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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 here today with  
4 Commissioner Simpson and Commissioner  
5 Chattopadhyay.

6 This is the status conference for the  
7 Community Power Coalition of New Hampshire  
8 complaint against Eversource, initially filed on  
9 June 13th, 2023. Noticed by the Commission in  
10 Order Number 26,856 on June 30th, 2023, and  
11 scheduled for today's proceeding in the  
12 Commission's procedural order dated April 24th,  
13 2024.

14 As a part of that procedural order, the  
15 Commission requested, and Eversource and CPCNH  
16 responded, with written requests -- or, with  
17 written updates, rather, regarding this matter on  
18 May 1st, 2024. Having reviewed these responses,  
19 the Commission would like to proceed in the  
20 following manner today: First, we'll take simple  
21 appearances from the parties, CPCNH, the  
22 Complainant, Eversource, the Respondent, and the  
23 Office of the Consumer Advocate. Then, the  
24 Commission will direct questions to the

1 Complainant, CPCNH, and Eversource. We'll also  
2 give leave for statements from the OCA.

3 As a simplified overview, we take note  
4 of the fact that a concurrent Department of  
5 Energy review of CPCNH's complaint is happening  
6 now in DOE Docket CPT 2023-002. It is  
7 appropriate that DOE is not here today as that  
8 matter is ongoing.

9 However, even though we acknowledge  
10 that CPCNH's instant complaint before us is  
11 grandfathered in following the passage of HB 385,  
12 that is Chapter 85:2, New Hampshire laws of 2023,  
13 by the terms of Chapter 85:3, New Hampshire laws  
14 of 2023.

15 We note with interest that CPCNH's  
16 statement on Page 2 of their May 1st update that  
17 "we offered to propose to the Commission that the  
18 matters complained about in this docket be  
19 transferred to the Department of Energy for  
20 further investigation if the Department and  
21 Eversource did not object." We also note that  
22 Eversource advocates for a full transfer of this  
23 matter to the DOE for adjudication.

24 We'll now take appearances, beginning

1 with the Complainant, CPCNH?

2 MR. BELOW: Good morning, Chairman  
3 Goldner and Commissioners. I'm Clifton Below,  
4 Chair of the Community Power Coalition of New  
5 Hampshire. And with me today are our CEO, Brian  
6 Callnan, and Director of Regulatory and  
7 Legislative Affairs, Deana Dennis.

8 CHAIRMAN GOLDNER: Very good.  
9 Eversource?

10 MS. CHIAVARA: Yes. Good morning,  
11 Commission. Jessica Chiavara, on behalf of  
12 Public Service Company of New Hampshire, doing  
13 business as Eversource Energy. And I am flying  
14 solo today, no special guests.

15 CHAIRMAN GOLDNER: Very good. And the  
16 Office of the Consumer Advocate?

17 MR. KREIS: Good morning,  
18 Commissioners. I am Donald Kreis, doing business  
19 as the Consumer Advocate. And also without my  
20 vast staff, just flying solo.

21 CHAIRMAN GOLDNER: Very good. Okay.  
22 Thank you.

23 The Commission will now address a  
24 couple of questions to CPCNH.

1           So, Chairman Below, based on your  
2           May 1st statement, would it not be  
3           administratively efficient for CPCNH to  
4           voluntarily withdraw its complaint here at the  
5           Commission, by filing a letter to that effect,  
6           with the understanding that the cause of action  
7           for Community Power would remain open after the  
8           conclusion of the DOE CPT 2023-002 proceeding?

9           MR. BELOW: I think, when we filed on  
10          February 29th of this year with the Department of  
11          Energy, we thought that might be appropriate. We  
12          received no indication from either the Department  
13          or Eversource that that was okay.

14          And, in reviewing the -- looking at  
15          that law, it actually sort of made me wonder,  
16          since it says that, in effect, the new authority  
17          for the Department of Energy to investigate  
18          certain matters, and the ones that, you know,  
19          shifted over, were those that pertained to the  
20          Puc 2200 rules and RSA 53-E. That was the --  
21          sort of the sole area of Commission jurisdiction  
22          at the time the complaint was filed.

23          And, so, I guess, you know, our concern  
24          is that it's not sure -- we're not clear that the

1           DOE would take that -- the parts of this  
2           complainant that were unique to the Commission  
3           on, unless we filed a new complaint, such that  
4           the date of the complaint was after the effective  
5           date of the act.

6                         That being said, we had thought that  
7           there are a couple -- a few of these issues that  
8           we'd like to give a status update on. And  
9           there's at least two of them that sort of require  
10          an interpretation of the rules. And our concern  
11          was just sending that over to DOE might -- they  
12          can only investigate so far and make their own  
13          judgment what perhaps the rule means. But, just  
14          as the Commission clarified that usage includes  
15          negative usage, it might be helpful for the  
16          Commission to clarify a couple of points on what  
17          the rules may require.

18                         And, then, we also thought that it  
19          might be appropriate then to put a hold on this  
20          docket until the Commission -- I mean the  
21          Department completes its investigation and makes  
22          its decision or recommendations. And, of course,  
23          there's a provision in the law that, if either  
24          the Eversource or we were not satisfied with the

1 resolution, then we could request for it to be  
2 adjudicated. And our thought was, well, maybe if  
3 this docket is just kept open until that occurs,  
4 then those matters could be added to this docket.

5 So, that's our current thinking.

6 CHAIRMAN GOLDNER: Okay. Another  
7 option might be to complete the work in the DOE  
8 docket, and let that fall where it may. And, if  
9 there's any lingering issues, to file a fresh  
10 proceeding with the Commission, either because  
11 you weren't satisfied with what happened in the  
12 DOE docket, or an issue that you weren't able to  
13 put into the DOE docket. That might be cleaner.  
14 Does that -- would that be an appealing option?

15 MR. BELOW: Well, it still presents a  
16 problem of perhaps a disagreement on the intent  
17 or what the rule actually requires. And maybe  
18 that does become an appropriate -- I mean, an  
19 appropriate matter to adjudicate. Though, this,  
20 my understanding is, the status of this matter,  
21 this is an adjudicative proceeding, although  
22 there's no testimony or evidence, there's just,  
23 you know, a complaint and a response to that  
24 complaint at that point -- at this point.

1 CHAIRMAN GOLDNER: Okay. Okay. Thank  
2 you. Maybe --

3 MR. BELOW: I think, if we may, our CEO  
4 might want to comment.

5 CHAIRMAN GOLDNER: Sure. Please  
6 comment.

7 MR. CALLNAN: One of the concerns of  
8 possibly taking that approach, and you might be  
9 able to shed some light as to whether this is a  
10 concern that's really valid, is a bit of an  
11 urgency in order to try to get a solution to  
12 these issues, so that we can start delivering on  
13 kind of the promise to the CPAs that are waiting  
14 for net metering and innovative rates.

15 The approach that you mentioned  
16 possibly might stretch that out a little bit  
17 longer. So, it would be harder to get those  
18 products to those folks quicker.

