today, and hear from Mr. Dudley.
19 He'll have the opportunity to be questioned by
20 the Company and by the Commission.

21 So, with that, I'd invite Mr. Dudley to
22 approach the bench for cross-examination.

23 (Whereupon **Jay Dudley** was recalled as a
24 witness, having been previously sworn.)

[WITNESS: Dudley]

1 CMSR. SIMPSON: And Mr. Dudley was
2 sworn in during our first day of hearing.

3 So I'll recognize Attorney Ralston, for
4 the Company.

5 MS. RALSTON: Thank you. Good morning,
6 Mr. Dudley.

7 WITNESS DUDLEY: Good morning.

8 MS. RALSTON: Are you ready or do you
9 need a moment?

10 WITNESS DUDLEY: I'm ready, yes.

11 MS. RALSTON: Okay.

12 **JAY DUDLEY, Previously Sworn**

13 **CROSS-EXAMINATION**

14 BY MS. RALSTON:

15 Q We're going to talk this morning about five of
16 the Company's capital projects that DOE is
17 challenging in this proceeding, either
18 recommending disallowance or exclusion from the
19 third step adjustment. So, I'm just going to
20 walk through your recommendations, just to
21 refresh everyone's memory.

22 A Okay.

23 Q So, with respect to the Annual Blanket Projects
24 for Reliability, you're recommending a

[WITNESS: Dudley]

1 disallowance of the over budget amount of
2 \$913,000, is that correct?

3 A That is correct. Yes.

4 Q And, with respect to the Annual Blanket Project -
5 Maintain Voltage, you are recommending a
6 disallowance of the over budget amount of
7 \$428,000?

8 A Yes.

9 CMSR. SIMPSON: Excuse me. Attorney
10 Ralston, are you looking at an exhibit?

11 MS. RALSTON: No, I'm not.

12 CMSR. SIMPSON: Okay.

13 MR. DEXTER: Commissioner, the
14 recommendations were laid out in our letter of
15 September 16th.

16 MS. RALSTON: I don't believe that's an
17 exhibit, but, yes.

18 MR. DEXTER: Excuse me. But, at the
19 hearing, I pointed out that I had had a typo in
20 that letter. And, so, the Reliability Projects,
21 the disallowance is "913,000", as Attorney
22 Ralston said, not the "317,000" that was in the
23 letter. That was, basically, a typo.

24 So, if you're looking for a summary of

[WITNESS: Dudley]

1 those recommendations of Staff -- of DOE, they're
2 contained in the September 16th letter. And the
3 effect of those was quantified in Record Response
4 Number 4.

5 CMSR. SIMPSON: Okay. Thank you.
6 Please proceed, Attorney Ralston.

7 MS. RALSTON: Okay. Thank you.

8 BY MS. RALSTON:

9 Q With respect to the Annual Blanket Project -
10 Transformers, you're recommending a disallowance
11 of the over budget amount of \$3 million, correct?

12 A Correct.

13 Q And, with respect to the Pad Mount Transformer in
14 Goffstown, you're recommending a disallowance of
15 the over budget amount of \$371,000?

16 A 373,000.

17 Q Thank you. And, with respect to the Emerald
18 Street Substation, you're recommending deferral
19 of the entire approximately \$20 million amount to
20 the Company's next rate proceeding, correct?

21 A Yes. Correct.

22 Q Okay. And are there any other disallowances or
23 deferrals that I have not mentioned?

24 A No.

[WITNESS: Dudley]

1 Q Okay. Thank you. So, do you recall the date
2 that the Company submitted its third step
3 adjustment that is the subject of this
4 proceeding?

5 A I'm sorry, I didn't hear the first part of that
6 question.

7 Q Do you recall the date that the Company submitted
8 its Petition in this proceeding?

9 A Subject to check, I believe it was May, May or
10 April.

11 Q Does "May 2nd" sound right to you?

12 A Yes.

13 Q Okay. And, so, did you perform a review of the
14 Company's filing when it was submitted?

15 A I started -- I initiated my review of the filing
16 when it was submitted. But, due to my
17 involvement in many other dockets, the progress
18 of that review was fairly slow. But I was able
19 to complete most of it by late summer.

20 Q And were you responsible for reviewing the entire
21 filing or just the parts pertaining to capital
22 projects and programs?

23 A We reviewed the entire filing.

24 Q And are you familiar with the testimony of Russel

[WITNESS: Dudley]

1 Johnson, David Plante, and James Devereaux, that
2 was marked as "Exhibit 1", Bates Pages 008
3 through 027?

4 A Yes.

5 Q And do you recall what that testimony covers?

6 A Yes. Well, it covers certain projects that had
7 been submitted. I can bring it up, if you'd
8 like?

9 Q Sure. That would be good. I have a few
10 questions.

11 A All right.

12 Q Once you have it up, if you want to turn to Bates
13 Page 011.

14 A Okay.

15 Q At Lines 8 and 9, does it state that the
16 "testimony describes the capital projects and
17 processes in place at the Company pertaining to
18 project management and budgeting"?

19 A And that was which line, Ms. Ralston?

20 Q Lines 8 through 9.

21 A Yes. Yes, I see that.

22 Q Okay. And, at Lines 13 through 14, does it state
23 that the testimony included "Attachment
24 RDJ/DLP/JJD-1", which provides a list of "the

[WITNESS: Dudley]

1 capital additions for calendar year 2021 by
2 project"?

3 A Yes. Which is internally we refer to that as the
4 "Master List".

5 Q The "Master List", okay. And did you review that
6 Master List as part of your review of the filing?

7 A Yes, I did.

8 Q I'm going to be referencing the transcript from
9 the last hearing date. Would you like a copy or
10 do you have one?

11 A I do have a copy up, yes.

12 Q You do. Okay. So, if you could turn to the
13 transcript, at Page 192, Lines 8 through 11.

14 A You said that was "192"?

15 Q 192.

16 A Okay. Yes, I'm there.

17 Q Did you testify here that you were involved in
18 the Settlement that led to the three step
19 adjustments?

20 A Yes.

21 Q And what exactly was your role in the Settlement?

22 A Well, I was a member of the rate team. We had --
23 generally, with rate cases, we assign a rate team
24 to review the rate case and all of the filings.

[WITNESS: Dudley]

1 And my role in the review was prudence of capital
2 investments.

3 Q Okay. And, as part of that participation, did
4 you review drafts of the Settlement document
5 pertaining to capital projects?

6 A I did, yes.

7 Q And did you offer any suggestions on the
8 provisions regarding capital projects and
9 associated cost recovery that were ultimately
10 included in the Settlement Agreement?

11 A Yes.

12 Q And can you turn to Page 194 of the transcript,
13 Lines 15 through 17?

14 A Yes. I'm there.

15 Q Okay. And do you see that you testified here
16 that, "as best as you can, you assess the
17 decision-making process of the Company, in terms
18 of prudence of the projects that are placed in
19 service, based on the information provided by the
20 Company"?

21 A Yes.

22 Q And then, moving down to Lines 21 through 24, did
23 you further testify that "If the project raises
24 questions or they're not adequately explained or

[WITNESS: Dudley]

1 supported by the Company, then [your]
2 recommendation is to either disallow the
3 expenditure or defer the expenditure to the next
4 rate case"?

5 A Yes.

6 Q And, so, how do you assess the decision-making
7 process of the Company when you're considering
8 recovery of capital project costs?

9 A Well, it's the burden of the utility to support
10 its actions and support what it did. And what we
11 do is we turn to the project documentation to
12 find that out. And, typically, when we look at
13 projects, for example, when we look at the Master
14 List, what we look at is the complexity of the
15 project, the amount of money that was spent,
16 whether or not there was a cost overrun. If
17 there is a cost overrun that is significant,
18 that's a red flag for us.

19 And we try to follow the process of
20 decision-making on the project, from its
21 inception to its completion.

22 Q So, in making your recommendation, are you
23 assessing the decision-making process or the
24 documentation that's submitted by the Company?

[WITNESS: Dudley]

1 A Both.

2 Q So, does this mean that you would find a project
3 to be imprudent if, in your opinion, the
4 documents provided by the Company do not answer
5 any and all of the questions that you may have
6 about the project?

7 A Well, no. That's why we have discovery, so that
8 we can try to get answers to those additional
9 questions. But we do rely on project
10 documentation as a starting point.

11 Q So, in your mind, the quality of the
12 documentation is very important to the Company's
13 demonstration of prudence for capital work?

14 A Absolutely.

15 Q Do you recall that the Company has testified and
16 presented evidence in this proceeding that there
17 are monthly meetings to review all capital
18 projects and programs?

19 A Yes, I do recall that.

20 Q And do you give that internal process any
21 credence in your determination of prudence on the
22 Company's capital projects?

23 A Well, when that testimony was given, that was
24 actually the first time that I was aware of

[WITNESS: Dudley]

1 monthly meetings. I know that there are budget
2 meetings where projects are proposed and
3 approved. But I was not aware of periodic
4 monthly meetings at that time. So, I didn't
5 consider it.

6 Q The issue of these monthly meetings was not
7 raised in the rate case or in any other review of
8 the Company's capital process that you're aware
9 of?

10 A Not as I recall, no.

11 Q Is it your opinion that there are deficiencies in
12 relation to the Company's decision-making process
13 regarding plant additions that compose the third
14 step adjustment?

15 A Yes.

16 Q And is it your opinion that there are
17 deficiencies in relation to the documentation
18 submitted in the initial filing in this
19 proceeding?

20 A Yes.

21 Q If we turn back to the transcript, at Page 195,
22 Lines 3 through 7, you testified there that you
23 "are totally reliant on the information that the
24 Company provides to [you]", and you agreed with

[WITNESS: Dudley]

1 your attorney that you don't get "any sort of
2 other independent source material to verify any
3 of the projects." Do you see that testimony?

4 A Yes, I do.

5 Q Okay. The Settlement Agreement from Docket DE
6 19-057 was marked as "Exhibit 16". Do you have a
7 copy of that or do you need one?

8 A I do have a copy.

9 Q Okay.

10 A Okay.

11 Q If we could turn to Section 3, which is titled
12 "Plant in Service"?

13 A Yes.

14 CMSR. SIMPSON: Can you just give me a
15 moment please?

16 MS. RALSTON: Sure.

17 *[Short pause.]*

18 CMSR. SIMPSON: Okay. Thank you.

19 Please proceed.

20 BY MS. RALSTON:

21 Q Does it state here that "Staff's testimony
22 includes observations and concerns about the
23 Company's documentation of certain capital
24 projects involving their planning, budgeting and

[WITNESS: Dudley]

1 management"?

2 A Yes.

3 Q And does it also state that "To address this
4 concern, the Company will work with Staff...to
5 develop a regulatory review template to guide the
6 development and production of capital project
7 documentation generated through the Company's
8 capital authorization process"?

9 A Yes.

10 Q And does it state that "The purpose of the
11 regulatory review template will be to facilitate
12 the Commission's review of future requests of the
13 Company to recover the costs of capital
14 investments"?

15 A Yes. That's correct.

16 Q And the Company's initial filing in this process
17 adhered to the regulatory template, including
18 feedback from the consultant handling the
19 business process audit, is that correct?

20 A Well, my understanding is that a final template
21 has not yet been developed. That is to -- the
22 final template is to be developed after the
23 business process audit has been issued, only
24 because part of the consultant's assignment is to

[WITNESS: Dudley]

1 provide input on that, and recommendations.

2 Q So, is it your understanding that the template
3 used for this filing did not include any of that
4 feedback that has been received thus far?

5 A Well, the template that was used was one that we
6 had discussed in the last step adjustment, the
7 second step adjustment. And our recommendations
8 at the time were incorporated. For example, we
9 wanted the Master -- what we call the "Master
10 List" to be more explicit in terms of budget
11 costs and final costs. We also asked for some
12 notations on, you know, side notions regarding
13 some projects that were over budget. That was
14 provided in this, in this step filing. All of
15 the project documentation was provided in this
16 step filing, whereas previously we had to request
17 it.

18 So, in terms of the filing, we were
19 happy with the filing. It provided what we
20 needed, what we had requested.

21 However, in terms of forming an actual
22 formal, final template, that's still a work in
23 progress.

24 Q Okay. Understood. Thank you for clarifying.

[WITNESS: Dudley]

1 A Yes.

2 Q Turning back to the Settlement Agreement,
3 Exhibit 16, does it state, in Section 3.2, that
4 "To further address Staff's concerns regarding
5 the inconsistent documentation of capital
6 projects as described in 3.1, that the Company
7 agreed to a business process audit consistent
8 with Appendix 2 to be conducted and overseen by
9 Staff"?

10 A Yes.

11 Q And, if we turn to Appendix 2, which has the
12 scope of the business process audit, that states
13 that Part 1 is a "Review and assessment of the
14 Company's capital planning, budgeting, approval,
15 and management oversight"; Part 2 is a "Review
16 and evaluation of capital project documentation";
17 and Part 3 is a "Selective Project Review." Is
18 that what that section states?

19 A Yes.

20 Q And does Part 2, relating to "capital project
21 documentation", include "Initial project
22 assessment and analysis in the PAF including
23 consideration of known and foreseeable costs and
24 risks"?

[WITNESS: Dudley]

1 A Yes. Correct.

2 Q And does Part 2 also reference the "Use of
3 Supplement Requests, including root cause
4 analysis and lessons learned"?

5 A Yes.

6 Q And does it state here that "The consultant will
7 select a sample of capital projects for 2020 and
8 2021 to be included as a part of its examination
9 and testing involving the above listed
10 processes"?

11 A Yes.

12 Q So, when you say that you "don't get any
13 independent source material to verify projects",
14 it is a fact that DOE has received a report from
15 the consulting auditor on the business process
16 audit that pertains to the Company's
17 decision-making and documentation practices for
18 capital projects, including a sample of projects
19 in 2021, isn't that correct?

20 MR. DEXTER: Objection. Objection.
21 The Bench has ruled that the business process
22 audit and the report's irrelevant to this
23 proceeding.

24 MS. RALSTON: We're just asking some

[WITNESS: Dudley]

1 additional questions on Mr. Dudley's own
2 testimony. We understand the report is not going
3 to be admitted as evidence today. But these are
4 things that he testified to at the last hearing.

5 CMSR. SIMPSON: I'm going to allow the
6 question. But the foundation is questionable,
7 so, proceed with caution.

8 MS. RALSTON: Okay. Thank you.

9 WITNESS DUDLEY: Can you repeat the
10 question, Ms. Ralston?

11 MS. RALSTON: Sure.

12 BY MS. RALSTON:

13 Q So, I asked, so, when you say that you "don't get
14 any other independent source material to verify
15 projects", is it a fact that DOE has received a
16 report from the consultant auditor as part of the
17 business process audit that pertains to the
18 Company's decision-making and documentation
19 practices for capital projects, including a
20 sample of projects in 2021, is that correct?

21 A That was part of their assignment, yes.

22 Q And when did the DOE receive the report?

23 MR. DEXTER: Objection. The report's
24 irrelevant.

[WITNESS: Dudley]

1 CMSR. SIMPSON: Sustained.

2 BY MS. RALSTON:

3 Q Do you know which projects were tested for 2021?

4 A No, I do not.

5 Q But you would agree that there were projects that
6 were tested, is that correct?

7 A That is part of their assignment, yes.

8 Q Okay. Do you know if any part of the report
9 discusses the Company's decision-making
10 processes, with relation to capital projects
11 placed in service?

12 MR. DEXTER: Objection. The report is
13 not relevant.

14 CMSR. SIMPSON: Sustained. Please move
15 on, Ms. Ralston.

16 BY MS. RALSTON:

17 Q Okay. We're going to move on to the Reliability
18 Annual Blanket Projects. And my first question
19 will still be referring back to the transcript,
20 if you want to turn to Page 221, at Lines 1
21 through 8.

22 A I'm almost there. My apologies, Ms. Ralston.

23 This is a new laptop, and my --

24 Q Take your time.

[WITNESS: Dudley]

1 A -- my pdf freezes every now and then.

2 Q Then, I will renew my offer and give you a hard
3 copy, if you find it's easier?

4 MS. RALSTON: And I offer the same to
5 the Bench.

6 **BY THE WITNESS:**

7 A In this case, due to technical difficulties, I
8 would appreciate that.

9 *[Atty. Ralston handing document to the*
10 *Witness.]*

11 CMSR. SIMPSON: You're on Page 221,
12 Attorney Ralston?

13 MS. RALSTON: Yes.

14 CMSR. SIMPSON: Thanks.

15 **BY THE WITNESS:**

16 A I'm there.

17 BY MS. RALSTON:

18 Q Okay. So, at Lines 1 through 8, does your
19 testimony state "Yes, there are features of a
20 blanket program or an annual program that make
21 them difficult to review in a step adjustment
22 process", and that this is because "these
23 projects cover numerous and sometimes hundreds of
24 subprojects"?

[WITNESS: Dudley]

1 A Yes. That's correct.

2 Q And are you familiar with Appendix 5 of the
3 Settlement Agreement from DE 19-057?

4 A Well, I may have it, but if you could tell me
5 what that is?

6 Q Yes. Just give me one second. So, Appendix 5
7 starts on Bates Page 052 of Exhibit 15 -- or, 16,
8 sorry, and it has the Step Adjustment list of
9 projects that were anticipated for Steps 1 and 2.

10 A Okay. I guess I do not have that available, but
11 I do recall it.

12 Q Okay. And, so, do you need a copy of the
13 exhibit?

14 A Yes, please.

15 Q All right.

16 MR. DEXTER: Commissioners, maybe it
17 would be appropriate to take a moment for Mr.
18 Dudley to print the Settlement Agreement from
19 19-057, since it seems to be a focus of extensive
20 cross-examination?

21 CMSR. SIMPSON: Do you have quite a few
22 further questions, Ms. Ralston, on the
23 Settlement?

24 MS. RALSTON: I do. I also have a copy

[WITNESS: Dudley]

1 of it. So, whichever --

2 CMSR. SIMPSON: Is it okay if she
3 provides it to him?

4 MR. DEXTER: That's fine.

5 CMSR. SIMPSON: Please.

6 *[Atty. Ralston handing document to the*
7 *Witness.]*

8 BY MS. RALSTON:

9 Q Okay. So, referring to Appendix 5, do you see
10 here that "Annual Blanket Projects" and "Annual
11 Program Projects" were specified for inclusion in
12 both Step 1 and Step 2?

13 A Yes.

14 Q And a similar listing for Step 3 with anticipated
15 projects was not included, because it was too far
16 in advance for specific projects to be known, is
17 that correct?

18 A Yes.

19 Q Was it your expectation that the Company was
20 going to terminate annual blanket projects and
21 annual program projects before the third step, or
22 did you expect to see those projects continue?

23 A I expected to see them continue.

24 Q Okay. And do you see, on Lines 4, 6, and 7 of

[WITNESS: Dudley]

1 Appendix 5 that the list for annual blanket
2 projects on the Step 1 adjustment includes
3 "Maintaining Voltage", "Reliability
4 Improvements", and "Purchase Transformers and
5 Regulators"?

