STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

May 16, 2016 - 10:01 a.m.
Public Utilities Commission
21 South Fruit Street Suite 10
Concord, New Hampshire

NHPUC JUN23'16 AM 8:43

IN RE: SEC DOCKET NO. 2015-05
SITE EVALUATION COMMITTEE:
Joint Application of New England Power Company d/b/a National Grid and Public Service Company of New Hampshire d/b/a Eversource Energy for a Certificate of Site and Facility.
[Hearing on Motions to Partially Waive Site 301.05(b)(8)(b), Site 301.08(c)(2), and Site 301.03(c)(3)-(5)]

PRESENT: **SITE EVALUATION COMMITTEE:**

F. Anne Ross, Esq. *(Presiding as Presiding Officer)*	Public Utilities Commission
Cmsr. Kathryn M. Bailey	Public Utilities Commission
Dr. Richard Boisvert	DCR-Div. of Historical Res.
Michele Roberge	Dept. of Environmental Serv.
Patricia Weathersby	Public Member
Rachel Whitaker	Alternate Public Member

Also Present for the SEC:

Michael J. Iacopino, Esq. (Brennan...
Pamela G. Monroe, SEC Administrator

COURT REPORTER: *Steven E. Patnaude, LCR No. 52*

ORIGINAL

1

2 **OTHER APPEARANCES:**

3 **FOR THE APPLICANTS:**

4 **Reptg. Eversource Energy:**
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5 Adam Dumville, Esq. (McLane Middleton)
Christopher Allwarden, Esq. (Eversource)
6 Elizabeth Maldonado, Esq. (Eversource)

7 **Reptg. National Grid:**

8 Mark Rielly, Esq. (National Grid)

9

10 **COUNSEL FOR THE PUBLIC:**

11 Christopher G. Aslin, Esq.
Assistant Attorney General
12 N.H. Department of Justice

13

14

15 **ALSO NOTED AS PRESENT:**

16 David Plante, Eversource Energy
Jessica Farrell, National Grid
17 Sherrie Trefry, Vanasse Hangen Brustlin (VHB)
Tiffany Forsyth, National Grid
18 James Vancho, Eversource Energy

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

2 PRESIDING OFFICER ROSS: Good
3 morning. This is a hearing in the Merrimack
4 Valley Reliability Project docketed as 2015-05.
5 The hearing today is on requests for waivers by
6 the Applicant. And we will take appearances
7 this morning, and then we will begin with the
8 Applicant presenting its arguments for waiver,
9 and an opportunity for the public and Counsel
10 for the Public or any other intervenors to make
11 comments or oppose the waivers.
12 So, with that, we'll begin with
13 appearances.
14 MR. NEEDLEMAN: Thank you. Is this
15 on?
16 CMSR. BAILEY: No.
17 MR. NEEDLEMAN: Barry Needleman, from
18 McLane Middleton, representing the Joint
19 Applicants.
20 MS. TREFRY: Sherrie Trefry, from
21 VHB, representing the Applicants.
22 MR. DUMVILLE: Good morning. Adam
23 Dumville, from Mack Middleton, representing the
24 Joint Applicants.

1 MR. RIELLY: Mark Rielly, in-house
2 counsel at National Grid.
3 MR. ALLWARDEN: Chris Allwarden,
4 Eversource Energy - Legal.
5 MS. MALDONADO: And Elizabeth
6 Maldonado, Eversource Energy - Legal.
7 MR. PLANTE: David Plant, Eversource
8 Energy, Project Management.
9 MS. FARRELL: Jessica Farrell,
10 National Grid, Transmission Line Engineer.
11 MR. ASLIN: Assistant Attorney
12 General Chris Aslin as Counsel for the Public.
13 PRESIDING OFFICER ROSS: And I
14 apologize, I should introduce myself. Anne
15 Ross, acting as Hearings Examiner. And I'm
16 going to have each of the members of the
17 Subcommittee introduce themselves as well.
18 MS. WHITAKER: My name is Rachel
19 Whitaker. I'm an alternate member for the SEC.
20 CMSR. BAILEY: Kate Bailey, Public
21 Utilities Commission.
22 DR. BOISVERT: Richard Boisvert, New
23 Hampshire Division of Historical Resources.
24 MS. ROBERGE: Michele Roberge, New

1 Hampshire Department of Environmental Services.
2 MS. WEATHERSBY: Good morning.
3 Patricia Weathersby, public member.
4 PRESIDING OFFICER ROSS: Thank you.
5 And, with that, I think we'll begin with the
6 Applicants' summary of the waiver requests and
7 any arguments in support of them.
8 MR. NEEDLEMAN: Thank you.
9 ADMINISTRATOR MONROE: Just
10 procedurally, do you want your witnesses on the
11 -- I haven't hooked up the conference call?
12 MR. NEEDLEMAN: I do. I should have
13 introduced them. I'm hoping that we've got two
14 other folks on the phone. One is Tiffany
15 Forsyth, Tiffany is Director of FERC Revenue
16 Requirements at National Grid; and James
17 Vancho, Jim is Manager for Investment Analysis
18 and Business Development at Eversource. And
19 both of those folks are going to be available
20 to help with questions, if you have any related
21 to a portion of the decommissioning waiver
22 request.
23 (Off the record.)
24 MR. NEEDLEMAN: So, let me just

1 check. Tiffany, it's Barry Needleman. Can you
2 hear us?
3 MS. FORSYTH: I can.
4 MR. NEEDLEMAN: Yes?
5 MS. FORSYTH: Yes.
6 MR. NEEDLEMAN: Okay. You'll just
7 need to speak up, so that everyone in the room
8 can hear you.
9 And, Jim, are you on the line?
10 MR. VANCHO: I am.
11 MR. NEEDLEMAN: Okay. Great. Thank
12 you. Is anybody else on the line?
13 *[No verbal response.]*
14 MR. NEEDLEMAN: Okay. That's good.
15 Should I begin?
16 PRESIDING OFFICER ROSS: Yes.
17 MR. NEEDLEMAN: Thank you. So, we
18 are here today to address three motions that
19 the Joint Applicants have filed before the
20 Committee. Each motion involves a partial
21 waiver request from some of the Committee
22 rules.
23 The first motion, in no particular
24 order, is a request for a partial waiver from

1 certain mapping requirements, in Section
2 301.03(c)(3) through (5). With respect to that
3 motion, Counsel for the Public took no position
4 on our filing, and the sole intervenor in this
5 matter, Ms. Huard, opposed our motion.
6 The second motion is a partial waiver
7 that relates to certain decommissioning
8 requirements, that is with respect to
9 Section 301.08(c)(2) of the Committee's rules.
10 Again, Counsel for the Public took no position
11 on this motion, and, again, Ms. Huard objected
12 to our motion.
13 And, then, the third one is a partial
14 waiver with respect to the size of the
15 photosimulations that are included in the.
16 Visual Impact Assessment. That is with respect
17 to your Rule 301.05(b)(8)(b). And both Counsel
18 for the Public and Ms. Huard took no position
19 on that motion.
20 With respect to all three of these
21 motions, the standard that the Committee
22 applies from its rules comes from Section
23 302.05, your waiver standard. And the standard
24 indicates that, if "a waiver request serves the

1 public interest", and it "won't disrupt the
2 orderly and efficient resolution of the
3 proceedings", that the waiver may be granted.
4 And, within that rule, there is further
5 clarification under 302.05(b) **[**202.15(b)**?]**,
6 which indicates that the Committee will waive a
7 rule if a particular requirement is "onerous or
8 inapplicable", in the first instance, or, in
9 the second instance, "the purpose of the rule
10 could be satisfied through an alternative
11 method".
12 And, so, I wanted to take up each of
13 these motions separately. And I'm happy to do
14 it any way the Committee wants. I can go
15 through our arguments quickly on all three or
16 we can take them one at a time. I don't intend
17 to repeat everything in our papers. I just
18 wanted to give the Committee a high-level
19 summary of our positions on these motions.
20 And, if there's no particular
21 preference, I think what I'll do is start with
22 our mapping motion.
23 The issue here in the mapping motion
24 is that the Committee --

1 MR. IACOPINO: Mr. Needleman?
2 MR. NEEDLEMAN: Yes.
3 MR. IACOPINO: Could I interrupt you
4 for just a moment?
5 MR. NEEDLEMAN: Sure.
6 MR. IACOPINO: I just want to make
7 sure we understand the positions of the other
8 parties. If I understood correctly, Ms. Huard
9 filed a written objection to your request to
10 waive the decommissioning rules. She notified
11 you that she objected to your motion for waiver
12 with respect to the mapping, but she never
13 filed a written objection. Is that correct?
14 MR. NEEDLEMAN: That's my
15 understanding.
16 MR. IACOPINO: Okay. Because that's
17 what I think our docket reveals. I just want
18 to make sure there's no misunderstanding about
19 that.
20 MR. NEEDLEMAN: I'm going off what we
21 represented in our motions at the time we
22 filed.
23 MR. IACOPINO: Okay. Thank you.
24 MR. NEEDLEMAN: Thank you. So,

1 starting with the mapping motion, the issue
2 here is relatively straightforward. The
3 Committee's rules require that, when maps are
4 provided, and I actually have samples of the
5 maps that we actually provided here. And, I
6 don't know, Pam would you mind just showing
7 these to the Committee. I think a picture
8 might be worth a thousand words. Thank you.
9 *[Administrator Monroe*
10 *distributing maps.]*
11 MR. NEEDLEMAN: The new rules require
12 that the maps identify various resources, such
13 as wetlands, surface water bodies, an array of
14 cultural resources, and so forth, on the actual
15 site, as well as on abutting properties, and
16 then also within 100 feet of the site, if it's
17 beyond the boundary of an abutting property.
18 And the issue that this creates in a
19 context like this, with a linear project, is
20 that if you have large abutting properties,
21 they go beyond the edges of the maps that we've
22 created. Now, of course, you can accommodate
23 that by changing the scale of the maps, but
24 that does a couple of things. First of all, as

1 you increase the scale of the map, of course,
2 it results in less resolution with respect to
3 the things that you're showing, and, as a
4 consequence, it doesn't -- it's often not as
5 helpful as it otherwise might be.
6 And, in this case, since we filed the
7 Application, and then the rules changed, for us
8 to go back now and change the scale of all
9 these maps would require us to go back and redo
10 all the maps that you've got in your booklets.
11 And we think that it's an exercise that would
12 be burdensome and somewhat time-consuming, and
13 in the end not produce a lot of additional
14 material that would really be of much help to
15 the Committee, and, in fact, might even be
16 potentially counterproductive because of the
17 issue of increased -- or, decreased resolution
18 as you make the size of the maps bigger.
19 I would also add that, as you look at
20 the various maps that we provided, there is
21 already a great deal of information that we
22 provided to the Committee. I mean, for
23 example, with respect to wetlands and surface
24 waters, we have gone 700 feet from the edge of

1 the right-of-way to illustrate those resources.
2 The same is true for wildlife habitat areas.
3 And, then, with respect to cultural resources,
4 we went out a quarter mile, and I think, with
5 archeological resources, we went out a half
6 mile from the edge of the right-of-way. And,
7 so, there is already, we would suggest, a great
8 deal of off right-of-way information available
9 to the Committee.
10 And, in addition, with a linear
11 project like this, we think that the value of
12 identifying additional resources beyond that
13 distance would be minimal at best.
14 And, so, in each case, our view is
15 that we think that we have met the requirements
16 for a waiver for this particular motion. We
17 think that the information that has been
18 provided is more than sufficient in this
19 context for the Committee's needs. And, for
20 the reasons that I've just gone through, we are
21 asking that these particular requirements be
22 waived.
23 And perhaps what I'll do is, before
24 moving onto the next motion, maybe pause there

1 and see if anybody wants to say anything else
2 or if the Committee has any questions.
3 PRESIDING OFFICER ROSS: We'll do
4 questions as you go through. And, then, we'll
5 allow, at the end of all three of your
6 summaries, other parties to make their
7 arguments.
8 So, with that, are there questions?
9 I know I've got one from the Committee. Go
10 ahead.
11 CMSR. BAILEY: Thank you. Good
12 morning. This project is entirely within an
13 existing right-of-way, correct?
14 MR. NEEDLEMAN: Correct.
15 CMSR. BAILEY: Okay. Do you know
16 what the effect might be on wetlands beyond
17 700 feet?
18 MR. NEEDLEMAN: Well, I'm going to --
19 actually, I'll let mess Ms. Trefry answer this,
20 if that's okay?
21 CMSR. BAILEY: Thank you. And you're
22 from the environmental -- you gave some
23 initials, but can you tell us where you're
24 from, what your expertise -- your area of

1 expertise is?
2 MS. TREFRY: Yes. I'm Sherrie
3 Trefry. I'm the witness for the Applicants. I
4 prepared the Wetlands Permit Application. I'm
5 an expert witness for them representing
6 environmental issues. I work for Vanasse
7 Hangen Brustlin, VHB.
8 So, with respect to the effect of
9 this property -- of this project beyond
10 700 feet, I would say that there would be
11 really minimal, if -- or no impact on these
12 wetlands or surface waters beyond even the edge
13 of the right-of-way with the appropriate
14 environmental controls being put in place as we
15 proposed in the Wetland Permitting plans.
16 We show on the existing plans the
17 surface waters and the wetlands, how they
18 extend off the right-of-way with our
19 delineation that we performed within the
20 right-of-way. When we have the edge of the
21 wetlands open, that indicates that the wetland
22 does travel off the property. And we're very
23 conscientious about the placement of erosion
24 sediment controls to prevent any sedimentation

1 downstream that would -- that this project
2 could possibly impact to a distance beyond the
3 right-of-way to an extent of 700 feet.
4 So, any surface water quality
5 violation would be a violation immediately off
6 the right-of-way or 700 feet. So, you know,
7 we're designing this project and putting in
8 place the best use of best management practices
9 to prevent any impact to wetlands off the
10 right-of-way or to 700 feet.
11 CMSR. BAILEY: So, the waiver would
12 cover wetlands that are on abutting properties
13 that are greater than 700 feet from the
14 right-of-way?
15 MS. TREFRY: Correct.
16 CMSR. BAILEY: And, in your opinion,
17 that there would be no impact on those
18 wetlands?
19 MS. TREFRY: Correct.
20 CMSR. BAILEY: Okay.
21 MR. IACOPINO: Is that 700 feet from
22 the center line of the --
23 MS. TREFRY: Seven hundred (700) feet
24 from the right-of-way.

1 CMSR. BAILEY: Either site?
2 MR. IACOPINO: So, from either edge?
3 MS. TREFRY: From either edge,
4 correct.
5 CMSR. BAILEY: Thank you. And is
6 there somebody here that could speak to the
7 historic and cultural resource aspect of --
8 MR. NEEDLEMAN: Not specifically, but
9 I can generally.
10 CMSR. BAILEY: Okay. And I know, in
11 your Petition, you noted that you got a letter,
12 I think, from the Historic Resources people?
13 MR. NEEDLEMAN: Two, two letters.
14 So, on September 3rd, 2015, the Division of
15 Historical Resources issued a letter that said
16 "There is no potential to affect aboveground
17 resources in the New Hampshire portion of the
18 project, and that no further studies are
19 required." That pertained to aboveground
20 historic resources.
21 On December 9th, 2015, NHDR issued a
22 letter with respect to belowground resources.
23 And you may recall that the project is divided
24 up into several segments. And the letter said

1 that, with respect to Segments 3 and 4, there
2 would be no adverse effect on archeological
3 resources.
4 With respect to Segment 2, it
5 indicated that the Applicants had submitted a
6 Phase IB, and that DHR said that "there are no
7 known properties or archaeological -- of
8 archaeological significance within the area of
9 undertaking's potential impact, and no further
10 identification or evaluative studies are
11 recommended."
12 So, we think, given the position that
13 DHR has taken at this point, there would be no
14 value in expanding the maps onto those
15 additional large abutting properties to look
16 for additional resources.
17 CMSR. BAILEY: And the third category
18 is wildlife, is that right?
19 MR. NEEDLEMAN: Yes.
20 CMSR. BAILEY: And Fish & Game sent a
21 letter in, I think?
22 MS. TREFRY: Sherrie Trefry speaking.
23 Yes. Fish & Game sent a letter in that was
24 corroborating the surveys that we had provided,

as well as sort of laying out how we proceed. It wasn't specific to the mapping requirement. We did provide the wildlife habitat cover mapping for the extent of the map that we provided. So, there's up to that 700 feet on either side of the edge of the right-of-way that shows the wildlife habitat mapping.

And we've been working with Fish & Game as we conduct additional surveys this spring.

CMSR. BAILEY: Additional surveys within the 700 feet?

MS. TREFRY: The requirement from Fish & Game was that we look for species within the existing right-of-way. Although we captured and were tracking a black racer that, you know, we would have to track off the right-of-way, if that came to it.

MR. IACOPINO: You are tracking one right now?

MS. TREFRY: We were. Unfortunately, it passed away last week, from a hawk attack. But we were tracking it for two weeks.

CMSR. BAILEY: Wow.