19 So, that's one concern taking that  
20 approach.

21 CHAIRMAN GOLDNER: Yes. I would -- my  
22 initial thought was that the DOE has a process to  
23 deal with what appears to be the bulk, if not  
24 all, of the complaints, and making sure that

1 everything that CPCNH was interested in is  
2 incorporated in that proceeding would probably be  
3 the most efficient way, because only issues that  
4 were not resolved would then come to the  
5 Commission. And one would assume that many, if  
6 not all, of the issues would be resolved in that  
7 docket.

8 So, I know it's -- you're thinking of  
9 sort of a "serial versus parallel" process, and  
10 it might be faster to be in parallel than serial,  
11 or in series. But, yes. I'm just trying to  
12 think through your reply.

13 Okay. Let's get a comment from  
14 Eversource.

15 MS. CHIAVARA: Same question?

16 CHAIRMAN GOLDNER: Yes, same question.

17 MS. CHIAVARA: Okay. I think  
18 Eversource's position would be that it would be  
19 most administratively efficient to move this to  
20 the DOE. The DOE does have jurisdiction over  
21 complaints of the 2200 rules, which I would say  
22 also entails interpreting what the 2200 rules  
23 mean, because that would be an inherent part in  
24 determining whether there was a violation of the

1 2200 rules or not.

2 So, to the extent that the Coalition is  
3 looking for an interpretation of what that -- the  
4 rules mean, they could find that through the  
5 complaint process at the DOE. And, again, there  
6 is the remedy or the option for any dissatisfied  
7 party to then come to the Commission for an  
8 adjudication.

9 I don't believe that having parallel  
10 proceedings make this any more expedient. And,  
11 in fact, it could run the risk of backfiring and  
12 slowing things down, because there is this  
13 docket, the DOE complaint matter docket, and also  
14 the bill-ready billing docket. And we have  
15 many -- we have the same resources on all three  
16 of these dockets, and there's -- there's only so  
17 much bandwidth that those people can have.

18 So, I would say consolidating dockets  
19 would allow for the DOE docket to move forward  
20 probably quicker than otherwise, than if they  
21 were to remain two parallel dockets.

22 CHAIRMAN GOLDNER: Okay. And I think  
23 one of the challenges here is that CPCNH is  
24 grandfathered in. So, if CPCNH wants to proceed

1 in this docket with issues, I think they can.  
2 And, so, I think the spirit of this status  
3 conference is trying to simplify that as much as  
4 possible.

5 MS. CHIAVARA: Uh-huh.

6 CHAIRMAN GOLDNER: I don't know, did  
7 you, in your filing, did you talk to the  
8 grandfathering issue? I don't know if I saw it  
9 in there.

10 MS. CHIAVARA: I did not. I don't  
11 object to that, to that position. So, I'm not  
12 arguing that they can't be here. I just -- it  
13 seems duplicative at this point, given that the  
14 DOE does have jurisdiction. There is an opening  
15 matter; they are considering it. So, having two  
16 proceedings seems like a duplicative effort.

17 CHAIRMAN GOLDNER: Okay. Thank you.  
18 Okay. We'll turn now to the Consumer  
19 Advocate.

20 MR. KREIS: Thank you, Mr. Chairman.

21 I want to do what works here. The  
22 reason my office has bothered to appear in this  
23 docket is we really care about resolving these  
24 issues that seem to us to be resisting

1 resolution, I guess, rather than use a more  
2 colorful adjective to describe that. So, I think  
3 we're doing what works.

4 And, for the most part, I want to defer  
5 to the good judgment of the Commission about what  
6 you think would work best, because I sense that  
7 you're in a position, similar to mine, you, too,  
8 would like to get these issues resolved. And  
9 there are several places. There is the other  
10 Commission docket. I took a much more  
11 belligerent stance in that docket, as you'll  
12 recall. And it really is all in the spirit of  
13 just wanting these questions to be resolved.

14 The CPCNH represents a vast swath of  
15 this state's residential utility customers. And  
16 their issues are real and deserve resolution.  
17 And it's frustrating to see how long it has taken  
18 us, as a state, to work through all these  
19 questions.

20 So, I just want to be as constructive  
21 as I possibly can be to get everybody to an  
22 answer that everybody lives with comfortably.

23 I was thinking that it almost seems  
24 inevitable that we're going to need some kind of

1 remedial legislation to straighten a bunch of  
2 this stuff out.

3 You mentioned House Bill 385 from last  
4 year, and I just quickly looked at that. And it  
5 doesn't seem to apply to this situation. I think  
6 House Bill 385 speaks to the situation where  
7 somebody -- where a consumer, essentially, or  
8 some, I guess, a customer has a complaint against  
9 a community power aggregator. And I read House  
10 Bill 385 as treating them similarly to way --  
11 similarly to the way the law already treats  
12 complaints against public utilities. That seems  
13 appropriate, and I'm glad the legislature did  
14 that. But I don't think that really speaks to  
15 the situation we're in here, where it's the CPCNH  
16 itself that has a complaint against a utility.

17 I just want to do what works. And I  
18 don't really care that much about which docket  
19 that happens in. My intuition is that Eversource  
20 is right, that it would make more sense to only  
21 have one place at a time where these questions  
22 are being worked on. Parallel proceedings would  
23 probably be confusing, and potentially  
24 counterproductive, because there's no guarantee,

1 after all, that the Commission will come to the  
2 same answers that the Department would.

3 I hope that was somewhat helpful.

4 CHAIRMAN GOLDNER: Thank you. I'll  
5 just mention that, at least I read, not speaking  
6 for my fellow Commissioners, but I read 385,  
7 HB 385, as applying to any party. So, that may  
8 be something we can come back to in this hearing,  
9 if there's maybe any further discussion that  
10 would be helpful on that topic, as opposed to  
11 applying just to consumers.

12 MR. KREIS: Maybe we can just -- well,  
13 I think it does apply to any party, but it  
14 relates to complaints against a community power  
15 aggregator, not a utility. This case here is a  
16 complaint against a utility.

17 But, in the end, I think it's a  
18 question we might be able to avoid altogether,  
19 because it seems tangential.

20 CHAIRMAN GOLDNER: Okay. Yes, I think  
21 that maybe some further discussion will be  
22 helpful on that. It does refer to "electric  
23 distribution utility" under Part X, under X, but  
24 that may be a topic for another time.

1           MR. KREIS:  There's also a distinct  
2           possibility that I could just be wrong.  That has  
3           been known to happen occasionally before.

4           CHAIRMAN GOLDNER:  That would be --  
5           that would be something, if we want to come back  
6           to it, Attorney Kreis, we could.  It seems like  
7           there might be -- that might be actually helpful  
8           to understand the scope of 385, and if everyone  
9           is aligned on that.

10                  Do the parties -- any of the other  
11           parties have any opinion on the application of  
12           HB 385, looking at Attorney Chiavara?

13           MS. CHIAVARA:  I am furiously trying to  
14           pull up that bill right now and review that text.

15           CHAIRMAN GOLDNER:  Okay.  Mr. Below.

16           MR. BELOW:  I was at the hearings on  
17           that.  And I believe, I'm also trying to pull up  
18           the text, but I believe that I read it more  
19           broadly.  That it involves a complaint against  
20           community power aggregations, but it also involve  
21           complaints by an aggregation against the utility.