6 A Yes, I do.

7 Q And is it also true that, for Lines 4, 6, and 7
8 of the Step 2 adjustment those same programs
9 appear?

10 A And the Step 2 appears on what page? Oh, I have
11 it, yes. Page 57, is that correct?

12 Q I think so. Yes. Page 57.

13 A Yes, I see it.

14 Q Okay. And, if we refer back to Exhibit 1, at
15 Bates 030, Lines 10, 13, and 19? And this is the
16 Master List.

17 A Yes. Yes, I have it.

18 Q So, at Lines 10, 13, and 19, we see the same
19 annual blanket projects included, is that
20 correct?

21 A Yes, that's correct.

22 Q Okay. And you were not surprised to see those
23 same projects, correct?

24 A No, I am not.

[WITNESS: Dudley]

1 Q Okay. And, from your experience in the rate
2 case, and your work on the Settlement Agreement,
3 did you misunderstand that these annual programs
4 are designed to account for smaller numerous
5 projects that do not have individual project
6 estimates?

7 A No, I did not misunderstand. I'm well acquainted
8 with the purpose of blanket projects.

9 Q Okay. So, you understand that there not
10 individual project estimates for this program?

11 A I understand that, yes.

12 Q Okay. And, if we refer to the transcript, at
13 Page 221, Lines 4 through 5, you acknowledged
14 this in your direct testimony, where you stated
15 that the "blanket projects cover numerous and
16 sometimes hundreds of subprojects", is that
17 correct?

18 A Yes.

19 Q And the Settlement Agreement expressly spelled
20 out a timeline for the filing and review of the
21 step adjustments at Section 10.3, is that
22 correct?

23 A Yes, it does.

24 Q Is there any mention in the Settlement Agreement

[WITNESS: Dudley]

1 of the difficulties or special provision that
2 would be attached to inclusion of annual blanket
3 projects in the step adjustment?

4 A No, it does not. But, at the time of the
5 Settlement, this was a fairly new review process
6 that at that time PUC Staff was proposing. In
7 prior rate cases, typically, there was very
8 little review of step adjustments. But I would
9 also add to that that step adjustments were much
10 smaller in prior rate cases.

11 So, given the size of the step
12 adjustments that we had seen, and not just with
13 Eversource, but with other utilities, we felt at
14 the time that it would be a good idea to actually
15 suggest a review period to review some of these
16 projects.

17 So, the process that was proposed in
18 the last Settlement Agreement was fairly new to
19 us. We weren't quite sure how it was going to
20 play out, only that it would give us a greater
21 opportunity to review some of these projects.

22 Q And going back to the transcript at 221, Lines 6
23 through 7, you're discussing the annual blanket
24 projects. And you state that "if there's a cost

[WITNESS: Dudley]

1 overrun, if something doesn't add up in the
2 project documentation, it's very time-consuming
3 to try and flesh that out." Is that correct?

4 A That's correct. And that's borne out in a couple
5 of projects that we've seen in this step
6 adjustment, concerning the Annual Reliability
7 Projects, and also the Transformer Projects, the
8 information that we received, and I said this in
9 my testimony at the last hearing, was the
10 information that we received were Excel
11 spreadsheets, work orders, and associated
12 expenditures that were hundreds of lines long;
13 and to sort through all that information is very
14 time-consuming.

15 Q And do you recall testimony on September 20th
16 from the Company's witness, Russel Johnson, where
17 he explained that a project authorization for
18 annual blanket projects that is developed at the
19 beginning of the year, is developed at the
20 beginning of the year, and then a Supplemental
21 Request Form is completed at the end of the year,
22 that represents the actual spend in that year.
23 And then, the next year's budget is based on that
24 Supplemental Request Form, subject to known and

[WITNESS: Dudley]

1 measurable adjustments?

2 A Yes, I understand that. But that highlights
3 another concern for the Department. Because,
4 according to Eversource's own internal policy and
5 procedures, in particular APS 1, a supplement is
6 meant to be filed at the time a cost overrun or a
7 cost increase is experienced, in order to
8 highlight that development to management. And
9 we've seen more and more of these supplements
10 being filed a year later, after the occurrence of
11 a cost increase. And, so, that's concerning to
12 us. It doesn't appear that Eversource is fully
13 compliant with its own policy and procedures.

14 Q So, you would argue that goes to the Company's
15 processes that are being reviewed as part of the
16 business process audit?

17 A That's one of the areas, yes.

18 Q And, turning to Exhibit 1, at Bates 025, Lines 16
19 through 19, does it state here that "Dollar and
20 percentage variances are calculated between the
21 calendar year 2021 costs and the annual
22 authorized amount; the last supplemental
23 authorized amount and the annual authorized
24 amount; and the calendar year 2021 costs and the

[WITNESS: Dudley]

1 last supplemental authorized amount"?

2 A Yes. That's all provided.

3 Q Does it say anything about calculating variances
4 for individual projects in the annual blanket
5 projects?

6 A I don't recall.

7 Q So, when you say that more time would be needed
8 to review cost overruns, are you aware that the
9 Company's documentation process does not create
10 pre-construction budgets for each of these
11 numerous lower-cost projects that are conducted
12 under a blanket program?

13 A Yes. I understand that those figures are
14 historical.

15 Q And, so, it's not actually possible to determine
16 cost overruns on a project-by-project basis for
17 the annual blanket programs, is it?

18 A No. But our -- No. But our assumption is that,
19 because those estimates are based on historical
20 activity, that Eversource has a pretty good idea,
21 or at least should have a pretty good idea, on an
22 annual basis, given that these projects are
23 recurring, as to what the budget should be.

24 Q Even though these individual projects can't

[WITNESS: Dudley]

1 always be reviewed, the cost of the program has
2 to be evaluated on an overall basis, because
3 there's no authorization or pre-construction
4 estimating of these smaller individual projects,
5 is that correct?

6 A I understand that. But, again, the Department's
7 view of these blanket projects is that they're
8 fairly routine. And, because they're routine and
9 reoccurring, and because Eversource has
10 experience with them, they should be able to come
11 pretty close to, in terms of budgeting, as to
12 what it's going to cost in a given year.

13 Q But, in these circumstances of numerous jobs,
14 with relatively smaller costs comprising the
15 annual blanket program, the primary driver
16 variances year-to-year would be how much work is
17 getting done, isn't that correct?

18 A Sure.

19 Q And, if you look at the transcript at Page 221,
20 Lines 20 to 23, you testified "when you look at
21 the Supplement Request Form, which is part of
22 Attachment DOE 1-014, that there was a cost
23 increase of \$913,000." Is that correct?

24 A Yes.

[WITNESS: Dudley]

1 Q And, at transcript, Page 222, Lines 9 through 10,
2 you testified that you asked the Company "what
3 makes up this additional \$900,000?" Correct?

4 A Yes.

5 Q And then, you testified, on the same page, at
6 Lines 16 through 19, that you received data in an
7 Excel file that breaks down not just the
8 \$900,000, but the full \$3.9 million that was
9 included on the list for inclusion in the step
10 adjustment, is that correct?

11 A Yes. It added up to 3.9 million.

12 Q But, if the cause for the additional \$900,000 was
13 simply that more of the same type of work got
14 done, how would the Company determine which
15 individual line items for the projects comprising
16 the \$913,000 variance from the budget?

17 A Well, how would we? Our understanding from the
18 tech session that, for this particular project,
19 and also the other project, the other blanket
20 project, was that Eversource was at least going
21 to make an attempt to drill down on those costs
22 that they thought contributed to the cost
23 overrun.

24 The Department has no way of knowing

[WITNESS: Dudley]

1 that. That is information that only Eversource
2 knows. And we were surprised, when we got the
3 data response, that that delineation was not
4 provided.

5 Q So, as you just testified, that Excel list was a
6 follow-up request from the August 31st technical
7 session, is that correct?

8 A It was.

9 Q And the Company identified a variance for this
10 annual blanket program in Exhibit 1, Bates 030,
11 Line 13, which you received on May 2nd, correct?

12 A Yes.

13 Q And, on June 8th, in response to the DOE's
14 request issued on May 26, the Company provided
15 you with Attachment DOE 1-014, which was the PAF
16 for the Annual Blanket Program for Reliability,
17 is that correct?

18 A Could you give me that information again,
19 Ms. Ralston?

20 Q Sorry. On June 8th, in response to a DOE data
21 request, DOE 1-014, the Company provided you with
22 Attachment DOE 1-014, which was the PAF for the
23 Annual Blanket Program for Reliability, is that
24 correct?

[WITNESS: Dudley]

1 A Let me just turn to that, if you can just give me
2 a moment.

3 Q Sure.

4 MR. DEXTER: And, if the witness or the
5 counsel could provide an exhibit number, that
6 would be helpful, I believe?

7 MS. RALSTON: Yes. If you can look at
8 Exhibit 8, I think it's Page 1.

9 **BY THE WITNESS:**

10 A So, on Exhibit 8, I have the Supplement Request
11 Form. I have the Operations Project
12 Authorization Form. I have Data Response TS
13 3-003. I do not see the data response that
14 you're referring to.

15 BY MS. RALSTON:

16 Q Exhibit 8 starts with Attachment DOE 1-014 that I
17 was referencing.

18 A Yes. Okay. So, that was part of DOE 1-014.

19 Okay. I'm sorry, I misunderstood.

20 Q Uh-huh.

21 A I see what you're saying now.

22 Q Okay.

23 A Yes.

24 Q So, in Exhibit 8, Attachment DOE 1-014, the

[WITNESS: Dudley]

1 document explained that the cost of the
2 "distribution line reliability program was higher
3 than originally budgeted because more work was
4 performed than anticipated", and it also provided
5 a breakdown of the cost variances by cost
6 category, comparing budget to actual for the work
7 performed. Is that correct?

8 A Yes. But the -- my reaction to that explanation
9 was that it was very cryptic, it was very vague,
10 and it provided no detail.

11 Q So, you would not agree that the response showed
12 exactly where the difference in terms of
13 categories of costs had increased?

14 A It shows where the costs increase, but in a very
15 general -- at a very 10,000 foot level. But we
16 have no way of knowing what the -- what the
17 specifics are behind these numbers.

18 What we like to do, Ms. Ralston, is we
19 like to get behind the numbers to see what
20 happened and why. And we were not able to do
21 that, because that information was not provided.

22 Q Referring back to the transcript, at
23 Page 223 [222?], Lines 19 through 20, you
24 referred to a "pivot table" that was provided,

[WITNESS: Dudley]

1 with "about 800 line items". Is that correct?

2 A Yes. That was in response, I believe, to TS
3 3-003.

4 Q And a little further up that page, at Lines 12
5 through 13, in response to a question from your
6 attorney as to whether you can assess "whether
7 the projects listed in the pivot table are
8 prudently incurred", you state that "And neither
9 can I parse out the components of the \$913,000
10 cost overrun." Is that correct?

11 A Yes. I believe I said that in my previous
12 statement.

13 Q And, in your response to your attorney's
14 statement that "you can't tell the initially
15 budgeted from the overrun", you stated "No",
16 meaning that you could not tell what the
17 pre-construction budget estimate was, as compared
18 to the post-construction cost for each individual
19 project in the blanket, is that correct?

20 A That's correct.

21 Q And, as we just discussed, you were never able to
22 examine an initially budgeted amount from an
23 overrun to these programs -- projects, is that
24 correct?

[WITNESS: Dudley]

1 A When you say "initially budgeted amount", what
2 are you referring to? I don't understand.

3 Q You were not able to compare an initial project
4 estimate versus a final project cost for these
5 individual projects under the blanket?

6 A Well, that information -- that information is
7 contained on the Supplemental Request Form, which
8 is part of DOE 1-014. You have the current
9 authorization amount. You have the Supplement
10 Request. And then, you have the total request.
11 And that's what we looked at.

12 We did notice that the Supplement
13 Request was not totally expended. But that the
14 project was still over budget by \$913,000.

15 Q Correct. I don't know if you answered my exact
16 question. I was asking, were you able to compare
17 on a project-by-project basis?

18 A No, we were not.

19 Q Okay.

20 A Because, as we recently discussed, these blankets
21 contain hundreds of subprojects.

22 Q Okay. So, you would agree that the reason you
23 were not able to compare on a project-by-project
24 basis is because that's not the nature of how

[WITNESS: Dudley]

1 these annual blanket projects work?

2 A Well, I would -- I would agree that the
3 information is there. We just don't know which
4 part of that information to drill down on; only
5 Eversource knows that.

6 Q So, what detail did the Company provide in
7 relation to each of the projects in the pivot
8 table?

9 A The pivot table contained a listing of work
10 orders and associated expenditures. About, if
11 I'm recalling correctly, it's about 400 line
12 items.

13 MR. DEXTER: And, again, if the witness
14 or the counsel could provide an exhibit number?
15 I believe it's number "Exhibit 15". But I think
16 an exhibit and a page number would be helpful.

17 MS. RALSTON: Sure. It is Exhibit 15.
18 And I will get a page number for you.

19 So, Exhibit 15, and the pivot table
20 starts at Bates Page 012.

21 WITNESS DUDLEY: Are you referring to
22 the Excel spreadsheet?

23 MS. RALSTON: I was referring to the
24 pdf version of the exhibit.

[WITNESS: Dudley]

1 WITNESS DUDLEY: Pdf, okay. All right.

2 MS. RALSTON: You don't need to
3 necessarily go there. It was just for
4 everyone -- keep everyone on the same page.

5 BY MS. RALSTON:

6 Q And was the pivot table sortable, the Excel
7 version, so you could see all of the work
8 orders --

9 [Court reporter interruption, asking
10 for a repeat of the question.]

11 MS. RALSTON: Sure.

12 BY MS. RALSTON:

13 Q Was the pivot table sortable, so that you could
14 see all of the work orders associated with each
15 individual project?

16 A Yes, it was.

17 Q Is it possible that more work was performed in
18 2021 for reliability purposes than originally
19 planned, and that's the reason that there were
20 additional costs?

21 A It is possible, yes.

22 Q And your disallowance relates only to the over
23 budget amount, and your only basis for that
24 disallowance is that it's over budget, is that

[WITNESS: Dudley]

1 correct?

2 A No. The only basis for the disallowance is that
3 Eversource was unable to provide us with any
4 support for that overrun.

5 Q Did you hear the Company's testimony on
6 September 20th about how this work was
7 identified, through daily work meetings, through
8 the outages from the prior day, and other
9 management meetings?

10 A Yes. I have no knowledge, firsthand knowledge of
11 those meetings. So, I don't know what was
12 discussed.

13 Q Is it your testimony that it would be imprudent
14 for the Company to move ahead with reliability
15 installations in response to specific customer
16 outages that are occurring?

17 A No, that's not imprudent. What's imprudent is
18 that the burden [*sic*] has the obligation of
19 supporting its expenditures, especially when
20 there are cost overruns. And, in this particular
21 case, Eversource was not able to do that.

22 Q In Appendix 2 of the Settlement Agreement, does
23 it state that the "Company's budgeting and
24 approval process" and "development of budgets,

[WITNESS: Dudley]

1 cost estimates, revised budgets and budget
2 variances" will be part of the scope of the
3 business process audit?

4 A That's correct.

5 Q And is it your knowledge or expectation that that
6 examination will include these annual blanket
7 projects?

8 A I assume that it would.

9 Q Thank you.

10 A But the selection of projects is at the
11 discretion of the auditors.

12 Q I'm going to move on now to the Maintain Voltage
13 Blanket Project. And, for this annual blanket
14 program, that's referred to as "Maintain Voltage"
15 in Exhibit 1, at Bates 030, Line 10. Did the
16 Company identify the variance for this project?

17 A Let me just get to that section, Ms. Ralston.

18 Q Yes. Let me know when you're there.

19 CMSR. SIMPSON: Exhibit 1, Bates Page?

20 MS. RALSTON: 030.

21 CMSR. SIMPSON: Thank you.

22 MS. RALSTON: Line 10.

23 **BY THE WITNESS:**

24 A Yes, I have it. And your question was?

[WITNESS: Dudley]

1 BY MS. RALSTON:

2 Q My question was, at Line 10 of Bates Page 030,
3 did the Company identify the variance for this
4 program as part of its initial filing?

5 A Yes, it did.

6 Q And give me one second, I just need to get an
7 exhibit reference for you.

8 If you can refer to Exhibit 12, at
9 Bates 594. And, if you're looking at the
10 electronic version, it's Exhibit 12, Part 2.

11 A I'm sorry, Ms. Ralston. I'm sorry, which exhibit
12 was that?

13 Q Exhibit 12.

14 A Exhibit 12? I do not have it up here with me.

15 CMSR. CHATTOPADHYAY: Can you repeat
16 the page number again?

17 MS. RALSTON: Yes. The Bates page is
18 594. If you're looking in the electronic
19 version, it's the *pdf* Page 97 of Exhibit 12,
20 Part 2.

21 Do you need a hard copy, Mr. Dudley?

22 WITNESS DUDLEY: I think I do, yes.

23 MS. RALSTON: Okay.

24 WITNESS DUDLEY: I'm sorry.

[WITNESS: Dudley]

1 *[Atty. Ralston handing document to the*
2 *Witness.]*

3 WITNESS DUDLEY: Yes. Thank you. Oh,
4 I apologize, Ms. Ralston. I do have this
5 information. I'm sorry I made you go to the
6 trouble of digging it out.

7 MS. RALSTON: No problem.

8 BY MS. RALSTON:

9 Q So, this exhibit is providing a copy of
10 Attachment DOE 1-012, which was the Project
11 Authorization Form and Supplemental Request Form
12 for the 2021 Annual Blanket Program for Voltage
13 Maintenance, is that correct?

14 A That is correct, yes.

15 Q And is it correct that this document explained
16 that the costs of the Voltage Maintenance Program
17 was higher than originally budgeted due to an
18 increase in the amount of work required to
19 maintain voltage within regulatory limits in
20 2021, and also provided a breakdown in the
21 increased costs by category, including material,
22 construction, labor and overtime?

23 A Yes. If I could just have an opportunity to get
24 my notes on that one?

[WITNESS: Dudley]

1 Q Sure.

2 *[Short pause.]*

3 MR. DEXTER: Is the exhibit we're
4 looking at also Exhibit 9?

5 WITNESS DUDLEY: That's what I have. I
6 have it as "Exhibit 9".

7 MS. RALSTON: I do not see that
8 attachment in Exhibit 9. But I could be
9 mistaken.

10 MR. DEXTER: Could I look at the
11 attachment that counsel provided to the witness
12 please?

13 CMSR. SIMPSON: Yes. Go ahead and
14 approach the bench.

15 MS. RALSTON: I'm referring to
16 Attachment DOE 1-012, Mr. Dexter. And I think
17 Exhibit 9 has DOE 1-4. You can correct me, if
18 I'm wrong.

19 Exhibit 9 certainly would have been
20 easier.

21 WITNESS DUDLEY: Okay. I'm ready, Ms.
22 Ralston.

23 MS. RALSTON: Okay. Do you want me to
24 repeat my question?

[WITNESS: Dudley]

1 WITNESS DUDLEY: Yes, please.

2 MS. RALSTON: Okay.

3 BY MS. RALSTON:

4 Q So, is it correct that Attachment DOE 1-012
5 explained that the cost of the Voltage
6 Maintenance Program was higher than originally
7 budgeted due to an increase in the amount of work
8 required to maintain voltage within regulatory
9 limits in 2021, and also provided a breakdown of
10 the increased costs by category, including
11 materials, construction/outside services, labor
12 and overtime?

13 A I do see that, yes.

14 Q And is it possible that more work was performed
15 in 2021 for Voltage Maintenance than was
16 originally planned, and that was the reason for
17 the additional costs?

