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**APPEARANCES:**    *( C o n t i n u e d )*

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Cooperative, Inc.:**  
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**Reptg. Berlin Station, LLC:**  
Carol J. Holahan, Esq. *(Foley Hoag)*

**Reptg. Clean Energy New Hampshire:**  
Chris Skoglund

**Reptg. Colonial Power Group, Inc.:**  
Stuart Ormsbee, Vice President

**Reptg. Community Power Coalition of  
New Hampshire:**  
Clifton Below, Chair

**Reptg. Conservation Law Foundation:**  
Nicholas Krakoff, Esq.

**Reptg. Constellation NewEnergy, Inc. and  
Constellation Energy Generation, LLC:**  
Gretchen Fuhr

**Reptg. Granite State Hydropower Assn.:**  
Madeleine Mineau

**Reptg. Residential Ratepayers:**  
Donald M. Kreis, Esq., Consumer Adv.  
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Office of Consumer Advocate

**Reptg. New Hampshire Dept. of Energy:**  
David K. Wiesner, Esq.  
Mary E. Schwarzer, Esq.  
*(Regulatory Support Division)*

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**P R O C E E D I N G**

1  
2 CHAIRMAN GOLDNER: Okay. Good morning.  
3 I'm Chairman Goldner. I'm joined by Commissioner  
4 Chattopadhyay and Attorney Speidel.

5 At this opening conference, we are  
6 launching IR 22-053, an investigation regarding  
7 energy commodity procurement pursuant to the  
8 Order of Notice issued by the Commission on  
9 September 6th, 2022. In that Order of Notice, we  
10 identified the statutory authorities establishing  
11 the Commission's independent investigatory  
12 authority, RSA 374:4, and allied statutes.

13 I want to begin by allaying the  
14 concerns of the participants here today. The  
15 Commission draws a clear line between its  
16 adjudicative functions, which can determine the  
17 legal rights, duties, or privileges of the  
18 parties involved, and its investigatory  
19 functions, which do not. This investigative  
20 docket is not a contested case to determine the  
21 legal rights, duties, or privileges of anyone  
22 here today. Nor are there any "parties" to this  
23 docket. We anticipate concluding this docket  
24 with a non-binding report, not an order.

1           We have heard loud and clear the  
2           feedback from advocates and regulated utilities  
3           that, since the reorganization of the PUC into  
4           two entities, you have found that opportunities  
5           for collaboration with the PUC are lacking. This  
6           is the first in a series of new investigative  
7           dockets, the purpose of which is to engage in an  
8           open exchange of ideas. There are parts of our  
9           processes that may be working well, and others  
10          that could be improved. These improvements could  
11          come in the form of simple administrative  
12          changes, changes to PUC rules, or recommendations  
13          on changes to PUC statutes. But we cannot, nor  
14          would we want to, make these improvements by fiat  
15          without the valuable contributions of those  
16          participants here today. We thank you in advance  
17          for your contributions you'll make throughout the  
18          course of this investigative docket.

19                 We have read the concerns of the OCA in  
20                 its September 26, 2022, letter in this docket.  
21                 The OCA and others have made similar arguments in  
22                 motions in other dockets. We will issue written  
23                 orders on those motions in their respective  
24                 dockets. But it is appropriate here to address

1 the informal comments made by letter in this  
2 docket.

3 First, the Commission is a creature of  
4 statute and derives its authority from the  
5 statutes that created it. We have already  
6 identified today, and in our Order of Notice, the  
7 statutory authorities that the Commission -- for  
8 the Commission to conduct this investigation.  
9 The Commission, and any other administrative  
10 agency, has functions beyond those prescribed by  
11 the APA. If it were true that agencies could  
12 only do things laid out in the APA, and the APA  
13 does not outline procedures for investigations,  
14 then neither the Commission nor any other agency,  
15 including the Department of Energy, could conduct  
16 investigations. That simply is not the case.

17 Second, the APA prescribes how the  
18 Commission must carry out certain functions.  
19 Among them is adjudications and rulemaking.  
20 Adjudications are prescribed whenever the legal  
21 rights, duties, and privileges of a party must be  
22 determined after notice and a hearing, RSA  
23 541-A:1, IV. Rulemaking is required whenever the  
24 Commission issues a statement of general

1 applicability that is binding on persons outside  
2 the agency, RSA 541-A:1, XV. Neither is  
3 happening in this docket. We, therefore, do not  
4 see these provisions of the APA applying to this  
5 docket.