1 PRESIDING OFFICER ROSS: Are there
2 any other questions from Committee members?
3 MS. WEATHERSBY: Just so I understand
4 the scope of what you're asking for, this is --
5 you're asking for waivers that only pertain to
6 abutting properties that extend beyond the area
7 which you've mapped, is that correct?
8 MR. NEEDLEMAN: Essentially, yes.
9 It's my understanding that there are 17
10 abutting properties that go beyond the edges of
11 the maps that we have right now. And, if the
12 Committee did not grant this waiver, we would
13 need to go back and extend the mapping that
14 we've done with respect to all these resources
15 on those 17 properties, which would, in turn,
16 change the scale of the maps that are affected.
17 And, whether or not it became necessary, to be
18 consistent, to change the scale of all the
19 remaining maps, is an open question. But, yes.
20 That's what we're asking for.
21 MS. WEATHERSBY: Okay. That was my
22 next question, is how many properties there
23 are, it's about 18 miles or so in the State of
24 New Hampshire, I couldn't imagine there would

1 be that many properties.
2 And I'm wondering if there's -- I
3 understand the scale issue on the map, and I'm
4 appreciative of the fact that, if the scale
5 changed, a lot of the detail could be lost.
6 But I'm wondering if there's another way to
7 present this information, so that the Committee
8 has it. You know, it might be helpful to know
9 that one of the abutting properties, you know,
10 has a hospital or has a water supply, or
11 something else that would be of great interest
12 to know.
13 And, so, rather than changing the
14 scale, whether the information could be
15 presented, you know, in a map just of that
16 property that would be a supplement, or even a
17 listing that this property contains these
18 structures. Have you considered presenting the
19 information in another fashion?
20 MR. NEEDLEMAN: We thought about that
21 a little bit. I would say, with respect to a
22 narrative listing, our view was that that
23 probably would not be very helpful. Because,
24 while you could identify certain things in an

1 narrative format, not being able to show where
2 they are in relation to the right-of-way
3 through a visual image, or in the instance of
4 things like wetlands, which aren't really very
5 susceptible to a narrative description, our
6 view was that would really probably not be
7 particularly helpful to anybody.
8 We haven't thought separately about
9 providing specific maps for the 17 properties.
10 Frankly, I guess I would ask Sherrie to
11 describe what might be involved in that, and
12 whether that would be useful. I don't even
13 know the scale issues with that.
14 MS. TREFRY: I would echo what Barry
15 said with regard to helpfulness. We could
16 certainly provide supplemental maps that showed
17 just that property. But, without it in
18 relation to the right-of-way, I think it would
19 be difficult. For things like wells, you know,
20 they -- and we did provide all the community
21 mapping that showed the locations of hospitals,
22 fire stations, that sort of thing. There are a
23 very limited number of those community
24 resources even in the maps that we provided.

1 So, I think that, you know, it would
2 certainly be possible, but it would be of
3 limited use, having it separate from what the
4 existing mapping is. But it would just be a
5 matter of overlaying that, overlaying some more
6 layers and providing those as separate maps.
7 PRESIDING OFFICER ROSS: Just a
8 question to clarify. On the community
9 resources, do I recall, from your waiver
10 request, that you mapped out to a thousand feet
11 from the right-of-way on those or am I getting
12 that wrong?
13 MS. TREFRY: So, the majority of the
14 mapping for the existing conditions, community
15 resources, were 1 to 400 scale, and then the
16 wetland permitting maps were 1 to 200 scale.
17 So, for the wetland mapping, at that larger
18 scale, it was about 700 feet on either side.
19 When you look at the 400 scale, you get to be
20 about 1,600 feet, give or take, because you can
21 get a couple additional distances from there.
22 So, the community resources mapping,
23 I think we put it a thousand feet, because, in
24 some of our maps, where there's an angle, and

1 we're capturing the angle of the right-of-way,
2 it might only be a thousand feet on one side
3 and, you know, 2,000 feet on the other side.
4 So, we sort of averaged it out to be about a
5 thousand feet. So, yes. Depending on what
6 we're talking about, whether we're talking
7 about wetlands, where we have a much larger
8 scale, or we're talking about community
9 resources, there's a different scale that we
10 applied.
11 PRESIDING OFFICER ROSS: Thank you.
12 MS. ROBERGE: I just had a question.
13 If I understood the waiver request, there was
14 discussion about the ability to have access to
15 do these mapping -- more accurate mapping on
16 the properties, I think you said 17. Is that
17 an issue? How accurate, if you were to provide
18 supplement maps, can you have a sense of the
19 accuracy of -- do you have access to that with
20 the data? How accurate would the data be on
21 that?
22 MR. NEEDLEMAN: Sure. I'll ask
23 Sherrie to answer this specifically. What I
24 will say generally is that there are publicly

1 available databases that we can draw from to
2 overlay this information. But, in some cases,
3 those publicly available databases will only
4 provide that information generically. It's not
5 going to allow you to refine it very carefully.
6 MS. TREFRY: So, the 17 parcels that
7 we're referring to are the 17 parcels that
8 extend off the current scale of the mapping.
9 The only on-the-ground wetland delineation that
10 we performed was within the right-of-way in the
11 areas that the Applicants have control over,
12 either they have an easement or they own the
13 property.
14 The rest of the information that's
15 provided beyond the edge of the right-of-way
16 was generated from using the overlay maps. So,
17 the scale of those maps, the age of those maps,
18 really decrease the level of accuracy that you
19 can get for those wetlands, USGS maps,
20 *etcetera*. So, for instance, we use the
21 National Wetland Inventory maps to identify
22 wetlands off-site. We use the USGS topographic
23 maps to identify the extent of those surface
24 water areas.

1 So, you know, as I said the
2 delineation really stopped at the edge of the
3 right-of-way. And, beyond that, the Applicants
4 don't have control. We would have to get
5 access, permission granted from those
6 landowners to go on their property.
7 PRESIDING OFFICER ROSS: Yes. Go
8 ahead.
9 DR. BOISVERT: I just want to be
10 clear on your statement about the 17
11 properties. Is that 17 properties extend more
12 than 700 feet or 17 properties that extend
13 beyond the viewable area in the maps that you
14 have already generated?
15 MS. TREFRY: That's 17 properties
16 that extend beyond the viewable area. I
17 calculated that based on the scale to 1 to 400.
18 DR. BOISVERT: Uh-huh. Yes. Because
19 I'm seeing approximately 13 to 1,500 feet
20 viewable from the edge of the right-of-way on
21 either side. Just wanted to be clear. Thank
22 you.
23 PRESIDING OFFICER ROSS: Any other
24 Committee members have questions?

1 MR. IACOPINO: Mr. Needleman, what's
2 the total number of properties that is mapped
3 currently? That are mapped, I should say?
4 MS. TREFRY: I don't have that answer
5 to that. I would have to --
6 MR. IACOPINO: Do you have any idea
7 of what the percentage is that you're looking
8 for for this waiver? For the waiver with
9 respect to the structures, wetlands, and
10 historic resources?
11 MS. TREFRY: I do not know what that
12 percentage is. I could provide that
13 information.
14 MR. IACOPINO: Is that something you
15 think you could get to the Committee?
16 MS. TREFRY: Yes.
17 MR. IACOPINO: Thank you. If I
18 understand part of -- the one problem that you
19 have with this rule, with respect to mapping,
20 is the 100 foot requirement, for lack of a
21 better term. And, if I understand that
22 correctly, you could have a very large property
23 on one side of the right-of-way that might
24 extend for acres and acres, yet, on the other

1 side of the right-of-way, you might have a
2 property that's only 50 feet wide, so you would
3 only have to map 150 feet out from that side of
4 the right-of-way. So that, on one side, you
5 might be mapping things that you don't believe
6 will ever be impacted by your activities,
7 whereas, on the other side, there might not be
8 enough mapping. Is that correct?
9 MR. NEEDLEMAN: I think that's a fair
10 assessment.
11 MR. IACOPINO: What steps have you
12 taken to make sure that there's not any issues
13 where there's not enough mapping in this
14 particular case?
15 MR. NEEDLEMAN: I think, if you look
16 at the maps we've done, and you think of the
17 descriptions that I provided earlier, what we
18 did was, rather than limit ourselves to
19 particular situations where there might be a
20 very thin parcel of property next to the
21 right-of-way, we simply went out a certain
22 distance from either side of the
23 right-of-way.
24 So, for example, with respect to the

1 wetlands mapping, we just went out 700 feet.
2 So, that would solve that problem with respect
3 to wetlands.
4 With respect to other resources, we
5 went out much further. So, for example, in the
6 context of historic resources or archeological
7 resources, there were separate requirements
8 imposed on us that governed the extent to which
9 we needed to go beyond the right-of-way. So, I
10 think we've addressed it in that manner.
11 MR. IACOPINO: Okay. Section
12 301.03(c)(3) requires you to show on these maps
13 property lines, residences, industrial
14 buildings, other structures and improvements.
15 Can you please give the Committee an idea of
16 what it would take to provide that information,
17 if you were to be required to either prepare
18 additional maps or expand these maps?
19 MS. TREFRY: So, the way that we had
20 addressed that requirement was by providing the
21 aerial photography, and then identifying, as
22 talked about, the community resources that were
23 significant. So, we identified churches, and
24 there are whole list of things that we provided

1 in the Application.
2 So, again, we would change the scale
3 and increase the -- increase the scale of those
4 aerial photographs to extend out to include
5 those complete parcels.
6 MR. IACOPINO: How do you determine
7 right now what are residences, which ones are
8 industrial buildings, and how do you
9 differentiate them at this point?
10 MS. TREFRY: We did not differentiate
11 them in a manner to identify them as industrial
12 versus residential. We just provided an aerial
13 overlay that showed, you know, residential
14 communities.
15 MR. IACOPINO: I guess my question
16 is, what would it take for you to provide that
17 information? What labor would have to be
18 undertaken?
19 MS. TREFRY: We would have to work
20 with the local municipalities to identify,
21 through the Assessors Department, which
22 properties were industrial or zoned industrial,
23 and then probably confirm them with the owners
24 of that property, whether they were currently

in use as such. So, I would imagine that would take quite a significant effort of probably, we're talking four towns, I would speculate probably a month to two months to figure out, if we have to -- if there are a number of properties we have to, again, get in contact with the landowner.

MR. IACOPINO: It's already been mentioned that this line is only 18 miles long in an existing -- completely existing right-of-way, and it goes through four towns. In your preparation for filing this -- excuse me one minute.

(Cellphone ringing.)

MR. IACOPINO: In your preparation of filing this, and any other work that you've done, have any of the boards in those four towns, whether it be planning board, conservation commissions, board of selectmen, I don't think we have any cities, but pointed out to you any resources that they want to make sure the project does not impact that are not included in the mapping that you've provided?

MS. TREFRY: No. We did not receive

1 any comments from any local boards.
2 MR. IACOPINO: Mr. Needleman.
3 MR. NEEDLEMAN: And I would just add
4 that our outreach to all four of those
5 communities has been fairly extensive at this
6 point. So, I think that there has been
7 significant opportunity to hear from them if
8 they have those kinds of concerns.
9 MR. IACOPINO: How long have the
10 existing lines -- or, how long has this
11 right-of-way had an existing transmission line
12 in it plant?
13 MR. PLANTE: You can go first.
14 MS. FARRELL: This is Jessica Farrell
15 responding with regard to --
16 *[Court reporter interruption.]*
17 MS. FARRELL: This is Jessica Farrell
18 responding with regard to New England Power.
19 The right-of-way, in our segment of the
20 project, has been used for transmission lines
21 since the late 1920's.
22 MR. IACOPINO: And has that been at
23 the similar size to what exists now for the
24 width of that right-of-way?

1 MS. FARRELL: The width originally
2 for that portion of the project is 350, and
3 continues to be so today.
4 MR. IACOPINO: I'm sorry, I didn't
5 catch that --
6 MS. FARRELL: It's 350 feet, and it
7 always has been.
8 MR. IACOPINO: Okay. And,
9 Mr. Needleman, would you say that it's fair to
10 say that those four -- I'm sorry, let me back
11 up. With respect to Eversource's section of
12 the line, do we have an idea how long that's
13 been --
14 MR. PLANTE: Yes. Eversource's
15 right-of-way hasn't existed quite as long as
16 the National Grid right-of-way. It was
17 initially a 115 kV corridor. And I want to see
18 say the '50s, I'm not certain exactly on the
19 easement dates. And, then, in the late '60s,
20 the right-of-way was widened with additional
21 fee property or perpetual easement at the onset
22 of the 345 kV system development in New
23 England.
24 MR. IACOPINO: And this particular

1 project does not include any expansion of the
2 right-of-way, is that correct?
3 MR. NEEDLEMAN: That's correct.
4 MR. IACOPINO: Is it fair to say that
5 these four towns have had the opportunities to
6 do their planning around the existence of the
7 right-of-way as it exists today?
8 MR. NEEDLEMAN: Yes.
9 MR. IACOPINO: I guess -- I have
10 other questions about your decommissioning
11 waiver, but I'll wait on those. Okay.
12 PRESIDING OFFICER ROSS: Any other
13 questions from the Committee before -- yes.
14 MS. WEATHERSBY: Just one quick one.
15 Have any of the owners of these 17 large
16 abutting properties, have any of those persons
17 or companies approached you with any concerns?
18 MS. TREFRY: No. They have not
19 approached us with any concerns. And all of
20 those abutting properties were notified several
21 times, both by the Applicants' outreach, as
22 well as as part of the Wetlands Permit
23 Application, they were notified of the project.
24 MR. IACOPINO: Can I ask a question

1 along those lines, too? I recall, at the
2 public information session or one of the public
3 hearings, there's a place where there's an
4 angle in the right-of-way, and there were two
5 couples that I think had houses next door to
6 each other there that made complaints on the
7 record about the impacts that's going to have
8 on their properties, particularly
9 aesthetically. Do you recall who those
10 individuals were and do you know if their
11 properties are totally mapped?
12 MR. NEEDLEMAN: Jess or Dave, do you
13 know anything more about that.
14 MR. PLANTE: Yes. I'm familiar with
15 both of those properties. And I think it's
16 fair to say that both of those properties are
17 well within the 700 feet of the mapping that's
18 been provided already.
19 MR. IACOPINO: The entire property?
20 MR. PLANTE: Yes.
21 MR. IACOPINO: Do you recall the
22 homeowners' names?
23 MR. PLANTE: Wang was one of them and
24 Barthelmes the other, on Jason Drive, in

1 Londonderry.
2 MR. IACOPINO: Thank you. And you
3 believe that the entire -- both of those entire
4 properties are mapped?
5 MR. PLANTE: I do believe that, yes.
6 MR. IACOPINO: Thank you.
7 MS. WHITAKER: I just had a
8 clarification regarding the right-of-way. You
9 had mentioned that it was a 350-foot wide
10 existing right-of-way. As part of this
11 project, is additional clearing going to occur
12 within the right-of-way for this project?
13 MR. NEEDLEMAN: Yes. There will be
14 some additional clearing. And, again, I would
15 ask Jess and Dave to describe that generally,
16 if you can.
17 MS. FARRELL: On the National Grid
18 piece, we will be removing trees that have
19 crept in along the edges of the right-of-way
20 and -- or trimming out where branches have
21 encroached on that 350-foot width. It's my
22 understanding that there isn't any significant
23 tree removal, apart from pushing out to the
24 sides of what we already have.

1 MR. PLANTE: And, for the Eversource
2 portion, of the 10 miles, approximately 6 miles
3 involves a narrow strip, kind of in the middle
4 of a very wide right-of-way corridor, that will
5 removed for construction of the new line. And,
6 for the southerly 4 miles or so of the proposed
7 Eversource portion of the project, it will
8 require whole tree removal for approximately 85
9 feet of width to get to the edge of our
10 existing easement or fee property rights.
11 MS. WHITAKER: Thank you.
12 PRESIDING OFFICER ROSS: Any other
13 questions?
14 *[No verbal response.]*
15 PRESIDING OFFICER ROSS: All right.
16 You may proceed with the additional waiver
17 arguments.
18 MR. NEEDLEMAN: So, I'll turn now to
19 the decommissioning waiver. And maybe while
20 I'm starting -- actually, Jess and Dave, you
21 can just stay where you are. I think that's
22 probably fine.
23 So, with respect to our
24 decommissioning motion, we are seeking a waiver

1 of two specific requirements. The first one is
2 in the Committee's rules, Section 301.08(c)(2).
3 The requirement that the Applicant hire an
4 independent third party to create a
5 decommissioning plan now for the proposed
6 project. And we are also seeking a waiver of
7 Section 301.08(c)(2)(b). That would require
8 the posting of a specific form of financial
9 assurance for the project.
10 And let me first focus on the
11 decommissioning plan and why we are requesting
12 this waiver. As a general matter, the
13 requirement that applicants of this type hire a
14 third party to conduct this sort of an analysis
15 is one that we think we could, as companies
16 with a significant amount of expertise in this
17 arena, do ourselves, and do in a manner that
18 would be more cost-effective. And, having in
19 mind that this is a reliability project, and a
20 project that, ultimately, the cost of which
21 will be borne by customers and ratepayers,
22 taking any opportunities to conserve resources
23 in the creation of projects like this is
24 something that's important to the Applicants.