18 A That can be possible, yes.

19 Q And is it correct that your disallowance relates
20 only to the over budget amount, and that your
21 basis for this disallowance is that it's over
22 budget?

23 A No. The basis for the disallowance is that we do
24 not have enough information to drill down on

[WITNESS: Dudley]

1 those specific expenditures and why they
2 occurred, which is what we would -- the
3 information we would need in order to determine
4 whether or not the cost overrun was prudent.

5 Q So, you just testified that you "haven't had
6 sufficient information". But I think, when we
7 began our discussion of the blanket projects, you
8 stated that "the amount of information provided
9 can be too extensive to review in this tight time
10 period"?

11 A Did you say "expensive"?

12 Q No, I said "too extensive".

13 A "Too extensive". Very time-consuming. Again, we
14 received these spreadsheets from Eversource. We
15 appreciate Eversource sharing those spreadsheets
16 with us. They contain a lot of information,
17 which is part of the problem. What we need, what
18 we don't know, is what information in those
19 spreadsheets to drill down on; only Eversource
20 knows that.

21 And, so, during the course of our
22 review, what we would have appreciated is some
23 guidance from Eversource that would pinpoint
24 where, in these hundreds of line items, they

[WITNESS: Dudley]

1 thought the cost increases arose from. And, at
2 that point, we could look at those individual
3 expenditures, analyze them, and perhaps take a
4 deeper dive with Eversource on the cause of those
5 expenses.

6 The starting point is to pinpoint which
7 expenses they were. And, frankly, Eversource
8 just hasn't been helpful to us in doing that.

9 Q And you're referring to the -- when you say "line
10 item", you're referring to the pivot tables that
11 were provided in August?

12 A Yes.

13 Q Following the tech session?

14 A Yes.

15 Q So, would it be your testimony that if DOE had
16 requested those pivot tables as part of one of
17 the earlier tech sessions, that perhaps there
18 would have been additional time to go through
19 those with Eversource and ask follow-up
20 questions? Is that sort of where the problem
21 lies is timing?

22 A I don't know. I don't know. Maybe. Maybe, if
23 Eversource had assisted us in drilling down on
24 those different line items, it may have resulted

[WITNESS: Dudley]

1 in additional questions.

2 So, I don't know. My answer is "I
3 don't know."

4 Q So, the pivot table provides a list of individual
5 projects under the blanket program. So, what
6 additional information would have been helpful to
7 the Department of Energy's review?

8 MR. DEXTER: Asked -- objection. Asked
9 and answered. The witness has said about three
10 times that he needed specific information about
11 the cost overruns.

12 BY MS. RALSTON:

13 Q Do you agree that there are no cost overruns for
14 these projects, as we previously discussed,
15 because there are no initial project estimates?

16 A No, I don't. I don't agree. Because, again, I
17 think that -- our assumption is that Eversource's
18 budgeting process is, should be, you're
19 experienced enough and rigorous enough to come
20 close to what they're going to spend in a given
21 year.

22 Again, as I stated earlier, and as you
23 said, Ms. Ralston, that Eversource uses
24 historical information. And going back several

[WITNESS: Dudley]

1 years, that's a lot of history.

2 Now, I understand that there are some
3 things that can arise that aren't expected.
4 That's understandable. The question we have is
5 that, when that does arise, were those additional
6 costs prudent?

7 And, without more specific information
8 on what those costs were, we can't make a
9 determination. And, therefore, we cannot make a
10 recommendation to this Commission that those cost
11 overruns were, in fact, prudent, because we don't
12 know.

13 Q And, so, would you expect that an examination of
14 this process will be included in the business
15 process audit as it relates to the blanket
16 project for Maintaining Voltage?

17 A I understand that that's probably part of their
18 assignment, yes.

19 Q And did you hear the Company's testimony on the
20 20th of September that "it has no real control
21 over the work for this blanket project", or "the
22 costs are incurred when there's a really hot
23 summer, when people are running air
24 conditioners", and "in reaction to people

[WITNESS: Dudley]

1 identifying low voltage on the system or customer
2 complaints about voltage issues"?

3 A Yes, I do recall that. Are we still referring to
4 the Reliability Annual?

5 Q No, we're in the Maintain Voltage Project.

6 A Maintain Voltage, okay. Yes, I recall that.

7 Q You recall the Company's testimony, yes?

8 A Yes.

9 Q So, would it be your testimony that it would be
10 imprudent for the Company to move ahead with
11 voltage maintenance projects, in response to
12 specific customer complaints of low voltage?

13 A I don't know that.

14 Q If you could turn to the transcript, at Page 215,
15 Lines 5 through 12. And let me know when you're
16 there.

17 A I'm there.

18 Q And you say here that you're recommending a
19 disallowance of approximately "\$3 million"
20 associated with the Purchase of Transformers
21 Annual Blanket Project, is that correct?

22 A Yes.

23 Q And you testified that the reason for your
24 recommendation is that the "over budget amount

[WITNESS: Dudley]

1 was not adequately explained", correct?

2 A That is correct. And my recollection, from the
3 last hearing, is that the Eversource witnesses
4 were not able to provide an explanation for it
5 either.

6 Q The initial estimated amount for this program was
7 "\$11.5 million", and the final amount was "14.5
8 million", is that correct?

9 A Let me just get to that page. Thank you.

10 Q On the same page of the transcript, if you look
11 at Lines 19 through 22, I think it's there.

12 A So, I believe this is part of Exhibit 7,
13 correct?

14 Q Correct.

15 A Okay. Yes. Okay. Okay, I'm at this point, I'm
16 at my exhibit. Thank you.

17 Q And, if you look at the transcript, at Page 216,
18 Lines 2 through 7, your testimony is that you had
19 heard the Company's testimony at the hearing
20 regarding "a change in the Cost of First
21 Installation." Does it state that there in the
22 transcript?

23 A Yes, it does.

24 Q And then, at Lines 9 through 12, you stated that

[WITNESS: Dudley]

1 "it does not explain the entire cost of the
2 overrun", and you referred to "Attachment DOE
3 1-4", which is included in Exhibit 7, at 399 to
4 400?

5 A Yes.

6 Q And, on the next page of the transcript, Page
7 217, at Lines 4 through 9, you stated that
8 "internal labor and outside services are not
9 included in the cost summary, for the initial
10 cost summary"?

11 A No, it was not. When we first read this, we
12 thought that the entire budget amount was for the
13 purchase of transformers. But, then, we learned
14 in the hearing that there was -- that the -- or,
15 actually, the over budget amount was for the
16 purchase of transformers. And then, we found out
17 in the hearing that it was actually for
18 overheads.

19 Q And those categories of costs were added into the
20 Supplemental Request, is that correct?

21 A Yes, they were.

22 Q And at -- and, in the transcript, at Lines 18
23 through 22, your attorney asked you "Do we have
24 breakdown of how that overall \$3 million increase

[WITNESS: Dudley]

1 fell into three categories of CFI changes,
2 outside services, and internal labor?" And your
3 answer was "No. We have no detail on that." Do
4 you see that?

5 A I'm sorry, could you tell me which line is that?

6 Q Eighteen (18) through 22.

7 A And that's on Page?

8 Q Two eighteen (218).

9 A Yes. Well, the issue there is that -- is that
10 the supplement attempts to explain that the cost
11 overruns were due to, and I quote on -- this is
12 on Page 1 of the Supplemental Request Form, in
13 the third paragraph, the "CFI is a calculated
14 cost based on internal labor and contractor
15 rates. The CFI calculation was updated in 2021
16 for the first time in several years."

17 And, so, it was due to that updating
18 that there was a dramatic increase in the -- in
19 the overheads and labor costs. And, so, one of
20 the questions in our minds is, "why isn't this
21 information updated annually every year?" That
22 would be one way to avoid some of these
23 surprises. And I imagine that this \$3 million
24 amount did come as a surprise to some folks at

[WITNESS: Dudley]

1 Eversource, because they probably believed, as we
2 did, that the initial budget amount was for
3 transformers, and not for additional labor.

4 So, our concern there, with the CFI
5 calculation, is the updating of the information
6 on which it's based.

7 Q I'm not sure you answered my question, was just
8 to refer you to Lines 18 through 22, and confirm
9 that you see where your attorney asked you "Do we
10 have a breakdown of how that overall \$3 million
11 increase fell into three categories of CFI
12 changes, outside services, and internal labor?"
13 And your answer was "No. We have no detail on
14 that." Do you see that testimony?

15 A Yes.

16 Q All right.

17 A Yes.

18 Q Thank you.

19 A We have no specific detail on that.

20 Q And then, on the next page of the transcript, at
21 Page 219, at Lines 7 through 13, you corrected
22 that statement, and indicated that the Company
23 "did respond to a Data Request TS 3-005 on
24 September 9th", that you characterized as "not in

[WITNESS: Dudley]

1 detail". Do you see that?

2 A I do, yes.

3 Q But the \$3 million variance was first identified
4 in the Company's initial filing, isn't that
5 correct? If you refer to Exhibit 1, at
6 Bates 030, Line 19?

7 A That, I can find that on which document,
8 Ms. Ralston?

9 Q Exhibit 1, Bates Page 030.

10 A And that is line what?

11 Q Nineteen (19).

12 A Yes, I see that.

13 Q And then, on May 26, the Company provided its
14 response to Data Request DOE 1-4, which is
15 included in Exhibit 7, at *pdf* Page 2. The
16 Department asked for the PAFs associated with all
17 of the listed supplements that was provided in
18 DOE 1-4. And then, the Company -- and the
19 Company provided the Supplemental Request Form,
20 which showed a breakdown of \$3 million. Do you
21 recall that?

22 A Yes, I do.

23 Q And also, on May 26th, in response to DOE 1-15,
24 which is included in Exhibit 12, Part 2, at

[WITNESS: Dudley]

1 Bates 636, if you need a moment. The Company
2 provided the original form and the supplementals
3 as Attachment DOE 1-15, again showing a breakdown
4 of this \$3 million amount?

5 A Could you again describe what you're referring
6 to?

7 Q Yes. If you look at Exhibit 12, at Page 636.

8 A You're referring to the Supplemental Request
9 Form?

10 Q Yes.

11 A Okay.

12 Q The Company again provided a breakdown of the
13 \$3 million, would you agree?

14 A Yes. And you're referring to the "Supplement
15 Cost Summary"?

16 Q Yes.

17 A Okay. Yes, I have that.

18 Q Okay. So, your testimony on September 20th,
19 regarding a "detailed breakdown", referencing
20 only the Company's response to Data Request TS
21 3-005, which you stated was received on
22 "September 9th", and "did not provide detail", is
23 not exactly the whole story, is it?

24 A Well, the detail is what's behind those numbers.

[WITNESS: Dudley]

1 What's behind the "Internal Labor" increase?

2 What's behind the Outside Services? Why did
3 those two items increase? That's the information
4 that we do not have and we do not know.

5 Q But, if you flip back to Exhibit 7, --

6 A Yes.

7 Q -- does it not state that "the CFI calculation
8 was updated in 2021 for the first time in several
9 years, resulting in the increases to labor and
10 contractor costs"?

11 A Yes, it does. And that's of concern to us.

12 Q And below that, does it state that "Cost
13 increases in the table below include increases in
14 outside services and increases in internal
15 labor", with those exact costs, and that those
16 increases "resulted in the need for the
17 supplement"?

18 A Yes, we see that.

19 Q So, despite having this breakdown, and the
20 explanation regarding increased labor costs,
21 since as early as June, your recommendation
22 continues to be that the \$3 million should be
23 disallowed?

24 A It is, because we still don't have sufficient

[WITNESS: Dudley]

1 detail behind those labor cost numbers. And
2 we're also very concerned by the fact that
3 Eversource does not, or did not, or neglected to
4 update its CFI model.

5 Q Do you expect that to be reviewed as part of the
6 business process audit?

7 A I don't know.

8 Q Let's turn now to Exhibit 6, and the Goffstown
9 Pad Mount Project.

10 A Okay. Just give me a moment.

11 Q Sure. My first questions will be pointing you to
12 the transcript. But, if you want to have
13 Exhibit 6 ready, that's probably helpful.

14 A Okay. Thank you. Okay. I'm there.

15 Q So, if you can refer to the transcript, at
16 Page 208, Lines 17 through 24, you state there
17 that you're "recommending a disallowance of
18 \$371,000" associated with a budget overrun for
19 the Goffstown Pad Mount Transformer. Is that
20 correct?

21 A Can I have those lines one more time,
22 Ms. Ralston?

23 Q Yup. Seventeen (17) through 24.

24 A And this is Page 208?

[WITNESS: Dudley]

1 Q 208.

2 A Okay. What I'm seeing is a question from Mr.
3 Dexter.

4 Q Yes. Because I think you answered "yes" to his
5 question.

6 A Okay.

7 Q So, I will assume you agree with his statement.

8 A If I may just read it?

9 Q Sure.

10 A Yes. Okay. I see that. Thank you.

11 Q Okay. And then, turning to the next page, Page
12 209, at Lines 7 through 11, you stated that your
13 "take away from the project documentation, in
14 particular, the Supplement Request Form, is that
15 some of the cost overruns were known or could
16 have been known at the time of project
17 inception." Is that correct?

18 A Yes, that's correct. And that is based on the
19 "Lessons Learned" section of the Supplement.

20 Q Yes. And, so, the Company outlines, in the
21 "Lessons Learned" portion of its project
22 documentation, it identified improvements for
23 future in order -- for the future, in order to
24 control project costs. And you're using those

[WITNESS: Dudley]

1 lessons learned to argue that the statements
2 there warrant a cost disallowance of half the
3 project costs, is that accurate?

4 A It's not a cost disallowance. But it highlights
5 the problems with the scoping, planning,
6 budgeting these projects.

7 Q Which we would expect to be addressed in the
8 business process audit, correct?

9 A That's part of their review, yes.

10 Q And, if we turn back to the transcript, at
11 Page 209, Lines 12 through 19, which refers to
12 "Attachment TS 2-001B". And states that "if you
13 look at Page 2 of 11, you have kind of a
14 breakdown of the additional costs. And what's
15 noted is that there were costs that not
16 previously estimated in the original PAF." Is
17 that what it states there in the transcript?

18 A Yes, it is.

19 Q And, if we look at Attachment TS 2-001B, which is
20 provided in Exhibit 6, we can see the lessons
21 learned. And, by the "breakdown of additional
22 costs", are you referring to the chart on Page 3
23 that shows the "Prior Authorized" and "New Total
24 Request"?

[WITNESS: Dudley]

1 A I'm referring to the "Supplement Justification
2 Detail" section.

3 Q And where in that document is there a correlation
4 between the lessons learned to particular cost
5 changes?

6 A Well, for example, Item 6, "Project Management
7 Team", it states "Costs previously not estimated
8 in the original PAF." Again, for "Property
9 Taxes", "costs not in the original PAF".

10 It appears to us that most of these
11 costs, "Right-of-Way/Easements/", for example,
12 "Land Acquisition", that obviously was not
13 contained in the original PAF. The need for
14 "Environmental Approvals and Permits", that was
15 not in their additional engineering and design.
16 "Materials", such as "Retention oil system,
17 pre-cast concrete". Those, to us, those are all
18 items that could have been known or should have
19 been known by Eversource.

20 As I stated in my testimony in the rate
21 case, our expectation is that Eversource has the
22 expertise and the knowledge to plan these things.
23 And, indeed, they have the expertise and the
24 experience in planning many projects like this.

[WITNESS: Dudley]

1 And one of our problems, one of the problems in
2 the rate case, and continues to be a problem in
3 the step adjustments, is what we are seeing is we
4 are continually seeing projects where certain
5 expenditures, certain things that needed to be
6 done were missed in the original planning
7 process.

8 And I'll only go back, Ms. Ralston, to
9 a quote from this Commission, a ruling from this
10 Commission, in Docket -- in Docket 19-064, which
11 states "Prudent decisions cannot be made if
12 significant foreseeable cost elements of a
13 project are overlooked at the outset. And
14 meaningful reexamination of costs does not take
15 place during project execution as costs increase.
16 At a minimum, failure to demonstrate that
17 overlooked costs were meaningfully reexamined
18 makes it difficult for a utility to meet its
19 burden to prove its actions were prudent."

20 And it's certainly, in the "Lessons
21 Learned" section, someone at Eversource picked up
22 on that, by stating "Engineering must validate
23 existing conditions prior to finalizing scope and
24 launching detailed engineering."

[WITNESS: Dudley]

1 This highlights another problem that
2 we've seen in the past. In that, existing
3 conditions are not considered. We found out in
4 the rate case, for example, that there are many
5 cases in which Eversource does not conduct site
6 visits, they do not do site walk-downs. Instead,
7 they rely on drawings on file at their office to
8 make these estimates and to scope these projects.

9 It also goes on to say "A scope
10 document should be developed as well as
11 conceptual engineering prior to obtaining an
12 accurate estimate for full funding."

13 "A statement of work should be
14 developed for contracts purposes. This statement
15 of work will give the contractor(s) a better
16 understanding of the scope of work for the
17 project."

18 So, to us, it's all stated in the
19 Lessons Learned, Ms. Ralston. And, you know, we
20 appreciate the fact that someone at Eversource
21 recognized that and highlighted that for
22 management to consider going forward.

23 But the problem we have is that we see
24 these types of things, we see these types of

[WITNESS: Dudley]

1 deficiencies over and over and over again. If it
2 were just one or two projects, maybe three, we
3 wouldn't be quite so concerned about it. But
4 what we see, in these cases, is a continuation of
5 the same problems.

6 CMSR. SIMPSON: Mr. Dudley, what were
7 you just reading from?

8 WITNESS DUDLEY: I was reading from the
9 Supplemental Form that is a part of TS 2-001,
10 it's in Exhibit 6.

11 CMSR. SIMPSON: Do you have a Bates
12 page?

13 WITNESS DUDLEY: I'm sorry. My pages
14 are not Bates. But it is on Page -- it's Page 4
15 of 11 of the Supplement.

16 CMSR. SIMPSON: Okay. Thank you.

17 MS. RALSTON: Thank you.

18 BY MS. RALSTON:

19 Q And, so, what you just testified to, that would
20 all be addressed as part of the business process
21 audit, correct?

22 A That is part of scope, yes.

23 Q And, in the "Lessons Learned" section you were
24 just referring to, does it state anywhere that

[WITNESS: Dudley]

1 there were costs that could have been identified,
2 but that were not?

3 A No. Only that certain things were not
4 identified.

5 Q And do you recall the Company's testimony on
6 September 20th that, after this project was
7 funded, that there were additional field survey
8 and topographic information that had to be
9 obtained, as well as onboarding of a site design
10 firm to complete the site design and site plan
11 application, as well as a Zoning Board
12 application to the Town of Goffstown?

13 A Yes.

14 Q And is it your testimony that the Company could
15 have quantified these additional costs revealed
16 by the completed site design work without
17 completing the site design work?

18 A That is a question that remains unanswered.

19 Q Is it your testimony that the Company should have
20 done all this work to complete the site design
21 and incur the associated cost, before it decided
22 to go forward with the decision to fund the
23 project?

24 A That is a reasonable expectation.

[WITNESS: Dudley]

1 Q And did you hear the Company's testimony that,
2 after it was funded, and after the completion of
3 the site design, that the Company went back to
4 the civil vendor with a revised design, which
5 included significant impact of select fills,
6 drainage, paving, fencing and gates, which were
7 not specifically available at the time of the
8 previous estimate?