22                  I do believe the intent was to shift  
23           all complaints.  The first stop is DOE.

24           CHAIRMAN GOLDNER:  Yes.

1 MR. BELOW: But they deliberately put  
2 in a grandfathering clause. So that, if a  
3 complaint was filed before the effective date, it  
4 could still play out under the old rules and law.

5 CHAIRMAN GOLDNER: Yes. Just a moment.

6 *[Chairman Goldner and Atty. Speidel*  
7 *conferring.]*

8 CHAIRMAN GOLDNER: Yes, Attorney  
9 Speidel pointed me to the language here that  
10 might be helpful. I'll just read it into the  
11 record, under 85:2.X: "Where the commission has  
12 adopted rules or issued orders in conformity with  
13 this chapter, complaints pertaining to actions  
14 undertaken or omitted by any municipal or county  
15 aggregator or electric distribution utility  
16 arising under this chapter, applicable rules, or  
17 orders of the commission, shall be made to the  
18 department. Thereupon, the department shall  
19 cause a copy of said complaint to be forwarded to  
20 the municipal or county aggregator or electric  
21 distribution utility complained of, which may be  
22 accompanied by an order, requiring that the  
23 matters complained" -- "the matters complained of  
24 be satisfied, or that the charges be answered in

1 writing within a time to be specified by the  
2 department. If the charges are not satisfied and  
3 it shall appear to the department that there are  
4 reasonable grounds therefor, it shall investigate  
5 the same in such a manner and by such means as it  
6 shall deem proper. After investigation, the  
7 department may bring proceedings on its own  
8 motion before the commission, with respect to any  
9 complaint or violation arising under this  
10 chapter, applicable rules, or orders of the  
11 commission." And, then, I'll just complete the  
12 sentence: "If the party bringing the complaint  
13 is unsatisfied with the disposition of the  
14 complaint by the department, then they may  
15 petition the commission to resolve the matter  
16 through an adjudicative proceeding.  
17 Notwithstanding any other provision of the law to  
18 the contrary, municipal and county aggregators  
19 shall be subject to the jurisdiction of the  
20 department for purposes of this paragraph."

21 *[Chairman Goldner and Atty. Speidel*  
22 *conferring.]*

23 CHAIRMAN GOLDNER: Any comments, Mr.  
24 Kreis, with the transparency of the law there

1           that I just read into the record?

2                       MR. KREIS:  Let me turn my microphone  
3           back on.

4                       I have no -- the law is as you just  
5           read it into the record.  And I guess I have to  
6           reluctantly agree that it would apply both to  
7           complaints filed against an aggregator, like this  
8           one, or complaints filed against a utility, like  
9           this one, as long as the issues arise under the  
10          rules that were promulgated that implement RSA  
11          53-E.

12                      CHAIRMAN GOLDNER:  Okay.  Thank you for  
13          that summary.  And, Mr. Below, you're nodding  
14          your head up and down?

15                      MR. BELOW:  Yes.  Very good.  We would  
16          agree that, for complaints filed after the  
17          effective date of the chapter, which was  
18          June 20th, 2023, that would be true.

19                      CHAIRMAN GOLDNER:  Applicable.  
20          Attorney Chiavara?

21                      MS. CHIAVARA:  I agree with both Mr.  
22          Below and Attorney Kreis.

23                      I would just note that, regarding  
24          grandfathering, it certainly does allow the

1 current complaint in front of the Commission  
2 right now to remain. However, I think probably  
3 the intent of it was so that, if there was a  
4 complaint in front of the PUC that was not in  
5 front of the DOE, then they wouldn't want someone  
6 to be down the road in a docket and, you know,  
7 well into the process, and then have that process  
8 cut off.

9 However, I think we have a distinctly  
10 different situation here, where there is an  
11 active matter pending before the DOE, and all  
12 issues could be properly vetted in front of that  
13 agency. And, so, I don't think there would be  
14 any remedies taken away from the Complainant.

15 CHAIRMAN GOLDNER: Okay. Mr. Below.

16 MR. BELOW: Mr. Chairman, I would just  
17 want the Commission to be fully cognizant of the  
18 fact that there are four of the matters  
19 complained of, are alleged violation of the rule  
20 or the statute, are not -- were not in the DOE  
21 complaint, because they only arise from the rule  
22 or the statute. And, at the time, the DOE had  
23 jurisdiction over orders of the Commission and  
24 other statutes, and perhaps other rules.

1           But there were -- one of them, you  
2           know, we don't need to really spend time on it,  
3           because it's the bill-ready issue, which is being  
4           handled in another docket. And two of them that  
5           were complained of to the Commission were also  
6           before the DOE. And I think, for those two, and  
7           that was part of our, you know, if we got there  
8           we would be amenable to those proceeding for  
9           resolution at DOE, and not, you know, sort of  
10          spend consideration of them now, although one of  
11          them -- yes, I'll just stop there, because I  
12          think that -- that kind of covers it.

13                 And of the three remaining ones that  
14                 are specific to the Commission, well, I think  
15                 they're still -- they are still relevant. And  
16                 we'd like somebody, either the Commission or DOE,  
17                 to eventually answer, you know, whether they feel  
18                 that Eversource is in compliance or not on those  
19                 other three.

20                         CHAIRMAN GOLDNER: So, one last  
21                         question, and then I'll turn it over to the other  
22                         Commissioners for additional questions.

23                         So, when -- I assume CPCNH filed with  
24                         the Department, and was there any reason why you

1           just didn't include everything that was filed in  
2           this docket in the Department's filing? Was  
3           there any reason for not including everything?

4                   MR. BELOW: Because, at the time, the  
5           Department didn't have jurisdiction over certain  
6           specific matters.

7                   CHAIRMAN GOLDNER: So, in order to  
8           include those, you would either need to file an  
9           additional proceeding, --

10                   MR. BELOW: Yes.

11                   CHAIRMAN GOLDNER: -- or ask the  
12           Department if they would be willing to include  
13           those additional topics?

14                   MR. BELOW: Correct.

15                   CHAIRMAN GOLDNER: Okay. Thank you.  
16           Commissioner Simpson.

17                   CMSR. SIMPSON: Thank you, Mr.  
18           Chairman.

19                   I can imagine there are a few folks in  
20           the room that were involved in the process of  
21           House Bill 385 drafting, and successful voting by  
22           the Legislature, and then the Governor's Office.

23                   So, I'm curious if somebody can share  
24           the intent behind House Bill 385, in your view?

1 And I'll start with the Coalition.

2 MR. BELOW: My recollection was that it  
3 was indicated that this was a request of the  
4 Department of Energy. And I think for the  
5 somewhat obvious reasons, that they felt that it  
6 would be more efficient to have all complaints  
7 come to them first.

8 Because the traditional role of the  
9 Commission, before the creation of the  
10 Department, included staff that could  
11 investigate, and perhaps make a recommendation.  
12 I don't think, today, you're staffed to that  
13 level. And, so, you know, I appreciate the logic  
14 in just saying "First stop is the Department of  
15 Energy. They can investigate, make a decision.  
16 And, then, the complainant can appeal, if they're  
17 not satisfied." So, that makes sense.

18 I am concerned that the three areas --  
19 two of the three areas we do feel involve  
20 interpretation of the rule. And we were kind of  
21 hoping that the Commission might be able to give  
22 some direction on that.