1 The more, I would say, important part
2 of this motion, from our perspective, is our
3 view that, at this point in time, to create a
4 decommissioning plan for a project like this is
5 something that does not seem to us to be
6 practical or a good use of resources. As the
7 Committee may know, when you are dealing with
8 transmission projects, especially of this
9 nature, they have very long lives. As we heard
10 earlier, this has been a transmission corridor,
11 in one instance, since the 1920's with lines
12 there. Transmission lines are rarely, if ever,
13 decommissioned. Very frequently, those lines
14 are simply rebuilt, reconductored and they're
15 useful line life continues on.
16 And, certainly, in the normal course
17 of business, these Applicants do not prepare
18 decommissioning plans long in advance of the
19 time that it might become necessary to
20 decommission such a line.
21 The other, I think, important point
22 to keep in mind is that decommissioning plans,
23 by their very nature, take into account
24 specifics associated with a particular project.

1 And, so, it would require the Applicants, at
2 this point in time, to make guesses about what
3 requirements may or may not be in effect in the
4 future. With respect to decommissioning of
5 projects like this, it would require guesswork
6 about whether lines might have been relocated
7 at some point or whether other physical changes
8 to the line or the corridor may have occurred
9 at some point in the future that would alter
10 the way in which a project would need to be
11 decommissioned.
12 And, so, for these reasons, we think
13 that preparing this type of plan at this point
14 is something that is not practical, and, in
15 fact, could easily be dealt with through an
16 alternative means, which would be to, at the
17 time, in the distant future, if it ever became
18 necessary to decommission this project, these
19 entities could prepare a detailed plan at that
20 point, which could accommodate the specifics of
21 the regulatory landscape and whatever the
22 physical characteristics of the line might be
23 at that point in time.
24 The second component of our motion

1 relates to financial assurance. As I indicated
2 a moment ago, one of the changes in the
3 Committee's rules is the requirement that
4 applicants provide sufficient financial
5 assurance for decommissioning. And the rules
6 are somewhat specific in the way in which that
7 assurance must be provided, through letters of
8 credit, mechanisms like that.
9 Our view is that that requirement is
10 especially inapplicable to a project like this,
11 which is a reliability project, which is a
12 project that is paid for by ratepayers, and
13 through the FERC tariff, if it ever became
14 necessary for the project to be decommissioned,
15 it would be paid for by the ratepayers through
16 that tariff. And, so, our view is that an
17 alternative mechanism ensuring the finances are
18 there to decommission this project already
19 exist.
20 And the only other point I think it's
21 important for the Committee to keep in mind is
22 that, if the Committee were to require the
23 Applicants to secure some sort of financial
24 assurance, like what is described in the

1 Committee's rules, for example, a letter of
2 credit, that would not only be duplicative of
3 what the FERC tariff already covers, but it
4 would be an added cost that would have to be
5 passed on to customers in this context.
6 And, for those reasons, we are asking
7 for a waiver of these decommissioning
8 requirements.
9 PRESIDING OFFICER ROSS: Thank you.
10 And just as a sort of point of procedure, I
11 know I didn't specifically ask Public Counsel
12 whether there were questions with regard to the
13 last argument. But I will have you ask any
14 questions that you may have about this aspect
15 of the waiver request. And, if you want to
16 fold in questions from the prior section as
17 well, please feel free to do so. And, I do
18 apologize.
19 And you can go first in the
20 questioning, if you would like.
21 MR. ASLIN: Thank you. No apology
22 necessary. Excuse me. As Attorney Needleman
23 pointed out earlier, the Counsel for the Public
24 took no position on either of these motions.

1 Given the specific context of this project,
2 being relatively small, compared to some other
3 projects, all within an existing right-of-way,
4 and the nature of the site, as it were, Counsel
5 for the Public has no questions on either of
6 these.
7 But I would point out that that
8 position is specific to this particular project
9 and not any other project.
10 PRESIDING OFFICER ROSS: Thank you.
11 Members of the Committee, any questions for the
12 Applicant on this waiver request?
13 CMSR. BAILEY: Mr. Needleman, can you
14 explain to me how the FERC tariff works on a
15 reliability project?
16 MR. NEEDLEMAN: No. No, I can't.
17 But that's why I have people on the phone who
18 can.
19 CMSR. BAILEY: Oh, perfect.
20 MR. NEEDLEMAN: I guess what I would
21 do is ask Tiffany and Jim to please explain
22 that to the Committee, if you could. And did
23 you hear the question?
24 CMSR. BAILEY: It might be on mute.

1 MR. NEEDLEMAN: Tiffany, Jim, are you
2 there?
3 MR. VANCHO: I am. Tiffany, do you
4 want -- do you want me to start on that or --
5 MS. FORSYTH: You can start, and I
6 can pick up as far as recovery or rate impact
7 goes.
8 MR. VANCHO: Sure. Well, the Company
9 has a FERC-approved tariff that, you know,
10 basically covers all the operating expenses of
11 the Company, depreciation allowed returns on
12 debt and equity, you know, covers all the costs
13 of the Company. Those are, you know, very --
14 if there was anything around decommissioning,
15 you know, we would get that included as well.
16 And, so, every year what we would do
17 is prospectively forecast the following year's
18 revenue requirement, for all the costs needed
19 to cover our costs for that year. And, then,
20 those costs would be passed through to the
21 region. This is a regional project that would
22 go through all of New England.
23 And, then, at the end of the year,
24 there's a true-up mechanism, so, to the extent

1 actually costs differ from the forecasted
2 costs, there's a true-up that tracks the actual
3 costs. That's done every year, and will be
4 done over the life of the project, and for all
5 cost of service projects.
6 CMSR. BAILEY: So, if 25 years from
7 now we didn't need this transmission line
8 anymore, because the world had moved on to some
9 other technology, is it likely that the Company
10 would take it all down and ask for recovery of
11 the decommissioning in the FERC rates or is it
12 more likely that they would just leave it in
13 place?
14 MR. VANCHO: Well, again, I think
15 the -- from my perspective, you know, we
16 typically don't decommission them, they keep
17 going on forever. I mean, if there was a legal
18 obligation to decommission, you know, at that
19 point, whenever that was determined, at that
20 point we would start booking a liability, which
21 would basically be, you know, the present value
22 of what we think that liability might be, you
23 know, 30-40 years out, and we would start
24 collecting at the time the obligation was

1 required. So, we would start collecting in
2 advance. So, by the time you got out 30 years
3 and needed to decommission, we would have the
4 funds to do that.
5 CMSR. BAILEY: So, if the Site
6 Evaluation Committee puts a requirement in the
7 Certificate, if it's granted, that "the
8 facility must be decommissioned if and when
9 it's no longer used", then you would start
10 collecting in rates immediately and put money
11 aside for that someday requirement?
12 MS. FORSYTH: No, it wouldn't be
13 immediate recovery. If it is -- if legally
14 we're obligated to decommission the site, then
15 we would have to, one, evaluate, I guess, the
16 costs associated with that decommissioning.
17 So, what he explained is that the fair value of
18 that would have to be determined today. But,
19 before we can get recovery of that, we would
20 have to file with FERC to approve recovery of
21 it.
22 MR. IACOPINO: What kind of recovery,
23 I'm sorry?
24 PRESIDING OFFICER ROSS: Approve.

1 CMSR. BAILEY: And, so, when would
2 you -- when do you think -- I mean, just assume
3 hypothetically that 25 years from now everybody
4 has solar panels on their house and we don't
5 need transmission facilities anymore. I know,
6 you know, it's a long shot, but just assume
7 that. And there's an obligation in this
8 Certificate, assume that it's granted, that
9 says "you have to decommission it if it's not
10 used."
11 Then, when would you apply or when
12 would you put rates in your tariff that had to
13 be approved by FERC?
14 MS. FORSYTH: Well, I think you have
15 to get -- one, you have to get FERC approval
16 first, before you can put it in. But, at the
17 point when that asset is no longer useful,
18 that's a determination you would have to make,
19 and then you would apply to FERC to then
20 recover those costs, and any costs associated
21 with decommissioning the asset or removing the
22 asset, you would apply to FERC to get approval
23 from it -- well, to recover it. Once FERC
24 approves it, then you get to put it into rates

1 and collect it from the regional customers.
2 CMSR. BAILEY: So, wouldn't apply to
3 FERC to get those rates recovered until you
4 actually had to decommission it? Is that --
5 that's how I understand, is that correct?
6 MS. FORSYTH: Until legally we're
7 obligated to decommission it. So, if, today,
8 we're told that we have to have a -- you know,
9 have to decommission that asset, I would think
10 that today we would determine what the fair
11 value of that decommissioning costs are, once
12 that's evaluated. And, then, we would have to
13 file with FERC to then get recovery of those
14 decommissioning or that -- what's listed as an
15 ARO, get recovery of those costs in our tariff,
16 and it will be recovered over the useful life
17 of the asset. So that, when you get to the
18 point where the asset is considered no longer
19 useful, you've already accumulated or have rate
20 recovery sufficient to cover that cost.
21 CMSR. BAILEY: Okay. Now, I'm
22 totally confused, because it sounds like you're
23 saying two different things. At first, you
24 said you wouldn't apply to FERC until you knew

1 that it was a legal requirement. And my
2 premise to you was "assume that it's a legal
3 requirement that someday you're going to have
4 to decommission it", but we don't know when.
5 It could be 25 years from now, it could be 100
6 years from now.
7 So, say you get a certificate that
8 says "you have to decommission this". Then,
9 what would you do?
10 MS. FORSYTH: Then, that has to be
11 evaluated today what those costs are.
12 CMSR. BAILEY: And then you have to
13 make an assumption about how long the line will
14 be in service?
15 MS. FORSYTH: Right.
16 CMSR. BAILEY: And then assign the
17 net present value or something like to get it
18 recovered in rates over, if you assume 25
19 years, over 25 years?
20 MS. FORSYTH: Yes.
21 CMSR. BAILEY: All right. Thank you.
22 MS. FORSYTH: Sorry if I wasn't
23 clear.
24 PRESIDING OFFICER ROSS: Yes. Go

1 ahead.
2 MS. ROBERGE: Just a further
3 clarification on that. From my understanding
4 of the waiver, I think you said if, and correct
5 me if I misunderstand this, if at some point
6 it's decided that this needs to be
7 decommissioned, then you would apply -- then
8 you would file a decommissioning plan, and that
9 FERC would cover it. How would that -- if that
10 were the case, how would that work, in terms
11 of -- so, at that point, you would assess a
12 tariff some period of time down the road, 25
13 years, 100 years, or whatever, and then you
14 would begin collecting, and you couldn't
15 decommission until you essentially collected
16 enough money -- how does the tariff work, in
17 terms of once it begins, when can you use those
18 funds to decommission? If it isn't started
19 essentially now, and you start collecting, you
20 know, a tariff or a certain amount of funds,
21 how far along do you have to collect those
22 before they can be used for purposes of
23 decommissioning? Do you essentially have to
24 collect a present value amount or something

1 along those lines?
2 MS. FORSYTH: Well, okay. I probably
3 wish I had more --
4 *[Court reporter interruption.]*
5 MS. FORSYTH: Sorry. I was just
6 saying probably an accounting person would
7 better explain how the actual dollar amount is
8 determined. If, today, you determine, okay,
9 you have a decommissioning cost associated with
10 this asset. You're going to come up with what
11 the estimated life of the asset is or when that
12 asset would need to be decommissioned. So, if
13 you're planning that 25 years from now you
14 anticipate the cost to remove the asset, then
15 whatever you say a value is today, you're going
16 to amortize and then collected that in rates
17 over the next 25 years.
18 From what I understand of your
19 question is that its before that 25-year period
20 that you have not gotten full recovery of
21 what's estimated that cost to be, and you go
22 ahead and decommission the line? Is that your
23 question of what will be done?
24 MS. ROBERGE: Yes. I was just, from

1 my understanding after reading, it sounded as
2 though if it was decided at some future point
3 decommissioning was necessary, that this
4 fallback tariff was available. But, if it
5 isn't assessed and applied now, with some
6 period of useful life, when does it became
7 available to you to decommission? So, can
8 you -- if it isn't applied now, the tariff, but
9 applied at some future point, when it
10 determined that decommissioning is necessary,
11 can the work be done? Is the money available
12 so the work can be done immediately, even
13 though you may not have collected enough in the
14 tariff? And I may have a misunderstanding of
15 how the tariff works. So, just --
16 MS. FORSYTH: Well, --
17 MR. VANCHO: Ultimately, as a cost of
18 service project, you're going to be able to
19 recover all the costs. I mean, the thought is
20 that way out in the future you're -- you know,
21 you're collecting an amount every year to get
22 to that amount. The depreciation of the fair
23 value, plus you're going to get an annual --
24 what we call an "accretion" expense, which is

1 basically moving, you know, the obligation from
2 present value to one more year of future value.
3 So, -- but, by the time you get to the end,
4 you'd have the whole amount.
5 If, for some reason, you know, you
6 decided you needed to do it sooner, certainly
7 you have access to that cash and you can do it.
8 But, again, as a cost of service project,
9 whatever the difference -- whatever the
10 shortfall you have at that time, that would
11 go -- also go into rates, but, you know,
12 after-the-fact, if there was a difference.
13 CMSR. BAILEY: This is Kate Bailey
14 again. I think what she's asking you to assume
15 is a little bit different than the assumptions
16 that I asked you to make. She's asking you to
17 assume that the legal obligation happens 25
18 years from now, and the line isn't being used
19 anymore, and you haven't started collecting in
20 rates. So, you get the legal obligation 25
21 years from now, so then you apply to FERC 25
22 years from now, but the line is out-of-service
23 now, at that point.
24 So, how long would it take for you to

1 collect the cost of decommissioning through the
2 tariff 25 years from now, and would you take
3 the line -- would you decommission it before
4 you fully recovered the costs?
5 MR. VANCHO: I mean -- I mean, again,
6 it's a hypothetical. I mean, I would think, if
7 we had a legal obligation -- I'm trying to
8 understand the question. We still have a legal
9 obligation to decommission it, but we didn't
10 know -- we didn't know that until the future,
11 you know, I would assume the Company would, you
12 know, obviously, under that legal obligation,
13 it would decommission it, and then it would --
14 it would then go in and recover the costs from
15 FERC. I mean, I don't know, 25, 30 years from
16 now what the -- what the, you know, regulatory
17 environment would be. But, I mean, it is a
18 cost of service project, and all the costs that
19 we -- that we spend, we get recovery of.
20 So, you know, we would decommission
21 it, if we were legally obligated to, and then
22 recover the cost afterwards. So, the Company
23 would go out and, you know, obviously, we have
24 access to financing, we would finance it, and

1 then get that into rates.
2 And I don't know what the time period
3 would be to do that. But, again, you'd have to
4 see what the rules are at that time and what
5 the plan was. But the plan is that you do it
6 in advance, you know, according to the guidance
7 in the rules, *[inaudible]* now.
8 PRESIDING OFFICER ROSS: I have a
9 couple questions just to sort of set the
10 context.
11 This project, as I understand it, is
12 a reliability project. Does that mean that
13 FERC has already essentially ordered the
14 Company to do these upgrades? What is the
15 regulatory framework that we're working in?
16 MR. NEEDLEMAN: I think the answer is
17 "yes".
18 PRESIDING OFFICER ROSS: Okay. So,
19 FERC has decided that this line needs to be
20 upgraded, and the Company has agreed to
21 undertake that. Is it fair to say that if, in
22 the future, this line needed to be modified or
23 removed, that would also be a FERC decision?
24 MR. NEEDLEMAN: In other words, are

1 you asking, just like ISO has said "build the
2 line", would ISO be the one to say "we don't
3 need it anymore"?
4 PRESIDING OFFICER ROSS: Yes.
5 MR. NEEDLEMAN: Yes.
6 PRESIDING OFFICER ROSS: So, the
7 framework that the Site Evaluation Committee is
8 working in is that the determination that the
9 Project is needed is made by a federal agency,
10 through ISO, and then, ultimately, approved at
11 FERC, is that correct?
12 MR. NEEDLEMAN: Yes.
13 PRESIDING OFFICER ROSS: And the same
14 goes with regard to decommissioning? In other
15 words, the end of this project would also be
16 recommended by the ISO and approved by FERC?
17 MR. NEEDLEMAN: Yes.
18 PRESIDING OFFICER ROSS: Okay. So,
19 essentially, the testimony we're getting right
20 now is that, in doing -- in making those
21 decisions, FERC also, because it has two
22 witnesses that have indicated it's a cost of
23 service project, because FERC has given this
24 Application -- this Applicant the right to

1 recover costs, the same will be true if and
2 when the project is decommissioned. That this
3 Applicant will be given recovery of its
4 reasonable costs of decommissioning?
5 MR. NEEDLEMAN: I believe that's
6 correct.
7 PRESIDING OFFICER ROSS: So, the fact
8 that FERC is -- and the ISO are sort of active
9 participants in these decisions gives the
10 Subcommittee some backup to its normal
11 requirements of decommissioning that would be
12 very different if this Project were, say, a
13 generation project, which is done solely at the
14 applicant's decision and not because a
15 regulatory agency has required it?
16 MR. NEEDLEMAN: That's certainly the
17 view of these Applicants, yes.
18 PRESIDING OFFICER ROSS: Thank you.
19 I just trying to, in my own mind, clarify this
20 context.
21 Any follow-up questions?
22 CMSR. BAILEY: Are you aware of any
23 transmission lines that have a decommissioning
24 project in place right now?

