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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

June 30, 2016 - 10:12 a.m.
Public Utilities Commission
21 South Fruit Street Suite 10
Concord, New Hampshire

NHPUC JUL19'16 AM 9:33

IN RE: SEC DOCKET NO. 2016-01
SITE EVALUATION COMMITTEE:
Rulemaking to amend Site 102,
Site 301, Site 302 and
Site 303. (Meeting of the
Committee regarding the
initial proposal to amend
Site 100 and Site 300, pursuant
to RSA 541-A:11, I(a).)

PRESENT: SITE EVALUATION COMMITTEE:

Chrmn. Martin Honigberg Public Utilities Comm.
(*Presiding as Chairman of SEC*)

Cmsr. Thomas Burack Dept. of Env. Services
(Vice Chairman of the SEC)

Cmsr. Robert Scott Public Utilities Commission
Cmsr. Kathryn Bailey Public Utilities Commission
Dir. Elizabeth Muzzey Dept. of Cultural Res./

Cmsr. Jeffrey Rose Div. of Historical Res.
Dept. of Resources and
Economic Development

Patricia Weathersby Public Member
Rachel Whitaker Alternate Public Member

ALSO PRESENT FOR SEC:

Pamela Monroe, SEC Administrator
Marissa Schuetz,, SEC Program Specialist
Michael J. Iacopino, Esq. (Brennan Lenehan)

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



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P R O C E E D I N G

CHAIRMAN HONIGBERG: All right.
We're here this morning for a meeting of the
Site Evaluation Committee, and the docket we
are working on today is SEC Docket 2016-01,
which is a statutorily required rulemaking
regarding gas pipelines.

Before we go any further, let's all
introduce ourselves, starting to my left.

CMSR. SCOTT: Good morning. I'm Bob
Scott with the Public Utilities Commission.

CHAIRMAN HONIGBERG: Martin Honigberg
with the Public Utilities Commission.

VICE CHAIRMAN BURACK: Tom Burack,
Department of Environmental Services.

CMSR. BAILEY: Kate Bailey with the
Public Utilities Commission.

MS. WEATHERSBY: Patricia Weathersby,
public member.

DIR. MUZZEY: Elizabeth Muzzey,
Department of Cultural Resources.

CMSR. ROSE: Jeff Rose, Department of
Resources and Economic Development.

CHAIRMAN HONIGBERG: I'll note that

1 we do have a quorum of seven. We are expecting
2 Rachel Whitaker, the alternate public member,
3 to be here any minute. And, when she joins us,
4 we'll note that on the record.

5 The matter before us, as I said, is a
6 rulemaking. Under the statute that directed us
7 to undertake this rulemaking, we are to finish
8 our business by today, which requires that we
9 go through the public comments we received at
10 the public comment hearing and the written
11 comments we've received since then, and before
12 then, actually, and agree on language to submit
13 to the rules process, Office of Legislative
14 Services and the Joint Legislative Committee on
15 Administrative Rules, also known as "JLCAR".

16 We have received comments from the
17 Office of Legislative Services on our rules.
18 We've had Barbara Hoffman, who is not here
19 today, and Pam Monroe go through all the
20 comments. You've all had access to the
21 comments and you've had access to the
22 transcript of the public comment hearing. So,
23 I'm hopeful that we'll be able to work through
24 these comments fairly quickly and agree on

1 whatever changes need to be made, and then vote
2 on a final version of the rules today.

3 Pam, I know you have -- you and
4 Barbara prepared a summary of the comments
5 we've received, and tried to give us some
6 guidance as to what we could do based on those
7 comments. So, I think the best way to proceed
8 is for you to work through the summary that
9 you've prepared. And what would you say we
10 should have in front of us as you go through
11 this?

12 ADMINISTRATOR MONROE: So, I prepared
13 for you a summary dated June 30th of all of the
14 comments that we received. I think that's
15 probably the best way to proceed, to run
16 through that.