6 Third, the APA contemplates many types  
7 of procedures other than adjudications and  
8 rulemaking. It discusses declaratory rulings,  
9 for example, RSA 541-A:16, II(b). It  
10 contemplates that agencies will take action on  
11 applications, petitions, or requests without  
12 commencing adjudicative proceedings under RSA  
13 541-A:29 and :29-a. It encourages informal  
14 settlement of matters by non-adjudicative  
15 processes, RSA 541-A:38. And perhaps most  
16 important in this docket, the APA requires that  
17 agencies make available to the public all written  
18 statements of policy or interpretations, other  
19 than rules, formulated or used by the agency in  
20 the discharge of its functions. The report  
21 issued at the conclusion of this docket is just  
22 such a statement; informative, but not binding.  
23 It is expressly authorized by the APA independent  
24 of the APA's adjudicative and rulemaking

1 provisions.

2 Fourth, we take seriously the  
3 references made to *Appeal of Seacoast*  
4 *Anti-Pollution League* case. This case instructs  
5 the Commission to be cautious about its public  
6 statements and not to prejudge the merits of any  
7 current or future adjudication before us. This  
8 directive from the Supreme Court is well taken,  
9 and we do not intend to do anything prohibited by  
10 *Seacoast Anti-Pollution League*. Our goal here is  
11 to learn, not to judge. If anything that takes  
12 place in this docket runs afoul of *Seacoast*  
13 *Anti-Pollution League*, however, the appropriate  
14 place to raise that challenge would be in the  
15 current or future docket that is alleged to be  
16 impacted.

17 And finally, leaving aside the new  
18 Commission investigations launched in 2022, we  
19 count 22 independent Commission investigations  
20 launched on our authority to engage in such  
21 investigations over the last nine years. We --  
22 pardon me. We do not see any successful claims  
23 within these dockets that the Commission had no  
24 authority to engage in those investigations. As



1 a matter of past practice, we do not see any  
2 concerns for the processes we intend to follow  
3 here.

4 Having addressed the concerns raised in  
5 the letters in this docket, I would like to  
6 briefly summarize the important issues at hand.  
7 New Hampshire electric and gas utility ratepayers  
8 have faced challenging conditions in recent  
9 months as the price of energy commodities  
10 escalate. Global markets are under stress, and  
11 this is reflected in the prices that New  
12 Hampshire utilities pay for natural gas,  
13 electricity, and ancillary energy commodities.  
14 These costs are passed through to the New  
15 Hampshire ratepayer through rate mechanisms  
16 designed to ensure that rates paid reflect  
17 prevailing market conditions, instead of  
18 artificially masking them, or overshooting them.  
19 With the understanding that the Commission and  
20 the regulated utilities are operating within a  
21 regional and global, energy market framework, we  
22 seek to investigate the potential for creative  
23 solutions to assist New Hampshire residential,  
24 commercial, and institutional ratepayers to the

1 greatest extent possible, using the tools at our  
2 disposal.

3 At this time, I would like to  
4 acknowledge the participants that have filed  
5 letters of participation in this investigation in  
6 alphabetical order. When I read off the list of  
7 participants, if each participant here could say  
8 "present" that would be helpful.

9 Okay. Let's begin with Berlin Station,  
10 LLC?

11 MS. HOLAHAN: Present.

12 CHAIRMAN GOLDNER: Clean Energy New  
13 Hampshire?

14 MR. SKOGLUND: Present.

15 CHAIRMAN GOLDNER: Colonial Power  
16 Group?

17 MR. ORMSBEE: Present.

18 CHAIRMAN GOLDNER: Community Power  
19 Coalition of New Hampshire?

20 MR. BELOW: Present.

21 CHAIRMAN GOLDNER: Conservation Law  
22 Foundation?

23 MR. KRAKOFF: Present.

24 CHAIRMAN GOLDNER: Constellation

1 NewEnergy, Incorporated, and Constellation Energy  
2 Generation, LLC?

3 MS. FUHR: Present.

4 CHAIRMAN GOLDNER: Eversource Energy?

5 MS. CHIAVARA: Present.

6 CHAIRMAN GOLDNER: Granite State  
7 Hydropower Association?

8 MS. MINEAU: I'm here.

9 CHAIRMAN GOLDNER: I'll take that as a  
10 "present".

11 MS. MINEAU: Sure.

12 CHAIRMAN GOLDNER: Liberty Utilities,  
13 which is Granite State Electric and EnergyNorth  
14 Natural Gas?

15 MR. SHEEHAN: Present.

16 CHAIRMAN GOLDNER: New Hampshire  
17 Department of Environmental Services?

18 *[No indication given.]*

19 CHAIRMAN GOLDNER: NRG Retail Company?

20 *[No indication given.]*

21 CHAIRMAN GOLDNER: The Office of  
22 Consumer Advocate?

23 MR. KREIS: Present.

24 CHAIRMAN GOLDNER: Unitil Energy

1 Systems?

2 MR. FOSSUM: Present.

3 CHAIRMAN GOLDNER: And the New  
4 Hampshire Department of Energy?

5 MR. WIESNER: Present.

6 CHAIRMAN GOLDNER: Okay. We  
7 acknowledge that the New Hampshire Electric  
8 Cooperative says that it is exempt from this  
9 investigation, and the Commission agrees with  
10 that line of argument.