9 A We don't know whether or not those items were
10 available. That wasn't explained to us.

11 Q Well, I just asked "did you hear the Company's
12 testimony to that?"

13 A I did hear the Company's testimony, yes.

14 Q And did you hear the Company's testimony that,
15 after energization of the completed project, that
16 the Company had to remediate transformer sound
17 levels for the neighbors?

18 A I'm sorry, could you repeat that again?

19 Q Do you recall the Company's testimony that, after
20 the project was energized, that the Company had
21 to remediate transformer sound levels for the
22 neighbors?

23 A Yes, I do.

24 Q And is it your testimony that the Company should

[WITNESS: Dudley]

1 have known that transformer sound levels were
2 going to bother the neighbors after the unit was
3 energized?

4 A I believe transformer noise is a common problem
5 with neighbors. That's experienced, yes.

6 Q And, if we go back to the Lessons Learned that
7 you were referring to, does it state that the
8 site design should have been completed at the
9 conceptual stage of estimating the project?

10 A Well, it does say "prior to finalizing scope".
11 So, my assumption is "yes."

12 Q And, under the Lessons Learned, the three bullets
13 mention a "scope document", is that correct?

14 A Yes.

15 Q Is it possible that these references to a "scope
16 document" simply mean that the Company -- mean
17 what the Company witness testified, which was
18 that all the project appeared to be was a typical
19 roadside distribution project similar to all
20 other pad mount transformers, but that the
21 suburban location, on a newly acquired land
22 caused a larger project?

23 A I don't know what specifically is meant by a
24 "scope document". My reading of that, of that

[WITNESS: Dudley]

1 paragraph, is that it's a recommendation, a
2 suggestion. But I'm not aware of any "scope
3 document".

4 Q Even if the larger project profile could have
5 been known, the costs emanating from the
6 completed site plan would not have been known
7 before the project was given the go-ahead, is
8 that correct?

9 A I apologize, Ms. Ralston. Could you repeat it
10 one more time? I'm sorry.

11 Q Even if the larger project profile could have
12 been known, the costs emanating from the
13 completed site plan would not have been known
14 before the project was given the go-ahead, is
15 that correct?

16 A Well, my understanding from Mr. Plante was that
17 it had -- the project was originally at about
18 \$675,000 at the initial funding request, and then
19 there was a request of 75,000 to complete the
20 initial engineering.

21 But, then, we noticed that, in the
22 actual Operations Authorization Form, the project
23 was actually at 407,000. And which we found that
24 confusing, and Mr. Plante was unable to elaborate

[WITNESS: Dudley]

1 on that in his testimony.

2 So, you know, here we are, now we have
3 a project that was budgeted at 407,000, and we
4 have a nearly doubling in the cost amount of this
5 project.

6 Q The Company's capital project authorization
7 framework allows for staged estimates, knowing
8 that it will be necessary to authorize work to
9 move forward before detailed engineering plans
10 being finalized, is that correct?

11 A I'm not familiar with the "staged estimate"
12 process.

13 Q Okay. Isn't it correct, though, that the total
14 cost of the project still came in at half the
15 cost of the alternatives?

16 A It did. But the alternatives weren't chosen.
17 And, also, the "Alternatives" section was
18 deficient, because it did not explain why the
19 preferred alternative was chosen. It only talked
20 about the two alternatives which were not chosen.
21 And, again, there's no explanation as to why the
22 initial estimate was placed at 675,000, and then
23 the request -- the budget request was for
24 407,000.

[WITNESS: Dudley]

1 Q So, if the Company managed this project well
2 within the range of reasonableness, below the
3 cost of the identified alternatives, you would
4 still argue that a disallowance would be
5 appropriate?

6 A Well, it depends. What do you mean by the "range
7 of reasonableness"?

8 Q That the costs were prudently and reasonably
9 incurred consistent with the estimate.

10 A Well, the estimate was "407,000". And then, what
11 we have now is a project that costs almost double
12 that. And our understanding is that it's because
13 a lot of those costs were not considered in the
14 original scoping and planning of the project.
15 And, again, we believe that the Lessons Learned
16 section confirms that.

17 So, within -- within the bounds of
18 reasonableness, I guess, for us, "within the
19 bounds of reasonableness" is whether or not you
20 can build a project within its budget, it's
21 ascribed budget.

22 Q Would you agree that this project is used and
23 useful for customers?

24 A If it's in the 2021 step, yes, it's used and

[WITNESS: Dudley]

1 useful. But the "used and useful" standard does
2 not reach the "prudence" standard.

3 Q And would you also agree that the final project
4 costs were still below the alternatives?

5 A It was below the alternatives. But, again, the
6 alternatives were not -- were not implemented.

7 MS. RALSTON: Thank you. Those are all
8 my questions on that project. I do have some
9 more questions. But would it be possible to take
10 a brief break?

11 CMSR. SIMPSON: Yes. Let's take a
12 ten-minute break. We'll return here at 10:45.

13 MS. RALSTON: Thank you.

14 CMSR. SIMPSON: Off the record.

15 *(Recess taken at 10:35 a.m., and the*
16 *hearing resumed at 10:52 a.m.)*

17 CMSR. SIMPSON: Please proceed,
18 Attorney Ralston.

19 MS. RALSTON: Thank you.

20 BY MS. RALSTON:

21 Q Mr. Dudley, we're going to discuss Emerald Street
22 now.

23 A Okay.

24 Q So, if you can turn to the transcript, at

[WITNESS: Dudley]

1 Page 196, Lines 13 through 18.

2 A Okay, I am there.

3 Q Okay. And do you see that you were asked a
4 question by your counsel as to whether "it is
5 correct that the underlying Settlement sort of
6 has a threshold that says...the step adjustment
7 won't include "growth-related projects"?" And
8 you answered "yes", that is your understanding of
9 the Settlement. Do you see that?

10 A Yes, I do.

11 Q And, on the following page, 197, Lines 14 through
12 22, do you see where your counsel is asking you
13 whether "it is your understanding that the reason
14 for not including load growth or growth-related
15 projects in a step adjustment is because the step
16 adjustment is one-sided," meaning that it
17 "doesn't recognize any changes in the Company's
18 revenues, as were examined in the underlying test
19 year?" Do you see that?

20 A Yes, I do.

21 Q And your answer -- and your answer to that was
22 "our understanding" -- "That is our
23 understanding, yes." Correct?

24 A Correct. Yes.

[WITNESS: Dudley]

1 Q And by "our", you mean "Department of Energy",
2 correct?

3 A Correct.

4 Q And, turning now to transcript Page 201, at Lines
5 17 through 24, your testimony is that Department
6 of Energy "does not contest the whole idea that
7 the equipment in the substation is at or near its
8 obsolescence." But that the project
9 documentation references "new additional
10 loading". Is that correct?

11 A Yes.

12 Q And did you hear the Company's testimony on
13 September 20th that the area study referencing
14 3.1 percent growth was developed in 2012?

15 A Yes.

16 Q And did you hear the Company's testimony, also on
17 September 20th, that that "3.1 percent load did
18 not materialize"?

19 A Yes, I did.

20 Q And did you hear the Company's testimony that the
21 "growth forecast played no role in the solution
22 ultimately selected for Emerald Street"?

23 A Yes, I did hear that.

24 Q Did you hear the Company's testimony that it

[WITNESS: Dudley]

1 acquired a mobile transformer to address the
2 particular loading issue identified to occur in
3 2014, eliminating that issue from consideration?

4 A I recall the use of the mobile transformer, yes.

5 Q And did you hear the Company's testimony that the
6 capacity of the substation is lower today than
7 before the Emerald Street upgrade?

8 A Yes, I did hear that.

9 Q And did you hear the Company's testimony that
10 "the station is not oversized", and it is "needed
11 for reliability purposes to provide redundancy
12 and backup"?

13 A Yes, I do recall that.

14 Q So, is it your testimony today that the Emerald
15 Street upgrade was completed to address load
16 growth?

17 A Well, my testimony today is that, first of all, I
18 heard Mr. Johnson's testimony. He mentioned
19 that -- that the load growth did not materialize.
20 Our understanding is that Eversource came to that
21 realization once the project was underway.

22 But our view of what Mr. Johnson told
23 us is essentially hindsight. In other words,
24 hindsight doesn't apply to our review of what's

[WITNESS: Dudley]

1 going on here. And, by that, I mean that what
2 we're interested in is what the Company knew, or
3 should have known, at the time it made its
4 decision. And it's obvious to us, from the --
5 from the Keene Area Study itself, and the initial
6 technical statement, which went to approval at
7 Eversource for the project, both of those
8 documents represent load growth. And the
9 technical statement from Eversource stated that
10 it "relied on the Keene Area Study", and that
11 part of that was additional loading at the
12 substations provided by that load growth.

13 So, all the indications to us that
14 we've -- from reading that initial documentation
15 is that, at the time of project inception, load
16 growth was a key factor in driving the need for
17 the project.

18 Q I think we established earlier that the
19 Settlement Agreement provided for three step
20 adjustments, correct?

21 A Yes.

22 Q Okay. And those three step adjustments are
23 addressed in Section 10.3 of the Settlement,
24 correct?

[WITNESS: Dudley]

1 A Yes, they are.

2 Q Okay. And do you recall that the Settlement
3 Agreement spelled out the terms and conditions of
4 each of the three step adjustments?

5 A Yes, I do.

6 Q And do you recall the language that -- do you
7 recall that language was included specifying the
8 types of projects and programs that would be
9 included in each step?

10 A Yes.

11 Q Is there language in Section 10.1 of the
12 Settlement Agreement specifying the types of
13 projects and programs that would be included in
14 each step?

15 A Let me just get there.

16 Q Sure. Exhibit 16, at Bates 020.

17 A Okay. And you said "Section 10", correct?

18 Q 10.1.

19 A 10.1. Yes, I have it.

20 Q Okay. And do you see Section 10.1(c)ii, where it
21 states "This step shall include only allowed
22 projects and programs closed to plant in 2021,
23 excluding new business/growth-related projects"?

24 A Yes.

[WITNESS: Dudley]

1 Q And that's referencing "Step 3", correct?

2 A Correct.

3 Q Okay. And is this the language that you are
4 relying on to recommend that the Emerald
5 Substation Project be excluded as a growth
6 project?

7 A Yes.

8 Q Do you recall that this exact same language was
9 used for Step 1, in Section 10.1(a)ii? And you
10 can just look, you don't have to recall.

11 A Yes, I see that.

12 Q Okay. And do you see the same language for Step
13 2, in Section 10.1(b)ii?

14 A I do, yes.

15 Q Okay. And do you recall that Step 2 contained a
16 provision, Section 10.1(b)iii, regarding
17 specification of the projects that were eligible
18 to be included in the step recovery?

19 A I'm sorry, you're referring to Subsection iii?

20 Q Yes, 10.1(b)iii, where it states "The projects
21 and programs that may be included in this step
22 are identified in the listing attached as
23 Appendix 5. The Settling Parties agree that the
24 Company may substitute projects prior to the

[WITNESS: Dudley]

1 commencement of the review period if projects
2 identified in this appendix are not deployed."

3 A Yes. I do see that.

4 Q Okay. Since the time of the Settlement
5 Agreement, have you reviewed the list of projects
6 included in Appendix 5 to refresh your memory?

7 A No. My focus was primarily on what was submitted
8 by Eversource in this docket, which was the --
9 what we referred to as the "Master List".

10 Q Okay. If we turn to Appendix 5, which you should
11 have in front of you, at Page 6 of 10, do you see
12 that the title says "Step Adjustment 2 - Projects
13 Anticipated to be Placed in Service in 2020
14 Excludes New Business Projects"?

15 A Yes, I do see that.

16 Q And do you see, on Page 7 of 10, at Line 56, it
17 states "Specific Project A14W01: Emerald Street
18 S/S"?

19 A That's "Line 59".

20 Q Oh. Thank you.

21 A Yes, I do see it.

22 Q Okay. And Step 2 covered completed plant
23 additions in 2020, is that correct?

24 A Yes.

[WITNESS: Dudley]

1 Q So, your testimony is that the Settlement
2 Agreement went so far as to include a specific
3 listing of projects designated as "not new
4 business", and that may be recovered in the step,
5 but also included the Emerald Street Substation
6 that you're asserting is ineligible for recovery?

7 A Well, I don't -- I don't recall that from the
8 second step adjustment. I guess my question
9 would be, what part of the Emerald Street
10 expenditure was included in Step Adjustment 2,
11 since it's also being -- since recovery is also
12 being sought in the third step adjustment? I
13 guess that would be a question.

14 Q Well, this is --

15 A But I do -- I don't argue with you that it's here
16 on the list.

17 Q Okay. And just to clarify, this was the list of
18 projects expected to be included in Step 2.

19 A Okay.

20 Q Not necessarily what was included in Step 2.

21 A Okay.

22 Q And I believe earlier you testified that you
23 participated in the development of the Settlement
24 Agreement, including review of documents,

[WITNESS: Dudley]

1 correct?

2 A I did. But I did not draft the language
3 concerning growth.

4 Q Okay. Why would the Parties specifically state
5 that "the listed projects may be included in this
6 step", and then include a project like Emerald
7 Street, if it could not be included?

8 A Your question is "why was it included if it
9 cannot be included?"

10 Q Yes.

11 A I don't know.

12 Q Okay. The Emerald Substation Project was
13 completed and closed in 2021, instead of 2020, is
14 that correct?

15 A Yes.

16 Q Okay. And, so, can I refer you back to
17 Exhibit 1, the Master List?

18 A Yes. Just one second. Yes. Okay, I'm there.

19 Q Okay.

20 CMSR. SIMPSON: Do you have a Bates
21 page on Exhibit 1?

22 MS. RALSTON: Yes. Bates 029.

23 CMSR. SIMPSON: Thank you.

24 MS. RALSTON: On Line 15.

[WITNESS: Dudley]

1 BY MS. RALSTON:

2 Q And do you see that Line 15 is for Project Number
3 "A14W01", "Emerald Street S/S"?

4 A Yes, I do.

5 Q And did the Company provide information in
6 Exhibit 15, at Bates 009 through 010, explaining
7 the reasons that this project completion was
8 delayed from 2020 to 2021?

9 A The actual explanation for the delay was actually
10 contained in a data response, as I recall.

11 Q Yes. Exhibit 15 is the data request I'm
12 referring to.

13 A Okay. And that would be -- I'm just checking,
14 but I believe it's "Data Request TS 1-006"?

15 Q I think I'm referring to the one from TS Set 3,
16 but there could be additional information in
17 another request.

18 A Okay.

19 CMSR. CHATTOPADHYAY: Can you repeat
20 the page number for Exhibit 15?

21 MS. RALSTON: Yes. Bates Page 009.

22 **BY THE WITNESS:**

23 A Yes. Okay, Ms. Ralston. So, it also involves
24 TS 3-002?

[WITNESS: Dudley]

1 BY MS. RALSTON:

2 Q Okay. Yes. That's the one I'm referencing.

3 A Okay.

4 Q Yes. Okay. And then, if we could turn to the
5 transcript, at Page 207, Lines 2 through 4. You
6 state here that "it is correct that there was
7 nothing in the initial filing that went to
8 address the variance", is that correct?

9 A If I may just read it?

10 Q Sure.

11 A You're referring to Mr. Dexter's question?

12 Q Yes. Yes, I guess you didn't state it, but you
13 agreed with Mr. Dexter's characterization.

14 A Yes. And I believe Mr. Dexter is referring to
15 the \$3 million variance.

16 Q Okay. And at Lines 13 through 17, you state that
17 "the Company did provide the project documents
18 that were required as laid out in the
19 Settlement", correct?

20 A Yes, they did.

21 Q But your testimony is that a detailed variance
22 analysis should have been included in the initial
23 filing?

24 A Well, what we discovered in looking at the

[WITNESS: Dudley]

1 project documentation was that we did receive the
2 Supplement, which involved the \$5 million
3 increase, \$5.8 million increase in 2009, for a
4 total of \$16.8 million. But what we found in
5 Exhibit 1, in the Master List, was that the
6 amount actually put into rate base was
7 approximately 20 million. So, there was a
8 \$3 million variance, which is disclosed here.
9 But there's nothing -- there's nothing in the
10 project documentation that discusses that or
11 describes it.

12 Q If we turn to Exhibit 1, at Bates 029, Line 15
13 again, you see the "Emerald Street Substation"
14 listed there?

15 A Yes.

16 Q And it calculates a variance of approximately
17 \$3.4 million, in Columns N and O, respective --
18 or, 20 percent, in Column N and Column O,
19 respectively?

20 A Yes, I see that.

21 Q Okay. Does it also state, in Column U, over to
22 the right, that a "Supplement is not needed as
23 the direct costs were 9.5 percent over and below
24 the threshold for a supplement"?

[WITNESS: Dudley]

1 A Yes. I saw that. And I understand it. Our
2 problem is that we -- we noticed it immediately,
3 and we were wondering what was behind it, and
4 there was nothing in the filing to explain it.
5 But I understand why a supplement wasn't filled
6 out, that's under the policies and procedures.

7 Q So, earlier you testified that the "initial
8 filing was satisfactory to Department of Energy",
9 but you also are testifying that they should have
10 included additional details?

11 A Well, what we have is, Ms. Ralston, in Exhibit 1
12 is a Master List, showing a variance of
13 \$3 million. But nothing in the filing to explain
14 it. So, obviously, we're going to ask the
15 question.

16 Q And do you recall that, pursuant to the Company's
17 capital authorization policy, that a Supplemental
18 Request Form is a document that would require a
19 written justification for an increase?

20 A Yes, I understand that.

21 Q And do you recall that a Supplemental Request
22 Form is not needed for distribution operation
23 projects over \$250,000, if the actual direct
24 costs do not exceed 10 percent of budgeted direct

[WITNESS: Dudley]

1 costs?

2 A Yes. Yes, I understand all of that.

3 Q Okay. And did you check to see whether the
4 documentation produced for the Emerald Street
5 Project was consistent with the capital
6 authorization policy?

7 A My assumption was that it was.

8 Q And, if the project documentation was consistent
9 with this policy, then a variance of direct costs
10 less than 10 percent does not need a written
11 variance justification, correct?

12 A That's correct, but we do.

13 Q And, so, you state that you had to inquire about
14 it at the August 31st technical session, but that
15 the variance was also identified in the original
16 filing, correct?

17 A Yes.

18 Q Okay. Out of the 66 projects listed in Exhibit
19 1, at Bates Page 029, approximately 50 of those
20 have negative variances, between pre-construction
21 and post-construction costs, indicating that
22 project costs were less than estimated. Would
23 you agree with that?

24 A I did not make a count. But I'm willing to

[WITNESS: Dudley]

1 accept your statement.

2 Q Of the 16 projects that have positive variances,
3 only eight have variances greater than 10
4 percent. Would you agree to that, subject to
5 check?

6 A Subject to check, yes.

7 Q So, if you wanted an explanation of the variance
8 that went beyond the Company's project
9 documentation requirements, why didn't the
10 Department of Energy issue data requests?

11 A Well, I thought that we did. We certainly talked
12 about it in the tech session, which gave rise
13 to -- if you just give me a moment to get there.

14 Well, first of all, it gave rise to
15 TS 1-006S, only because it was explained to us in
16 the tech session that there were additional costs
17 associated with environmental cleanup, including
18 PCB contaminated material that contributed to
19 that cost overrun.