17 And, before we get started, I want to
18 apologize for a very bad typographic error on
19 Question Number 7. I did proof this many
20 times, but, in the last-minute changes, I
21 missed that. So, my apologies.

22 So, the first comment that we
23 received was from Mr. -- Attorney Arthur
24 Cunningham, on behalf of the Town of

1 Fitzwilliam. Essentially, what he was asking
2 there is that the applicant provide a sworn
3 statement that they've complied with NEPA, the
4 National Environmental Policy Act, the Clean
5 Water Act, and environmental permitting
6 processes.

7 Relative to the NEPA requirement,
8 it's the Staff recommendations that that's a
9 FERC requirement, and, therefore, the FERC
10 would have jurisdiction over that. In addition
11 the existing rules, at Site 301.03, already
12 requires the applicant to include information
13 that demonstrates compliance with federal and
14 state agencies having permitting authority.
15 So, the Staff recommendation is that no change
16 is required in response to that comment.

17 CHAIRMAN HONIGBERG: All right. Does
18 anybody have any questions for Pam? Want to
19 take a look at the language or discuss it? Or
20 do anything else with that?

21 Yes, Beth.

22 DIR. MUZZEY: I have a question in
23 regard to local permits. Can you point me to
24 the place in our rules where applicants are

1 directed to submit the applications for local
2 permitting or ordinances, that type of thing,
3 because I think that came up in other
4 commenters as well?

5 ADMINISTRATOR MONROE: Yes. That
6 comes up, and that is covered numerous times
7 throughout here. And what I relied on is that,
8 in the statute, RSA 162-H, IV(b) [162-H:16,
9 IV(b)?], makes the SEC make a finding, prior to
10 issuance of a certificate, that they have given
11 "due consideration to the views of municipal
12 and regional planning commissions and municipal
13 governing bodies". Let me see if I can find
14 the actual --

15 CHAIRMAN HONIGBERG: While Ms. Monroe
16 is looking for that, I'll note for the record
17 that Rachel Whitaker has joined us.

18 ADMINISTRATOR MONROE: So, I would
19 also refer you to Site 301.09, which are the
20 requirements in the existing rules regarding
21 the effects on orderly development of the
22 region. And it requires the application to
23 include information including the views of
24 municipal and regional planning commissions,

1 municipal governing bodies, master plans, and
2 there's a whole litany of information that they
3 need to include in the application under the
4 existing rules.

5 DIR. MUZZEY: Some of our commenters
6 made note of local ordinances and permit
7 processes for things such as water resource
8 concerns, and perhaps other resource areas as
9 well. So, my reading of the rules is we don't
10 specifically ask for those applications, we do
11 ask for the views of local officials
12 potentially on that type of concern.

13 ADMINISTRATOR MONROE: Right.
14 Because the RSA 162-H is the statewide siting
15 board --

16 DIR. MUZZEY: Correct.

17 ADMINISTRATOR MONROE: -- for energy
18 projects. And I know there's case law that
19 clearly has established the siting committee
20 having jurisdiction over that. But it does
21 include -- and they can also intervene in the
22 adjudicative process before the Committee.

23 DIR. MUZZEY: And I remember, when we
24 were working on all of our rules in 2015, we

1 had a great deal of discussion as to what types
2 of local information should be included with
3 the application. And we did decide that the
4 current language was sufficient, and that there
5 were opportunities for local towns and cities
6 to raise their views.

7 ADMINISTRATOR MONROE: Yes. And I
8 think Site 301.09 has some pretty extensive
9 requirements regarding land use, how it's
10 consistent with the land use, or inconsistent.
11 The effect it will have on community services
12 and infrastructure, i.e., if there was -- their
13 fired wasn't geared up to address this type of
14 facility, that's all covered in the existing
15 301.09.