11 Have I missed any participants here  
12 today?

13 MR. EMERSON: Just following up on  
14 that, to let you know that a representative from  
15 the New Hampshire Electric Cooperative is here.

16 CHAIRMAN GOLDNER: Okay. Very good.  
17 Thank you.

18 MR. FOSSUM: And, Mr. Chairman, one  
19 other. Matthew Fossum here. Is you had  
20 specifically mentioned "Unitil Energy Systems",  
21 but, just to round it out, we are representing  
22 Northern Utilities as well, both under the  
23 "Unitil" banner.

24 CHAIRMAN GOLDNER: Okay. Very good,

1 Mr. Fossum. Thank you.

2 Okay. The Commission has greatly  
3 appreciated the thoughtful comments made in  
4 advance of today by many of the participants in  
5 this investigation, most especially the utilities  
6 of our state. At this time, I would like to  
7 invite participants who would like to make  
8 opening remarks on the record today to do so.  
9 Given the number of participants here today,  
10 we'll limit remarks to five minutes each, in the  
11 same alphabetical order. Please introduce  
12 yourself, state your name and title for the  
13 record, if you do provide an opening statement.

14 And we'll go in the same order,  
15 beginning with Berlin Station, LLC.

16 MS. HOLAHAN: Good morning. Carol  
17 Holahan, from Foley Hoag, on behalf of Berlin  
18 Station. Berlin station is interested in  
19 exploring issues around the procurement of  
20 Default Service and any potential barriers to be  
21 using power supply under purchase power -- power  
22 purchase agreement to serve Default Service. And  
23 also interested in issues related to --

24 *[Court reporter interruption.]*

1 MS. HOLAHAN: And also interested in  
2 issues related to renewable energy certificates.

3 MR. PATNAUDE: Thank you.

4 MS. HOLAHAN: Thank you.

5 CHAIRMAN GOLDNER: Thank you. We'll  
6 move to Clean Energy New Hampshire.

7 MR. SKOGLUND: No comments at this  
8 time.

9 CHAIRMAN GOLDNER: Okay. Very good.  
10 Colonial Power Group?

11 MR. ORMSBEE: No comments at this time.  
12 Thank you.

13 CHAIRMAN GOLDNER: Okay. And Community  
14 Power Coalition of New Hampshire?

15 MR. BELOW: Good morning, Mr. Chairman.  
16 I'm Clifton Below on behalf of Community Power  
17 Coalition of New Hampshire.

18 Beyond the prefiled comments that I  
19 made, you know, raising the related question of  
20 what happens to net metered exports and whether  
21 that could be or should be used to help offset  
22 the Default Service load requirement for the  
23 supplier, much as the law requires it to be done  
24 with competitive suppliers and municipal

1 aggregations.

2 I would also just suggest that another  
3 issue to be explored in this proceeding is sort  
4 of barriers to additional -- to creating more  
5 competitive environment for suppliers, and  
6 improving customer choice of supply options. And  
7 related to that question, I think that it might  
8 be worth exploring in this investigation is how,  
9 in Default Service filings, the -- what might be  
10 called the "load adjustment factor", the ratio at  
11 which retail load bears to wholesale load, that  
12 is typically held as a non-public confidential  
13 data point.

14 But I think that is somewhat  
15 anti-competitive, in that it benefits default --  
16 parties that win Default Service supply, because  
17 they know exactly what that number is. And that  
18 number is generally understood to be considerably  
19 less than the published line loss rates, in part  
20 because of the unaccounted for exports to the  
21 grid. And, so, Default Service suppliers know,  
22 those who win the bids get to know what the ratio  
23 is between their retail load and what they have  
24 to buy on the wholesale market, but new entrants,

1           who are trying to compete against that, don't  
2           know what that ratio is. And, in fact, I've  
3           talked with a principal of a competitive  
4           supplier, who is trying to figure that out, and  
5           just can't. So, they just default to the  
6           published line loss rates of 6 or 7 percent,  
7           when, in fact, that number could be substantially  
8           less than that. So, that's, I think, an issue to  
9           be explored.

10                        That's all. Thank you.

11                        CHAIRMAN GOLDNER: Thank you. And  
12           we'll move to the Conservation Law Foundation?

13                        MR. KRAKOFF: I don't wish to make an  
14           opening statement at this time. Thank you.

15                        CHAIRMAN GOLDNER: Okay. And  
16           Constellation NewEnergy?

17                        MS. FUHR: No opening remarks at this  
18           time. Thank you.

19                        CHAIRMAN GOLDNER: Eversource?

20                        MS. CHIAVARA: Yes. I just have some  
21           brief remarks to make at this time. Jessica  
22           Chiavara, counsel for Public Service Company of  
23           New Hampshire, doing business as Eversource.