20 We did inquire about it further. We
21 did inquire about it further in TS 3-002, where
22 we discuss the \$3.4 million cost that was in
23 excess of the approved, the supplement --
24 approved supplement amount. So, we did inquire

[WITNESS: Dudley]

1 about it.

2 Q So, you just referenced "TS 1-006". The Company
3 provided that response in July, would you agree?

4 A Yes, they did.

5 Q Okay. And do you recall whether that response
6 reflected the total project cost?

7 A I'm looking through it now.

8 Q I'm looking at Exhibit 5, at Bates 038.

9 A Just a moment.

10 Q 039, sorry.

11 A No, I don't see the total cost mentioned. What I
12 do see are additional costs that came into play
13 as the project progressed.

14 Q Can you turn to Bates Page 039 of Exhibit 5? Do
15 you see the chart on that page?

16 A Again, I'm sorry, I don't have the Bates pages.
17 But I'm assuming it's Page 3 of that response?

18 Q Page 5.

19 A It's Page 5? Okay. I have a chart on Page 7,
20 Page 7 of 7 of that data response.

21 Q Are you looking at TS 1-006 or a supplemental
22 response?

23 A I'm looking at "TS 1-006S".

24 Q Okay. I think that's where the problem is. I'm

[WITNESS: Dudley]

1 looking at the original response.

2 A You're looking at the original?

3 Q Yes.

4 A Okay. All right. Let me see if I can pull that
5 up.

6 [Short pause.]

7 **BY THE WITNESS:**

8 A Okay. I think this was part of a -- if I'm not
9 mistaken, it was part of a mass filing of
10 responses. So, if you have a hard copy you can
11 share with me, Ms. Ralston, that would be
12 wonderful.

13 MS. RALSTON: Give me one moment.

14 *[Atty. Ralston distributing document to*
15 *the Witness.]*

16 WITNESS DUDLEY: Okay. Thank you.

17 BY MS. RALSTON:

18 Q And, if it's helpful, if you turn back to Bates
19 Page 035, Part (d) of the request was to provide
20 a "Final cost breakdown...of the \$19.5 million".

21 A Yes, I see that. And the reason for that was to
22 confirm that there's an associated project with
23 this project, which was a transmission project.
24 And the reason for that request was to make sure

[WITNESS: Dudley]

1 that costs from the transmission project were not
2 commingled with the distribution project.

3 Q Yes. And then, on Bates Page 039, there's a
4 chart showing a breakdown of the costs, correct?

5 A Yes.

6 Q Okay.

7 A Showing both distribution and transmission.

8 Q Right. And, so, the Company received that
9 breakdown as part of this response. And then,
10 the Company also received the additional detail
11 you previously mentioned, in response to TS 3-002
12 on August 31st, correct?

13 A Yes.

14 Q Okay. So, is it your position that the Company
15 has failed to provide sufficient documentation or
16 that you simply had additional questions?

17 A Well, we had additional questions. TS 1-006,
18 again, involved costs that may have been from the
19 transmission project that may have been carried
20 over to the distribution project. We're not
21 saying that they were, we just wanted to confirm
22 that they weren't. We were able to confirm that
23 they were not.

24 But, then, as time went on, we became

[WITNESS: Dudley]

1 more curious about what led up to the 3.4 million
2 cost overruns. And then, we had the follow-up --
3 or, actually, Eversource provided us with the
4 Supplement. And that is where we see, on Bates
5 Page, I do have Bates pages on this one, Bates
6 Page 005, we see, in TS 3-002, there's a chart or
7 a table that provides the \$3.4 million amount.
8 Again, that was TS 3-002.

9 Q Correct.

10 A So that, actually, in a roundabout way to answer
11 your question, that's what we were looking for,
12 in terms of the 3 million.

13 Q What was provided in 2- -- 3-002?

14 A Yes.

15 MS. RALSTON: Okay. Thank you. No
16 further questions.

17 CMSR. SIMPSON: Okay.

18 MR. DEXTER: Commissioner, could I just
19 ask for an exhibit number on that last exchange?
20 When Mr. Dudley said it was provided in "TS
21 1-003", is that Exhibit 9? No. Fifteen.

22 MS. RALSTON: I think he was referring
23 to 3-002, correct?

24 MR. DEXTER: 3-002.

[WITNESS: Dudley]

1 WITNESS DUDLEY: Yes. I have it,
2 Mr. Dexter, as Exhibit 15.

3 MR. DEXTER: Exhibit 15. And can you
4 give the page number please?

5 WITNESS DUDLEY: And it starts on
6 Page 4.

7 MR. DEXTER: Okay. Okay. Thank you.
8 Exhibit 15, starting at Page 4. Thank you.

9 WITNESS DUDLEY: Yes.

10 CMSR. SIMPSON: Ms. Ralston, you
11 referred to a letter from the Department of
12 Energy filed on September 16th of 2022, listing a
13 list of recommended disallowances?

14 MS. RALSTON: Yes.

15 CMSR. SIMPSON: Do you intend to offer
16 that as an exhibit?

17 MS. RALSTON: No, I do not.

18 CMSR. SIMPSON: Okay.

19 MS. RALSTON: I think it's been covered
20 through testimony. I was just trying to give a
21 helpful reference.

22 CMSR. SIMPSON: Okay.

23 MR. DEXTER: Commissioner, I wrote the
24 letter. I'd be happy to offer it as an exhibit,

[WITNESS: Dudley]

1 if it's helpful to the Bench.

2 CMSR. SIMPSON: Okay. I'll premark
3 that.

4 MR. DEXTER: So, that would be "Exhibit
5 18"?

6 CMSR. SIMPSON: I believe it will be --
7 I believe "18". Thank you.

8 (The document, as described, was
9 herewith marked as **Exhibit 18** for
10 identification.)

11 CMSR. SIMPSON: And, Attorney Dexter,
12 was your question answered --

13 MR. DEXTER: Yes.

14 CMSR. SIMPSON: -- with respect to the
15 prior exchange?

16 MR. DEXTER: Yes, I just -- yes, I just
17 wanted the exhibit and page number, which Mr.
18 Dudley provided, Exhibit 15, starting at Page 4.

19 CMSR. SIMPSON: Great. Thank you. All
20 right. I'll recognize Commissioner
21 Chattopadhyay.

22 CMSR. CHATTOPADHYAY: Thank you,
23 Commissioner Simpson.

24 BY CMSR. CHATTOPADHYAY:

[WITNESS: Dudley]

1 Q So, I heard that, just based on the responses
2 that you were providing to the questions,
3 basically what I grasped was that, you know, the
4 Company was providing information to you about
5 lots of projects. Some of the projects had
6 overruns, and you are focused on the overruns.
7 And then you needed more explanation as to why
8 there were the overruns.

9 The Company did get into specific
10 elements of each project, but it's still not
11 sufficiently explained to your satisfaction as to
12 why those overruns are there. So, that's how
13 I'm -- I kind of -- I thought that's what I was
14 hearing at least.

15 So, the question that I have for you to
16 start with is, can you give me a sense of, just
17 pick any project, and what kind of information
18 would you need to come to a conclusion that,
19 okay, that properly explained, you know, why
20 there was an overrun?

21 And I understand your point about the
22 burden of proof lies with the Company. But give
23 me a little bit of sense as to, when you look at
24 a project, and then they have provided the

[WITNESS: Dudley]

1 information, what additional information you
2 would have required to be able to properly
3 conclude whether a project should be included or
4 not?

5 A Well, Commissioner, we have the amounts. We know
6 what the amounts of the cost overruns were. So,
7 that's the starting point.

8 Next, we have to figure out what
9 that -- we have to get behind that number and
10 figure out what it represents. And that
11 typically involves different line items,
12 different expenditures, and what gave rise to
13 those additional expenditures.

14 So, we have the "what", in terms of the
15 numbers. We have the spreadsheets that provide
16 the numbers. But what we don't know is why those
17 costs -- why those expenditures contributed to
18 the cost increases. And not only why, but why
19 could they have not been foreseen by the Company
20 at the time of scoping and planning? That's the
21 information we don't have.

22 For example, as I stated, in a couple
23 of these projects -- a couple of the blanket
24 projects, we have these very large spreadsheets.

[WITNESS: Dudley]

1 And, yes, they total to the exact amount. They
2 list all the work order numbers, and the
3 expenditures associated with those work order
4 numbers. But what we are unable to do is to pin
5 down, within those 400 line items of
6 expenditures, what expenditures contributed to
7 the cost increase, and why? If we had that
8 information, then we could say "Okay, you know,
9 such and such a work order number, you know,
10 these problems were encountered, and that was the
11 reason for the cost increase." We don't have any
12 of that information. All we have is a 400-line
13 spreadsheet with expenditures. There's no
14 elaboration, there's no explanation.

15 And, so, as an analyst, and
16 representing the Department of Energy, I can't
17 say to you that that cost overrun was prudent,
18 because there's no support for it. In other
19 words, we need to -- we see these cost overruns,
20 we need to get behind those numbers and drill
21 down what the actual causes were. And that's the
22 information that's missing here.

23 Q So, for example, I'm just going to quickly look
24 at this, for example, Exhibit 7, right, it

[WITNESS: Dudley]

1 provides, again, to the best of my understanding,
2 what the Company is projecting initially
3 beginning of the year, and then what's --
4 whatever happened over the year, and then there's
5 a Supplement Request Form.

6 Are you saying that those, that
7 information within that document, isn't
8 sufficient for you to determine, you know,
9 whether something was done prudently or not?
10 And, if you have any opinion on what else you
11 needed, when you look at the -- that, for
12 example, what you have in Exhibit 7, what else
13 will you need to come to a conclusion that, "yes,
14 now, I can tell for sure whether this project
15 is -- the over/under is explainable or not"? So,
16 that's what I was trying to focus on. Can you
17 give me a sense of that?

18 A We need to determine what's behind those numbers.
19 For example, you're using the example of the
20 Purchase Transformers. And the explanation that
21 they provide is that "The CFI calculation was
22 updated in 2021 for the first time in several
23 years", meaning it has not been updated annually.
24 And I'm sure to their surprise, they found that

[WITNESS: Dudley]

1 those overheads had increased a lot with the new
2 formula information. And that's indeed what
3 happened.

4 Our concern -- that's one -- one of our
5 concerns is that the formula, which is used on a
6 lot of projects, wasn't updated for several
7 years. That's a big concern of ours. It should
8 be updated every year so this doesn't happen.

9 But the other problem with this is it
10 goes on to say the "Cost increases in the table
11 below include \$2.2 million increase in outside
12 services and 1.57 [1.457?] million in internal
13 labor." The question is, "what gave rise to
14 that?" Part of the answer is that they did not
15 update their model.

16 But the other part of the question is,
17 you know, "okay, so, what's actually behind those
18 numbers?" We don't know.

19 Q Did you specifically ask the questions that you
20 just raised in data requests to the Company, or
21 did you discuss those things in the technical
22 sessions?

23 A Both. We did both. We discussed them in the
24 tech session, and we also issued data requests to

[WITNESS: Dudley]

1 find out.

2 Q And your position is that those responses still
3 did not provide you enough information, as, for
4 example, the elements that you just talked about?

5 A They were not sufficient. They did provide us
6 additional information, but it wasn't specific.

7 Q Can you clarify whether those were DRs, or were
8 they something that you discussed at the
9 technical session?

10 A It was both. And, you know, we can -- at the
11 tech sessions, with some of these questions,
12 Eversource wasn't able to answer, understandably,
13 they had to take it back to the office and
14 consider it. And, so, then, we would have data
15 requests that memorialize those questions. Then,
16 we'd receive the data responses, which, as I
17 stated earlier, for at least a couple of the
18 blanket projects, we did receive the pivot
19 tables, with numerous lines of expenditures.

20 Again, our understanding with the
21 Company was they would try to pinpoint for us
22 which of those expenditures contributed to the
23 cost overruns; that didn't happen. We just got
24 the plain pivot table, and, apparently, we were

[WITNESS: Dudley]

1 supposed to figure that out for ourselves. So,
2 that's where we are.

3 Q But did you follow up on that, and ask, you know,
4 "This isn't sufficient information. The kind of
5 information we are looking at is this, and please
6 clarify"?

7 A Given the time in the procedural schedule, there
8 wasn't time for additional discovery.

9 Q But did you discuss it during a technical session
10 or --

11 A Those questions are what led up to the data
12 requests, yes.

13 Q So, you are talking post tech session?

14 A Yes. Yes. Correct. Yes. These were data
15 requests that arose out of the tech session.

16 Q When you talk about, you know, "the Company
17 should have foreseen", can you give me a sense of
18 what kind of information the Company should have
19 foreseen when providing, you know, when providing
20 estimates? Just give me some examples?

21 A Well, very generally, it's the --

22 *[Court reporter interruption.]*

23 **CONTINUED BY THE WITNESS:**

24 A -- permitting costs. When you undertake a

[WITNESS: Dudley]

1 project, our presumption is that, you know,
2 you're going to know, or you should know, that
3 there may be permitting issues, local permitting
4 issues, or state permitting issues. They go --
5 some of the supplements do go through the
6 additional costs, and state that "a lot of those
7 costs were not foreseen in the PAF." We have --
8 we have some supplementals that talk about
9 "lessons learned". Not all of them have a
10 "Lessons Learned" section, but some do. And they
11 point out the deficiencies in the original
12 scoping and planning of the project and what
13 should have been done, what should have been
14 looked like [sic], like, you know, the need for a
15 contractor. Well, our presumption is that you
16 should know that, instead of hiring a contractor
17 halfway through the project. The need for
18 additional engineering around design. We feel
19 that -- we think that that's knowable.

20 Environmental issues with a project,
21 which we did find with Emerald Street.
22 Eversource has owned most of these substations
23 for many decades. There should be a history
24 there that, "Hey, we have an environmental

[WITNESS: Dudley]

1 problem at this particular location." But, as I
2 pointed out earlier this morning, a lot of the
3 time Eversource doesn't conduct a site visit,
4 they don't do a site walk-down to see what the
5 conditions are on the ground. Now, that doesn't
6 always occur; sometimes they do. What we find is
7 that that process is very spotty.

8 But, typically, those are the types of
9 things that you should do at the very least. In
10 our view, if you're going to expand the
11 substation, you should at least visit the
12 substation to find out what's going on on the
13 ground. You know, "How much is this going to
14 cost?" You know, "Do we need additional
15 fencing?" "Do we need additional permitting?"
16 "Are there going to be noise issues with the
17 neighbors, if we do this expansion?"

18 Those are all things that we believe
19 are knowable and should be considered. The list
20 is -- well, the list is quite long, Commissioner.
21 I mean, we can go on about that. But those are
22 things, to us, we believe are things that are
23 knowable, things that need to be considered.

24 And, again, you know, we go into this

[WITNESS: Dudley]

1 based on the presumption that the Eversource
2 engineers, the project managers are very
3 experienced, they're very knowledgeable. And,
4 frankly, when those types of things aren't
5 considered and aren't analyzed, we're very
6 surprised by that.

7 BY CMSR. CHATTOPADHYAY:

8 Q You mentioned "this is a long list." But did you
9 again specifically ask the Company about, you
10 know, why those elements of the list were not
11 looked at? Like, do you have any DRs or tech
12 session focused, focused questions that you can
13 remember that, you know, you actually asked the
14 Company to furnish more information why?

15 I know you were surprised. But I'm
16 just curious whether that was further probed?

17 A Well, I'm just -- I'm checking on some of them,
18 if you just give me a minute.

19 Q Yes.

20 A I know there were questions about that.

21 Q And, if it's part of the record, then good, but
22 I'm not sure it is. It may be just DRs that were
23 not provided as part of the record.

24 MS. RALSTON: If I may, the Company

[WITNESS: Dudley]

1 included all the DRs as part of our exhibits.
2 So, they should be in the record.

3 CMSR. CHATTOPADHYAY: Okay. Thank you.

4 **BY THE WITNESS:**

5 A Well, I don't have anything here, in terms of
6 DRs, Commissioner Chattopadhyay. But my
7 recollection is that they were discussed in the
8 tech session.

9 BY CMSR. CHATTOPADHYAY:

10 Q Okay. We all know that 2021, in fact, 2020 and
11 '21, they were quite peculiar years because of
12 the pandemic.

13 A Uh-huh.

14 Q Did you discuss how the pandemic may have
15 impacted what the Company had to do to get
16 projects done, given how, you know, generally, I
17 know, as far as, as an economist, that there were
18 a lot of supply bottlenecks and all of that
19 happening at the same time. Maybe that happened
20 with transformers as well.

21 And I'm just curious whether, did
22 you -- did the DOE probe the impact of pandemic?
23 And I'm just -- please respond, yes.

24 A No, we did not. We did not explore that in this

[WITNESS: Dudley]

1 docket.

2 Q Is there a reason why you didn't?

3 A Well, we took the project documentation that was
4 provided at face value. The project
5 documentation, some of which dates back two or
6 three years, mentioned nothing about the
7 pandemic. However, I do recall that we did look
8 at a project in Berlin, where Eversource did run
9 into some labor issues there, staffing issues,
10 because of the pandemic. But that was the only
11 place I recall seeing it. That Berlin project
12 was initially on our review list, but we took it
13 off. Because, frankly, we found -- we did find
14 good explanations as to why there was a cost
15 overrun on that particular project. So, we took
16 it off our list.

17 But, no. I mean, we rely on the
18 project documentation to tell us what the
19 conditions are, and under what conditions
20 Eversource made its decisions. What we reviewed,
21 except for that Berlin -- that instance with
22 Berlin, we didn't find any mention of COVID. So,
23 we didn't think to ask the question.

24 Q For that specific example, did the DOE raise the

[WITNESS: Dudley]

1 specter of pandemic or just came up as part of
2 the response, based on whatever the DR was?

3 A It would be -- it would be in the response.

4 Q Okay.

5 A But it's not the subject matter that we brought
6 up.

7 Q Okay. So, just maybe one or two more questions,
8 more just trying to understand the processes.

9 So, just going back to the Settlement,
10 if you look at Exhibit 5 -- sorry, Appendix 5 of
11 the Settlement, for Step Increase 1 and Step
12 Increase 2, there's a whole list of projects
13 there. Either part of the Settlement, or as part
14 of the discussions during the -- in the other
15 docket, I'm just curious whether there were
16 initial estimates provided for the projects?

17 A In terms of the attachment?

18 Q In terms of the attachment, but I'm saying not
19 necessarily just in the Settlement documents, but
20 you may have had a good sense of what those
21 estimates are from the docket itself. So, I'm
22 just -- I'm just curious whether you had a sense
23 of what the costs are going to be?

24 A We had some sense of what the costs were,

[WITNESS: Dudley]

1 because, subject to check, I'm going on
2 recollection, but it was either Mr. Lajoie or
3 Ms. Menard provided a forecast for the step
4 adjustments, and the forecasted expenditure
5 amounts were provided. But, again, those are
6 just forecasts. This, in the attachment, is just
7 a forecast.

8 But, yes, we did have some -- some
9 sense, in terms of what Eversource had projected
10 for step adjustments.

11 Q So, for Step 2, when you were -- if you were
12 thinking about the "overrun" question, you did
13 have a benchmark?

14 A We had a -- what we had was a projected budget
15 amount. We didn't have a firm budget amount at
16 that time. So, we didn't -- we really didn't
17 have any information on which to base a judgment.
18 That comes much later, after the project has been
19 completed, then we know or kind of know what
20 happened.