1 MR. NEEDLEMAN: A decommissioning
2 plan?
3 CMSR. BAILEY: I'm sorry, yes. A
4 decommissioning plan.
5 MR. NEEDLEMAN: Jess or Dave?
6 MR. PLANTE: None for Eversource.
7 MS. FARRELL: None for National Grid.
8 MS. FORSYTH: None -- Sorry.
9 CMSR. BAILEY: Did the person on the
10 phone have something to add to that? We just
11 heard "sorry".
12 *[Court reporter interruption.]*
13 CMSR. BAILEY: Yes. We can't hear
14 you. Can you speak directly into the handset
15 please?
16 MS. FORSYTH: Sorry. I was going to
17 say "None for National Grid as well."
18 CMSR. BAILEY: Thank you.
19 PRESIDING OFFICER ROSS: Yes, go
20 ahead.
21 MS. WEATHERSBY: My naiveté about
22 decommissioning. Is decommissioning -- I know
23 decommissioning is when everything is resolved
24 at the end and towers get taken out, *etcetera*.

1 But, if these poles are replaced by towers,
2 towers replaced by larger towers, as the line
3 progresses and things are changed, is that at
4 all part of a decommissioning plan or is that
5 just a modernization technique? My concern is,
6 we've heard in other projects about poles being
7 left in the right-of-way, *etcetera*, and I -- as
8 projects improve or grow in scope, and I just
9 want to be sure that funds are there to take
10 care of that sort of thing.
11 MR. NEEDLEMAN: I'll ask Dave and
12 Jess to address that.
13 MR. PLANTE: That sort of situation
14 would normally be covered in the context of the
15 ensuing project. It's not uncommon for us, as
16 you know, to rebuild existing transmission
17 facilities. Sometimes that's in place,
18 sometimes it's offset to one side or another.
19 But, in doing so, we include the cost of
20 removal of the existing facility in the overall
21 project cost of the new facility. So that
22 would be the decommissioning *per se* of the
23 existing facility and removal from the site.
24 MS. WEATHERSBY: Thank you.

1 DR. BOISVERT: Everything that I hear
2 in regard to this decommissioning discussion
3 seems to indicate that the inclusion of
4 decommissioning in the rules is misapplied.
5 That you would have the position that, for any
6 transmission reliability project or new
7 transmission line, that we would hear the same
8 discussion for all the subsequent ones. Is
9 it -- I'm foreseeing that I will be, depending
10 upon how long I'm on the SEC subcommittees,
11 hearing this discussion repeatedly. Is that
12 something that you anticipate? I mean, it
13 appears to me that you're laying the groundwork
14 for changing the rules?
15 MR. NEEDLEMAN: No. I would not say
16 we're laying the groundwork for changing the
17 rules. I would say your comment is a fair
18 comment as it relates to reliability projects,
19 yes.
20 MR. IACOPINO: Please explain --
21 sorry.
22 *[Court reporter interruption.]*
23 DR. BOISVERT: Would this then, in
24 your mind, establish precedent for future

1 reliability transmission projects?
2 MR. NEEDLEMAN: Well, I think my view
3 of what Committee precedent is and what the
4 Committee's view is are two different things.
5 I would like -- I would like to think that, if
6 the Committee makes a decision here as it
7 relates to a reliability project, and then the
8 facts are very similar with respect to another
9 reliability project, that would inform the
10 Committee's decision in the future.
11 But, I think, as to whether or not it
12 ultimately constitutes precedent, that's only a
13 decision for the Committee to make.
14 DR. BOISVERT: Okay.
15 MR. IACOPINO: Please explain why a
16 reliability project is different than a
17 merchant project. Why would this project be
18 different as far as your request for this
19 waiver than, say, from the Northern Pass
20 Project?
21 MR. NEEDLEMAN: Well, I would say,
22 specifically, with respect to financial
23 assurance, it's slightly different. In the
24 context of this project, and with respect to

1 financial assurance, the mechanism that you've
2 all just heard about is one where the assurance
3 would come through the FERC-approved tariff.
4 And, so, as you know, it's our view that that
5 is a sufficient alternative mechanism.
6 I think that at least some members of
7 the Committee understand that the mechanism for
8 assurance in the context of Northern Pass,
9 which is not a reliability project, is not a
10 FERC-approved tariff, but it is a TSA, a
11 Transportation **[**Transmission**?]** Service
12 Agreement, that has been approved by FERC, that
13 separately contains elements for financial
14 assurance.
15 And, so, the arguments are not
16 identical between the two. And they're not
17 identical, because one is a reliability project
18 and one is not.
19 But, conceptually, I would say that,
20 if one were to examine the mechanisms that have
21 been put in place for Northern Pass, that there
22 is yet a different kind of alternative
23 mechanism for financial assurance there. So, I
24 think that's the critical difference.

1 MR. IACOPINO: I just wanted to jump
2 off of Mr. Boisvert's question there. I'm
3 going to go back to something, though.
4 If, ultimately, there comes a
5 decommissioning decision to be made for this
6 particular project, and FERC is then -- your
7 tariff is amended to include recovery for the
8 decommissioning, is there -- does FERC have the
9 authority at that point to consider things like
10 prudent management of the line and whatnot, and
11 determine how much recovery for decommissioning
12 should be applied?
13 MR. NEEDLEMAN: Jim or Tiffany, if
14 you could take that please.
15 MS. FORSYTH: As far as how much
16 recovery, yes.
17 MR. IACOPINO: So, that's one risk, I
18 suppose, in the FERC tariff approach?
19 MR. NEEDLEMAN: Right.
20 MR. IACOPINO: How has the Company --
21 the Companies assessed that risk, if they have?
22 MR. NEEDLEMAN: Jim or Tiffany.
23 MS. FORSYTH: We have not. We
24 currently do not have any existing asset

1 retirement obligations on our transmission
2 assets at National Grid. So, it would be
3 something that we would have to look at other
4 cases where companies have filed, and what
5 challenges FERC issued there.
6 MR. VANCHO: And I would say that I
7 don't know that we specifically assess the risk
8 of AROs from the perspective of recovery. But,
9 you know, certainly prudence is an issue in
10 recovery of every -- all costs.
11 MR. IACOPINO: And, then, I guess my
12 last question is -- what is an "ARO"?
13 MR. VANCHO: "Asset Retirement
14 Obligation".
15 MR. IACOPINO: And I guess my last
16 question is, if -- at present, would each of
17 these companies have the financial ability to
18 decommission an 18-mile transmission line on
19 their book -- off their books right now?
20 MR. NEEDLEMAN: Well, I believe the
21 answer is "yes", but I'm going to ask Jim and
22 Tiffany to each confirm that.
23 MR. IACOPINO: And I shouldn't say
24 "18 miles". Whatever your relative --

1 MR. NEEDLEMAN: Right.
2 MR. IACOPINO: -- proportions of the
3 18-mile line are.
4 MR. VANCHO: Yes. I would say
5 absolutely, for Eversource.
6 MS. FORSYTH: Yes, for National Grid.
7 MR. IACOPINO: Was that a "yes"?
8 MS. FORSYTH: Yes.
9 MR. IACOPINO: Thank you.
10 PRESIDING OFFICER ROSS: Any other
11 questions?
12 *[No verbal response.]*
13 PRESIDING OFFICER ROSS: Any
14 questions from Public Counsel?
15 MR. ASLIN: None. Thank you.
16 PRESIDING OFFICER ROSS: All right.
17 And, with that, I would give anyone an
18 opportunity to make any arguments against the
19 two waiver requests?
20 *[No verbal response.]*
21 PRESIDING OFFICER ROSS: Seeing that
22 we have no one interested in that, I believe
23 that concludes our hearing. Would the
24 Applicant --

1 MR. NEEDLEMAN: We have one other.
2 PRESIDING OFFICER ROSS: Oh, I'm
3 sorry. I forget there was a third.
4 MR. NEEDLEMAN: That's okay.
5 PRESIDING OFFICER ROSS: Excuse me.
6 Go ahead.
7 MR. NEEDLEMAN: I think this one will
8 be quick.
9 PRESIDING OFFICER ROSS: Okay.
10 MR. NEEDLEMAN: So, this is a
11 relatively simple one, I think. It's a request
12 that relates to the visual simulations that we
13 submitted. The simulations that we submitted
14 are 15.2 inches by 8.6 inches. After we
15 submitted our simulations, the Committee issued
16 a rule that said that the simulation size
17 should be 15.3 inches by 10.2 inches.
18 We have asked that the Committee
19 waive the requirement that we go back and
20 resize all of our simulations. We think it
21 would be burdensome, time-consuming, and not
22 productive. The simulations, as they are
23 provided to the Committee, accurately represent
24 all of the information in the simulations, and

1 that would not change materially if we were to
2 resize them.
3 My understanding is the only material
4 change would be that there would be an increase
5 in things shown in the foreground of the
6 photos. Which, in many cases, would be
7 additional road, where things were taken from
8 roads, or additional vegetation along the sides
9 of roads or things like that.
10 And, so, we've asked for this waiver,
11 because we don't think that complying with this
12 rule at this point would add anything of value
13 to the Committee's consideration.
14 PRESIDING OFFICER ROSS: Any
15 questions from the Committee members?
16 *[No verbal response.]*
17 PRESIDING OFFICER ROSS: Any
18 questions from Public Counsel?
19 MR. ASLIN: No. Thank you.
20 PRESIDING OFFICER ROSS: All right.
21 With that, I would give the Applicant the
22 opportunity to wrap up, if you'd like, with a
23 closing statement. And, then, I think we will
24 recess, before we begin our deliberations.

1 MR. NEEDLEMAN: I appreciate that. I
2 don't think there's anything more to add at
3 this point.
4 PRESIDING OFFICER ROSS: Thank you.
5 Do you need -- would you like the opportunity
6 to make a closing or --
7 MR. ASLIN: I'll just reiterate that,
8 while we're taking no position on this -- on
9 these waivers for this Application, it
10 shouldn't be deemed to follow onto any other
11 applications, given different circumstances to
12 each one.
13 PRESIDING OFFICER ROSS: Understood.
14 Thank you.
15 We'll take a 15-minute break, and
16 then we'll begin our deliberations on the
17 requests.
18 (Recess taken at 11:12 a.m. and
19 the hearing resumed commencing
20 with deliberations at 11:41
21 a.m.)
22 **D E L I B E R A T I O N S**
23 PRESIDING OFFICER ROSS: All right.
24 We're back on the record for our deliberations

1 on the these waiver requests. We are going to
2 deliberate waiver by waiver request, so that
3 we'll do them separately.
4 We're going to begin with the
5 photosimulation waiver request, which is a
6 waiver of Rule 301.03(5)(8) [301.05(b)(8)(b)?]
7 -- sorry, I can't --
8 MR. IACOPINO: (b).
9 PRESIDING OFFICER ROSS: (b). And,
10 so, I would entertain some discussion now among
11 the Committee members on that waiver request.
12 Go ahead.
13 MS. WEATHERSBY: Madam Chair, I think
14 that the request for the waiver is a reasonable
15 one. The simulations that have been provided
16 are similar in size to what is now required by
17 the new rules. And we also have the digital
18 file that we can adjust to view the
19 simulations.
20 So, I think it would be onerous to
21 require new simulations to be provided.
22 PRESIDING OFFICER ROSS: Thank you.
23 That's 301.05, I misstated it earlier. And,
24 for the deliberations, you don't need to ask

1 permission. I think, you know, just kind of
2 watch other people and jump in, that way we'll
3 move more smoothly.
4 CMSR. BAILEY: I agree with Ms.
5 Weathersby's remarks. And, also, since this is
6 a reliability project, if we did require them
7 to recreate the photos, for which we already
8 have, I think, sufficient information in this
9 case during this time of transmission, then
10 ratepayers would end up paying more for this
11 project.
12 So, I think that we should waive the
13 rule on the size of the photosimulations.
14 PRESIDING OFFICER ROSS: Just want
15 to --
16 DR. BOISVERT: Oh, go ahead.
17 PRESIDING OFFICER ROSS: Just wanted
18 to remind the Committee that the standard for
19 granting a waiver is set out in Rule 202.15,
20 and -- I'm sorry, 302. --
21 MR. IACOPINO: No, it's 202.
22 PRESIDING OFFICER ROSS: Okay. The
23 standard is sort of a two-part standard. We
24 have to consider whether the waiver serves the

1 public interest, and whether or not the waiver
2 will not disrupt the orderly and efficient
3 resolution of matters before the Committee or
4 Subcommittee.
5 So, I don't know if there's any
6 further discussion in light of that standard?
7 DR. BOISVERT: I'd just like to
8 observe that they began this process well
9 before the rules changed. And they generated
10 their illustrations according to what had been
11 standard practice before the rule changed.
12 This is simply a matter of what
13 occurs in the transition from one set of rules
14 to the other. I would anticipate that, for
15 projects that are initiated now, that they
16 would actually be going to what is specified in
17 the rules, as opposed to going back to what
18 they had done before.
19 So, I see it's reasonable. And it
20 serves the public interest not to have to redo
21 something for the rules simply because they
22 changed in the process.
23 MS. ROBERGE: I agree with that.
24 And, relative to the standard or the sentiments

1 already shared, I think the waiver serves in
2 the public interest. And, also, you know, by
3 granting this waiver, we wouldn't be disrupting
4 the orderly or efficient resolution of the
5 matters. As a matter of fact, we would be
6 delaying it, a reliability project further by
7 making them go back and adjusting the maps
8 slightly, based on what we already have.
9 MS. WEATHERSBY: Just one last note
10 for me. The public interest standard has two
11 pieces, and I think both are satisfied. That
12 being "Compliance with the rule be onerous or
13 inapplicable given the circumstances of the
14 affected person", the Applicant, and "the
15 purpose of the rule be satisfied by an
16 alternative method proposed". Like here we
17 have the simulations of a very similar size,
18 and I think that is a good alternative method.
19 And it would, in my mind, it would be onerous
20 to require the Applicant to redo them to the
21 now required size.
22 So, I think the public interest test
23 is satisfied.
24 PRESIDING OFFICER ROSS: If there's

1 no further discussion, I would entertain a
2 motion on this waiver request?
3 CMSR. BAILEY: I just want to make
4 sure I get the right rule.
5 MR. IACOPINO: 301.05(b)(8).
6 CMSR. BAILEY: I move that we grant
7 the waiver of the rule -- of Rule 301.05(b)(8),
8 for the reasons just discussed.
9 PRESIDING OFFICER ROSS: Is there a
10 second?
11 MS. ROBERGE: Second.
12 PRESIDING OFFICER ROSS: Is there any
13 discussion on the motion?
14 *[No verbal response.]*
15 PRESIDING OFFICER ROSS: All those in
16 favor say "aye"?
17 *[Multiple members indicating*
18 *"aye".]*
19 PRESIDING OFFICER ROSS: Any opposed?
20 *[No verbal response.]*
21 PRESIDING OFFICER ROSS: The motion
22 carries unanimously.
23 The next motion that we will discuss
24 is -- it's the mapping motion, but it actually

1 includes I believe three separate subsets.
2 So, the first one is 301.03(c)(3),
3 which deals with properties, whether they're
4 residential, and whether they are -- I'm not
5 sure what some of the other aspects are. So,
6 this, again, is showing properties.
7 MR. IACOPINO: If I can just lay it
8 out for you, Madam Chair?
9 PRESIDING OFFICER ROSS: Yes. Maybe
10 a little more detail would be helpful.
11 MR. IACOPINO: Section 301.03(c)(3)
12 of our rules require the Applicant to identify
13 property lines, residences --
14 *[Court reporter interruption.]*
15 MR. IACOPINO: I'm sorry. It
16 requires the Committee -- it requires the
17 Applicant, as part of its Application, to
18 identify property lines, residences, industrial
19 buildings, and other structures and
20 improvements on -- that are at or within the
21 site, on abutting property with respect to the
22 site, or within 100 feet of the site, if such
23 distance extends beyond the boundary of any
24 abutting property.