23 CMSR. SIMPSON: Okay. Thank you,  
24 Mr. Below.

1           I'll let anybody else weigh in, if  
2           you'd like.

3           MS. CHIAVARA: I was not personally  
4           involved with the legislation. But I would say,  
5           given what I know about the mandates of the two  
6           agencies, moving complaints to the DOE for the  
7           2200 rules, along with all other rules, would be  
8           administratively consistent -- it would provide  
9           some regulatory certainty, because there would be  
10          a consistency in process, and also probably most  
11          efficient, because there would be a consistency  
12          in process.

13          As far as getting the Commission's  
14          interpretation on the rules, now that the DOE  
15          does have jurisdiction, I would say that it is  
16          probably, again, for regulatory certainty and  
17          consistency, it would probably be best that these  
18          questions go in front of the DOE first, since  
19          that is now the process for all complaints, to  
20          run first through the DOE to get their  
21          determination, and then, if there is still -- if  
22          the complainant is not satisfied, to then bring  
23          it to the Commission for their interpretation,  
24          rather than having possibly disparate views of

1 two agencies at the same time.

2 CMSR. SIMPSON: Okay. And I'll return  
3 to the rule question in a moment. Because I'd  
4 like to know more, because the 2200 rules are PUC  
5 rules. And I'm certainly interested in the  
6 Department's view on the rules and their  
7 interpretation of them. But I also wonder  
8 whether we would be better tasked with  
9 interpreting our rules directly, in terms of a  
10 final disposition.

11 Anything from the Consumer Advocate,  
12 before I move on?

13 MR. KREIS: Again, I just want to do  
14 whatever works. I mean, I can't argue with that  
15 perspective either.

16 CMSR. SIMPSON: Okay.

17 MR. KREIS: And I'm always a fan of  
18 muscular exercise of jurisdiction by the Public  
19 Utilities Commission, as you know.

20 CMSR. SIMPSON: Very good. Returning  
21 to Mr. Below, as concisely as you can, can you  
22 articulate the data that you're looking for?

23 I'm pretty sure I know what it is, but  
24 I'd like you to just provide it here today for

1 us. Precisely, what is the information that you  
2 are not getting from Eversource?

3 MR. BELOW: The three issues are, that  
4 were within just the PUC domain, is a provision  
5 of interval data, as required by Puc 2203.02(e)  
6 and 2204.02(a)(2), as well as 2205.13(a)(7). So,  
7 that is one of the issues, interval data, which  
8 we don't receive any from Eversource at present.

9 The second one is whether CPCNH is an  
10 appropriate counterparty to the utility under  
11 their supplier agreement, and that's broadly, and  
12 the extent to which the supplier agreement needs  
13 to be modified to conform to Puc 2200 rules and  
14 RSA 53-E.

15 And the third one, which is somewhat  
16 more general, is the issue of prorating CPA rates  
17 on a calendar month basis, like they do for their  
18 own default energy service.

19 CMSR. SIMPSON: Okay. Thank you. And  
20 can you summarize briefly the language of  
21 interpretation that you've noted, and whether you  
22 see an unbridgeable disagreement between the  
23 participants herein?

24 MR. BELOW: Yes.

1 CMSR. SIMPSON: Please.

2 MR. BELOW: In some ways, the most  
3 important one to us, although there's actually  
4 two that are important, is the 2205 -- whoops, I  
5 don't want to misstate this. Where did it go?  
6 I'll get it back up.

7 It's the 2205.13(a)(7), which is the  
8 provision about providing us data for customers  
9 once they're our customers. And, of course, what  
10 that says is, "Once an individual utility  
11 customer has become a customer of a CPA, the  
12 utility shall provide to the CPA the following  
13 information, which may be provided through EDI  
14 access or otherwise", and one of them is "The  
15 most recent 24 months, if available, or 12 months  
16 otherwise, of usage data in kilowatt-hours for  
17 each monthly interval for accounts reported in  
18 monthly intervals for load settlement, and for  
19 each hourly interval for accounts reported in  
20 hourly intervals for load settlement."

21 So, that -- they have indicated that  
22 they will not provide that to us unless -- the  
23 only way they would provide it to us is if we  
24 take it off their tariff, which has a provision

1           that we could subscribe with a third party to get  
2           the data that's produced by an optical pulse  
3           output and collected by a third party. Our  
4           understanding is that that is not verified  
5           revenue-grade data, it's not the interval data  
6           that's used for load settlement. And their  
7           supplier agreement, for instance, requires the  
8           supplier to be responsible for verifying the  
9           accuracy of data used for load settlement.

10                   And our understanding is that, where a  
11           customer has interval data, which is only the  
12           largest C&I customers, that they would use that  
13           hourly interval data for load settlement. And  
14           it's that data that we believe that they should  
15           be able to provide to us, both so that we can  
16           verify that aspect of load settlement, but also  
17           so that, you know, it's a basic billing  
18           determinant that should be provided.

19                   Now, backing up, there's an earlier  
20           rule that requires anonymized individual customer  
21           data, after the Commission has approved an  
22           electric aggregation plan. And the importance of  
23           that is, particularly in Eversource's territory,  
24           is that there's a relatively small number of the

1 larger C&I customers who are on utility default  
2 service that might be enrolled on an opt-out  
3 basis if we did that. But the uncertainty, you  
4 know, if they provided that to us for a  
5 municipality, for those customers that are on  
6 default service, then we could make a judgment as  
7 to whether those load shapes, based on hourly  
8 interval data, are ones that we can  
9 cost-effectively serve. There's sort of a  
10 general hypothesis out there that customers that  
11 have that interval data, that aren't on  
12 competitive supply, either because they aren't  
13 paying attention and they just don't want to --  
14 they don't answer the phone when a supplier  
15 competes and asks for their -- to offer them a  
16 proposal, or maybe they have bad load shapes, and  
17 people don't want to serve them, because they  
18 would be very expensive to serve.

19 We have not chosen to launch in  
20 Eversource territory with those large customers  
21 on an opt-out basis, because we just don't know  
22 what the cost to serve them might be. We can  
23 analyze that for everyone else, because we get  
24 data, and we have class-average load shapes, but

1 not for these individual large customers.

2 In Liberty's territory, in contrast, we  
3 were able to determine that, once we launched in  
4 Liberty, we would be serving a majority of large  
5 C&I customers that were still on default service.  
6 So, the class-average load shape for those  
7 customers we could use to estimate what might be  
8 the cost to serve without excessive amount of  
9 risk that we were taking on customers. And I  
10 will add, Liberty also provided us with hourly  
11 interval data for those customers as part of that  
12 anonymized individual customer data before we  
13 launched.

14 CMSR. SIMPSON: On a per customer basis  
15 or on an aggregated basis?

16 MR. BELOW: On a per customer basis.

17 CMSR. SIMPSON: Okay. And what about  
18 Unitil?

19 MR. BELOW: It's possible. My  
20 recollection is not as clear there. And I  
21 believe it's because, when we initially launched,  
22 none of those large C&I customers were actually  
23 on default service, in the few towns that we  
24 initially launched with with Unitil.

1 CMSR. SIMPSON: So, long story  
2 short, --

3 MR. BELOW: Yes.

4 CMSR. SIMPSON: -- you're getting, on a  
5 per customer basis, information from Liberty  
6 that, at this point, you haven't been able to  
7 receive from Eversource?