21 Q You didn't have any, even if projections, any
22 numbers for the initial estimate for Step 3, did
23 you?

24 A I don't recall. I don't believe those numbers

[WITNESS: Dudley]

1 were provided, but I would have to check on that
2 for you.

3 Q Are you concerned or DOE concerned about also
4 what those estimates may be, and whether those
5 estimates themselves are properly arrived at?
6 Just talking about the initial estimates.

7 A No, we don't have a great deal of concern about
8 it. Again, these are projections, we take them
9 at face value. We take them as we find them.
10 When the rubber hits the road is when the
11 projects are completed, and then they come in for
12 the actual step adjustment.

13 But one of our concerns, though, with
14 these kinds of step adjustments, is that they
15 essentially contain the entire capital project of
16 the utility. And that, because of that, it's
17 become a very cumbersome process to review them.
18 When I first started, when I first started with
19 the PUC, as PUC Staff, in my first two rate cases
20 I worked on, the number of projects, under a
21 single step adjustment, were about three or four
22 very large projects. Somehow, over the years,
23 this snowballed into the whole kitchen sink.

24 And, so, that's a big concern of DOE,

[WITNESS: Dudley]

1 like we are just talking about it and discussing
2 it in the IR docket that was recently opened.
3 But that's our primary concern with some of these
4 step adjustment proposals in these rate cases, is
5 that they are very, very large.

6 Q So, what I'm hearing is you kind of take the
7 initial estimates at face value, and like you
8 don't -- and then you're more concerned about the
9 overruns around that. Is that -- is that a fair
10 assessment of what I can take from what you're
11 saying?

12 A Yes. The way -- the way Eversource's budgeting
13 system operates is that, you know, when these
14 projects are proposed, you know, we get a project
15 that's a forecast. There typically is no project
16 documentation, such as a Project Authorization
17 Form, available for any of those projects during
18 this stage of the rate case, because those
19 projects are still in the inception form. So,
20 there's nothing for us to look at at that point
21 in time. That's why I say, you know, we take the
22 projections at face value, and it gives us some
23 idea of what to expect. But, short of that, we
24 have to wait until the actual step adjustment

[WITNESS: Dudley]

1 filing comes in.

2 Q Do you believe that the pandemic reality may have
3 contributed to the overruns? And I know that you
4 said you did not probe it. But do you think it's
5 possible that that might have happened?

6 A I think it's possible. However, if it was an
7 issue, our presumption is that Eversource would
8 have discussed it in the documentation.

9 CMSR. CHATTOPADHYAY: Okay. That's all
10 I have. Thank you, Commissioner Simpson.

11 CMSR. SIMPSON: Thanks, Commissioner
12 Chattopadhyay. Thanks for being here, Mr.
13 Dudley.

14 WITNESS DUDLEY: Uh-huh.

15 CMSR. SIMPSON: I have a few general
16 questions to clarify some issues, and then I'd
17 like to jump over to the letter that outlines the
18 recommended disallowances on behalf of the
19 Department of Energy.

20 BY CMSR. SIMPSON:

21 Q So, looking at the 19-057 Settlement, you were
22 involved in that case, and you're familiar with
23 the terms of the Settlement Agreement?

24 A Yes, I am.

[WITNESS: Dudley]

1 Q Do you know why we had an expected project list
2 for Steps 1 and 2, but not an expected project
3 list for Step 3?

4 A As I recall, the list for Step 3 wasn't
5 available -- it had not yet been compiled and was
6 not available.

7 Q And that would have been the Company would have
8 had some projection of projects for calendar year
9 2021?

10 A Yes. They had projections for calendar year 2020
11 and 2019. But, as I recall, that particular
12 projection was not available or not ready.

13 Q And, in principle, do you have an objection to
14 projects that were characterized as eligible for
15 either Steps 1 or 2 moving to a subsequent step?

16 A Well, it's hard to say, because, again, these --
17 these are proposed projects. Some of them may
18 happen, some of them may go away. We don't know
19 at this point in the process. So, I don't know.
20 This is a proposal. Except for the amount of
21 projects contained in it, we had some concerns --
22 well, we had concerns about the size of it. But
23 there was nothing that immediately jumped out at
24 us to make -- cause any alarm, in terms of what

[WITNESS: Dudley]

1 they were proposing, again, except for the number
2 of projects and the size.

3 Q Okay. And, as a general matter, thinking about
4 eligibility of capital placed in service for a
5 step, do you have an objection to the Company
6 doing more than they plan, if they're able to
7 strongly justify it?

8 A If they're able to strongly justify it and
9 support it, no, we have no problem with that.

10 Q Okay. There was some discussion with respect to
11 a "CFI model", and my recollection is that it
12 pertained to the Purchase of Transformers?

13 A Yes.

14 Q Is that correct?

15 A Yes. But my understanding of the formula is
16 that, if I may, I think I have that still here.

17 Q And, if you could start at the beginning of the
18 "CFI model" for me, in your own words, explain to
19 me your understanding of it and how the mechanism
20 works, that would be very helpful.

21 A Well, I can't -- I have no inner knowledge of how
22 the formula actually works. I only know what it
23 is. It's the Cost of First Installation formula,
24 and used to calculate overheads for a project.

[WITNESS: Dudley]

1 Whether or not it's used for every project, I
2 don't know that. How it is calculated, I don't
3 know.

4 What I do know, what this, the project
5 documentation, this Supplement Request Form for
6 the Purchase Transformers Project tells us is
7 that it was not updated for several years.
8 Which, as I stated, that's a concern for the
9 Department.

10 But I can't -- I wish I could tell you
11 how the formula works, but I don't know. Perhaps
12 some of the Eversource witnesses can.

13 Q Have you reviewed or interacted with that formula
14 in other cases before the Commission?

15 A I have heard of it before, yes.

16 Q And, historically, the topic of it being
17 "updated" to reflect market conditions or
18 business practice, that's not something that
19 you've been part of in the past?

20 A No, I haven't. And I don't recall, there may
21 have been discussions about it, but I don't
22 recall.

23 Q Okay.

24 A Only that I'm aware that it exists and it's used.

[WITNESS: Dudley]

1 Q Okay. Commissioner Chattopadhyay asked you some
2 questions about the impacts of the pandemic, and
3 whether the global pandemic affected the
4 Company's planning and implementation of these
5 projects. When do you think the 2021 projects
6 that are before us within the step agreement
7 would have been scoped and planned?

8 A Well, the planning process, my understanding of
9 Eversource's process, is that it begins early,
10 typically, in the last quarter of the previous
11 year. That's when they do a lot of their
12 planning. That's when the technical statements
13 go to the budget committees for approval.

14 Q Okay. All right. So, we've marked the list of
15 recommended disallowances from the Department as
16 "Exhibit 18". I'd like to jump over to that
17 please.

18 And one of the challenges that the
19 Commission has faced, in understanding both the
20 very vast record, which has several thousand
21 pages within the exhibit list, and then,
22 subsequently, the Department's recommended
23 disallowances, is trying to square both of those,
24 because we primarily have this list of

[WITNESS: Dudley]

1 disallowances and the Audit Report from the
2 Department of Energy. Is that a fair
3 characterization --

4 A Yes.

5 Q -- of what's before us?

6 A Yes.

7 Q Okay.

8 A Aside from the project documentation that was
9 submitted.

10 Q Uh-huh.

11 A And the data responses.

12 Q Which I'm including within that --

13 A Yes.

14 Q -- several thousand pages of documentation within
15 the record before us.

16 So, the Nashua Work Center Renovation
17 and the Millyard Substation Project, the Company
18 has agreed to remove those from the step. So,
19 they're not on the table anymore?

20 A Correct. Yes.

21 Q All right. And you've gone through exhibits in
22 your letter, 5 through 10. And it appears to me
23 that your concerns are driven by either two
24 issues that you've recognized in your review:

[WITNESS: Dudley]

1 Either an issue with documentation and support
2 that's been provided for inclusion within the
3 step adjustment, and/or a business process issue.
4 And we've removed the topic of the audit that's
5 ongoing. So, I don't want to bring that up.

6 A Uh-huh.

7 Q But concerns that you have with how the Company
8 has conducted themselves in planning, executing,
9 and subsequently supporting these projects. Is
10 that a reasonable characterization of your
11 concerns?

12 A That is a reasonable characterization,
13 Commissioner Simpson, but there is a different
14 aspect to that. That is that the Department has
15 a statutory obligation to provide, as much as
16 possible, a complete record for the Commission to
17 consider. And that's what we strive to do.

18 And, if we are -- if the quality of the
19 information that we get isn't sufficient for us
20 to make a recommendation to the Commission
21 regarding prudence, then we can only recommend
22 that the expenditures were imprudent. That's our
23 obligation. That's what we do. We're obligated
24 to study these projects, and to determine whether

[WITNESS: Dudley]

1 or not they were prudent and reasonable.

2 Q Okay. So, looking at Exhibit 5, would you
3 characterize your recommended disallowance as
4 primarily driven by a lack of information
5 provided to the Department by the Company, or a
6 perceived lapse in business judgment by the
7 Company?

8 A Well, Exhibit 5 is the Emerald Street Substation,
9 and we're not recommending a disallowance on that
10 one. We're recommending a deferral to the next
11 rate case.

12 Q I guess I should be clear, a disallowance from
13 this step adjustment?

14 A From the step adjustment, yes.

15 Q Okay.

16 A Yes.

17 Q And --

18 A Well, the fact -- the primary factors for us,
19 again, is "what did the Company know or should
20 have known at the time they approved the
21 project?" Well, what they -- what they did know
22 was that the project, one of the primary driving
23 factors for the project was load growth in the
24 Keene area, and that was provided in the Keene

[WITNESS: Dudley]

1 Area Study, and also asset condition. And we
2 find that repeated, not just -- we do find that
3 repeated in the Keene Study, but we also -- Keene
4 area study, but we also find it in Eversource's
5 own initial project documentation. They
6 acknowledge and accept the find -- at that time,
7 they acknowledged and accepted the findings of
8 the Keene Area Study. So, our only conclusion
9 was that "Okay, at the time that they approved
10 the project, they understood that there was going
11 to be load growth in the area, and that was a
12 factor."

13 Q So, with that in mind, why do you think, within
14 the approved Settlement Agreement, that there is
15 a line item for Emerald Street as eligible for
16 Step 2?

17 A I don't recall. I'd have to go back and look at
18 that, to see whether or not it was actually
19 included. My understanding, from Ms. Ralston's
20 questioning, was that that project was taken out
21 of Step 2. But I'd have to go back and confirm
22 that.

23 Q Okay.

24 A And the reason why it was taken out of Step 2 is

[WITNESS: Dudley]

1 it appeared in Step 3. The utilities, with these
2 step adjustments, the utilities are allowed to,
3 again, these, the list that they provide us in
4 settlement, are proposals, they're forecasts, and
5 they are allowed -- they are allowed to make
6 substitutions, if they find that necessary.

7 Q And that was primarily why I was asking you
8 earlier about the list of eligible projects
9 within Step 1 and 2, and whether you have a
10 general objection to moving projects between
11 steps for some reason or another?

12 A No. I have no objection to it.

13 Q Okay.

14 A You know, as long as it's reasonable, and we are
15 aware of it and we understand it, we have no
16 objection to it.

17 Q Okay. So, then, Exhibit 6, which is the
18 Goffstown Project, now, this one you are
19 recommending a disallowance over and above not
20 including it within the step, correct?

21 A Yes. That's correct.

22 Q And, looking at the -- recognizing the statutory
23 obligation that the Department has,
24 characterizing a gap that you see, whether in the

[WITNESS: Dudley]

1 record or in a business judgment, would you
2 characterize this disallowance in either one of
3 those or both?

4 A I would say it's both, in this particular
5 instance. Mostly business judgment, and, again,
6 that -- that is specified in the "Lessons
7 Learned" section of the Supplement.

8 Q Do you have a -- can you refresh my memory as to
9 the exhibit?

10 A That is contained as part of Exhibit 6. It is
11 the Supplement Request Form, that's dated January
12 14th, 2021.

13 MR. DEXTER: The "Lessons Learned"
14 appear on Page 4 of 11?

15 WITNESS DUDLEY: Yes.

16 BY CMSR. SIMPSON:

17 Q So, if the Company, they had a project scoped,
18 they went through the project, and at the end of
19 the day the results were not in line with what
20 they had initially predicted. And there's a
21 reflection of opportunities for improvement.
22 Explain why you believe this should be a
23 disallowance, from a business process standpoint?

24 A Well, again, the "Lessons Learned" piece to this

[WITNESS: Dudley]

1 is hindsight, right? "This is what we should
2 have done, could have done, would have done" --

3 Q Yes.

4 A -- "if we had known that to begin with." In
5 prudence review, hindsight is not applicable. In
6 prudence review, what we, again, what we look at
7 is "what did management know or what should they
8 have known at the time that they made the
9 business decision, at the time they made the
10 investment decision?"

11 Our determination on this particular
12 project, based on -- based on what was contained
13 in the "Lessons Learned" section, and based on
14 what we know from the rate case and from the last
15 two step adjustments of Eversource's scoping
16 process, that there were deficiencies in that
17 process. It wasn't scoped completely. It
18 wasn't -- there were known and knowable
19 expenditures that should have been considered,
20 and they were not. And, so, our only conclusion
21 that we can reach from that is that it was not a
22 prudent process, and that the cost overrun itself
23 is not prudent.

24 Commissioner Simpson, I mean, it's

[WITNESS: Dudley]

1 helpful -- our expectation certainly is that
2 their process is to improve. And, in some
3 respects, they have, based on some things that we
4 know about it. For example, I believe it was Mr.
5 Johnson mentioned in the last hearing about the
6 "challenge sessions" that they now have when
7 presenting a project before the capital
8 expenditure committee, the name escapes me, I
9 think it's called "EPAC". But they now have
10 challenge sessions where the judgment and the
11 completeness of an engineer's proposal is
12 questioned and challenged. That's a fairly new
13 process. My understanding is it's a fairly new
14 process. And we hope that that contributes to an
15 improved process going forward.

16 But what we are concerned with is the
17 decisions that were made in 2021. And why
18 certain elements of -- certain cost elements of
19 some of these projects were overlooked? We don't
20 have an answer to that question.

21 Q Okay. Thank you. Let's look at Exhibit 7,
22 Purchase of Transformers. So, once again, this
23 is not just a recommendation to not include these
24 costs within the step adjustment, this is a

[WITNESS: Dudley]

1 recommended disallowance in recovery, correct?

2 A Yes. Correct.

3 Q And your justification here is that the project
4 "has not been adequately explained". So, this is
5 an issue of the evidence in the record, not as
6 much a business decision?

7 A Well, no, it does include part -- it's part of a
8 business decision, because, as we -- Commissioner
9 Chattopadhyay and I talked about earlier, was
10 that the CFI formula was not updated. That's a
11 business decision. Again, it's the Department's
12 view that those formulas, those calculations
13 should be updated every year, so that this type
14 of thing doesn't happen.

15 But, no. We don't -- again, we don't
16 know what's actually behind those additional
17 expenditures. And we don't know enough about the
18 model to know what was driving it within the
19 model itself; that wasn't explained.

20 Q Okay. For Annual Reliability, once again,
21 disallowance "317,000", provide your
22 characterization for me, from fact and business?

23 MR. DEXTER: Commissioner, before the
24 witness answers, I just want to point out that

[WITNESS: Dudley]

1 that's the amount that I updated at the first
2 hearing. That's a typographical error. And the
3 recommended disallowance is "913,000".

4 CMSR. SIMPSON: Okay. Thank you. I
5 appreciate the clarification.

6 **BY THE WITNESS:**

7 A I'm sorry, Commissioner. You were talking about
8 the Reliability Annual Program?

9 BY CMSR. SIMPSON:

10 Q Yes.

11 A Okay. The problem with this one is, basically,
12 the Supplement provides no details on the
13 causes of the cost overrun. And that's on Page
14 1, if you see, if you look at Page 1 of the
15 Settlement [Supplement?], we have this, at the
16 very last line, the very last paragraph, we have
17 this very cryptic statement that says "Investment
18 in the distribution line reliability program was
19 higher than originally budgeted due to more work
20 being performed on the system than anticipated to
21 improve overall reliability of the system."

22 What that -- what that tells us,
23 basically, is "We spent more money because it
24 cost more." That's the extent of the explanation

[WITNESS: Dudley]

1 in this document. So, what are we supposed to
2 think of that?

3 You know, what -- you know, our
4 expectation at the Department is that these cost
5 overruns, these expenditures, be explained in a
6 way that we can ascertain what actually happened,
7 and why it happened. A statement like this
8 doesn't do that. It doesn't meet that standard.

9 Which is why we asked additional
10 questions in the data requests, that we received,
11 as I said, the 400 some odd line pivot table,
12 with a number of different expenditures. And
13 very interesting, you know, it all totals up to
14 the total, you know, it comes out to the exact
15 amount. But, again, it doesn't answer the
16 question as to the origin, and it doesn't answer
17 the question to the "why" of the cost overruns,
18 except for the fact that the CFI model was wrong.
19 But we still want to know what's behind those
20 numbers, and we don't. We don't know.

21 If Eversource had done what we had
22 asked them to do, which was to delineate which
23 one of those expenditures contributed to the cost
24 overruns, then it would have been easier, it

[WITNESS: Dudley]

1 would have been easier for us to ascertain. It
2 probably would have led to more questions, but at
3 least it was a starting point for us to figure
4 out what was going on. That didn't happen. We
5 don't have that information. We don't know.

6 Q We have a lot of witnesses in this docket that
7 provided testimony. Have you, and this is a
8 general question with respect to all of the
9 recommended either disallowances or deferrals,
10 have you found the responses that the Company
11 witnesses have provided on the record as
12 enlightening or informative, with respect to some
13 of the issues that you faced within your review?

14 A What we found was that the responses of the
15 witnesses pretty much mirrored what we learned in
16 the data responses. We did learn a few things
17 new about Emerald Street, and what the actual
18 load growth is there. As it turns out, it's
19 somewhere around one percent, which we would
20 argue it's still growth, it may be meager, but
21 it's still growth.

22 We learned a few other things about --
23 we learned from Mr. Plante some additional
24 information about the environmental issues that

[WITNESS: Dudley]

1 they ran into. That's all well and fine.

2 But, for the most part, no. We didn't
3 learn anything at the last hearing that would
4 cause us to change our opinion and our
5 recommendation.

6 Q Okay. In the interest of completeness, let's
7 look at 8 and 9, provide -- or, excuse me, 9 and
8 10, the "Maintain Voltage Project" and the
9 "Submarine Cable", provide a similar summary as
10 you just did for us for these two?

11 A Well, in Exhibit 9, which is the Maintain Voltage
12 Annual, again, these are all similar issues to
13 what we experienced in the Reliability Project.
14 Again, we requested, you know, a pivot table with
15 all of that cost information. We had asked
16 Eversource to please pinpoint for us in the table
17 those expenditures that contributed to the cost
18 increase; that was not done. Going down through
19 it line-by-line, we have no -- it's all very
20 interesting, but we have no idea what contributed
21 to the cost increase; only Eversource knows that.

22 And we have a justification in the
23 Supplement for additional resources that
24 Ms. Ralston referred to earlier. Again, that's

[WITNESS: Dudley]

1 fine. These are all -- these are all materials,
2 construction. But -- we have the numbers, but we
3 don't know what's behind the numbers. We don't
4 know why that happened.