1 So, with this particular waiver
2 request, those -- it pertains to the mapping of
3 residences, industrial buildings, and other
4 structures beyond which have already been
5 mapped by the Applicant.
6 PRESIDING OFFICER ROSS: And I
7 just -- my comment, I think, after listening to
8 our discussion earlier from the Applicant, was
9 that, essentially, this deals with 17
10 properties that extend beyond the sort of
11 700-foot depiction that already is in the
12 Application. So, we have a limited number of
13 properties, where the property line itself is
14 out beyond that, that visual area on the
15 mapping. And it does appear that you can see
16 structures in the photographs. So, you can
17 visually see them.
18 And I just also think that this
19 Application, because we're dealing with this
20 existing right-of-way that's been there for a
21 long time, all of these communities and
22 structures have been located near that
23 right-of-way for some period of time. So, you
24 have the ability to, you know, communities have

1 had the ability to plan around that, that
2 structure.
3 So, to me, it looks like we have
4 pretty good information in the Application.
5 CMSR. BAILEY: The Applicant also
6 reminded us that the community buildings are
7 located in the filing somewhere. Counsel,
8 could you -- do you have any idea where that
9 is? Or can we ask the Applicant now?
10 MR. IACOPINO: Yes. Do you have a
11 handy reference to the community mapping?
12 MS. TREFRY: It's in Appendix M.
13 MR. IACOPINO: "M", as in "Michael"?
14 MS. TREFRY: Yes.
15 CMSR. BAILEY: Thank you.
16 MS. ROBERGE: I'll just add to the
17 discussion that we didn't hear any objections
18 from any of the towns that this reliability
19 project runs through.
20 MS. WEATHERSBY: I think that, since
21 we're dealing with only 17 properties, and when
22 I look -- when I look at the rule, it states
23 that "the purpose of the rule could be
24 satisfied by an alternative procedure" that the

1 rule could be waived. I would be in favor of
2 waiving it, but developing an alternative, such
3 as we discussed, something as simple as showing
4 us the tax maps for those 17 properties. Just
5 getting a sense, you know, at the application
6 stage, of what else might be on there. But not
7 requiring the maps themselves to go out and
8 encompass what could be a very large property.
9 I think there's a simple and
10 inexpensive way to get that information as a
11 supplement.
12 CMSR. BAILEY: Do you think we'd get
13 information in addition to what's shown on the
14 Community Resource Map? There doesn't seem --
15 I'm looking at it now. And it doesn't look
16 like they have identified schools or hospitals,
17 that kind of thing. It looks more like Town of
18 Londonderry land, town pond, Christian
19 Fellowship Baptist Church, Town of Derry bike
20 path. Maybe we could ask them if there are
21 any -- is it community resources that we're
22 looking to identify or all industrial -- all
23 buildings on those 17 properties? What did you
24 have in mind?

1 MS. WEATHERSBY: I was certainly
2 thinking primarily of community buildings,
3 things like hospitals and schools, also public
4 water supplies. But, also, you know, perhaps
5 there's a privately owned building that's of
6 some significance, that, you know, either
7 historic, or is a large employer, or, you know,
8 there may be a hotel that has, you know, some
9 significance. I don't know.
10 But I think, that just as a jumping
11 off point for an application, that just knowing
12 what is on those properties just be -- would
13 just be helpful information. But, certainly,
14 the community resources, hospitals, schools,
15 churches, daycare, that kind of thing, would be
16 particularly useful, and that may already be
17 provided.
18 CMSR. BAILEY: Yes. Before we
19 require them to provide it again, I think
20 that -- I mean, I'm looking at Appendix M, and
21 I can't tell whether there would be other
22 things that would be included in the list.
23 I mean, it says that it is "Community
24 Resources Mapping". And I don't see any water

1 supplies, for instance, but I do see big,
2 large -- oh, okay. "Community Resources not
3 within 1,000 feet" is a footnote on each of
4 these pages. And it says things like "Boat
5 Launch, Correctional Institutions, Fire
6 Stations, Hospitals, Law Enforcement Buildings,
7 Nursing Homes, Public Health Departments, not
8 within 100 **[**1,000**?]** feet of the right-of-way."
9 So, maybe if they're -- for those
10 community resources that are not within the
11 thousand feet of the right-of-way that are on
12 the properties that abut, they could at least
13 give us those, the names of those. I don't
14 think that that would be too onerous.
15 MS. ROBERGE: Are you talking about
16 like a listing or are you talking about a map
17 that has those identified?
18 CMSR. BAILEY: Well, I'm just sort of
19 adding on to what Ms. Weathersby was
20 requesting.
21 MS. WEATHERSBY: I was thinking just
22 for abutting properties. We haven't discussed
23 expanding the community, --
24 CMSR. BAILEY: No.

1 MS. WEATHERSBY: -- you know, but
2 just for the abutting properties. That, you
3 know, maybe there's a big open field there for
4 an acre or two, and then there's some hospital
5 there. And I would just like to know that.
6 So, I think, even just a tax map and a card,
7 you know, just some very readily available
8 public information for 17 properties would
9 be -- would be easy to find, inexpensive, and
10 be useful to the Committee.
11 MS. WHITAKER: So, a tax map and
12 maybe and a narrative, a short narrative, a
13 list?
14 MS. WEATHERSBY: Either a narrative,
15 or just, with the tax map, a tax card that says
16 what it is, you know, --
17 MS. WHITAKER: A tax card, okay.
18 MS. WEATHERSBY: -- certainly a
19 hospital or a church or --
20 CMSR. BAILEY: So, all they would
21 have to do is get 17 tax maps from the towns?
22 PRESIDING OFFICER ROSS: And the
23 assessor's cards. I actually think that's a
24 pretty good compromise. It gives you -- it

1 does give you basic information about those
2 parcels.
3 MS. WHITAKER: And certainly would
4 give us enough information if we wanted to do
5 some research on our own, more information
6 about them, we would have the place to start
7 that we needed.
8 CMSR. BAILEY: The thing is, to keep
9 in mind, though, nobody's here complaining
10 about it. So, if -- I would think if -- I
11 mean, yes, we should know. But, if there's a
12 hospital located on an abutting property, I
13 would think that, if they thought that another
14 transmission line in an existing right-of-way
15 were going to cause some great harm, that they
16 would be here to tell us that. So, I think we
17 should keep that in mind as well.
18 DR. BOISVERT: I would like to
19 observe that they're already recording part of
20 that parcel in the first 700 feet. So, we know
21 who owns it and how it's been zoned.
22 What we're talking about are property
23 types or resources that exist on that parcel
24 beyond the 700-foot limit. So that it may be

1 that there is another facility -- a facility
2 has several structures, and some of them are
3 well beyond the 700-foot. But we are -- there
4 is already some information on that parcel.
5 It's not like it's all written new.
6 So, I think they already have
7 information on those parcels, and something to
8 note how far they go and so forth. And, what,
9 in general terms, from what can be gleaned from
10 the tax card may be present that's not already
11 recorded in the first 700 feet would be useful.
12 But I think that it's -- they already have some
13 of the information. And they're simply giving
14 us a footnote, if you will, as to what else
15 might be out there.
16 PRESIDING OFFICER ROSS: Is anyone
17 interested in making a motion on this, on this
18 waiver request?
19 MS. ROBERGE: Do you think it's of
20 value to talk about the standards themselves to
21 grant or deny?
22 PRESIDING OFFICER ROSS: I think we
23 should discuss, either before or afterwards,
24 how the request matches the standards. But, in

1 this case, I'm wondering if we're going to get
2 sort of a condition on the decision, and it may
3 make more sense to have that discussion after
4 we get the motion, we form the motion.
5 MS. WEATHERSBY: I'll take a stab at
6 a motion.
7 *[Court reporter interruption.]*
8 MS. WEATHERSBY: I'll take a stab at
9 a motion, and welcome your amendments. I move
10 that we grant the Applicant a waiver from Rule
11 Section 301.03(c)(3), requiring the
12 identification of residences, industrial
13 buildings, and other structures and
14 improvements on abutting property, with the
15 condition that the Applicant provide the
16 Committee with the tax map and assessor's cards
17 for each of those abutting properties which
18 extend beyond the area that is presently
19 mapped.
20 PRESIDING OFFICER ROSS: Good. That
21 sounds fine. Is there a second?
22 MS. WHITAKER: I'll second.
23 PRESIDING OFFICER ROSS: Thank you.
24 Now, discussion, and we should cover whether

1 this -- granting this waiver request would
2 serve the public interest, and whether or not
3 it would disrupt the orderly and efficient
4 resolution of the matters before the Committee.
5 DR. BOISVERT: Before we get to that,
6 just a slight housekeeping request. She said
7 "the area mapped", could we have it specified
8 as the "700-foot distance mapping", just so
9 there's no ambiguity?
10 PRESIDING OFFICER ROSS: I think it's
11 actually more than 700 feet. I thought I heard
12 "1,000" in some cases. So, I might stay with
13 the reference to the "mapped area", because
14 that may actually be more accurate.
15 Did other Committee members hear the
16 description differently?
17 MS. WEATHERSBY: I thought they had
18 700 feet as well, but maybe we could ask the
19 Applicant for a clarification.
20 PRESIDING OFFICER ROSS: We're going
21 to check the motion to see if we can --
22 MR. NEEDLEMAN: Would you like me to
23 clarify?
24 PRESIDING OFFICER ROSS: Yes. If you

1 could help us with the actual specific request
2 here.
3 MR. NEEDLEMAN: So, if you look in
4 the motion, on Page 8, Subsection (c) talks
5 about the "Community Resources and Development
6 Mapping", which is I think what you're debating
7 now. And it explains that there the resources
8 are "within 1,000 feet of the Project
9 right-of-way". So, depending on which resource
10 you're talking about, the distance from the
11 right-of-way changes, with respect to what's
12 been mapped.
13 MR. IACOPINO: Can I ask a question?
14 Just to further clarify that, Mr. Needleman, I
15 understand what's on the floor for the
16 Committee at this point is the waiver from
17 301.03(c)(3) requiring the mapping of
18 residential/industrial structures and
19 identifying their use. And, if I understand
20 correctly, that would not be what is depicted
21 in Exhibit M, but that's depicted -- the
22 mapping that you're looking for to suffice for
23 your waiver is a different exhibit, isn't that
24 correct? If the community mapping goes a

1 thousand feet, there are other maps that only
2 go 700 feet.
3 MR. NEEDLEMAN: That's correct.
4 MR. IACOPINO: Which maps are those
5 that we're talking about? Because, if the
6 language of our motion is "beyond what's
7 already mapped", we need to know what map we're
8 talking about.
9 MR. NEEDLEMAN: Right. In Section --
10 Page 4 of the motion, at the top of the page,
11 it points out that "the original Existing
12 Conditions Mapping already contains the
13 residences, industrial buildings, and other
14 structures and improvements within 700 feet".
15 So, I think, to your question, if
16 we're talking about those and not those of the
17 community resources, then I think "700 feet" is
18 the right number.
19 MR. IACOPINO: And do we know what
20 map that is, what appendix number?
21 MS. ROBERGE: I just want to clarify
22 that it's 700 feet from the project centerline,
23 as opposed to from the boundaries.
24 MR. NEEDLEMAN: It's actually

1 700 feet from the edge of right-of-way.
2 MR. IACOPINO: Is that Exhibit E,
3 "Echo"?
4 MR. NEEDLEMAN: Yes. Appendix E.
5 MR. IACOPINO: And that was in your
6 revised filing, is that correct?
7 MR. DUMVILLE: Mr. Iacopino, the
8 revised maps actually are Attachment A to
9 Supplement Number 3, which are the maps that we
10 presented to the Committee earlier today for
11 your analysis.
12 MR. IACOPINO: Thank you.
13 MS. ROBERGE: Can I just ask for a
14 clarification? Because, in the waiver, on Page
15 4, it states "within approximately 700 feet of
16 the Project centerline as depicted on a scale
17 at 1 inch to 400 feet". And I just -- it
18 sounds like there might be some
19 misunderstanding there.
20 MS. TREFRY: And, so, as I explained,
21 it varies, depending on where you are on the
22 map. So, if the right-of-way is in the middle,
23 you have greater than 800 feet from the edge of
24 right-of-way. And, if the -- if it's on an

1 angle here, it's probably 700 feet from the
2 centerline. So, I think "700 feet from the
3 centerline" would probably be the most
4 conservative.
5 PRESIDING OFFICER ROSS: Okay.
6 Procedurally, we have a motion and a proposed
7 amendment. Was the motion seconded?
8 MS. WHITAKER: Yes. I seconded it.
9 PRESIDING OFFICER ROSS: Okay. So,
10 is the amendment seconded?
11 MS. WEATHERSBY: I second the
12 amendment.
13 PRESIDING OFFICER ROSS: Okay. Do we
14 need any discussion on the amendment? Well,
15 let's --
16 MR. IACOPINO: Can I ask a question
17 or just clarify? When you say "amendment",
18 that means to --
19 PRESIDING OFFICER ROSS: To add the
20 "700 feet" to the motion.
21 MR. IACOPINO: Okay. The
22 supplemental filing?
23 PRESIDING OFFICER ROSS: Right.
24 MR. IACOPINO: Supplement 3.

1 MS. ROBERGE: Can I just ask for a
2 clarification on the motion? So, it's
3 additional information on the 17 sites that go
4 beyond the site maps here?
5 PRESIDING OFFICER ROSS: Yes.
6 MS. ROBERGE: On any structures, what
7 have you, beyond that --
8 PRESIDING OFFICER ROSS: Beyond the
9 700 feet from the centerline, I think that's
10 the way the motion would read. We could ask
11 the court reporter if --
12 *[Court reporter interruption.]*
13 PRESIDING OFFICER ROSS: Okay. Let's
14 trust that it reads, your motion, with the
15 addition of the "beyond 700 feet from the
16 centerline of the right-of-way". And is there
17 a second? I'm sorry, are you still clarifying?
18 MR. IACOPINO: Can I just suggest
19 that we ask the Applicant to clarify one thing.
20 Because, previously, during the argument,
21 discussion, and question-and-answer period,
22 there was reference of "700 feet from the edge
23 of the right-of-way". Does this change,
24 "700 feet from the centerline" change the

1 number of affected properties? Is it still 17?
2 MS. TREFRY: Yes. Still 17.
3 MR. IACOPINO: Okay. Thank you.
4 MS. WEATHERSBY: I think, in my
5 motion, I specifically didn't say "17
6 properties", it was whichever properties,
7 because I was concerned that that may not be an
8 absolute number.
9 MR. IACOPINO: Yes. But I just want
10 to make sure that the Committee knows whether
11 or not there is any difference because of that
12 change, because that could make a difference
13 with respect to your analysis.
14 PRESIDING OFFICER ROSS: Do I have a
15 second on the amendment?
16 MS. WEATHERSBY: I seconded it.
17 PRESIDING OFFICER ROSS: Okay. Do we
18 need any further discussion on the amendment?
19 *[No verbal response.]*
20 PRESIDING OFFICER ROSS: All right.
21 All in favor say "yay"?
22 *[Multiple members indicating*
23 *"yay".]*
24 PRESIDING OFFICER ROSS: Any opposed?

1 *[No verbal response.]*
2 PRESIDING OFFICER ROSS: Okay. The
3 amendment is approved.
4 Now, we have the underlying motion,
5 and we'll need some discussion on the motion as
6 amended.
7 CMSR. BAILEY: I think the motion, as
8 amended, is in the public interest. It doesn't
9 seem unduly burdensome. And the purpose of the
10 rule would be satisfied by this alternative
11 method that Ms. Weathersby proposed.
12 PRESIDING OFFICER ROSS: I would
13 agree. I think it gives us good information
14 about any buildings. I think the tax cards
15 will indicate, as I -- in my experience, tax
16 cards do locate structures on the property. So
17 that, if the Committee, when it gets to the
18 substantive hearing, wants to see if there are
19 other properties beyond the mapped area, will
20 be able to see those structures on the tax
21 cards. So, I think we will have enough
22 information to know whether to ask the
23 Applicant any further questions about those
24 structures.

1 So, I think we've met the purpose of
2 the underlying rule.
3 MS. ROBERGE: I agree.
4 DR. BOISVERT: I had raised the issue
5 of precedent earlier. And I'd just like to
6 sort of thumbnail some of the reasons why I
7 would support this.
8 But, so that it's understood, it's
9 this waiver request for this project for these
10 conditions. And there's a variety. It's
11 entirely within an existing right-of-way.
12 There's no new rights-of-way proposed for this.
13 It has a limited scope, relatively short,
14 18 miles, relatively few communities, four.
15 They have been there for a while. I think that
16 these lines have been in existence since
17 probably prior to the existence of many of the
18 town commissions, the planning commissions,
19 conservation commissions, and so forth. So,
20 it's there, and it's a known quantity.
21 No one has raised any complaints
22 about this aspect of the project. So, there's
23 not a groundswell of concern from the
24 community.

1 And I believe that we are looking
2 towards making sure that we get the relevant
3 information that the rule requests, and that
4 we're not simply dispensing with the rule.
5 PRESIDING OFFICER ROSS: And I think
6 I would add to that that this project, as we
7 understand it, is a reliability project. It's
8 not at the election of the Applicant, but it is
9 actually required for reliability of the
10 transmission system in the region. And I think
11 that's a factor in our considering these
12 waivers as well.
13 If there's no further discussion, I'd
14 like to vote on this waiver with regard to
15 residential and industrial structures?
16 *[No verbal response.]*
17 PRESIDING OFFICER ROSS: All those in
18 favor say "yay"?
19 *[Multiple members indicating*
20 *"yay".]*
21 PRESIDING OFFICER ROSS: Any opposed?
22 *[No verbal response.]*
23 PRESIDING OFFICER ROSS: Okay. This
24 waiver is granted unanimously.

1 The next waiver that we'll consider
2 is a waiver of Rule 301.03(c)(4), which deals
3 with wetlands and --
4 MR. IACOPINO: Madam Chair, when you
5 say "the waiver was granted", it's granted with
6 the condition.
7 PRESIDING OFFICER ROSS: I'm sorry,
8 yes. The condition is contained in the motion.
9 The condition does involve the production of
10 the tax maps and assessor's cards for the
11 properties that extend beyond the mapped area
12 shown on the Application.
13 And we will next consider the
14 wetlands, which is Site Evaluation Rule
15 301.03(c)(4). And this is the rule that
16 requires them to map wetlands and surface
17 waters within the site and on abutting property
18 with respect to the site and within 100 feet of
19 the site, if such distance extends beyond the
20 boundary of any abutting property.
21 And, just for clarification, to the
22 Applicant, are the -- are we dealing in this
23 waiver with the same 17 properties or are there
24 more that fall into this category, or less?