24                        I generally refer to the comments filed



1 by the Company on September 26th. But would also  
2 like to say that Eversource is acutely aware of  
3 the strain that energy prices have placed on the  
4 residents and businesses of New Hampshire. And  
5 it's understandable that stakeholders would have  
6 an interest in relieving the burden being felt  
7 across the state, including what, if anything,  
8 can or should be done in the regulatory sphere  
9 pertaining to energy procurement process and  
10 compliance obligations for the Renewable  
11 Portfolio Standard.

12 This is a hardship that's being felt  
13 regionally. Most recently, residential rates  
14 were set for National Grid, in Massachusetts, at  
15 33.8 cents per kilowatt-hour for November of this  
16 year through April of next year. And this is a  
17 trend that we may not see -- may not reverse its  
18 course in the near future.

19 But, despite the shared desire to  
20 alleviate the pressure created by these price  
21 spikes, the degree to which energy procurement  
22 process can actually lower prices could be  
23 negligible, if it can lower prices at all. At  
24 most, adjustments to the process through

1           laddering purchases or other means may serve to  
2           mitigate volatility in prices, but will not  
3           necessarily lower costs for customers.

4                       But, even though the impact of  
5           adjustments to the procurement process are  
6           limited, Eversource believes this is a timely  
7           discussion of salient issues, and the information  
8           sharing in this area can provide the Commission  
9           with insights that will prove useful in  
10          navigating the challenges ahead.

11                      Eversource respectfully recommends that  
12          the Commission set the scope of this proceeding  
13          using input from the participants here today, to  
14          focus on elements of procurement that can be  
15          impacted by regulatory changes. And those topics  
16          in the Order of Notice issued early in September  
17          that would provide value and insight as to  
18          whether those changes should be made.

19                      The Company is looking forward to a  
20          productive conversation on how the regulatory  
21          process surrounding procurement can best serve  
22          the state's energy policy.

23                      Thank you.

24                      CHAIRMAN GOLDNER: Okay. Thank you.

1 Granite State Hydropower Association?

2 MS. MINEAU: No comments at this time.

3 CHAIRMAN GOLDNER: Liberty Utilities?

4 MR. SHEEHAN: Thank you. Mike Sheehan,  
5 for the two Liberty entities here today.

6 I don't -- I reemphasize the written  
7 comments we made. I've read the comments of my  
8 colleagues to my left, and generally support  
9 them. The utility approach is not totally in  
10 synch, but more or less on the same page. And  
11 that is what Ms. Chiavara just highlighted, that  
12 there may be important changes we can make to the  
13 process, but the overall impact to customers may  
14 not be dramatic.

15 That being said, we're certainly  
16 willing to dive in and look again at those  
17 processes, as the Commission has done every ten  
18 years or so, and to see if there's a better way  
19 to build a booby trap.

20 Thank you. I guess that would be a  
21 "mousetrap".

22 *[Laughter.]*

23 CHAIRMAN GOLDNER: All right. Next  
24 would be the Office of Consumer Advocate?

1 MR. KREIS: Thank you, Mr. Chairman.  
2 And good morning, everybody. Just for the  
3 record, I'm Donald Kreis, the Consumer Advocate.  
4 And with me today is Julianne Desmet, our Staff  
5 Attorney.

6 In a quest of being constructive, I  
7 guess I would just like to say that I really  
8 appreciated something I heard the Chairman say in  
9 his opening remarks. He said that they are here,  
10 meaning the Commissioners, are -- well, he said  
11 that "The goal here is to learn, not to judge."  
12 And I appreciate the opportunity to participate  
13 in this, in this inquiry, in that spirit.  
14 Because I know that I have a lot to learn about  
15 the issues that are implicated by this  
16 proceeding, and I assume the rest of us do.

17 That said, I continue to have concerns  
18 about the way the Commission is conducting these  
19 investigations. And I guess I would note the  
20 irony here involving the fact that the Chairman,  
21 in his opening remarks, stressed that this is a  
22 "very informal process", in which -- or one that  
23 he described as "informative, but not binding",  
24 but he did that in the course of making a series

1 of rulings construing the Administrative  
2 Procedure Act that the Commission presumably  
3 intends to be actionable by those of us who  
4 participate in Commission proceedings.