5 Q And have you found the Company to be responsive,
6 when you've had the opportunity to ask them
7 questions about these issues?

8 A In some cases, yes. It's a mixed bag. In some
9 cases, yes; in some cases, no.

10 Q Do you think that looking at the step process
11 generally, the condensed timeframe presents a
12 challenge? I believe you testified to that
13 earlier.

14 A It does now, particularly now, only because we
15 are experiencing workload issues and staffing
16 issues within the Department. I've been here for
17 about eight years, and I've never witnessed
18 anything quite like that. We've lost, over the
19 past year, we've lost some very top-level people.
20 We have hired some additional people, a couple of
21 additional people. They're still in the very
22 beginnings, very infancy of their training. So,
23 much of the workload has fallen on two of us
24 within the Department.

[WITNESS: Dudley]

1 And, so, when a filing like this comes
2 in, it's, you know, it takes a lot of time, as
3 you well know now that you've look at it. It
4 takes a lot of time to go through all this
5 information and sort it out.

6 And, so, whether or not the 90 days is
7 still valid, I'm not so sure. Because, as I
8 stated before, this review process is fairly new,
9 it's only a couple of years old. And we were not
10 quite sure of what to expect when we proposed it
11 in settlement. We thought 90 days would be a
12 good timeframe to do it. Certainly, at that
13 time, we had the resources to do it, and now we
14 don't.

15 But the other -- the other major factor
16 is that this is the whole kitchen sink. Except
17 for growth projects, this is the entire capital
18 budget of the utility in every step adjustment,
19 and we have to go through it. And, in
20 Eversource's case, it's about 200 projects. So,
21 it's very time-intensive. We lost our
22 engineering expertise. We've now recaptured
23 that, with our consulting arrangement with RCG,
24 River Consulting Group. So, we do have access to

[WITNESS: Dudley]

1 some engineering expertise.

2 But, again, we would -- and, if you're
3 asking me what we'd recommend in the IR docket,
4 we'd probably recommend that the --

5 Q I'm not asking you that.

6 A Oh, all right. Okay.

7 Q When we, as the Commission, approved the
8 Settlement Agreement in 19-057, what do you think
9 the motivating factors were to enable the Company
10 to pursue three step adjustments prior to their
11 next base rate case?

12 A Well, the stated motivating factor is "regulatory
13 lag" is what they're concerned about, and the
14 time in between rate cases. And what this --
15 what step adjustments do is it essentially tides
16 them over until they are ready to file a new rate
17 case.

18 Q Why do you think the Commission supported step
19 adjustments at that time?

20 A They, going off recollection again, my assumption
21 is that they accepted the argument of "regulatory
22 lag". And they also saw the amount of investment
23 that the utilities were spending. And they
24 probably saw the -- and, again, this is just my

[WITNESS: Dudley]

1 presumption, they probably saw that there was
2 some justification for it.

3 I believe, in hindsight, we're now
4 relooking at that presumption. And, you know, we
5 may change it.

6 But, at the time, I think they
7 basically accepted the idea "Yes, there is
8 regulatory lag. The utilities continue to
9 invest, invest heavily in their infrastructure.
10 And we need a process to account for that."

11 That's the best I can tell you, based
12 on my understanding of what went on.

13 Q How do you think step adjustments provide for
14 rate incrementalism?

15 A I don't know. I don't know how to answer that.
16 They certainly have an impact on rates. But
17 it's -- the only thing that's missing from a step
18 adjustment review is that we're not reviewing
19 revenue requirements. It's not a revenue
20 requirement review. I've heard it referred to as
21 kind of a "mini rate case". I'm not too sure
22 that that characterization is accurate. But
23 we're certainly looking at the plant in service,
24 the rate base side of the ledger.

[WITNESS: Dudley]

1 And one would think that it would
2 have -- it would have an effect on the -- let's
3 say, let's refer to a term, I think I'm using the
4 right term, I'm talking about the rate shock that
5 you would see in a rate case if there were no
6 step adjustments. I don't know the extent of
7 that. That's not something that I've studied.
8 But it probably cuts down on the incrementalism,
9 the effect of not having incrementalism, in terms
10 of -- well, it also depends on how far -- how
11 many years there are in between a rate case as
12 well. That certainly has an impact.

13 But, again, I think at the time the
14 Commission's idea was "Okay, this is a smoothing
15 mechanism. This is a way to smooth it, smooth
16 things out in between rate cases. And we'll go
17 along with it."

18 CMSR. SIMPSON: I think that's all I
19 have. Thank you, Mr. Dudley.

20 WITNESS DUDLEY: Thank you.

21 CMSR. SIMPSON: Oh, excuse me.

22 Commissioner Chattopadhyay.

23 CMSR. CHATTOPADHYAY: Very quickly.

24 BY CMSR. CHATTOPADHYAY:

[WITNESS: Dudley]

1 Q Just looking at Exhibit 7, and I'm going back to
2 the issue of Cost of First Installation. I
3 recall that the first day of the hearing there
4 was a discussion about how the "Internal Labor"
5 and "Outside Services", those two rows, when the
6 numbers for the prior authorized number is zero,
7 then you have the supplemental request, and, you
8 know, that's what's driving the change, and
9 that's what's actually discussed in Page -- just
10 a moment. There's no -- there are no Bates
11 numbers. So, I'll go with -- it's 399 of 450.

12 So, you were discussing about "CFI".
13 What I'm trying to understand is, and I know
14 there was some issue with the number not being
15 reflected properly, leaving aside that issue,
16 you're essentially saying that "CFI should be
17 updated every year", right?

18 A Yes.

19 Q And have you -- have you personally, or do you
20 know of whether that is how it's done for other
21 utilities? And is that something that the DOE is
22 always aware of, you know, like there's a new
23 estimate for the CFI? Or, is that something just
24 you stumbled upon in this, in this docket?

[WITNESS: Dudley]

1 A We're not aware of it. But we did become aware
2 of it in this docket when we saw that. And, to
3 us, it's an obvious question. Economic
4 conditions change every year, inflation, the
5 inflation rate changes, especially now, interest
6 rates change. So, there's always -- there's
7 always a constant level of changes within the
8 economy and the marketplace, as you know,
9 Commissioner. And those things, those issues
10 impact, my understanding is, they impact this
11 calculation.

12 And, so, I guess the question is, "Well
13 why wouldn't they update it every year, so they
14 have an accurate result from the formula?" To
15 us, it's only prudent to update this kind of
16 information every year, again, to maintain
17 accuracy.

18 Q Purely based on my recollection, and, you know,
19 maybe I'll have to go back and read the
20 transcript again, but what is being described in
21 the chart here, which is the next page, which is
22 400 of 450, it's almost like, you know, it wasn't
23 accounted for properly, so, we're going to adjust
24 it. That's how it appears, the first two rows.

[WITNESS: Dudley]

1 Do you know what the actual numbers were?

2 And this may have been discussed in the
3 first day of the hearing. I'm just trying to get
4 a sense of "what is the actual change in the
5 CFI?" Because, clearly, the first two cells, you
6 know, this can't be true.

7 A Beyond what's represented here, Commissioner
8 Chattopadhyay, we don't know.

9 CMSR. CHATTOPADHYAY: Okay. Thank you.

10 CMSR. SIMPSON: Okay. Attorney Dexter,
11 do you have substantial redirect for your
12 witness?

13 MR. DEXTER: No. Minimal. I could do
14 it right now or we could take a break.

15 CMSR. SIMPSON: Please.

16 MR. DEXTER: Well, I think -- okay.
17 Then, I will do redirect right now.

18 CMSR. SIMPSON: Yes.

19 **REDIRECT EXAMINATION**

20 BY MR. DEXTER:

21 Q And I think I'm really just going to ask one
22 question. And it concerns Exhibit 7 that
23 Commissioner Chattopadhyay was just referring to.

24 And my question to Mr. Dudley is,

[WITNESS: Dudley]

1 there's been a lot of discussion today about the
2 "CFI", and "the Company not updating the CFI."
3 But I recall from your September 20th testimony
4 that a major concern that the Department had with
5 this Transformer Project is that the original
6 authorization listed all the transformers under
7 "Materials", and had a fairly minor amount of
8 indirect costs added to that. And that there was
9 no cost attributable to "Internal Labor" or
10 "Outside Services". Do you recall that being a
11 concern of yours on September 20th?

12 A Yes, I do.

13 Q And is that still a concern of yours?

14 A Yes, it is.

15 Q Is it a concern of yours because the information
16 that was provided in that first authorization,
17 where there was no breakdown of internal or
18 outside services, internal labor or outside
19 services, do you recall the Company testifying
20 that they had no explanation as to why that was
21 done?

22 A Yes, I do recall that.

23 Q And do you recall the Company saying that it was
24 a mistake?

[WITNESS: Dudley]

1 A Correct.

2 Q So, given that the information was incorrect, I
3 recall you testifying that that led to your
4 conclusion that the decision to purchase the
5 transformers was made on bad information, and,
6 therefore, in your mind, not a prudent decision?

7 A Yes.

8 Q Is that essentially what your testimony was on
9 September 20th?

10 A Yes, it was.

11 Q In addition to the CFI?

12 A Correct.

13 MR. DEXTER: That's all I have.

14 CMSR. SIMPSON: Okay. So, we're going
15 to take a ten-minute break.

16 Ms. Ralston, you intend to provide a
17 closing?

18 MS. RALSTON: Yes.

19 CMSR. SIMPSON: It would be helpful if
20 you're able to comment on the feasibility of
21 annual updates to the CFI in your closing.

22 MS. RALSTON: Okay.

23 CMSR. SIMPSON: If you can't, let us
24 know.

[WITNESS: Dudley]

1 MS. RALSTON: Could I ask Mr. Dudley
2 one follow-up question on the issue of CFI?
3 Would that be acceptable?

4 CMSR. SIMPSON: Attorney Dexter, do you
5 have any objection to that?

6 MR. DEXTER: I didn't ask about the CFI
7 on redirect, I don't think. And, so, I think any
8 recross would have to be limited to the redirect.
9 I think I only asked about the things other than
10 the CFI.

11 So, yes, I do object.

12 CMSR. SIMPSON: Okay. No.

13 MS. RALSTON: Okay.

14 CMSR. SIMPSON: All right. We're going
15 to take a ten-minute break. We'll return at
16 12:30.

17 MR. DEXTER: Commissioner, when -- oh,
18 we're off the record? I just wanted to --

19 CMSR. SIMPSON: We're still on the
20 record.

21 MR. DEXTER: I just wanted to ask, when
22 we return, are we moving directly to closing
23 arguments or is there anything else to do?

24 CMSR. SIMPSON: We will be moving

1 directly to closing.

2 MR. DEXTER: And could you give us the
3 order of presentation of closings before the
4 break, that might be helpful?

5 I mean, generally, this side of the
6 table goes first, and the Company gets the last
7 say. And I have no problem with that.

8 CMSR. SIMPSON: That's my intention.
9 So, we'll recognize the Department first, and
10 then the Company.

11 MR. DEXTER: Okay. Thank you.

12 CMSR. SIMPSON: Okay. We'll be back
13 at, let's say, 12:35. Off the record.

14 (Recess taken at 12:23 p.m., and the
15 hearing resumed at 12:38 p.m.)

16 CMSR. SIMPSON: Okay. Back on the
17 record.

18 I will recognize Attorney Dexter for
19 closing argument on behalf of the Department of
20 Energy.

21 MR. DEXTER: Thank you, Commissioners.

22 I want to note at the outset that I
23 indicated that our preparation for this hearing
24 today was impeded by the discovery matters that

1 arose just prior to the hearing, in an order that
2 we felt was -- at a time that we felt was not
3 consistent with the procedural schedule
4 established. And, while I appreciate the
5 Commissioners ruling on the motions, and removing
6 the business process audit from this case, which
7 I believe was the proper decision, the fact
8 remains, we appear today after a week of
9 substantial distraction. And we have done our
10 best today to present our case and our closing.
11 And we'll continue in that vein.

12 We also understand that those motions
13 have been denied, and that there's no reason for
14 us to submit further papers on those. And I
15 assume that's the case, but maybe the Bench could
16 just clarifying that at some point before we
17 close today. I am not planning on filing a
18 written response, as I indicated in my earlier
19 letter, based on today's ruling.

20 What I'd like to do in closing today is
21 essentially do what Commissioner Simpson did in
22 your cross-examination, and that is to focus this
23 case on the actual issues that are before the
24 Commission. And that are the -- those are the

1 five or six recommended regulatory treatments
2 that the Department of Energy laid out in its
3 September 16th letter, and which Mr. Dudley
4 expounded upon in testimony on the 20th of
5 September, as well as today.

6 And it's important, I think, because
7 this case is complicated. We actually have
8 different remedies proposed in some instances,
9 and we have different underlying reasons for
10 those remedies. Some of which was brought up
11 today, in the questioning by the Bench, but I
12 want to go over it in detail, because I believe
13 it's important. And I'm going to take them in
14 the order that we laid them out on in our
15 September 16th letter.

16 The deferral of the Elm [Emerald?]
17 Street Substation, our recommendation here is for
18 the Commission to keep this simple, and focus on
19 the actual -- the actual facts. The step
20 adjustment language, the language in the
21 Settlement, excludes growth-related projects.
22 That's not in dispute. The Emerald Street
23 Substation was undertaken to serve a forecasted
24 3.1 percent growth. That's not in dispute. The

1 Keene area has experienced one percent growth.
2 That's not in dispute. All of those figures are
3 annual numbers, in that they accumulate each
4 year.

5 Step adjustments don't allow for
6 growth-related projects, because step adjustments
7 don't include a revenue requirement calculation
8 of the company -- of the entire company. They
9 focus simply on the investments that are made by
10 the company on the cost side. But there's no
11 recognition of any changes in sales growth.

12 The Eversource witnesses I believe
13 indicated that there's a peak load in the Keene
14 area of 59 megawatts, if I'm not mistaken. I
15 don't know what one percent of 59 megawatts in
16 peak load, and whatever the baseload is,
17 translates into in terms of revenue. But I know
18 it's not zero. And, therefore, if the Emerald
19 Street Station is included in the step
20 adjustment, it means that the customers are
21 paying for the substation, but they are not
22 receiving recognition or a credit for the revenue
23 that was generated by the one percent growth that
24 was experienced.

1 For a citation reference for the
2 Commission to review this issue, I recommend that
3 you look at Exhibit 5, Pages 42 and 59, and
4 transcript at Page 80, which talks about the 3.1
5 percent expected growth and the one percent
6 actual growth.

7 Those are the simple facts. The rest
8 of it is sort of all noise. This is not a
9 recommended disallowance. It's not a recommended
10 imprudence. It is true that DOE and Mr. Dudley
11 explained that we have some -- we, at the DOE,
12 have some continuing questions about the \$3
13 million in cost overrun. But those are sort of
14 side issues. With respect to the Emerald Street
15 Substation, this has to do with growth.

16 Now, it is true that the Emerald Street
17 Substation was included on Appendix 2 of the
18 Settlement, which was a list of issues. There, I
19 guess what he have is a conflict within the
20 Settlement document itself. We have the
21 Settlement language that says "no growth-related
22 projects", and then we had a project on the
23 Step 2 list that's the Emerald Street Substation.
24 And we find out, after that project was actually

1 examined, that there was a Keene Area Study that
2 said that the Project was predicated on 3.1
3 percent growth. And we have testimony that one
4 percent growth actually was experienced.

5 We would not have had information like
6 that when that list was put together. And it's
7 not surprising to me that there might be a
8 project on that, I think there were 50 projects
9 on that appendix, that a project like that was on
10 that list. But the fact is, that list was for
11 year two, not year three. We're in year three.
12 We believe that the growth that was experienced
13 needs to be recognized. And the way to recognize
14 that is to defer recovery of the project until
15 the next rate case, when a revenue requirement
16 calculation that includes actual sales is
17 reflected.

18 The rest of the recommended treatments
19 are disallowances, which are different from
20 deferrals, as Mr. Dudley just stated. And the
21 reasons for the disallowances are different for
22 the various projects.

23 I want to move now to Exhibit -- the
24 Goffstown Pad-Mounted Transformer, the details of

1 which were laid out in Exhibit 6. I think
2 Commissioner Simpson asked Mr. Dudley "if this
3 was a project where the disallowance was based on
4 perceived deficiencies in the paperwork that the
5 Company provided or perceived deficiencies in the
6 management decision that was made?" And Mr.
7 Dudley answered "Yes. Both." And the reason he
8 answered "both" is because that's true. And what
9 we mean by that is, prudent decisions cannot be
10 made based on bad information. And that's
11 basically what we have here in the instance of
12 Goffstown.

13 We have a project that was brought to
14 senior management for approval at \$407,000. And
15 that project -- that \$407,000 estimate overlooked
16 many, many costs that should have been known to
17 the Company at the time it sought approval for
18 that project, including site costs, such as
19 permitting and drainage, and things that were all
20 in plain view, or should have been all in plain
21 view of the Company before they sought approval
22 for that project.

23 In fact, preliminary documents, before
24 the approval document, had a cost estimate out

1 there of \$675,000. And this is all in Exhibit 6.
2 It's only 11 pages. I can point you to Page 2 of
3 Exhibit 6, and transcript Pages 88 through 94,
4 which detail the costs that were overlooked.
5 I've pointed you to Page 11 of the Lessons
6 Learned. And I can point you to Page 6, where,
7 and the transcript at Page 99 through 100, where
8 the Company can't explain why the costs were left
9 out of the estimate -- why the site costs were
10 left out of the estimate of \$407,000.

11 Subsequently, the project cost almost
12 double, \$780,000. And the reason was, for the
13 overruns, was that many costs were not
14 considered.

15 Again, what we are looking at, in terms
16 of recovering prudent investments, are the
17 decisions that were made by the utility
18 executives at the time they were made, with the
19 information that they had or should have had. I
20 don't think there's any dispute. The Company has
21 agreed that their initial estimate, on which the
22 decision was made, was inaccurate. And,
23 therefore, the decision itself is faulty.

24 Now, the question then becomes "Well,

1 what do you do with this?" Who bears the -- who
2 bears the risk of these bad decisions?

3 The standard that we're dealing with is
4 "prudent, used and useful". No one would be able
5 to argue that the pad mount transformer in
6 Goffstown is not used and useful. It's in place,
7 and is presumably providing service. Was it
8 prudent? That gets back to the decision that was
9 made at the time. What we've proposed here is a
10 sharing of the costs of the investment in
11 Goffstown. And the sharing that we're
12 recommending is that the Company be allowed to
13 recover, in this step adjustment, the amount of
14 its initial estimate. And that they, not the
15 customers, bear the brunt of the cost overruns,
16 which are directly attributable to costs that
17 should have been included in the initial
18 analysis.

19 This is completely consistent with the
20 treatment that the Commission gave to a training
21 center built by Liberty Utilities, in Docket
22 17-048. Their decision in that case was issued
23 in April of 2018. This happens to be a much --
24 these happen to be much smaller numbers, but the

1 analysis is essentially the same. I urge the
2 Commission to review that case, and apply the
3 same result, which was a sharing of the costs.
4 In that case, Liberty was allowed to recover the
5 cost of the project at one of the estimates
6 that -- that they had presented.