8 MR. BELOW: Right.

9 CMSR. SIMPSON: And, with respect to  
10 Unitil, it's just not clear, at this moment in  
11 time, what you're getting?

12 MR. BELOW: I don't think it's been an  
13 issue with them. It's -- I'm not sure of this,  
14 but my sense is that we've had occasion since  
15 then, and they have been able to provide interval  
16 data. I mean, their interval -- I just know,  
17 internally, their interval data is much more  
18 accessible, and it's easily shared.

19 CMSR. SIMPSON: Okay. And, then, with  
20 respect to load settlement, and the service that  
21 you're trying to offer more broadly through  
22 ISO-New England, what are the rules that you have  
23 to follow through ISO-New England? Do you have  
24 to have utility revenue meter grade information?

1 Or, can you provide information from sources  
2 other than a utility meter or revenue-grade  
3 device?

4 MR. BELOW: We don't provide any of  
5 that data directly to ISO-New England. In this  
6 case, Eversource would do that for us through  
7 their load settlement system.

8 But it's our understanding that, where  
9 a customer has hourly interval data, that is used  
10 for load settlement. But, in Eversource's case,  
11 it's only around 200 customers throughout the  
12 entire state. So, it's a fairly small universe.

13 CMSR. SIMPSON: Okay. I'm just not  
14 clear on what -- I'm trying to understand whether  
15 there's a gap between the information that  
16 Eversource has and uses internally, in your view,  
17 versus what you're receiving from Eversource,  
18 because you're both performing load settlement  
19 functions?

20 MR. BELOW: Well, we, *per se*, don't  
21 perform a load settlement function. But, under  
22 their supplier agreement, and I believe it's also  
23 reflected in the tariff, suppliers are  
24 responsible for verifying the accuracy of the

1 data that Eversource provides to ISO-New England  
2 for load settlement.

3 So -- and I will add that our EDI and  
4 load settlement vendor does use the data that  
5 they get on a per customer basis, but they would  
6 only get the monthly data for a large C&I  
7 customer that has interval data. And they do  
8 check that against the revenue-grade billing  
9 determinants that they provide to us suppliers.

10 CMSR. SIMPSON: Yes.

11 MR. BELOW: Suppliers know that it  
12 comes from Eversource.

13 CMSR. SIMPSON: I understand that. But  
14 who's doing the checking that your --

15 MR. BELOW: We are.

16 CMSR. SIMPSON: The suppliers.

17 MR. BELOW: Through the contracted  
18 vendor, right.

19 CMSR. SIMPSON: Okay.

20 MR. BELOW: Right. We're checking it,  
21 and have access to that data for rate design  
22 purposes. So, I mean, the real -- there is some  
23 value to it, you know, for verification. But  
24 there's even more value to it in terms of rate

1 design and rate procurement. Because these are  
2 such, you know, if we added one of these  
3 customers, particularly if it was a smaller town,  
4 it would be a large portion of the total load  
5 that we're serving. And, because it has interval  
6 data, that -- and the class-average load shape  
7 may not be applicable, and they're going to be  
8 settled on their actual interval data, it's  
9 really important for us to see that and know  
10 that, in order to both design the right rates for  
11 that, those customers, and/or to be able -- well,  
12 to plan how to serve them best. And, obviously,  
13 those cases, the customers have their own unique  
14 capacity tag. And that also becomes a factor,  
15 because we want to be able to design custom rates  
16 for those customers, for instance, and,  
17 occasionally, those large customers might be even  
18 a large municipal account, in some of the largest  
19 cases, I'm not sure of that, but --

20 CMSR. SIMPSON: Okay. Thank you for  
21 all that.

22 I'm going to turn to the Company,  
23 afford an opportunity to respond. As I'm trying  
24 to wrap my head around the dimension of the

1 issues, a lot's been said.

2 So, is there anything you'd like to  
3 address, Ms. Chiavara?

4 MS. CHIAVARA: Yes.

5 I will address each of the three main  
6 issues that the Coalition identified, which is  
7 the supplier services agreement, interval data  
8 provision, and prorating rates on bills, customer  
9 bills.

10 Since we were just talking about load  
11 settlement, load settlement is the job of the  
12 utility. The utility is who completes load  
13 settlement.

14 As far as providing interval data, our  
15 tariff does provide that any interval data, and  
16 Mr. Below is right, it is just for about around  
17 200 customers, that is available through Energy  
18 Profiler Online, EPO. That is the only way that  
19 suppliers can access it. And, so, for  
20 verification/validation purposes, it is -- that  
21 is the only way to get it.

22 CMSR. SIMPSON: Every supplier today?

23 MS. CHIAVARA: Every competitive  
24 supplier, yes. That's the only way to get that

1 information.

2 CMSR. SIMPSON: And let me ask you,  
3 does the Company, for the customers that you  
4 serve through default service, are you acquiring  
5 that information through EPO?

6 MS. CHIAVARA: I believe that we are --  
7 I believe EPO and our internal systems are both  
8 getting from MV90, the meter system. So, EPO is  
9 getting the same data that the Company is  
10 getting.

11 CMSR. SIMPSON: Okay. Please proceed.  
12 Thank you for that clarification.

13 MS. CHIAVARA: Sure. Regarding the  
14 supplier services agreement, this is also  
15 governed by the tariff. As such, it's an  
16 agreement that we don't negotiate on an  
17 individual basis. As far as who the most  
18 appropriate counterparty to sign the agreement,  
19 we believe that the load-serving entity is the  
20 appropriate party to sign. By the load-serving  
21 entity signing, it doesn't limit the rights or  
22 the abilities or the capabilities of the  
23 Coalition.

24 So, as far as altering or negotiating

1 the terms of the SSA, the supplier services  
2 agreement, we just -- we don't do that, that  
3 would be inconsistent with tariff practices. And  
4 we don't believe that executing it in the form  
5 that we are is having any sort of impact on  
6 operations for any aggregation.

7 Then, in regards to prorating, we are  
8 capable, Eversource is capable of prorating  
9 bills. Because, as a regulated industry, as you  
10 all well know, we come in and we ask for rate  
11 changes for default supply and other rate  
12 components, and those rates take effect on a  
13 particular date. And, so, to have those rates  
14 take effect on a particular date, it's,  
15 obviously, going to be at various points through  
16 any customer's billing cycle. That process is  
17 not an easy process. It's not a flipping of a  
18 switch. It's manual. And it requires IT work  
19 and IT testing, and several days to make sure  
20 that all goes well and all is ready to be  
21 implemented properly. It is a manual process.  
22 And it -- this is why, when we come in and ask  
23 for a rate change, we ask for substantial notice,  
24 so that we can take all of those measures to

1 ensure that the rate is implemented properly.

2           There is nothing in the 2200 rules that  
3 requires the proration of rates. I believe  
4 there's one provision that says, I'm sorry, I'm  
5 doing this from memory, that, if a customer were  
6 to leave an aggregation, and go either to  
7 competitive supply or to default service, in an  
8 off -- an off meter cycle, that, if the Company  
9 offers the service, then the aggregation can take  
10 advantage of that service for a fee. It's for  
11 individual customers, and it's a one-off  
12 situation. Otherwise, the Company just, we -- I  
13 imagine proration would not be something that we  
14 would do in the ordinary course, if it wasn't  
15 something that we are regulatorily obligated to  
16 do, because it is a -- it's a big lift. And, so,  
17 without a requirement in the 2200 rules, it  
18 would not be something that we would do  
19 otherwise.