5 The Chairman also referred to the fact  
6 that there have been "22 formal investigations  
7 conducted", that are somewhat similar to this  
8 one, "over the last nine years." And I guess, at  
9 the risk of hopefully identifying an elephant in  
10 the living room, I would point out that most of  
11 those 22 investigations took place during a  
12 different era. And by that I mean an era in  
13 which there was a more collaborative relationship  
14 between the Public Utilities Commission and those  
15 subject to the Commission's jurisdiction than  
16 there is now. And it also -- those  
17 investigations also took place during an era  
18 before the creation of the Department of Energy.  
19 And the creation of the Department of Energy is a  
20 significant event for present purposes, because  
21 what the General Court did, in my opinion, is  
22 tell the Commission that its job was to act like  
23 a court and decide stuff via adjudication and  
24 rulemaking. And it created Department of Energy

1 to conduct broad policy inquiries, formally or  
2 informally, of the sort that we're embarked upon  
3 here.

4 So, I guess I have to say that one  
5 source of disappointment for me, over the past  
6 year, is the relative lack of that kind of  
7 inquiry and public conversation on the part of  
8 the Department of Energy, and, in that sense,  
9 it's really difficult to castigate the Commission  
10 for stepping into the vacuum.

11 On the merits of what we're here to  
12 talk about today, as it happens, this morning I  
13 received the following bit of email from an  
14 annoyed ratepayer, who writes: "Good morning. I  
15 emailed the Public Utilities Commission and was  
16 redirected to contact you. I am trying to find  
17 out how Eversource is allowed and approved to  
18 increase our electric rates by 117 percent in one  
19 approved rate increase. I realize we're part of  
20 the ISO-New England grid for power, but this  
21 absolutely ridiculous. I'm retired, and my  
22 income hasn't increased by 117 percent. I see  
23 where the Legislature has approved some  
24 assistance, but I do not qualify. What can be

1 done about this unjust increase?"

2 That's the message I received. And I  
3 will respond to this ratepayer. But I would just  
4 like to point out to the Commission, and to  
5 everybody here, that I'm not responsible. The  
6 Office of the Consumer Advocate is not  
7 responsible for those rate increases that have  
8 been imposed upon the ratepayers whose interests  
9 my Office represents. There needs to be some  
10 accountability and some responsibility here. It  
11 really should be up to the PUC, the Department of  
12 Energy, and the utilities to respond to queries  
13 like that, and explain to the public exactly how  
14 we got into the pickle that we are in today. The  
15 Office of the Consumer Advocate is committed to  
16 trying to find solutions to what is, frankly, a  
17 crisis, from the standpoint of the state's  
18 ratepayers.

19 Beyond that, I would note a couple of  
20 things. One, I'm disappointed that the New  
21 Hampshire Electric Co-op chooses either to not  
22 participate in this inquiry, or participate in  
23 such a limited fashion. The Cooperative takes  
24 the position that its default energy service,

1           which it refers to as "Co-op Power", which is  
2           fully five and a half cents cheaper than anything  
3           else being offered by any of the investor-owned  
4           utilities, isn't subject to Commission oversight  
5           or regulation.

6                         But that isn't exactly true, because  
7           I've researched the relevant orders, and I've  
8           certainly researched the applicable law, which is  
9           RSA 374-F. It draws a distinction between  
10          "transition service" and "default service". And  
11          the Commission has clearly said that it is not --  
12          it did not intend, at the time that restructuring  
13          actually happened, to exercise any oversight over  
14          the transition service offered by the Co-op.  
15          Transition service, under the Restructuring Act,  
16          applies to service that a customer receives prior  
17          to choosing a competitive energy supplier. But,  
18          after a customer chooses a competitive energy  
19          supplier, and comes back to the utility for  
20          default service, that becomes "default service".  
21          And the Commission has not said it exercises no  
22          authority over the default service offered by the  
23          Electric Co-op or any other utility. And, for  
24          that reason, it is not as clear, as the Electric



1 Co-op assumes it is, that the Commission has no  
2 reason to conduct any inquiry whatever into the  
3 default service offered by the Co-op.

4 I'm also troubled by a couple of things  
5 that I read in the Eversource comments. One has  
6 to do with the unproven assertion that, if we do  
7 anything more rigorous or more time-consuming  
8 than just move through an incredibly swift  
9 process, from the conclusion of the RFP process  
10 to the Commission order approving the results of  
11 that process, the suppliers will freak out and  
12 build an even greater risk premium into their  
13 bids. I'm simply not willing to take  
14 Eversource's word for that, or the word of any  
15 other utility for that, because, obviously, the  
16 utilities have a vested interest in minimizing  
17 the regulatory oversight.

18 There are, apparently, competitive  
19 suppliers at the wholesale level who are  
20 participating here. I'd like to hear what they  
21 have to say about that. If they can convince me,  
22 and the Commission, that there is reason for  
23 actually speeding up, rather than slowing down,  
24 the process of approving default energy rates,

1 well, I'm all ears.