1 MS. TREFRY: We show the wetlands
2 both at the 1 to 400 scale, which is the 17
3 properties, as well as the 1 to 200 scale, when
4 you look at the wetland permitting plan. So,
5 it doesn't change the 17 parcels, if you're
6 talking about the existing conditions mapping,
7 which shows wetlands.
8 PRESIDING OFFICER ROSS: Thank you.
9 So, any discussion before we get to a motion on
10 this rule?
11 MS. WEATHERSBY: I'm wondering if we
12 can take the same approach, and I would defer
13 to the environmental scientists on the
14 Committee, whether there is some readily
15 available information that can be, you know, a
16 map, a survey, some other information that
17 could be easily produced for these 17
18 properties to show any wetlands on them? Just
19 have that as the alternative and allow this
20 waiver to be granted.
21 MS. ROBERGE: I wonder if I could get
22 clarification on what's currently provided, in
23 terms of the wetlands. I thought I understood
24 that there were some larger mapping that

1 included some of those wetland pieces. Am I --
2 or is there still an issue with "beyond
3 700 feet" and the properties not shown?
4 MS. TREFRY: Correct. So, the
5 portion of the property that is shown within
6 that, the scale of the map that we provided, we
7 have layered on the appropriate mapping layers
8 that were available, as I discussed, with USGS
9 surface waters, as well as the NWI maps on
10 prime wetlands. So, there is a portion of
11 those properties that extend beyond that map
12 that isn't visible with those map layers on it.
13 MS. WHITAKER: Can I ask a
14 clarification question there? Which appendices
15 are we referring to or are you referring to
16 when you say -- when you're talking about these
17 maps?
18 MS. TREFRY: Okay. So, we have
19 Existing Conditions Mapping, which showed
20 wetlands and surface waters. So, that was
21 Attachment A to Supplement 3. Community
22 Resources Mapping was Appendix M to the
23 original Application.
24 PRESIDING OFFICER ROSS: Were the

1 wetlands included in the Community Resources
2 Mapping? Is that why you just referenced that?
3 MS. TREFRY: I was just clarifying.
4 PRESIDING OFFICER ROSS: Okay. You
5 know, to other members of the Committee, do the
6 USGS geological maps include swamps and surface
7 water on the maps? I mean, the ones I've
8 looked at appear to.
9 DR. BOISVERT: In my experience, they
10 show surface waters, and will sometimes map
11 marshes and swamps and bogs. But, for
12 wetlands, as defined as "wetlands", I do not
13 believe that they're at all reliable in that
14 regard. Surface waters, as of a certain point
15 of time, and we need to bear in mind that the
16 USGS has stopped printing paper maps some time
17 ago, and they're available electronically and
18 you can print your own. And I don't believe
19 they have changed the mapping, simple
20 requirements with the electronic versions. So,
21 I don't believe there's going to be that
22 wetlands mapping. There are other agencies
23 that have that sort of thing.
24 But, for USGS, and if someone has

1 more current information, I'd gladly defer to
2 them, but reasonably good for surface waters
3 above a certain size, and occasional mapping
4 of, like I said, marshes, swamps, bogs. But
5 those boundaries are generalized. When you get
6 out and ground truth them, there will be
7 differences. And not at all for wetlands, as
8 understood by DES.
9 PRESIDING OFFICER ROSS: Thanks. I
10 was just looking, you know, in response to
11 Pat's suggestion, I was trying to find some
12 public information that might already be out
13 there that would provide some guidance on
14 wetlands. But it doesn't -- it sounds like the
15 USGS --
16 DR. BOISVERT: Identifying wetlands
17 is something that DES requires. And, if they
18 were already mapped, it would be a different
19 story. And things just change.
20 PRESIDING OFFICER ROSS: Yes.
21 DR. BOISVERT: And maybe someday
22 there will be a way to map them remotely. But,
23 at this point, it needs humans to go --
24 *[Court reporter interruption.]*

1 DR. BOISVERT: It's not something
2 that's already existing on mapping, people have
3 to go look for them.
4 MS. ROBERGE: Unfortunately, I'm not
5 an expert when it comes to wetlands with DES.
6 But there are -- obviously, we, for projects
7 that are currently, you know, have wetlands
8 requirements, would have that as part of their
9 application. But I don't know, in general, if
10 there's information available. And I
11 apologize, I don't know that.
12 CMSR. BAILEY: I'm not sure that
13 getting additional information in this respect
14 is going to be particularly helpful. I think,
15 you know, if the piece of property was not an
16 abutter, and it was 100 feet, they would only
17 have to map 100 feet. And they have said that
18 the wetlands, beyond 700 feet, will not be
19 impacted by this project.
20 So, to me, it seems like we would be
21 collecting information that isn't going to tell
22 us anything. And where it's really DES's
23 responsibility to determine the impact on
24 wetlands, I would think that, if DES felt that

1 they needed more information about impacts on
2 wetlands, that DES would require that
3 information.
4 And I think -- oh, I just forgot what
5 I was going to say. There was one other point
6 I wanted to make. But I don't think we need
7 additional information about wetlands.
8 MS. WEATHERSBY: I would agree with
9 Commissioner Bailey, to the extent that there's
10 a new body of water, you know, 400 feet or
11 800 feet away from the transmission lines. My
12 concern was really, at the edge of the map,
13 there's a little wetland area. And what we
14 don't see is that, just on the other side of
15 the area, it opens up into a giant bog that's
16 of particular significance, and how we would
17 know that? And maybe that's flagged somewhere
18 else, that that wetland that starts on this
19 abutting property is of significance, and
20 that's captured somewhere else. That's all I
21 was trying to capture.
22 I don't feel as though a half a mile
23 away there's a small pond that that's going to
24 be affected. It was more something that's

close ends up affecting something large.

CMSR. BAILEY: Well, I think the maps show that to a certain degree. Because if, within the 700 feet, there's something large, then the lines go like that *[indicating]*, and they're open, so you know that that water body goes beyond what's shown on the map, but it's within -- it's within 700 feet.

And the other point that I was trying to remember that I wanted to make is access to the land. You know, I mean, your suggestion doesn't require them to have access to the land. But, if there isn't an easy way to do it, and they say there isn't, they don't have access to the land. So, you know, that, combined with what are we going to do with it, I think DES should have this covered. So, --

MS. WEATHERSBY: What about just an aerial photograph, whether that would give us enough? I mean, I don't know what distance it would have to be from, or maybe I'm -- maybe I'm being too cautious, but trying to get some information without overkill, I think.

MS. ROBERGE: I'm just going to, just

1 sort of commenting, looking at one of the maps
2 here, I apologize, Page 3 of 16 in Appendix A,
3 I just happening to be looking at it.
4 Delineated on the map is the DES permit, looks
5 like for the Wetlands Permit. And it, I'm
6 guessing, would go beyond the area of the map
7 here shown. But, as Commissioner Bailey said,
8 that would be -- that would sort of fall under
9 the purview of DES. So -- which is all part of
10 the process. So, their review of that area
11 would fall under DES. But you can see, like,
12 you know, the areas beyond the 700 feet. And,
13 then, I couldn't tell you if this abutting
14 property would go beyond, you know, if this
15 property goes beyond 700 feet or not, or
16 whether it's an abutting property, but it is
17 marked on the map.
18 CMSR. BAILEY: Are you looking at the
19 lower Golden Brook prime wetland? Or that may
20 be on the --
21 MS. ROBERGE: Yes. It's hard for me
22 to read, because when I expand the scale, it
23 goes -- there we go. Yes. That's what I'm
24 looking at.

1 CMSR. BAILEY: Yes. And that goes
2 across the whole map, and you can tell that it
3 continues beyond.
4 MS. ROBERGE: Right. I mean, I don't
5 know if this is a property -- if that ends
6 there. You can kind of see a property line
7 slightly.
8 CMSR. BAILEY: Right.
9 MS. ROBERGE: So, I don't know if it
10 would -- if this would be one of the 17
11 properties or not. But you can see that it
12 goes beyond the map. But that is covered by --
13 I'm assuming it would be covered under DES
14 regulations.
15 PRESIDING OFFICER ROSS: So, I guess
16 I'm also assuming that the construction, which
17 will involve digging into the ground, I think
18 the Applicant referenced, you know,
19 "construction controls", I think "erosion
20 controls", and things. I mean, I would assume
21 they'd put up that screening, because there
22 will be a period of time where the ground is
23 disrupted and there will be runoff, because
24 there will be precipitation.

1 And, so, I guess I'm assuming that
2 DES is capable of managing those issues, with
3 regard to the surrounding wetlands, and is also
4 looking at whole, large drainage areas and
5 things when it formulates those permits for the
6 disruption.
7 And I think that, again, this is a
8 reliability project. So, we are talking about
9 a project that's needed. So, I think that our
10 reliance on the DES, and not second guessing
11 them, in a project that's needed, in an
12 existing right-of-way, where there's already
13 been some disruption of drainages, is a more --
14 gives us a little more latitude to think about
15 a waiver than we might have in a different
16 setting.
17 MS. ROBERGE: Yes. DES does have a
18 permitting process. And I can't speak to it in
19 its entirety. But, certainly, they, you know,
20 the applications were filed with the
21 Department, the Department is reviewing that.
22 So, yes.
23 MS. WEATHERSBY: I think your point
24 is well-taken. And I think that DES has ruled

1 or has said that the information in the
2 Application has been complete enough for them
3 to do their examination. And, so, if DES is
4 complete, and has the opportunity to request
5 more information if it needs it, then I think
6 I'm okay.
7 DR. BOISVERT: And, from my
8 perspective, because of the involvement of DES
9 with the Wetlands Permit, which are vigorously
10 reviewed, we're talking about what information
11 the Applicant is providing in terms of mapping
12 to the Application. And it's not that things
13 can't be considered otherwise. It's just this
14 is the mapping requirement. I think we need to
15 keep in mind that's what we're talking about,
16 not some grander -- was not to provide
17 information for something that might be an
18 adverse effect on a resource necessarily, but
19 there's already an agency and a process
20 designed to do that.
21 We're talking about the requirements
22 that what be included in the Application. And
23 I think, to that extent, I can support the
24 waiver, because it is -- we're talking about

1 the mapping, we're not talking about the whole
2 process.
3 PRESIDING OFFICER ROSS: Right. This
4 is not a decision on whether or not the project
5 should go forward. This is just a decision on
6 whether or not the Application suffices for our
7 review.
8 DR. BOISVERT: Right.
9 PRESIDING OFFICER ROSS: Are we ready
10 for a motion? I would entertain a motion on
11 this waiver.
12 CMSR. BAILEY: I'll move that we
13 grant the request for waiver of 301.03(c)(4).
14 PRESIDING OFFICER ROSS: Is there a
15 second?
16 MS. WHITAKER: I'll second.
17 PRESIDING OFFICER ROSS: Is there any
18 further discussion on the motion?
19 *[No verbal response.]*
20 PRESIDING OFFICER ROSS: All of those
21 in favor indicate by saying "yay"?
22 *[Multiple members indicating*
23 *"yay".]*
24 PRESIDING OFFICER ROSS: Any opposed?

1 *[No verbal response.]*
2 PRESIDING OFFICER ROSS: Okay. The
3 waiver, without condition, is approved.
4 And I think we'll need to take a
5 break, because we're at 12:30. I would suggest
6 a half hour. So, at one o'clock, we'll
7 complete our deliberations. I'm sorry to give
8 you such a short lunch, but I think we want to
9 get through this as quickly as we can.
10 Thank you.
11 *(Lunch recess taken at 12:29*
12 *p.m. and the deliberations*
13 *resumed at 1:06 p.m.)*
14 PRESIDING OFFICER ROSS: All right.
15 We're back on the record. We're deliberating.
16 We're going to now take up the request for
17 waiver of Rule 301.03(c)(5), which deals with
18 mapping historical resources.
19 The request is for us to waive the
20 mapping requirement beyond the area mapped.
21 And I'm going to go to the motion to see if I
22 can figure out how that was articulated.
23 *(Short pause.)*
24 PRESIDING OFFICER ROSS: So, the rule

1 requires showing "natural, historic, cultural,
2 and other resources at or within the site, on
3 abutting property with respect to the site, and
4 within 100 feet of the site if such distance
5 extends beyond the boundary of any abutting
6 property".
7 So, we've got -- so, (c)(5) seems to
8 include both natural resources and historic
9 resources. Does that sound right? Maybe I
10 better just read the rule.
11 CMSR. BAILEY: Natural, cultural, and
12 historical.
13 PRESIDING OFFICER ROSS: Just want to
14 make sure we're deliberating on the right rule.
15 *(Short pause.)*
16 PRESIDING OFFICER ROSS: (5) is
17 "natural... and other resources". Right?
18 That's how it defines it. And the request for
19 waiver talks about "historical and
20 archeological resources"?
21 CMSR. BAILEY: Could I help out
22 maybe?
23 PRESIDING OFFICER ROSS: Yes. Can
24 you help me, because it --

1 CMSR. BAILEY: (c)(5) is the
2 "Identification of natural, historic, cultural,
3 and other resources at or within the site, on
4 abutting property with respect to the site, and
5 within 100 feet of the site if such distance
6 extends beyond the boundary of any abutting
7 property, except if and to the extent such
8 identification is not possible due to lack of
9 access to the relevant property and lack of
10 other sources of the information to be
11 identified."
12 And, in the Petition, under natural
13 resources is where they cover the wildlife
14 habitat land. And, then, under historical and
15 archaeological resources, is where they cover
16 the historical and cultural properties.
17 PRESIDING OFFICER ROSS: And then
18 they also, in the same section, talk about the
19 communities resources and development.
20 CMSR. BAILEY: Right.
21 PRESIDING OFFICER ROSS: So, are we
22 talking about all three of those then?
23 CMSR. BAILEY: Well, they have asked
24 for a waiver, the same kind of waiver that we

1 granted in Section (c)(4) in the same
2 provision. They have asked for the same kind
3 of waiver with respect to (c)(5), which
4 includes natural, historic, and cultural.
5 PRESIDING OFFICER ROSS: Okay. Okay,
6 that's helpful, because I was thinking we were
7 treating them as separate categories.
8 So, the discussion now is going to
9 deal with all three of those categories:
10 Natural resources, historical, and
11 archeological resources and community
12 [cultural?] resources.
13 MR. IACOPINO: And I would just point
14 out for the Committee, this information, that
15 what they have filed is a Wildlife Habitat Land
16 Cover Map, that identifies natural resources
17 within 700 feet of the project. They filed
18 letters from the Department of Historic
19 Resources regarding -- regarding both
20 aboveground and belowground resources, historic
21 resources, archeological and aboveground, as
22 well as the historic properties already mapped
23 within a quarter mile aboveground or are mapped
24 within a quarter mile of the right-of-way.