20           CMSR. SIMPSON: Okay. And, then, with  
21 respect to the language in your tariff, I'm  
22 wondering whether a tariff issue exists, and  
23 whether there's language in your tariff that  
24 needs to be updated to conform to either statute

1 or the 2200 rules, or if that is not the case, in  
2 the Company's view?

3 MS. CHIAVARA: Regarding which issue,  
4 as far as you said "is there a tariff issue",  
5 regarding --

6 CMSR. SIMPSON: The information that  
7 you provide to suppliers.

8 MS. CHIAVARA: For interval data?

9 CMSR. SIMPSON: Correct. My  
10 understanding is that you've said your tariff is  
11 the agreement that -- that outlines the  
12 information that you will provide to suppliers,  
13 am I understanding that correctly?

14 MS. CHIAVARA: Yes. It says that  
15 "interval data will be made available through  
16 Energy Profiler Online."

17 CMSR. SIMPSON: And, so, does the  
18 information that's required via the 2200 rules  
19 align with what you're providing via EPO, as  
20 articulated in the tariff?

21 MS. CHIAVARA: I believe it does. This  
22 is the hourly data that they're seeking. And  
23 that is --

24 CMSR. SIMPSON: Okay.

1 MS. CHIAVARA: So, there's nothing  
2 inconsistent between the 2200 rules and the data  
3 that is available through the tariff.

4 CMSR. SIMPSON: Okay. Thank you. I  
5 think that's all I had at this time.

6 Oh, Mr. Below?

7 MR. BELOW: Yes. Yes, please. A  
8 couple of things.

9 First, on the question of whether the  
10 Community Power Coalition, or any community power  
11 aggregation, could be the supplier under their  
12 supplier agreement. Section IV of their supplier  
13 agreement, Subparagraph C states, and this is  
14 under a section called "Conditions Precedent",  
15 saying "The following requirement shall be  
16 conditions precedent to the Company's obligations  
17 hereunder:"..."C. Supplier shall either (i) be an  
18 ISO-New England Market Participant with an  
19 ISO-New England market settlement account; or  
20 (ii) have an agreement in place with an ISO-New  
21 England Market Participant member whereby that  
22 member agrees to include the load to be served by  
23 the supplier in its ISO-New England settlement  
24 account."

1           That was the case when we sought to  
2           enter into the supplier agreement, and Eversource  
3           said "No", they said "No, you have to meet  
4           Criteria (i), not Criteria (ii)." And we don't  
5           see that in the rules, why a CEPS could contract  
6           with a third party for load settlement as their  
7           supplier agreement provides, and is not  
8           contradicted anywhere in their tariff, I might  
9           add. And we can't.

10           So, that was a problem early on. But,  
11           you know, we have worked around that, and we're  
12           making that work. But we don't believe that --  
13           that we would still like this option, to be  
14           recognized as the supplier.

15           CMSR. SIMPSON: Let me stop you right  
16           there, because I'm confused now. So, there's a  
17           disagreement as to whether or not CPCNH can  
18           contract with a third party?

19           MR. BELOW: No. No, the disagreement  
20           is whether we're an appropriate counterparty to  
21           the supplier agreement with Eversource. Well,  
22           and they're saying, because we are, ourselves,  
23           not a load-serving entity within ISO-New England  
24           market, that therefore we don't qualify. But

1           their own -- the plain language of their supplier  
2           agreement says "or you can have an agreement with  
3           somebody who is a settlement party."

4                       And I might add, we have since come to  
5           understand that this is actually a practice, that  
6           some of the CEPS serving New Hampshire now use a  
7           separate legal entity for their load settlement.  
8           And that my understanding is that includes both  
9           Calpine and the NRG Companies.

10                      CMSR. SIMPSON:  And who are those third  
11           parties?  Are they affiliates?

12                      MR. BELOW:  They're often affiliates,  
13           yes.  Typically, affiliates.  In these two cases  
14           that I'm aware of, they're affiliates.

15                      CMSR. SIMPSON:  And has -- is CPCNH  
16           trying to become a market participant?  Or are  
17           you continuing to try to use the distribution  
18           utility as the market participant in your case?

19                      MR. BELOW:  Well, we don't use the  
20           distribution utility as the market participant.  
21           We contracted with Calpine Energy Solutions.

22                      CMSR. SIMPSON:  Uh-huh.

23                      MR. BELOW:  And we actually had to  
24           modify our contract.  So, we also had a contract

1 with Calpine Community Energy, which does the  
2 load settlement for us. But that -- that was not  
3 our original plan. We had to change our plan and  
4 change our contractual relationships, because we  
5 expected to be contracting -- well, we do, we  
6 contract with Calpine Community Energy to do our  
7 load settlement. But, otherwise, we do -- we  
8 have the capability to contract, for instance,  
9 directly with internal bilateral transactions in  
10 the ISO-New England market. And we do our own  
11 procurement. They're not procuring the power for  
12 us, unlike, you know, a normal CEPS arrangement.

13 So, we're managing our own supply  
14 portfolio, and they're just acting as the  
15 intermediary here. Which has always been our  
16 plan, it's just that we expected to be able to be  
17 the counterparty to the supplier agreement,  
18 because they allow it for other CEPS. And it's  
19 sort of discriminatory treatment that precludes  
20 us from having an option that CEPS apparently do  
21 have as an option.

22 CMSR. SIMPSON: Attorney Chiavara?

23 MS. CHIAVARA: I would just -- sorry.

24 I would just say that the paragraph that he's

1 referring to in "Conditions Precedent", it's  
2 Section IV, Paragraph C, it says the "supplier  
3 shall either". And it's my understanding that  
4 Calpine is supplying the energy. And, so, the  
5 supplier is the appropriate counterparty to the  
6 agreement, in Eversource's view.

7 MR. BELOW: And just to clarify,  
8 contractually, with all of our member CPAs, we're  
9 the supplier. None of our community power  
10 aggregations have a contract with any Calpine  
11 entity. We contract and have the obligation to  
12 supply the energy.

13 CMSR. SIMPSON: So, what -- can you  
14 articulate the Company's concern with that  
15 agreement, with that arrangement?

16 MS. CHIAVARA: Yes. Because the  
17 contractual arrangement that they have with the  
18 aggregations does not involve Eversource. As far  
19 as Eversource is concerned, the contractual  
20 relationship that we're concerned with is with  
21 the entity actually supplying the power, not the  
22 designation or titles or things of that nature.

23 As far as the contractual relationships  
24 between the aggregations and the Coalition,

1           that's fine. We have no problem with that. But,  
2           when it comes to the need to enforce the terms of  
3           the supplier services agreement, the counterparty  
4           that we need to be in a contractual relationship  
5           with is the entity that is supplying the power,  
6           they're the ones that we would have to, if  
7           action -- remedial action is needed to be taken,  
8           I don't know the supplier services agreement  
9           inside and out. I don't know every instance that  
10          may arise, if there were a breach of that  
11          agreement. But the person -- the entity actually  
12          supplying the energy is the appropriate  
13          counterparty.