2 Eversource points out that my  
3 counterpart agency in Massachusetts is actually  
4 involved in the process of reviewing the bids  
5 that come in and selecting the winning bidders.  
6 And I must say I am extremely skeptical about the  
7 propriety of doing that. Since I became the  
8 Consumer Advocate, I have jealously guarded my  
9 right to have essentially no responsibility for  
10 anything, simply because it compromises my right  
11 to be a robust advocate, if I suddenly become  
12 responsible for some of the things that I'm  
13 advocating about.

14 I would rather be in a position  
15 unfettered to tell the Commission and the state's  
16 public utilities, and maybe even the Department  
17 of Energy on occasion, what we think they ought  
18 to do in the interest of residential utility  
19 customers.

20 I'm not absolutely ruling out playing a  
21 substantive role. We do dabble in that in  
22 certain other areas, energy efficiency, in  
23 particular. But I just want to put out there  
24 that I am extremely skeptical about whether

1           that's an appropriate thing for us or any other  
2           ratepayer advocate to be doing.

3                         Finally, I think the Commission should  
4           reject out of hand the threat of Eversource to  
5           take its toys and go home in connection with the  
6           process of procuring renewable energy credits.  
7           If Eversource follows through on its threat to  
8           stop buying RECs, and simply pass the  
9           Alternative -- the Alternative Compliance Payment  
10          through to ratepayers, I guarantee you that we  
11          will be in front of the Commission arguing that  
12          that was an imprudent choice, if there's any  
13          delta between the Alternative Compliance Payment  
14          and the market price for renewable energy  
15          credits.

16                        Beyond that, I'm eager to learn, we are  
17          eager to participate. And I can't say I'm  
18          looking forward to the rest of this proceeding,  
19          but I'm definitely curious about it.

20                        CHAIRMAN GOLDNER: All right. Thank  
21          you.

22                        And we'll move to Unutil Energy  
23          Systems, which includes both Unutil electric and  
24          Northern gas.

1 MR. FOSSUM: Good morning,  
2 Commissioners. Matthew Fossum, here representing  
3 the Unitil Companies this morning.

4 My remarks will be very brief, and  
5 generally would rely upon the written comments  
6 that the Unitil Companies had filed previously in  
7 this. But I will speak to emphasize two of the  
8 issues, in fact, the leading two issues that we  
9 had put into those written comments.

10 First, we appreciate that the  
11 Commissioners want to, you know, learn and not  
12 judge here. But we, I believe, need some clarity  
13 on what it is that the Commissioners are hoping  
14 to learn. As we had written in our comments,  
15 there are limitations on the degree to which  
16 utility purchasing practices can -- can or should  
17 influence rates paid by customers. So, in light  
18 of that, it would certainly be, in our view,  
19 helpful to have a greater understanding of what  
20 the goals are in this investigation, so that we  
21 could, to the degree necessary, tailor our review  
22 to address those goals.

23 And, secondly, and potentially more  
24 important, I suppose, at least from my personal

1 view, is that the Commission has identified this  
2 investigation as reviewing "default energy  
3 service procurement, cost of gas or gas  
4 procurement, and renewable energy certificate  
5 procurement". Those are three very different  
6 things. They are procured in three very  
7 different ways, and they serve different  
8 purposes. And it would likely cause confusion  
9 and delay attempting to look at all of those  
10 collectively in one investigation.

11 So, it is, in our view, probably  
12 helpful and desirable to separate these items out  
13 into different tracks. I wouldn't say "different  
14 dockets" necessarily, but certainly different  
15 tracks, so that there could be a measure of focus  
16 dedicated to each of them, understanding the  
17 differences between them. And it may also be --  
18 I think it likely that it's more administratively  
19 efficient.

20 Certainly, looking at the group that's  
21 in the room today, there's a -- I won't -- I  
22 guess a bias or the greater number of people seem  
23 more concerned about default electric service  
24 procurement, and just based on pure numbers, than

1 do cost of gas. And, so, having them sit through  
2 a process looking at something that is not  
3 directly applicable to their concerns I think is  
4 not an efficient use of everyone's resources.

5 Subject to that, I agree with the  
6 comments of both Eversource and Liberty,  
7 generally speaking. And we look forward to  
8 otherwise participating in this investigation.

9 CHAIRMAN GOLDNER: Just a quick  
10 follow-up question. Understanding in splitting  
11 Cost of Gas and Default Service into different  
12 tracks, I understand the logic there. Would you  
13 recommend keeping RPS with Default Service? In  
14 at least the Eversource proposal, there were some  
15 concepts of combining the two.