16 DIR. MUZZEY: Well, thank you. I
17 appreciate that.

18 CHAIRMAN HONIGBERG: Other thoughts
19 or comments on Item 1?

20 Commissioner Bailey.

21 CMSR. BAILEY: Do we have to move on
22 each one of these to not adopt a change?

23 CHAIRMAN HONIGBERG: No.

24 CMSR. BAILEY: Okay. My thoughts are

1 that, since FERC has jurisdiction over this, I
2 don't think we need a change.

3 ADMINISTRATOR MONROE: Shall I move
4 on?

5 CHAIRMAN HONIGBERG: Yes. Let's move
6 to Item 2.

7 ADMINISTRATOR MONROE: Okay. Item 2
8 has, and this was a similar comment that we
9 received in the advance public comment stage,
10 and I should have started there. I think that
11 one of the reasons that we ended up, in my
12 opinion, with such a solid draft rule was
13 because we had 47 commenters issue comments
14 during the Advance Notice of Public Rulemaking.
15 So, some of these were already submitted and
16 reviewed in drafting the rules that you have
17 before you in April.

18 But, essentially, what this boils
19 down to is Attorney Cunningham, on behalf of
20 the Town of Fitzwilliam, was concerned about
21 emergency response and fire safety requirements
22 for the municipalities.

23 What I've cited to here is existing
24 301.08(d)(3) through (5). And the existing

1 rules requires the applicant to provide a plan
2 for fire safety prepared by or in consultation
3 with a fire safety expert, a plan for emergency
4 response at the proposed site, and a
5 description of any additional measures taken to
6 or planned to avoid, minimize or mitigate
7 public health and safety impacts that could
8 result from both the construction and the
9 operation of the proposed facility.

10 So, it's the Staff recommendations
11 that no changes are required to address that.
12 It is addressed in the existing rules. In
13 addition to that, the federal DOT has safety
14 requirements that are incorporated by reference
15 at Public Utilities Commission Rules 506 and
16 508, with respect to pipeline design,
17 construction, operation, and maintenance. So,
18 there is additional oversight by other agencies
19 in that area.

20 CHAIRMAN HONIGBERG: Commissioner
21 Burack.

22 VICE CHAIRMAN BURACK: Thank you,
23 Ms. Monroe. Just a question for you, just so
24 you can confirm this. I think one of the very

1 practical concerns that was raised as part of
2 this fairly comprehensive comment was concern
3 just that it's important to ensure that plans
4 have been made for how people would be able to
5 access their homes, particularly in more
6 limited rural areas of where roads are being
7 temporarily closed to allow pipeline
8 construction.

9 I gather that it is your view that
10 that kind of planning necessarily occurs as
11 part of, and I'm quoting from the bottom of
12 this first page here, a "description of any
13 additional measures taken or planned to avoid,
14 minimize, or mitigate public health and safety
15 impacts that would result from the construction
16 ... of the proposed facility".

17 I take it that your belief is that
18 that kind of planning would necessarily have to
19 happen as part of that requirement?

20 ADMINISTRATOR MONROE: Yes. It's the
21 "construction and operation". So, if there
22 were some event, and I assume underneath DOT
23 rules, and, unfortunately, Commissioner Sheehan
24 couldn't be here today, but that you would have

1 a plan to have people have an access road.

2 CHAIRMAN HONIGBERG: Well, I think,
3 yes, and focused on construction, as
4 Commissioner Burack was, I think it's -- it's I
5 think fairly clear that we expect applicants to
6 plan for access to what people need access to
7 during the time that they're building whatever
8 it is they intend to build, and that's true of
9 any type of facility.

10 So, I understand. But, focusing on
11 that, I think that's how that shakes out. The
12 operational aspects, that goes into PUC, PHMSA,
13 and a number of other entities that have
14 regulatory control.