14                        CMSR. SIMPSON: Okay. So, then, I'm  
15          going to ask you a question you may not know the  
16          answer to or may not want to offer at this time,  
17          but what do you do in Massachusetts with the Cape  
18          Light Compact?

19                        MS. CHIAVARA: I do not know the answer  
20          to that question.

21                        CMSR. SIMPSON: Okay. Because I can  
22          imagine they're also not the supplier. Maybe  
23          your terms are different. But I'd be very  
24          interested in understanding the arrangement that

1 I presume it's NSTAR, Eversource Mass. East has  
2 with the Cape Light Compact.

3 MS. CHIAVARA: Yes. And I believe the  
4 supplier services agreements between  
5 Massachusetts and New Hampshire are very similar,  
6 if not the same.

7 CMSR. SIMPSON: The systems are the  
8 same, I presume?

9 MS. CHIAVARA: Which systems?

10 CMSR. SIMPSON: Like, you know, you  
11 both use Energy Profiler Online? Don't know?

12 MS. CHIAVARA: I would -- that I don't  
13 know for sure.

14 CMSR. SIMPSON: Okay.

15 MS. CHIAVARA: But I can certainly look  
16 into what the Cape Light contract or SSA would  
17 say.

18 CMSR. SIMPSON: Okay.

19 MR. BELOW: We also didn't really  
20 respond or elaborate on the proration issue. And  
21 I'd like Brian Calpine to respond to that.

22 MR. CALLNAN: Okay. On the proration  
23 issue, we're trying to have the same type of  
24 services that each of the utilities has, and

1 we're trying to provide those our customers.

2 CMSR. SIMPSON: Like what? What do you  
3 mean?

4 MR. CALLNAN: If there was proration  
5 that was being done, I believe in Eversource's  
6 case, for their default service customers, we're  
7 hoping that those same proration services can be  
8 provided to our customers, and at the same time.  
9 There -- while it does sound like that's a manual  
10 process, and I do understand that those processes  
11 can be difficult, there is a benefit to the  
12 timing of our rate adjustments as to the same  
13 timing as the utility's adjustments, being  
14 basically at the same time. So, our rates are  
15 changing on February 1st and August 1st. We do  
16 not have rates that are being offered right now  
17 that have different timing, which would, I  
18 imagine, create additional hardship for  
19 Eversource to provide that proration services for  
20 those rates.

21 If we could be thrown into the manual  
22 process that's being done, and it takes multiple  
23 days, that would be a service we would take  
24 advantage of.

1 CMSR. SIMPSON: Okay. Thank you. I  
2 think that's all I have.

3 I guess I'll just say, having worked on  
4 advanced rate designs in the past for a different  
5 utility, I would say that, in my view, the vision  
6 has always been that, once time-varying,  
7 innovative rates are offered, that the supply  
8 portion would be available to be time-varying as  
9 well, even over and above what the distribution  
10 utility has offered.

11 And, at this point, as a TOU customer,  
12 the only option of time-varying my supply portion  
13 has been through the distribution utility. And I  
14 think that that's an offering that needs to  
15 evolve over time.

16 So, I'm very interested in  
17 facilitating, helping to facilitate an efficient  
18 process, where we can show real progress as a  
19 state.

20 Thank you.

21 CHAIRMAN GOLDNER: Thank you. We'll  
22 turn now to Commissioner Chattopadhyay.

23 CMSR. CHATTOPADHYAY: Great to have a  
24 Commissioner, Commissioner Simpson, who is into

1           these topics the way he is. My --

2                   CMSR. SIMPSON: There are other topics  
3 where you're very into them. So, it's nice to  
4 have some balance across the Commission.

5                   CMSR. CHATTOPADHYAY: Thank you.

6                   So, this is just out of curiosity based  
7 on what you were sharing. And I'm not at the  
8 level that Commissioner Simpson is. But you were  
9 talking about "class-average information being  
10 available". What I understood was that, for  
11 Eversource, having information on specific  
12 customers would be helpful, because you don't  
13 have enough customers, if I understood it  
14 correctly. For Liberty, you said, and I may be  
15 wrong, said "class-average information is good  
16 enough", there's a lot of customers there, or  
17 were you saying you actually have ability to get  
18 specific customer's information? And we are  
19 talking large customers here.

20                   MR. BELOW: In advance of launching,  
21 Liberty Utilities did give us anonymized interval  
22 data for those customers that are on utility  
23 default service within communities that we were  
24 launching. And that was helpful, because we

1           could look at the load shapes of those customers,  
2           as we enrolled them on an opt-out basis. And we  
3           also had access, because all the utilities do  
4           publish class-average load profiles, and they --  
5           I believe they do that, you know, it's done by  
6           different classes. But, when you get to the  
7           large class, sometimes that's only, you know,  
8           well, in Eversource's case, it is of limited use,  
9           because whatever the number is, you know, say  
10          it's 20 percent, say it's 40 customers in that  
11          class, you know, in a given community, we might  
12          have one or two or three that are on default  
13          service. And we don't know whether their load  
14          shapes is particularly expensive to serve, which  
15          might be why they haven't gone to competitive  
16          supply, or, if they are reflective of that  
17          average.

18                        In Liberty's case, we kind of took the  
19                        chance that, because we were getting the  
20                        majority, we were able to determine, because they  
21                        publish how many customers are on competitive  
22                        supply versus default, we were able to look at it  
23                        and say "Okay, we've got comfort that these  
24                        customers are going to -- we can afford to serve

1           them, because they represent a majority of that  
2           class-average load shape."

3                         That will never be the case in any one  
4           community for Eversource, just because they serve  
5           so many communities.

6                         CMSR. CHATTOPADHYAY: Thank you. I  
7           have just one more question.

8                         In the beginning there was -- you had  
9           mentioned something about "keeping this docket on  
10          hold", and I'm trying to contrast that with the  
11          "need to withdraw". So, the two different  
12          concepts in my head.

13                        MR. BELOW: Uh-huh.

14                        CMSR. CHATTOPADHYAY: If you went the  
15          "hold" route, does that also create the same kind  
16          of problems that withdrawing this docket would,  
17          in terms of first having to deal with DOE, and  
18          then it's about the "administrative efficiency"  
19          question?

20                        MR. BELOW: Right. I think having this  
21          on hold might be more -- it seems, on balance,  
22          seems to be more efficient than to simply close  
23          this docket, and say "If it comes back from DOE,  
24          then we'll start a new docket." And I think

1           that's -- it's not a huge difference, but we  
2           don't have to necessarily recreate the record  
3           that exists in this docket, and which presumably  
4           would sort of transfer to DOE and might come  
5           back.

6                       Obviously, there would be an update to  
7           that. So, I guess that's my thought on that  
8           question.