1 And, then, finally, the map that we discussed
2 before, Community Resources and Development
3 Mapping, which is Exhibit M.
4 So, that's what's been provided to
5 the Committee. And their waiver looks to waive
6 anything required beyond those.
7 PRESIDING OFFICER ROSS: So, what's a
8 little confusing to me is that there are
9 several different distances. There's a quarter
10 mile distance on the historic resources.
11 There's a 1,000 distance on community
12 resources. And there's, in the wildlife
13 resources, it looks like there's -- is that the
14 700-foot one? Yes. The wildlife habitat is
15 700 feet. So, we've got all different
16 instances from the project, depending on the
17 category of resource we're looking at.
18 CMSR. BAILEY: That's what's been
19 provided. And the rule says "100 feet if it's
20 not abutting" or "the whole piece of property
21 if it's an abutting piece of property". So,
22 the question --
23 PRESIDING OFFICER ROSS: Go ahead.
24 CMSR. BAILEY: So, the question is,

1 do we need more than what they have given us?
2 PRESIDING OFFICER ROSS: Right.
3 CMSR. BAILEY: I was hoping
4 Dr. Boisvert could give us an opinion on the
5 historic and archeological.
6 DR. BOISVERT: Yes. Right.
7 *[Court reporter interruption.]*
8 DR. BOISVERT: I was just waiting for
9 the proper time to step in, and I gather this
10 is it.
11 Regarding the archeological, the work
12 that was necessary to do that has a wider range
13 for the initial look, and that has been
14 conducted. They did a field study for a
15 portion of it and found nothing. So, for
16 compliance purposes, for the federal
17 requirements, not the state, the federal, they
18 have completed it. And those requirements, in
19 terms of the distances and so forth, are quite
20 broad. And there's no need, in my mind, for
21 any additional mapping.
22 For the archeological, that would
23 need to be confidential anyway. Archeological
24 sites are one of the few categories of

1 information that are not covered by the Freedom
2 of Information Act, the Right-to-Know Act, and
3 they can be shielded. So, there wouldn't be
4 any way, so, the mapping becomes less
5 important, except directly to those who are
6 reviewing it.
7 For the aboveground resources, the
8 concerns for direct impacts don't apply,
9 because there are no buildings in the
10 right-of-way, by definition. So, you're
11 looking at indirect impacts, and they have met
12 the needs for Division of Historical Resources
13 for looking for any adverse effects, and none
14 have been found. I use the phrase "adverse
15 effect" in the definition, as it is for the
16 federal process. This process has no
17 unreasonable adverse effects, it's a slightly
18 different definition. However, there are no
19 adverse effects for the federal process that my
20 office also has responsibility for.
21 So, in effect, they're done. And,
22 so, any additional mapping would be, in my
23 mind, an unreasonable or burdensome
24 requirement. The ratepayers shouldn't have to

1 pay for additional mapping for things that
2 aren't going to be considered. So, in that
3 regard, for the archeological and the
4 aboveground historic, then I would support the
5 waiver for those.
6 I won't speak to the natural, because
7 that's not my area.
8 CMSR. BAILEY: I can't find it right
9 now, but I thought I read some document from I
10 think it was -- it was either Fish & Game, or
11 what's the national organization that's
12 equivalent to Fish & Game?
13 MR. IACOPINO: United States Fish &
14 Wildlife.
15 CMSR. BAILEY: Fish & Wildlife, yes.
16 So, like the historic analysis, I think that
17 they have also done some analysis of the impact
18 on wildlife. And my recollection of it was
19 that it was covered, but I can't come up with
20 it right now.
21 MR. IACOPINO: There is a letter in
22 the record from New Hampshire Fish & Game dated
23 February 11th, 2016. I don't know if that's
24 the one that you're referring to. Concludes

1 that "Based on the survey protocols developed
2 by VHB, protocols for New England Cottontail
3 and black racer are adequate for the MVRP
4 Project and are approved by the NHF&G.
5 Following 2016 surveys, NHF&G will work with
6 the Applicants to avoid, minimize, and mitigate
7 impacts to any identified rare, threatened or
8 endangered species."
9 And that letter was signed by Michael
10 Marchand, from New Hampshire Fish & Game.
11 CMSR. BAILEY: That is the letter I
12 was thinking about. And, similar to the
13 conversation that we had about DES, I think
14 that Fish & Game probably has wildlife covered.
15 To the extent that it goes beyond what's been
16 mapped, if it's significant, I think that Fish
17 & Game probably would ask for more information.
18 So, I'm comfortable granting this
19 waiver.
20 PRESIDING OFFICER ROSS: And, again,
21 I think that a waiver wherein you've already
22 got a corridor that's been developed and in use
23 as a transmission line, even though I'm just a
24 layperson, it seems to me whatever impact, you

1 know, upgrading that line has, you've already
2 got that open area that the wildlife is either
3 using or not using, depending on its
4 characteristics.
5 So, I don't think that, you know,
6 other than the construction activity itself, it
7 doesn't seem to me there's going to be any
8 major change in the habitat. So, --
9 CMSR. BAILEY: Beyond the 700 feet
10 that was mapped.
11 PRESIDING OFFICER ROSS: Right. I
12 think, you know, Kate's observation that we can
13 trust Fish & Game to make sure that things are
14 done in a way that doesn't disrupt the habitat
15 more than necessary, it seems as if we've got
16 information in the Application that should give
17 us the basis for determining whether the
18 project is too disruptive.
19 MS. WEATHERSBY: I would agree,
20 because I think that, in addition to what's
21 already been stated, this, requiring them to
22 adhere to the rule, would really just affect
23 the 17 properties, which are probably just like
24 missing teeth in the zipper that goes up. And,

1 if we have information to 700 feet of the
2 right-of-way, and the nature of wildlife is
3 that it moves around and isn't just staying on
4 one parcel, then I think that the information
5 that's been provided is adequate.
6 MS. WHITAKER: Can I ask a
7 clarification question? The letter from New
8 Hampshire Fish & Game specifically mentioned
9 the "black racer" and the "New England
10 Cottontail". Are those the only two, any
11 species of concerns that are potentially
12 present in the area of the project site?
13 MR. IACOPINO: I only read the
14 conclusion.
15 MS. WHITAKER: Oh. Okay.
16 MR. IACOPINO: The concluding
17 paragraph of the letter. There were five
18 species that were identified and consulted on.
19 There's Blanding's Turtle, Grasshopper Sparrow,
20 Northern Black Racer, Spotted Turtle, Wood
21 Turtle, and Brook Floater. The Brook Floater
22 and the Blanding's Turtle are listed as
23 "Endangered" status. The sparrow, the black
24 racer, and Spotted Turtle are "threatened", and

1 the Wood Turtle is a species of "Special
2 Concern". And there were -- I only read the
3 concluding paragraph. There were studies done.
4 MS. WHITAKER: Okay.
5 MR. IACOPINO: If you would like, I
6 can recite from the letter what it says about
7 those.
8 MS. WHITAKER: No, that's okay. I
9 was going to do a follow-up question of you had
10 mentioned a black racer being "tagged" that had
11 met its end here, so to speak, not too long
12 ago. What was the purpose of that, of a single
13 individual being tagged and followed?
14 MS. TREFRY: We did a black racer
15 survey in 2015 and did not find -- locate any
16 black racers. Then, Fish & Game asked us to go
17 out in this -- during this spring period and
18 try to locate. We found -- we observed two,
19 caught one successfully and was able to get
20 that one tagged. We went out several times and
21 didn't see any other black racers to tag. So
22 we were planning to tag up to five, if we
23 managed to find five, but we only instead found
24 two, and captured one.

1 MS. WHITAKER: And that was
2 specifically requested by New Hampshire Fish &
3 Game that you go and do that?
4 MS. TREFRY: Yes.
5 MS. WHITAKER: Okay. Thank you.
6 PRESIDING OFFICER ROSS: What does a
7 black racer look like?
8 MS. TREFRY: It's a black snake that
9 is about three our four feet long, moves very
10 quickly, which is why it's called a "black
11 racer".
12 PRESIDING OFFICER ROSS: Any further
13 deliberations? Are we at a point where we
14 could entertain a motion?
15 MS. ROBERGE: I'll just note that the
16 Fish & Game letter talks about, you know, the
17 Applicant using "Best Management Practices" to
18 avoid, you know, any of the identified species
19 during construction and things like that.
20 So, it sounds like they have a plan,
21 an approved plan in place, and they have
22 reviewed the area fairly extensively on dealing
23 with this, and have approved, approved with
24 their approach.

1 CMSR. BAILEY: And, again, I think
2 one of the reasons this is in the public
3 interest is because it's all within an existing
4 right-of-way. And they're not, as you
5 mentioned, they're not -- they're not clearing
6 additional land beyond what's been mapped.
7 So, I think it's in the public
8 interest to grant the waiver.
9 MS. WEATHERSBY: Just to clarify, I
10 think they are clearing additional land, but
11 it's in the right-of-way.
12 CMSR. BAILEY: Right.
13 MS. WEATHERSBY: But there's
14 clearing, yes.
15 CMSR. BAILEY: It's in the
16 right-of-way, which has been mapped, and will
17 be, I think, probably watched by Fish & Game.
18 But we're talking about land that is on an
19 abutting piece of property beyond 700 feet from
20 the right-of-way. So -- and that's not going
21 to be touched.
22 MS. WEATHERSBY: Right. And I would
23 just echo some of Dr. Boisvert's comments from
24 the earlier waiver. Of, you know, that this,

1 the fact that it is an existing right-of-way,
2 that it's relatively short in distance, that
3 some of those factors are still -- the fact
4 that it's a reliability project, that those
5 factors, it might have some bearing on my
6 decision, certainly, to be in favor of the
7 waiver.
8 PRESIDING OFFICER ROSS: I'd
9 entertain a motion on the waiver then?
10 DR. BOISVERT: If you could help me
11 phrase it properly, Madam Chairwoman, I would
12 move that we support the waiver under Site
13 301.03(c)(5), with respect to natural,
14 historic, cultural, and other resources. That
15 we grant the waiver as presented, with the
16 observations made about the specific
17 circumstances for this project as to why it's
18 appropriate.
19 CMSR. BAILEY: I'll second.
20 PRESIDING OFFICER ROSS: Any further
21 discussion of the waiver?
22 *[No verbal response.]*
23 PRESIDING OFFICER ROSS: All those in
24 favor indicate by saying "aye"?

1 *[Multiple members indicating*
2 *"aye".]*
3 PRESIDING OFFICER ROSS: Any opposed?
4 *[No verbal response.]*
5 PRESIDING OFFICER ROSS: Okay. The
6 waiver is granted unanimously, based on the
7 specific characteristics of this project.
8 All right. The last waiver has to
9 do -- the request has to do with
10 decommissioning, and it has three separate
11 aspects. The requirements that a third
12 party -- so, I think it's 301.08(c)(2). So,
13 the waivers requested with regard with regard
14 to a third party plan to decommission; with
15 regard to financial assurances to decommission;
16 and with regard to removal of structures within
17 four feet of the ground level.
18 So, I think we can take the waiver in
19 pieces. And we will start with the "third
20 party plan" requirement.
21 MR. IACOPINO: Actually, if I can
22 just correct the reference to the rule. It's
23 301.08(a), and then (7) is the requirement of
24 "a decommissioning plan be prepared by an

1 independent, qualified person". And then
2 (8)(a) and (b) deal with financial assurances,
3 and Subsection (8)(f) deals with the 4-foot
4 rule.
5 PRESIDING OFFICER ROSS: Okay. Thank
6 you --
7 MR. IACOPINO: I'm sorry about that.
8 PRESIDING OFFICER ROSS: -- for that
9 clarification.
10 So, our first waiver request is under
11 301.08(a)(7), which requires a third party to
12 prepare the decommissioning plan.
13 CMSR. BAILEY: Based on what we heard
14 earlier about the fact that this is a
15 reliability project, and that the ISO
16 determines when it gets built and when it would
17 stop being used, I think I was persuaded -- I
18 was persuaded by the Applicant in the
19 discussion about their knowledge about
20 decommissioning costs of this nature. And I
21 think more so by the when we should require a
22 decommissioning plan for some -- for an energy
23 facility that is a reliability project required
24 to be built by FERC -- I mean, by the ISO.

1 So, I think you have to take the
2 whole thing in steps. But, if -- in my
3 thinking, it makes more sense not to require a
4 decommissioning plan of something like this
5 now, because it's a reliability project,
6 because it's a transmission line.
7 But maybe put a -- I mean, maybe we
8 should consider a condition, when we get to the
9 end of the case if we grant a Certificate for
10 Site and Facility, that says, you know, if
11 they're ever directed by the ISO or FERC or any
12 other regulatory body to stop using it, then,
13 at that point, they would have to give us some
14 kind of decommissioning plan.
15 So, I think, with all of those things
16 in mind, in my mind, it may make sense to grant
17 the waiver at this point.
18 DR. BOISVERT: In looking at it, I
19 can understand the appropriateness of delaying
20 generating the decommissioning plan. Because
21 of the nature of the project, transmission
22 lines are used for a very long time. They may
23 get rebuilt along the way, but that's not
24 decommissioning. "Decommissioning" means

1 taking it entirely out of service. And I think
2 there should be a decommissioning plan. And
3 the people who wrote the rules felt it was
4 important to have a third party do it, and I
5 like the idea of a third party doing it.
6 Just because they are large and
7 complex, they need to have a very careful look
8 at it, and a third party, even though there's
9 expertise on the part of this firm, a third
10 party I feel is important.
11 But we know that these transmission
12 lines are used for a very long time. They're
13 extraordinarily difficult to site. We can all
14 look to current examples of new lines being put
15 in and the difficulties in siting them. So
16 that, once it is sited, that is, put in place,
17 there's a real incentive to use that utility
18 for a long time and not go through the efforts
19 to create yet another line.
20 So, because of the time frame
21 inherent, I think a waiver would be important.
22 I think a condition that they meet the other
23 requirements of a third party, at such time
24 that it is going to be decommissioned. And it

1 could be either because ISO, or whatever comes
2 after ISO, says they should, or they may decide
3 on their own that they want to do it, and they
4 may do it as a business decision, or -- they
5 can't do that? I don't -- now we're getting
6 into the weeds.
7 But, if it's going to be
8 decommissioned, then I think it should be done
9 by a third party. And I would look to see that
10 as a condition for the waiver. But, if it's
11 going to happen in another lifetime, there are
12 going to be so many changes in environmental
13 laws, perspectives, and so forth, that the
14 nature of decommissioning may be quite
15 different than what we do today that, you know,
16 the factors that we just can't think of right
17 now. There may be reasons why they would want
18 to go deeper than four feet to remove something
19 or just go ground surface alone.
20 I can understand that there could be
21 great changes. So, a waiver for now, and at
22 such time that it is going to be
23 decommissioned, a third party should develop
24 it.

1 CMSR. BAILEY: Just to add to your
2 point. My understanding is that, on a
3 reliability project, it's not up to them. They
4 can't make a business decision to take it out
5 of service, because that could impact the whole
6 New England electricity grid. So, it is a
7 regulatory body that would give them
8 permission. They might ask.
9 DR. BOISVERT: Okay.
10 CMSR. BAILEY: They might ask, but
11 they couldn't do it without -- and I'm not even
12 sure they can ask to have it taken out of
13 service.
14 DR. BOISVERT: I'm just imagining --
15 I'm imagining 50 years from now there may be
16 wholly new technology for transmission, --
17 CMSR. BAILEY: Uh-huh.
18 DR. BOISVERT: -- different kinds of
19 lines and so forth, where it may be more
20 appropriate to coalesce several lines together
21 in a new place and decommission the old lines.
22 But that would be many years down the road.
23 And it may be -- they may request it.
24 Again, we're getting into the

1 regulatory details, --
2 CMSR. BAILEY: Right.
3 DR. BOISVERT: -- 50 years from now,
4 or whenever.
5 MS. ROBERGE: I support the idea of,
6 if we grant the waiver for decommissioning now,
7 given the fact that it's a reliability project,
8 and it's not intended to be decommissioned any
9 time soon. So, maybe the relevantness of
10 having a decommissioning plan today, as part of
11 the Application, who knows the accuracy of the
12 plan, if 25, 50, 100 years from now they
13 actually need to, you know, decommission it, at
14 that point they would have to update, you know,
15 the plan wouldn't even probably be relevant
16 anymore, and it would need to certainly be
17 updated, in terms of costs and such.
18 I just want to clarify on the cite,
19 because I may have heard it wrong. But I think
20 the actual cite that they would like to waive
21 is not "301.08(a)(7)", but "301.08(c)(2)",
22 because (a)(7) speaks to "wind generation
23 projects". I just wanted to clarify that. Am
24 I wrong on that? So, 301.08(c)(2)?

1 MR. IACOPINO: Actually, that was
2 what I had originally cited, and I think I
3 corrected the Chair, but I was wrong. Yes.
4 You're correct. It would be (c) -- Subsection
5 (c) is "For all energy facilities", and I was
6 looking at, I guess, wind, when I quoted it.
7 Sorry.
8 MS. ROBERGE: That's okay. And, you
9 know, to speak to the "independent, qualified
10 person", I think that's a good point as well.
11 And perhaps that's something, during the
12 proceeding, gets built into the certificate,
13 that requirement. That should they
14 determine -- should it be determined that they,
15 you know, need to be decommissioned, maybe that
16 we cite this requirement in there, just submit
17 it at that point.
18 MS. WEATHERSBY: I guess one question
19 I had, whether, if we grant this waiver, we
20 can, as part of our motion, require them to do
21 something in the future. I would be -- I echo
22 the thoughts that my colleagues have all
23 stated. And, because this is a reliability
24 project in particular, I would be in favor of

1 granting the waiver, provided that, at such
2 time as any portion of the project is
3 decommissioned, that a decommissioning plan be
4 provided, and be either prepared or reviewed by
5 a third party, independent third party.
6 And I don't know if we can make that
7 requirement now or that's something that also
8 or instead of belongs in the certificate, the
9 need certificate.
10 MR. IACOPINO: You could certainly
11 make that as -- you could grant the waiver
12 today. And, then, after your deliberations on
13 the Application, after the adjudicative phase,
14 if you chose to grant the certificate, you
15 could condition the certificate on whatever
16 criteria you think is best, for the Applicant
17 to file a decommissioning plan at some point in
18 the future. And, if you found it to be wise to
19 do it at this point in time, you could also put
20 what specifics must be in that decommissioning
21 plan. You can condition the certificate, even
22 if you waive the application requirement here
23 today.
24 PRESIDING OFFICER ROSS: I think it

1 would be -- I think we'd have a more -- we'd
2 have more basis for making that requirement
3 after we hear the whole project in its -- in a
4 merits hearing. Because, I think, as Mike just
5 alluded to, we might have some specific
6 requirements in that decommissioning plan,
7 based on what we hear about the project itself
8 when we review it. And it doesn't sound like,
9 if we failed to do it today, we lose that
10 opportunity.
11 I sort of share everyone's concern
12 that, at some point, it seems like the state
13 ought to be able to review that decommissioning
14 plan. And, if we're going to delay that or
15 defer that until a time when there will be a
16 more meaningful plan, then we should be able to
17 describe that plan and what we expect to see in
18 it, I think.
19 MS. WEATHERSBY: I know, personally,
20 I'm willing to waive this requirement now, only
21 because of what will be promised later. And,
22 so, I just was unsure of when to tie the two
23 together. But it sounds like we just hold onto
24 that thought and wrap it in at the end.