7 This next disallowance that the
8 Company [Department?] recommended has to do with
9 the Purchase of Transformers. This is a little
10 bit different, because this is a so-called
11 "blanket" or "annual" project. It's not a
12 specific project that was like the Goffstown,
13 that had a specific site in mind. This is a --
14 this is a project that involved hundreds of
15 smaller projects.

16 And what we learn from Exhibit 7, Page
17 395 of 450, that, before 2021 began,
18 specifically, on December 18th, 2020, Eversource
19 went to senior management and said "We need to
20 purchase \$10.8 million in transformers." And we
21 have a document that says "Eversource will
22 purchase \$10.8 million in transformers. There
23 will be 0.8 million in overheads." And, so, the
24 request was for total transformers -- it's

1 actually transformers and regulators, total
2 budget of \$11.6 million. Ninety-three (93)
3 percent of what senior management approved was
4 going to go to materials.

5 The next document we have on this
6 project is after the year is over. On
7 January 13th, 2022, Exhibit 7, Page 400 of 450,
8 says that, in reality, only 66 percent of the
9 money that was spent in this project actually
10 went to transformers and regulators, and the rest
11 went to materials and contractors. Significantly
12 different from the 93 percent that was presented
13 to senior management.

14 Eversource has testified that the
15 original paperwork upon which senior management
16 decided to purchase the \$10.8 million in
17 transformers was wrong. It simply was wrong, and
18 they could not explain why. And I point you to
19 transcript Pages 103 to 104. They don't know why
20 it was presented that way, but it was wrong. And
21 this was confirmed on Exhibit 15, Page 33. The
22 initial paperwork was wrong.

23 So, why is this significant? It's
24 significant, because prudence of an investment is

1 determined at the time the decision was made.

2 How can a utility make a prudent decision based
3 on incorrect information?

4 I could just imagine the conversation
5 that might have occurred at Eversource, when the
6 Operations people went to senior management and
7 said "Oh, those \$10.8 million in transformers and
8 regulators that you approved, at a total cost of
9 11.6 million, that really cost a lot more." And
10 senior management says "Well, why did it cost a
11 lot more?" And Eversource says "Well, the Cost
12 of First Installation went up." And senior
13 management says "Well, what's that?" And
14 Eversource says "Well, that's labor and
15 contractor rates." And management says "Well,
16 that wouldn't affect this project. There are no
17 labor. There is no management. There is no
18 contractors. You gave me paperwork that said
19 that we needed \$10.8 million in transformers, and
20 all there was was a little under a million
21 dollars of overhead." And Eversource Operations
22 says "Well, that was wrong. Those documents were
23 wrong. And it ended up costing a lot more."
24 "Well, how much did it cost?" "Well, it cost

1 \$14.6 million." And Eversource management says
2 "Well, at least I got my \$10 million in
3 transformers, right?" And Operations says "No,
4 you only got \$9.6 million in transformers. The
5 rest went to contractors and overheads." And
6 management says "Well, you told me we needed
7 \$10.8 million in transformers. That's what we
8 needed based on history. How are we going to get
9 by with \$9.6 million?" "Well, it turns out
10 \$9.6 million of transformers was all we needed."

11 Obviously, I'm simplifying this, and I
12 don't mean to be facetious. But the question the
13 Department has is, "How can this be a prudent
14 operation?" How can a decision, based on
15 information that was so completely wrong at the
16 time the decision was made, be relied upon? How
17 can Eversource come in here and ask customers to
18 pay for \$14.9 million in transformers based on
19 the analysis that was provided here?

20 And, as Mr. Dudley testified over and
21 over today, the reason for the extra 4.something
22 million, a large contributing factor was that
23 this Cost of First Installation had not been
24 updated for many years. And, so, we have sort of

1 a two-part -- a two-part problem here. The
2 initial paperwork ignored all the contractor and
3 outside labor costs. And, when they did finally
4 put it in, they put in an amount that was far
5 more than what it would have been at the time the
6 decision was made. So, I guess what I'm saying
7 is, even if Eversource had included the
8 contractor and labor costs in a CFI in the
9 initial documentation, which they didn't, even if
10 they had, that number would have been wrong,
11 because the CFI hadn't been updated in many
12 years.

13 Again, this is -- this is a project
14 where, yes, the paperwork -- we have all the
15 paperwork that we needed. The paperwork just
16 doesn't support a prudent decision. And that's
17 why we recommended a disallowance. Again, we're
18 not recommending a disallowance of the full
19 transformer amount. We're asking that the
20 customers bear the initial estimate, and that the
21 Company bear the cost overruns. And we believe
22 that's a reasonable sharing, again, referring
23 back to that Liberty Utilities case.

24 Exhibit 8 is another annual

1 reliability -- it's an annual project, it
2 concerns reliabilities. Again, we have a cost
3 overrun of 30 percent. Annual Reliability
4 Projects, as we understand them, are estimated
5 based on past history. And that's what was
6 included in the budget.

7 We have documentation that says, when
8 asked "why the costs went up?" The answer in
9 Exhibit 8, Bates 001, says "Investments in the
10 distribution line reliability program was higher
11 than originally budgeted due to more work being
12 performed on the system than anticipated to
13 improve the overall reliability of the system."

14 So, again, paraphrasing, that says "We
15 overspent, because we overspent, because there
16 was more work." That's not really an adequate
17 answer for the Department to say "Yes, those
18 costs should be recovered. Those were prudently
19 incurred."

20 Mr. Dudley talked about the "why", as
21 opposed to the "what". We got a lot of
22 information about the "what". We got a table,
23 Exhibit 15, Bates 012 through 016, that laid out
24 line-by-line all of the various reliability

1 investments that were made. It's not clear to us
2 what they are. The captions are truncated. And
3 I guess, sure, we could have gone back and asked
4 for the full captions, and so on and so forth.
5 We don't have any doubt that the money was spent.
6 We don't really have any doubt that the money was
7 spent on reliability investments, based on the
8 truncated captions included in the pivot table.

9 But what's not there is an explanation
10 as to why additional money was spent. Eversource
11 has been in business a long time. They, we
12 believe, should have a good grip on what
13 reliability issue are going to come up. And, if
14 there are circumstances that come up that they
15 can't explain -- I'm sorry, that weren't
16 originally estimated, when they relied on
17 historical experience, then they need to explain
18 those. We have not found that the documentation
19 provides us an explanation as to why.

20 We don't know what circumstances
21 happened in 2020 that led to higher reliability
22 installations being required. We don't know what
23 alternatives were considered when the extra --
24 when the call came in for extra reliability

1 investments. We don't know whether it's
2 weather-related. We don't know whether it's --
3 we just don't know what it's about.

4 Granted, the record is not bereft of
5 information on the reliability projects.
6 Eversource has provided a lot of information.
7 They may have provided information consistent
8 with their own internal planning standards, in
9 terms of when they have to submit a supplement
10 and when they don't. But that's not really the
11 standard. The standard is that the record has to
12 be complete. And, as Mr. Dudley stated, that's
13 our job at the Department of Energy, to try to
14 present a complete record to the Department -- to
15 the Commission to make a decision. We don't see
16 a sufficient explanation to indicate why an extra
17 30 percent of reliability projects over budget
18 were installed.

19 We'll just -- we'll let the Commission
20 decide that. If you're comfortable with that
21 level of documentation, then so be it. But, in
22 our opinion, we still don't know why.

23 I'm not going to repeat the same
24 argument for the Maintain Voltage Program, it's

1 essentially the same. And I will point out that
2 the initial explanation for the Maintain Voltage
3 Program in Exhibit 9, Page 6, says "An increase"
4 -- this is Eversource, "The reason for the
5 increase" -- "An increase in the amount of work
6 required to maintain voltage within regulatory
7 limits in 2021 has necessitated this Supplemental
8 request to an increase" -- "due to an increase in
9 the authorized Direct costs, increases in
10 Materials, Construction/Outside Services, Labor,
11 Overtime, and Other categories." In other words,
12 costs went up. The Project went up, because
13 costs went up. But, again, no explanation as to
14 why additional equipment was needed. Certainly,
15 broken down in detail into subcategories. But
16 what is missing there, as Mr. Dudley said, is the
17 "why".

18 Lastly, Exhibit 10, we didn't get to
19 the Submarine Cable today. We listened to the
20 testimony of Eversource at the September 20th
21 hearing. We understand that the Company was
22 ordered to write off \$163,000. We heard
23 testimony that explained that that's where they
24 got -- that it really wasn't 163,000, because of

1 depreciation. Depreciation had already been
2 taken. And, therefore, 148,000 was all that
3 needed to be written off.

4 Again, we ask the Commission to keep
5 this simple. If you ordered Eversource to write
6 off \$163,000 for this cable, that's what
7 Eversource needs to do. If you found their
8 testimony understandable and convincing, we will
9 defer to the Commission on that. We just weren't
10 able to reach that conclusion, based on the
11 testimony that we've heard.

12 So, those are our recommendations. The
13 dollar impact of those have been -- have been
14 calculated in Bench Request Number 4. We
15 recommend that the Commission issue a decision
16 consistent with those recommendations.

17 We appreciate the time that you've
18 provided us here today. Thank you.

19 CMSR. SIMPSON: I have one question for
20 you about the record request.

21 MR. DEXTER: Yes.

22 CMSR. SIMPSON: Can you point us to the
23 salient outcome in Record Request 4?

24 MR. DEXTER: I'll need a minute to pull

1 that up.

2 *[Short pause.]*

3 MR. DEXTER: So, I'm looking at Record
4 Request 4 that was submitted on September 28,
5 2022. It refers to an attachment, which is a
6 revenue requirement calculation. And it says
7 that "The final revenue requirement for the
8 Company's revised Step 3 adjustment is provided
9 in the attachment", and it equals "\$8.9 million".
10 It goes on to say that "DOE's proposed Step 3
11 adjustments as identified in their pre-hearing
12 letter filed on September 16th, results in a
13 total revenue requirement of approximately
14 \$5.377 million."

15 I don't have the attachment. Let me
16 see if I can find the attachment.

17 CMSR. SIMPSON: I'm looking at the
18 Excel version, too. All right. Thank you.

19 MR. DEXTER: And this is a big
20 attachment. It's 173 pages. I could probably
21 scroll here, through here, and find where the
22 calculation of the Staff recommendation is
23 included. But I imagine the Company could
24 provide it for you a lot quicker.

1 But the answer is 5.377 million.

2 CMSR. SIMPSON: Okay. Thank you.

3 MR. DEXTER: Thank you.

4 CMSR. SIMPSON: Okay. Thank you. I'll
5 recognize Attorney Ralston, on behalf of the
6 Company.

7 MS. RALSTON: Thank you. I'll start by
8 just addressing your question about the "CFI", if
9 that works?

10 CMSR. SIMPSON: Please. Thank you.

11 MS. RALSTON: Yes. So, this didn't
12 come up in any great detail during the docket,
13 how the calculation works or how frequently it is
14 updated. But, during the break, the Company
15 confirmed that it updates this calculation on an
16 enterprisewide level across its three states
17 periodically. It doesn't currently do it
18 annually, and hasn't historically. But it could
19 certainly look into that, if that was something
20 the Commission thought was appropriate.

21 CMSR. SIMPSON: Okay. Thank you. I
22 appreciate that.

23 MS. RALSTON: Thank you for the
24 opportunity to speak on behalf of the Company

1 today. We would like to express our appreciation
2 for the Commission's latitude in giving us the
3 opportunity to make our case in this proceeding.
4 I know it's been a little challenging
5 procedurally. So, we appreciate the time and
6 attention of the Commission and the Department of
7 Energy to this important case.

8 In terms of our closing remarks, the
9 Company respectfully requests that the Commission
10 allow recovery of the amount of approximately
11 8.928 million starting on November 1st. The
12 Company's revenue requirement for its actual
13 plant additions in 2021 was 10.3 million. The
14 Company is capped at 9.3 million, pursuant to
15 Section 10.1(c) of the Settlement Agreement. And
16 the Company has accepted and incorporated the
17 results of DOE's audit process, as well as
18 agreeing to defer consideration of the Nashua
19 Renovation and Millyard Substation Replacement
20 Project costs to its next rate case. This
21 further reduced the request down to the total of
22 8.928 million.

23 This is a very important proceeding for
24 the Company. The Company committed to a rate

1 case stay-out in the last rate case, Docket DE
2 19-057. The current rate of return is
3 approximately 200 basis points less than
4 authorized in that case. The step adjustments
5 were intended as a mechanism to support and
6 enable the stay-out provision.

7 DOE's recommendation of a disallowance
8 of approximately \$4.7 million in costs, and the
9 deferral of a \$20 million capital project, that
10 was specifically included in the project listing
11 attached to the Settlement Agreement, cuts the
12 step allowance in half. And, for that reason
13 alone, the Commission should reject these
14 recommendations.

15 The \$4.7 million in costs that DOE
16 suggests should be disallowed are associated with
17 four projects, three of which are annual blanket
18 projects. DOE has produced no evidence showing
19 that the Company acted unreasonably or
20 imprudently in some fashion in relation to these
21 over budget amounts.

22 DOE is asking for an impossible
23 standard here. The standard would require
24 perfection before anything moves forward.

1 Real-life operations don't work that way. It's
2 not perfect, and that's exactly why the Company
3 has its internal processes and these
4 documentation practices that are put in place to
5 manage projects. And that's what we have focused
6 on and what we have produced in this docket.

7 The alleged over budget amounts for the
8 annual blanket projects are just the difference
9 between the forecasted and the actual work.
10 Nothing in the record is suggesting that these
11 programs or the costs incurred were mismanaged.
12 The Company has explained the reasons for the
13 over budget items, and demonstrated that they
14 have acted reasonably and responsibly with
15 respect to the projects in question.

16 With respect to the Emerald Street
17 Substation, the project was specifically included
18 as a project eligible for the step adjustment.
19 The project is not any way described or
20 designated as a "new business project" or
21 "growth-related". And the Company has explained
22 the reasons for the cost changes, although the
23 cost changes fall below the threshold for a
24 Supplemental Request Form.

1 Contrary to Mr. Dexter's arguments a
2 few minutes ago, the Company does dispute that
3 this is a growth project. And the Company's
4 witness, Mr. Johnson, specifically testified, on
5 September 20th, that a growth forecast was not
6 the basis for this project. And I can direct you
7 to the transcript, at Pages 63 to 64.

8 Mr. Dexter's argument that, "because
9 some level of growth -- load growth actually
10 occurred, and that should be taken as proof that
11 the project is growth-related" must be
12 disregarded. Under that logic, it's possible
13 that no projects would be appropriate for a step
14 adjustment.

15 Thank you very much for the opportunity
16 to have this additional day of hearings, and for
17 the Commission's attention this morning.

18 CMSR. SIMPSON: Okay. Thank you.

19 So, without objection, we'll strike ID
20 on Exhibits 1 through 18 and admit them as full
21 exhibits.

22 Appreciate everybody coming back for a
23 second day today. Is there anything else before
24 we leave?

1 MS. RALSTON: Yes, Commissioner
2 Simpson. I believe it's Exhibit 4 was a
3 confidential exhibit related to the Nashua
4 Renovation Project that is no longer necessary.
5 So, I think maybe we shouldn't include that in
6 the exhibits. We discussed this on the first day
7 of hearings.

8 CMSR. SIMPSON: Okay. Just a moment.
9 *[Commissioner Simpson and Atty. Speidel*
10 *conferring.]*

11 MR. DEXTER: I think Attorney Ralston
12 brings up a good point. Having been reminded, I
13 think the idea was to exclude Exhibits 3, 4,
14 and 11, because those were not at issue in the
15 case. Is that your recollection?

16 MS. RALSTON: That's correct. Yes.
17 And I would just also add, while we're
18 considering exhibits, the four record requests, I
19 don't know if we need to assign exhibit numbers
20 to those, that were filed after the first day of
21 hearing.

22 CMSR. SIMPSON: Okay. Just a moment
23 please. Just when I thought we were done.

24 *[Short pause.]*

1 CMSR. SIMPSON: Okay. So, I think we
2 just said "Exhibits 3, 4, and 11".

3 MR. DEXTER: That's right.

4 CMSR. SIMPSON: So, in the interest of
5 completeness, Exhibit 1 was the Company's
6 prefiled direct testimony; Exhibit 2 were record
7 request responses; 5 were responses with respect
8 to the Emerald Street Substation, among other
9 things; 6 pertain to the Goffstown Pad Mount
10 Installation; 7 was on Purchase of Transformers;
11 8, the Annual Reliability Project; 9 was the
12 Maintain Voltage Project; 10, the Submarine
13 Cable; 12, 13, 14, and 15 were DOE responses to
14 data and tech session data requests; newly filed
15 exhibits were 16, which was the Settlement
16 Agreement in the Company's last rate case; 17 was
17 the approval for the River Consulting Group, with
18 respect to the business process audit; and 18 was
19 the DOE disallowance letter.

20 Did I get that right?

21 MR. DEXTER: I had two things. I think
22 you said "Exhibits 12, 13, 14, and 15 were DOE
23 responses", and those were, in fact, Company
24 responses to DOE requests.

1 CMSR. SIMPSON: That's correct.

2 "Responses to DOE's requests". Thank you.

3 MR. DEXTER: Right. And then, given
4 that the ruling on the business process audit was
5 made today, --

6 CMSR. SIMPSON: Seventeen (17).

7 MR. DEXTER: -- I would suggest that 17
8 not be admitted.

9 CMSR. SIMPSON: Does the Company have
10 any objection to that?

11 MS. RALSTON: Only our objection to the
12 business process audit being deemed "irrelevant".
13 But, subject to that, no.

14 CMSR. SIMPSON: Okay. So, then, we'll
15 strike ID on Exhibits 1, 2, 5, 6, 7, 8, 9, 10,
16 12, 13, 14, 15, 16, and 18, and admit them as
17 full exhibits.

18 Anything else?

19 MS. RALSTON: Will the Company's
20 responses to record requests also be admitted as
21 exhibits, the four record requests that were
22 filed after the last hearing? The Exhibit 2 was
23 a record request the Commission issued prior to
24 the hearing.

1 CMSR. SIMPSON: Uh-huh.

2 MS. RALSTON: And then, there were four
3 issued at the September 20th hearing.

4 *[Short pause.]*

5 CMSR. SIMPSON: And those were the
6 responses that the Company filed on the 29th,
7 correct, September 29th?

8 MS. RALSTON: Yes. That's correct.

9 CMSR. SIMPSON: Any objection to
10 admitting those responses from the Department?

11 MR. DEXTER: No objection.

12 CMSR. SIMPSON: So, we'll admit the
13 responses that the Company provided to the four
14 record requests from the initial hearing, or from
15 the morning of the 20th, as "Exhibit 19", in
16 addition to the other exhibits that we just
17 discussed.

18 (The document, as described above, was
19 herewith marked and admitted into
20 evidence as "**Exhibit 19**", and
21 **Exhibits 1, 2, 5, 6, 7, 8, 9, 10, 12,**
22 **13, 14, 15, 16,** and **18** were also
23 admitted into evidence.)

24 CMSR. SIMPSON: Okay. Anything else?

1 *[Atty. Ralston indicating in the*
2 *negative.]*

3 CMSR. SIMPSON: All right. Thank you,
4 everybody, today. We'll take the matter under
5 advisement and issue an order. We're adjourned.
6 Off the record.

7 ***(Whereupon the hearing was adjourned***
8 ***at 1:16 p.m.)***

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