9                       CMSR. CHATTOPADHYAY: Okay. Anybody  
10          else has an opinion on the last point?

11                      MS. CHIAVARA: Yes. I believe that it  
12          might be more appropriate to close this docket.  
13          Because, if all issues are going to go in front  
14          of the Department of Energy, they're, obviously,  
15          going to issue a determination on all of those  
16          issues. And, then, it wouldn't be the same  
17          questions in front of the Commission. It would  
18          then be, the Commission would be reviewing what  
19          the Department of Energy's determination on the  
20          issues would be. And, so, it wouldn't just be  
21          picking up this docket from where it stands now,  
22          because, first, it's going to be vetted through  
23          another agency. And, so, then we'd be looking at  
24          it through the lens of the Department of Energy's

1 determination.

2 CMSR. CHATTOPADHYAY: I think what I'm  
3 going to add is, based on what I'm hearing, and I  
4 haven't dived into the statutory language in  
5 depth, seems to be that there is a possibility  
6 that there are some aspects that DOE may not look  
7 at it, because they are squarely within the  
8 responsibility of the PUC. And, if that's the  
9 case, then they aren't going to be looking at  
10 everything.

11 And, so, I'm not sure, you know, when  
12 you're comparing the "hold" versus "withdrawal"  
13 option, that the right approach necessarily is to  
14 withdraw.

15 So, again, I confess, I need to process  
16 the information a lot better. But, if you  
17 understood what I'm saying, if anybody wants to  
18 respond, I'll appreciate it.

19 MR. BELOW: Well, that's sort of --  
20 it's exactly what I was thinking when you  
21 articulated it. Which is, we don't know if DOE  
22 will accept to investigate the parts that were  
23 just complained of to the PUC. They might. And,  
24 if it's put on hold, then the Commission has a

1 choice to start a new proceeding, once they  
2 report or not.

3 But, if we go back, and DOE says "No,  
4 you'd have to refile those complaints anew, and  
5 create a whole new record on them in a separate  
6 complaint proceeding", even though they have  
7 indicated they want to move ahead and resolve the  
8 current complaints, you know, soon, which is  
9 good, we appreciate that. But we just don't know  
10 if they're willing to do that. If they do do it,  
11 then no harm done. But, if they decide "No,  
12 we're not going to look at those", then we'd be  
13 set back, in terms of how long it would take to  
14 potentially get these resolved.

15 CMSR. CHATTOPADHYAY: Any additional  
16 thoughts?

17 MS. CHIAVARA: I think that the  
18 Department of Energy's jurisdiction over the 2200  
19 rules, as far as hearing complaints under the  
20 2200 rules, isn't qualified in any way. So, they  
21 can hear any issues I think that's in the PUC  
22 complaint. And, so, I don't know what -- I don't  
23 know that those -- those issues do not seem to be  
24 limited as far as what the DOE can consider.

1           If the DOE declined to consider certain  
2           issues, then perhaps it would be appropriate to  
3           bring it to the Commission, the issues that the  
4           DOE wouldn't consider. But, in the absence of  
5           that, if they were to consider all of them, I  
6           think that will be the most appropriate venue.

7           CMSR. CHATTOPADHYAY: Just a comment --  
8           you wanted to share something?

9           MR. KREIS: Yes, Commissioner. Thank  
10          you for noticing that. Just a few observations,  
11          because I think the questions that you're raising  
12          are important.

13          I agree with Attorney Chiavara, that  
14          the Department's authority to investigate issues  
15          that arise under the 2200 rules is plenary. So,  
16          I think there's some reason to depend on the  
17          robust advocacy of the CPCNH, and I suppose our  
18          office, too, with respect to making sure that all  
19          of the issues that are germane here are, in fact,  
20          brought to the attention of the Department of  
21          Energy.

22          I think the Commission should also  
23          assume that none of this is happening in a vacuum  
24          or in secret. And, so, if things become

1 convoluted in a way that's patently ridiculous,  
2 because things are just constantly being bounced  
3 back and forth between the Department and the  
4 PUC, and nothing ever gets resolved, if nothing  
5 else, you can depend on me to raise that in the  
6 court of public opinion. And it will become  
7 obvious to everybody in the state who cares that  
8 everybody who could is not doing everything they  
9 could do to resolve these issues, which I think  
10 is something we would all like to see happen, so  
11 that everything can move forward.

12 And, finally, I think that the issues  
13 that ultimately come to the PUC for resolution,  
14 after the Department addresses them, will be  
15 subject to a *de novo* standard of review before  
16 the PUC, in other words, you won't be obliged to  
17 defer to anything the Department decides. You  
18 can examine everything afresh, if you want to.  
19 And, so, you'll have the benefit of whatever is  
20 developed over in the Department of Energy forum,  
21 and you can either accept that or reject it as  
22 your judgment tells you to. And, so, there's no  
23 prejudice to any of the parties here, if the  
24 Department does its thing first, and then the PUC

1 takes a look second.

2 At least that's how the landscape looks  
3 to me. And I, for better or worse, am a lawyer.

4 CMSR. CHATTOPADHYAY: As a nonlawyer, I  
5 will share this.

6 That having two complaints open, one in  
7 DOE's court and one here, creates a situation  
8 where DOE can't say anything here today, it kind  
9 of makes it difficult to come to the most  
10 efficient solution. That is an observation that  
11 I just wanted to make. I don't want to overstate  
12 anything.

13 But, thank you. That's all I have.

14 CHAIRMAN GOLDNER: Okay. Let's take a  
15 brief break, come back at just 10:20. So, just  
16 seven or eight minutes, to wrap things up today.  
17 Off the record.

18 *(Recess taken at 10:13 a.m., and the*  
19 *status conference reconvened at*  
20 *10:29 a.m.)*

21 CHAIRMAN GOLDNER: Okay. We'll go back  
22 on the record.

23 So, the Commissioners have talked, and  
24 having heard from everyone today, our plan is to

1 go ahead and close this docket now. Let the DOE  
2 disposition the complaints, following the current  
3 process. Then, any appeal would come to the PUC  
4 on a *de novo* basis, as the OCA pointed out.

5 So, that's the -- that's what we talked  
6 about in deliberations a minute ago. But I'll  
7 give everyone a chance to comment before we wrap  
8 up today. We can begin with Eversource.

9 MS. CHIAVARA: Thank you, Commission.  
10 I think that this is going to be proved to be the  
11 most efficient way to go about things.

12 And I appreciate the Commission's time  
13 today.

14 CHAIRMAN GOLDNER: Thank you. The  
15 Office of the Consumer Advocate?

16 MR. KREIS: Mr. Chairman, I'm  
17 comfortable with the approach that you just  
18 articulated. And we'll comply and cooperate with  
19 it cheerfully.

20 CHAIRMAN GOLDNER: Mr. Below?

21 MR. BELOW: That's okay with us, too.  
22 I guess I would request, could you specify that's  
23 without prejudice in closing the case, and also  
24 offer to transfer the record in this case to the

1 Department of Energy?

2 Which would be the filings, and I guess  
3 the transcript of today's hearing.

4 CHAIRMAN GOLDNER: Okay. Okay, duly  
5 noted. The Commissioners will have to deliberate  
6 on that, but I've noted your request.

7 Okay. Anything else that we need to  
8 cover today?

9 *[Multiple parties indicating in the*  
10 *negative.]*

11 CHAIRMAN GOLDNER: Okay. Seeing none.  
12 Thank you, everyone, for your time. We are  
13 adjourned.

14 ***(Whereupon the status conference was***  
15 ***adjourned at 10:29 a.m.)***

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