1 MR. IACOPINO: The statutory support
2 for the Subcommittee's ability to condition the
3 certificate is found at RSA 162-H, Section 16,
4 VII [VI?], which says "A certificate of site
5 and facility may contain such reasonable terms
6 and conditions, including, but not limited to
7 the authority to require bonding, as the
8 Committee deems necessary and may provide for
9 such reasonable monitoring procedures as may be
10 necessary. Such certificates, when issued,
11 shall be final and subject only to judicial
12 review."
13 CMSR. BAILEY: I think the concern
14 raised is whether we do it now, which I'm not
15 sure we can put a condition on a certificate,
16 since we haven't heard the whole case yet. But
17 maybe we could put something in this order as a
18 placeholder that we will be considering placing
19 a condition on the certificate with respect to
20 a decommissioning plan. Would that -- could we
21 do that, as a placeholder? So, we don't --
22 MR. IACOPINO: You could certainly do
23 that. It's not necessary for you to later on
24 condition the certificate.

1 CMSR. BAILEY: Okay.
2 MR. IACOPINO: I mean, because today
3 your only ruling is on whether or not the
4 application requirement is waived. And that
5 that doesn't prohibit the Subcommittee in the
6 future from saying "well, based on what we've
7 heard, we believe that we want you to file a
8 decommissioning plan", that contains whatever
9 information you want, on a certain date. You
10 could even make it as something very close in
11 time to the certificate or something based upon
12 some significant event in the future.
13 But it's not necessary for you to
14 have a placeholder, because, either way,
15 whether you grant or deny the waiver today, you
16 still have the authority to condition the
17 certificate.
18 MS. WEATHERSBY: I'd be fine with
19 leaving it till the end. I think our reasons
20 for granting the waiver have all been stated on
21 the record. And we all have the expectation
22 this topic will be thoroughly discussed in the
23 main proceeding. So, I'd be fine with just
24 treating it at the end.

1 PRESIDING OFFICER ROSS: Given that
2 we have the waiver request for the other two
3 issues, one being the 4-foot depth and the
4 other being the financial assurances, is it --
5 is the Committee's sense that our reasoning on
6 those two waiver requests would be pretty much
7 identical to our reasoning on this one, so that
8 we could entertain a motion on all three
9 simultaneously? Or, does the Committee believe
10 we have differing thoughts on the other two
11 items, so that we need to have separate
12 discussions?
13 DR. BOISVERT: I think that the
14 requests are all very similar. There of a
15 kind, and I can understand treating them in the
16 same way. I just have a slight concern that,
17 by granting the waivers, then that can be then
18 construed as that we would not revisit it and
19 put some conditions on it at a later date.
20 But, you know, the hearing will be in
21 the not terribly distant future, if I recall.
22 And, I think that we ought to make reference to
23 this conversation. And my own particular
24 concern happens to be the "third party" aspect.

1 And I just -- just so that it's not portraying
2 this as that this waiver will go forward and
3 that this, having passed the waiver, if we do,
4 there would be no additional consideration, I
5 just wanted to make that clear.
6 PRESIDING OFFICER ROSS: I think
7 that, for myself, the financial assurance
8 piece, like the requirement overall for a third
9 party plan, could change over time. The
10 soundness, the financial soundness of this
11 company could change, the ownership, there
12 could be transfers. So, even though I might be
13 inclined to waive requirements that financial
14 assurance be provided with the Application, it
15 may be that, when we reach the project itself,
16 we'll want some monitor, some way to monitor
17 the financial viability of the owner, as well
18 as the longevity of the project, so that we
19 would know in the future if either of those
20 issues would need attention.
21 MS. ROBERGE: I just wanted to add,
22 from my understanding of the conversations
23 today, is that, based on the fact that this is
24 a reliability project, that certain

1 requirements under FERC apply here. And, in
2 particular, to the financial assurance piece
3 and the tariff, and that that is sort of unique
4 to the fact that this is a reliability project,
5 different from, you know, other types of
6 projects that maybe, you know, don't fall under
7 the reliability piece.
8 But there is a financial assurance
9 on -- that this project will be -- will have
10 funds available, in the event that
11 decommissioning occurs. So, that gave me
12 comfort. And, if we waive the requirement for
13 the plan by, you know, a third party, and this
14 assurance of financial assurance, I mean, we
15 have that from the FERC piece.
16 And, relative to the underground
17 infrastructure at depths less than four feet,
18 again, this is waiving the requirement for a
19 plan today, as part of the Application, meeting
20 these sort of four elements, if you will. If
21 we decide, and maybe this -- you can provide
22 clarity, but, if we decide during the process
23 that a decommissioning plan is later needed, if
24 we felt we needed to have certain stipulations

1 as part of that plan, including maybe this
2 "four feet" issue, we could add it back in or
3 make it a requirement as part of the
4 certificate.
5 So, I don't see us losing anything
6 today -- losing any authority today by granting
7 this waiver, because we've been reassured that
8 the financial assurance is there, as part of
9 the FERC, because it's a reliability project,
10 and we can later go back and make requirements
11 in the certificate, if needed, for any
12 decommissioning plan.
13 MS. WEATHERSBY: Just taking a step
14 back. The requirements for the funding, the
15 four feet depth, there -- and financial
16 assurances and the transporter -- transformers,
17 excuse me, are all things that need to be
18 included in the plan. And, if we decide that
19 we are not going to require a decommissioning
20 plan now, we're rather inherently deciding we
21 don't need those elements in a plan.
22 So, I think that, if we have decided,
23 and we haven't voted, of course, but they're
24 just kind of inherently waived with the larger

1 waiver of not requiring a plan. Doesn't mean
2 that some subsequent plan, you know, those will
3 still be required. But, if we have determined
4 that a decommissioning plan is not needed, then
5 there's no way to include these items anyway.
6 PRESIDING OFFICER ROSS: Those --
7 you're saying, I think they're sort of subsumed
8 in the overall --
9 MS. WEATHERSBY: Yes.
10 PRESIDING OFFICER ROSS: -- overall
11 requirement to provide the plan?
12 MS. WEATHERSBY: Much more --
13 *[Court reporter interruption.]*
14 MS. WEATHERSBY: I said, "much more
15 succinctly said."
16 MS. ROBERGE: I just wanted to
17 clarify, my understanding of this waiver is
18 that we're waiving the requirement of the plan
19 today, as part of the Application, based on the
20 facts that this is a reliability project, and
21 the intention is that this project isn't going
22 to be decommissioned any time soon.
23 That being said, if, after the
24 proceeding, we determine we want to include a

1 decommissioning plan, that it could include
2 items such as, in particular, (d), which is the
3 four-foot depth. So, we're not losing any
4 authority, by granting the waiver today, to
5 include a requirement of a decommissioning plan
6 at, say, a later time, if that be right away or
7 50 years from now, or what have you, as part of
8 the certificate.
9 So, we're really -- we're just
10 waiving the requirement that it be submitted
11 along with the Application today?
12 MR. IACOPINO: That's correct.
13 That's under the section of the statute that I
14 read to you. The other thing that I would just
15 point out is, you could condition the granting
16 of a certificate, if you were inclined to grant
17 the certificate, on the filing -- the granting
18 of the certificate, you could condition it on
19 the filing of a decommissioning plan, that
20 would be one option that you would have.
21 Another option that the Committee
22 would have at that point in time would be to
23 lay out the actual conditions of
24 decommissioning. Forget about a plan, just say

1 "you're going to do A, B, C, D, E, F, G, when
2 you decommission this."
3 So, you do have a lot of options to
4 condition the certificate, regardless of
5 whether you grant or deny the waiver at this
6 point.
7 DR. BOISVERT: I have no idea what a
8 decommissioning plan for a transmission line
9 would look like. And are there any in
10 existence right now? I would hesitate to come
11 up with a criteria for a decommissioning plan
12 during a hearing. That, to me, seems to be a
13 very complicated undertaking.
14 MR. IACOPINO: I am not recommending
15 that. I am only saying that the authority of
16 the Committee, in granting --
17 DR. BOISVERT: Yes.
18 MR. IACOPINO: -- in conditioning a
19 certificate, could be as specific as that. It
20 doesn't have to be. It could be. Your
21 conditioning authority is very broad. That's
22 all I'm trying to say. I'm not saying it's a
23 good public policy to do that or not. I'm just
24 saying that your options, when you consider

1 whether or not to grant the certificate, and
2 whether or not to condition the certificate,
3 are very broad. That's all.
4 DR. BOISVERT: From my perspective,
5 there needs to be a plan, but creating one now
6 would be, I think, largely ineffective and
7 subject to tremendous change at the time when
8 it would be decommissioned, because I firmly
9 believe it will be a long time from now, and
10 that so much would change. So, it's "how do we
11 ensure that there will be a decommissioning
12 plan that would be effective and appropriate at
13 the time?" And, as opposed to having nothing
14 at all, and leaving it to an SEC subcommittee
15 many years in the future to then figure out how
16 they're going to do it, and relying upon FERC
17 to -- rely on FERC to require it, has the same
18 problem, their rules may change, and it may be
19 entirely different. In fact, I think we can
20 count on them changing, because these --
21 federal regulations change over time and for
22 good reasons.
23 So, I just, you know, I certainly
24 hope that we have a way, when the certificate,

1 if it's granted, does contain a way to ensure
2 proper decommissioning.
3 PRESIDING OFFICER ROSS: Seeing no
4 further discussion, I would entertain a motion
5 on all three aspects of the decommissioning
6 plan, if anyone would like to offer one up?
7 MS. ROBERGE: I'll give it a try, but
8 jump in if I -- I move to grant the waiver for
9 301.08(c)(2), (c)(2)(b) and (d). Does that --
10 does that work? So, move to grant the waiver
11 for 301.08(c)(2)(b) and (d).
12 MR. IACOPINO: I think you'd probably
13 want to include (a) in that, too.
14 MS. ROBERGE: Okay. And, so,
15 everything but (c), I guess.
16 PRESIDING OFFICER ROSS: Is there a
17 second?
18 CMSR. BAILEY: I'll second.
19 PRESIDING OFFICER ROSS: Okay. Any
20 further discussion on the motion?
21 MS. WEATHERSBY: Could you just --
22 I'm sorry, could someone repeat the motion
23 please?
24 PRESIDING OFFICER ROSS: It's "I move

1 to grant the waiver as to 301.08(c)(2)(a), (b),
2 and (d)."
3 MS. WEATHERSBY: So, then, my comment
4 is, are we then requiring them to submit a
5 decommissioning plan indicating that all
6 transformers be transported off-site?
7 CMSR. BAILEY: No. The Application
8 says that they're not putting any transformers
9 in. So, that particular item is not
10 applicable. That's what they said.
11 DR. BOISVERT: Is it possible that
12 there's some transformers already part of this
13 18-mile segment? That they're not putting any
14 new ones, but there are some old ones there?
15 CMSR. BAILEY: This particular line
16 is a brand-new line. So, there are existing
17 lines in the right-of-way.
18 DR. BOISVERT: Uh-huh.
19 CMSR. BAILEY: And this is a new
20 build.
21 DR. BOISVERT: Okay.
22 CMSR. BAILEY: So, there are
23 transforms in --
24 DR. BOISVERT: Outside the 18-mile

1 portion of it then?
2 CMSR. BAILEY: Well, this is a new
3 build from Point A to Point B.
4 DR. BOISVERT: Right.
5 CMSR. BAILEY: There are additional
6 transmission lines within the same
7 right-of-way, that don't have a decommissioning
8 plan, because it wasn't previously required.
9 DR. BOISVERT: Right.
10 CMSR. BAILEY: So, I think their
11 testimony was that -- or, their information was
12 that there aren't any transformers associated
13 with this transmission line from Point A to
14 Point B.
15 DR. BOISVERT: Okay.
16 PRESIDING OFFICER ROSS: Are we ready
17 for a vote or is there any further discussion
18 or clarification?
19 MS. ROBERGE: I'm just looking back
20 at what they requested to make sure. In their
21 cover letter, they have "301.08(c)(2)", which I
22 guess would cover all of it. But we
23 specifically addressed (a), (b), and (d) of
24 that. So, just want to make sure the motion is

1 the correct motion, I guess.
2 MS. WHITAKER: But that sounds like
3 it's because (c) doesn't even apply here,
4 correct? So, we wouldn't need to grant it,
5 because it doesn't apply.
6 MS. ROBERGE: Okay.
7 MS. WHITAKER: That's sort of a
8 question, I guess.
9 MS. ROBERGE: Okay. I guess I'm
10 looking for more from "have we met what they
11 have asked?"
12 MR. IACOPINO: Let me just -- perhaps
13 we just should direct the question to the
14 Applicant. There are no transformers on this
15 line, is that correct?
16 MR. NEEDLEMAN: I believe so. Dave?
17 MR. PLANTE: There are no
18 transformers -- there are no transformers being
19 installed as part of this project.
20 MR. IACOPINO: Okay. So, I think
21 your motion would be correct.
22 CMSR. BAILEY: Yes. We could do it
23 either way, really. I mean, because, if we
24 just said "(c)(2)", that would cover (a)

1 through (d), as applicable.
2 MR. IACOPINO: If you want to amend
3 your motion, you're free to do so?
4 MS. ROBERGE: Anyone else have an
5 opinion on it?
6 MR. IACOPINO: It's up to you.
7 MS. ROBERGE: Okay.
8 MS. WEATHERSBY: It might be clearer
9 if just gave them a waiver from the whole
10 Section (c)(2), so there's no question down the
11 road of --
12 MS. ROBERGE: Okay. I'm going to
13 amend it, I think.
14 MR. IACOPINO: Okay.
15 CMSR. BAILEY: I found on the
16 Application where they say it. It's on Page 2
17 of the second, you know, there's two motions
18 attached, and it's in the second motion, on
19 Page 2, where they fully describe 301.08(c)(2),
20 and they go through (a), (b), (c) and (d). And
21 they mention that (c) --
22 MS. ROBERGE: Okay. Why don't we
23 amend it to just --
24 CMSR. BAILEY: (c)(2)?

1 MS. ROBERGE: -- (c)(2), yes.
2 CMSR. BAILEY: Because that's what
3 they asked for.
4 MS. ROBERGE: Yes.
5 PRESIDING OFFICER ROSS: And can
6 someone second that amendment?
7 MS. WHITAKER: I'll second that.
8 PRESIDING OFFICER ROSS: And all
9 those in favor of the amendment say "aye"?
10 *[Multiple members indicating*
11 *"aye".]*
12 PRESIDING OFFICER ROSS: Any opposed?
13 *[No verbal response.]*
14 PRESIDING OFFICER ROSS: Okay. It's
15 now amended to be a waiver of 301.08(c)(2). so,
16 just as the whole section.
17 All of those in favor say "yay"?
18 *[Multiple members indicating*
19 *"yay".]*
20 PRESIDING OFFICER ROSS: Any opposed?
21 *[No verbal response.]*
22 PRESIDING OFFICER ROSS: All right.
23 So, the waiver is granted as to that section.
24 Is there any other business today

1 before the Committee that we've neglected to
2 cover?
3 ADMINISTRATOR MONROE: Can I just
4 ask, on the waiver of 03.(c)(3), you had a
5 condition on that. Is there a time frame? We
6 have the adjudicative proceeding scheduled in
7 this matter for June 13th and 14th.
8 PRESIDING OFFICER ROSS: That's a
9 fair question. I would think we'd need to have
10 it before the hearing, so that we could
11 reference it. Does anyone --
12 Do you have a time frame within which
13 you could produce the tax maps and assessor's
14 cards on those 17 properties?
15 MR. NEEDLEMAN: Certainly before the
16 hearing, I think two weeks.
17 PRESIDING OFFICER ROSS: Two weeks
18 from today?
19 MR. NEEDLEMAN: Yes.
20 PRESIDING OFFICER ROSS: Which is --
21 what date is that, sorry?
22 CMSR. BAILEY: The 29th.
23 MR. NEEDLEMAN: The 29th? What is
24 today, the 16th --

1 PRESIDING OFFICER ROSS: That would
2 be the 20 --
3 CMSR. BAILEY: That's Memorial Day.
4 MR. NEEDLEMAN: Actually, we'll do it
5 the day after. It think that's Memorial Day.
6 PRESIDING OFFICER ROSS: That's
7 Memorial Day. So, the 30th?
8 *(Multiple parties speaking at*
9 *the same time.)*
10 PRESIDING OFFICER ROSS: 31st? Going
11 once? 31st, okay. So, on the 31st, we can
12 expect to see that supplemental material.
13 Are there any other --
14 MR. IACOPINO: And, since that's a
15 procedural matter, that's an order of the
16 Presiding Officer, is that correct?
17 PRESIDING OFFICER ROSS: That's
18 correct. Can I do it on the record or do we
19 need to write it up?
20 MR. IACOPINO: I think you just did
21 it on the record.
22 PRESIDING OFFICER ROSS: All right.
23 MR. IACOPINO: But it will be --
24 well, we'll memorialize it in an order as well.

1 PRESIDING OFFICER ROSS: All right.
2 Any other issues we need to deal with today?
3 *[No verbal response.]*
4 PRESIDING OFFICER ROSS: Thank you
5 all for your time and efforts. And close this
6 hearing.
7 **(Whereupon the hearing was**
8 **adjourned at 2:01 p.m.)**
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