16 MR. FOSSUM: In our written comments,  
17 we had advocated for separating all three into  
18 three separate tracks, or, at a minimum,  
19 separating the gas review out from the Default  
20 Service and RPS.

21 My personal view is that they are  
22 different enough that they could -- that there's  
23 plenty to talk about on three separate tracks.  
24 But I think there's enough overlap likely between

1 the RPS issues and the Default Service issues  
2 that keeping them together may make some sense.

3 CHAIRMAN GOLDNER: Okay. Thank you.  
4 And, finally, the New Hampshire Department of  
5 Energy.

6 MR. WIESNER: Thank you, Mr. Chairman.  
7 David Wiesner, for the record, representing the  
8 Department of Energy this morning. I'm the Legal  
9 Director here.

10 And I think, as you've heard from  
11 others, we are interested in learning more about  
12 potential alternative approaches to commodity  
13 procurement, in particular with respect to  
14 default electricity supply, and in evaluating the  
15 respective pros and cons of any such  
16 alternatives.

17 We're open to considering new  
18 approaches. We do not come with any preferred  
19 alternatives for procurement, nor with any  
20 preconception that changes to the *status quo*  
21 processes are, in fact, needed.

22 In fact, the Commission, utilities, and  
23 stakeholders should keep in mind the potential  
24 tradeoffs in any changes to the current utility

1 procurement practices. It's difficult, if not  
2 impossible, to avoid all competitive market risk,  
3 even if that were a primary objective. And, if  
4 risks are shifted to suppliers, then those  
5 suppliers are quite likely to price in higher  
6 risk premiums to their bids and offers, all of  
7 which ultimately will be paid for by retail  
8 customers.

9 Similarly, if the timing of utility  
10 procurement is changed, through contract  
11 laddering or some other approach, the risk of  
12 going to the market at the "wrong time", and it  
13 being committed to high prices for a firm  
14 contract term will nonetheless remain, and may,  
15 in fact, be increased.

16 With respect to some of the procedural  
17 concerns regarding this investigation that others  
18 have expressed, and in particular with respect to  
19 the use of adjudicative processes, such as  
20 interventions and mandatory parties, we believe  
21 that those are unnecessary, inappropriate. And I  
22 do take some comfort, as others have, from the  
23 Chairman's opening remarks this morning.

24 To be clear, we do not object to the



1 Commission opening this investigation. However,  
2 we do reserve the right to question how this  
3 proceeding may be conducted going forward, if  
4 that process seems inappropriate, given the  
5 Commission's primary role as an adjudicator.

6 And we also agree with Unitil and other  
7 commenters, who suggested that the investigation  
8 would benefit from Commission refinement of the  
9 scope of the inquiry and relevant concerns. The  
10 Commission might consider issuing a subsequent  
11 detailed scoping order that would be helpful in  
12 furthering that clarification objective.

13 Also, I'll just offer as an aside that  
14 the Department has a very capable Consumer  
15 Services group. And I suspect that they have  
16 received many inquiries, such as the one that  
17 Attorney Kreis read out loud, and responds to  
18 those customers appropriately to explain and  
19 educate them about how this process works.

20 The price increases we've seen have  
21 been stunning, and concerning to all. However,  
22 you know, the state has made a determination to  
23 rely on the competitive market. And, as I  
24 suggested earlier, competitive market outcomes

1           may not be avoidable, and perhaps may not --  
2           perhaps should not be avoided.

3                         Finally, I think I want to agree with  
4           the comments of Unitil, and others, that this  
5           process would be more efficient if the three  
6           general topics of the investigation, electric  
7           supply procurement, REC procurement and RPS  
8           compliance, and cost of gas procurement,  
9           methodology, and process were put on separate  
10          tracks in the proceeding. As noted by Attorney  
11          Fossum, those topics involve three very different  
12          markets in two distinct industries.

13                        At a minimum, we would urge the  
14          Commission to separate the gas utility issues  
15          from those faced by the electric distribution  
16          utilities. And, in that regard, my co-counsel,  
17          Mary Schwarzer, would represent the DOE in  
18          addressing the relevant gas industry issues when  
19          put on a separate track.

20                        So, we look forward to this "learning  
21          process", as it's been characterized. I think  
22          it's a valuable undertaking at this point, not  
23          prejudging the outcome or how the process will  
24          unfold. But we thank the Commission for its time

1           this morning. And we look forward to playing our  
2           part in making this an effective and efficient  
3           proceeding.

4                         Thank you.

5                         CHAIRMAN GOLDNER: Thank you. Okay.  
6           What seems clear so far is that a refinement --  
7           I'll call it a "refinement PO" would be helpful  
8           to all the participants. So, we'll work on that  
9           after this proceeding.

10                        What I wanted to touch on next, I  
11           think, was sort of how the Commission sees this  
12           rolling out, you know, post this refinement PO,  
13           and start with that.

14                        So, I guess, you know, from a preview  
15           perspective, you know, we're expecting that, in  
16           an investigative context, data requests would be  
17           issued from time to time by means of procedural  
18           orders. Any responses would be transparently  
19           provided to the entire participant group in the  
20           docket. And, also, we expect, during the  
21           pendency of the investigation, that kind of  
22           Commission-attended technical sessions, as  
23           recommended I think by Eversource in IR 22-042,  
24           would be scheduled to facilitate discussions and

1 development of information and data for  
2 consideration.

3 We also would always welcome the filing  
4 of further written comments or white papers by  
5 participants, or interested members of the  
6 general public. On a more granular level, the  
7 first set of data requests are planned to be  
8 directed at the utilities, as part of this sort  
9 of refinement effort, regarding their ideas on  
10 how to improve their processes considered in this  
11 investigation, recognizing that at some level  
12 that's been filed, but we're looking sort of for  
13 the next level of technical detail. And, again,  
14 we'll put that in this refinement PO to be clear.

15 Sort of, if that's understandable to  
16 the utilities, maybe I'll look at the front row  
17 to see if, as a general matter, if we issued a PO  
18 this week, if those replies could be -- if a  
19 month or so would be sufficient for reply, would  
20 that be acceptable?

21 MS. CHIAVARA: Subject to confirmation,  
22 yes, that sounds -- that sounds reasonable.

23 CHAIRMAN GOLDNER: Yes. And not a week  
24 or something like that, but a month or so.

1           And then, in that case, I think the  
2           next step would be for this sort of technical  
3           session to be -- we'll call it a  
4           "Commission-Attended Technical Session", I think  
5           were the words that Eversource used, would be a  
6           few weeks after that, so maybe early December,  
7           something along those lines.

8           Would anyone like to make any further  
9           comments regarding sort of the next steps?

10           *[No indication given.]*

11           CHAIRMAN GOLDNER: There's a lot of  
12           people in the room. So, if anyone has something,  
13           maybe just raise your hand or --

14           *[No indication given.]*

15           CHAIRMAN GOLDNER: No? Okay.

16           Commissioner Chattopadhyay, would you  
17           like to make any remarks or ask any follow-up  
18           questions?

19           CMSR. CHATTOPADHYAY: I will be brief.  
20           Thank you.

21           I think I'm also viewing this learning  
22           opportunity as something that's extremely  
23           important for me. In 2014 or so, I got involved  
24           in a similar situation, at that time I was at the

1 OCA. And, so, this is another opportunity for me  
2 to further understand whether there are things  
3 that can be done to lower the impact on the  
4 ratepayers, you know, the kind of -- you can call  
5 it "volatility" or high level of prices and all  
6 of that, without creating issues for competitive  
7 markets. And, so, that's where I will be going.

8 So, for example, the DOE was talking  
9 about, you know, "laddering" and, you know, "full  
10 requirement purchases" and all of that. There  
11 might be issues, for example, how to combine them  
12 based on what the expectations are for the prices  
13 in the future, and, you know, I might be also  
14 interested in knowing if that is being done in  
15 other states or other regions, in terms of having  
16 almost like a sequence based on where the prices  
17 are going, and how to react with whether we  
18 should have laddering or full procurement, that  
19 decision being with the utilities, you know,  
20 something like that. So, I really want to be  
21 informed more about this issue.

22 I do fully understand the point that  
23 was made about, given the privacy of the  
24 competitive markets, it's probably the case that

1 we are talking about improving the processes --  
2 or, processes on the edges, really. So, there  
3 might be -- but I'm open to having that  
4 discussion or that clarity.

5 Thank you.

6 CHAIRMAN GOLDNER: And the only thing I  
7 would add to Commissioner Chattopadhyay's  
8 comments is that I am personally interested in,  
9 in particular, the positions from or the thoughts  
10 from the Department of Energy and the OCA on this  
11 weighing of stability and price, and how that  
12 should manifest itself in this process. It does  
13 seem like, at a high level, that, you know, those  
14 choices, in terms of laddering, *et cetera*, can  
15 maybe, over time, give you the same price, but  
16 gives more or less price stability in the short  
17 term. So, I'm very interested in the eventual  
18 thoughts of all the participants on that, and, in  
19 particular, the position of the DOE and the OCA.

20 Okay. Are there any other parting  
21 comments before we adjourn the proceeding?

22 *[No verbal response.]*

23 CHAIRMAN GOLDNER: Okay. Very good.  
24 We look forward to working with you during this

1 investigation. The proceeding is adjourned.

2 ***(Whereupon the prehearing conference***  
3 ***was adjourned at 10:15 a.m.)***

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