15 VICE CHAIRMAN BURACK: Thank you.
16 That's helpful. I just wanted to have that
17 clarification.

18 CHAIRMAN HONIGBERG: Any other
19 thoughts or comments?

20 Commissioner Scott.

21 CMSR. SCOTT: Having reviewed Staff's
22 response to the concerns raised by
23 Mr. Cunningham, I'm satisfied that there's no
24 additional changes needed.

1 CHAIRMAN HONIGBERG: Any other
2 thoughts or comments?

3 *[No verbal response.]*

4 CHAIRMAN HONIGBERG: All right.
5 Seeing none, let's move on.

6 ADMINISTRATOR MONROE: Comment Number
7 3 is by Richard Husband, and kind of similar to
8 a comment we received by Liz Fletcher of the
9 Mason Pipeline Committee and Julia Steed Mawson
10 of the Pelham Pipeline Awareness Committee, as
11 well as Attorney Richard Kanoff, who represents
12 the New Hampshire Municipal Pipeline Coalition.

13 And the essence of this comment is
14 that the professional hired to do the -- or the
15 consultant to do the comprehensive assessment
16 would be selected by a panel of people,
17 including SEC members and representatives of
18 the municipalities. And he also requested in
19 here that the Comprehensive -- what's the "I"
20 stand for? Comprehensive health impact
21 assessment, the CHIA, also known as the "CHIA",
22 include both short-term and long-term analysis
23 of health effects.

24 Relative to the -- we agree that the

1 person preparing the comprehensive assessment
2 should be an independent health professional.
3 But there is a concern regarding the suggestion
4 that a panel should choose and possibly oversee
5 that independent panel. There may be a problem
6 with Part I, Article 28-a, of the Constitution,
7 in that it would be, if you were to require the
8 municipalities to participate in that, and you
9 didn't provide the funds to reimburse them to
10 undertake those activities, there could be a
11 constitutional problem there.

12 So, what we are proposing is to
13 actually amend the rules, as you see there, to
14 include the language in 301.08(c)(1) to state
15 that "A comprehensive health impact assessment
16 prepared by an independent health and safety
17 expert in accordance with nationally recognized
18 standards, and specifically designed to
19 identify and evaluate potential short-term and
20 long-term human health impacts". So, the
21 bolded, italicized language there we would
22 propose to add. Then, continuing on, "human
23 health impacts by identifying potential
24 pathways for", delete the term

1 "facility-related", and "for contaminants from
2 high pressure gas pipelines and associated
3 compressor, valve, metering, and pigging
4 stations". We would add those provisions in
5 there, as they were not included in the initial
6 language. These are additional facilities that
7 are associated with high pressure gas
8 pipelines, based on the commenter submittal.

9 CHAIRMAN HONIGBERG: Thoughts or
10 comments?

11 Commissioner Burack.

12 VICE CHAIRMAN BURACK: Thank you very
13 much. Maybe we can pick up with that last
14 suggested recommendation first, that is the
15 clause "and associated compressor, valve,
16 metering, and pigging stations". Are we
17 comfortable and confident that we're not
18 leaving anything out? That is, that this is
19 truly a comprehensive list of everything that
20 could be there, that could be something that
21 ought to be studied? Or would it be helpful to
22 include some kind of a catch-all phrase or
23 provision here?

24 ADMINISTRATOR MONROE: We certainly

1 could do that. I've done a lot of homework on
2 pipelines in the past few months, but I don't
3 claim to be an expert. So, if --

4 CHAIRMAN HONIGBERG: Is the language
5 that's here, is that phrase -- excuse me -- is
6 that phrase the one proposed by one or more of
7 the commenters?

8 ADMINISTRATOR MONROE: Yes.

9 VICE CHAIRMAN BURACK: I didn't go
10 back and specifically look at the specific
11 language of the commenters. But, if this is
12 consistent with what the commenters are
13 suggesting, and the commenters are not
14 suggesting the need for some kind of a
15 catch-all phrase, then let's -- I'm comfortable
16 with it. I'm comfortable with the addition of
17 the "short-term and long-term" and deleting
18 "facility-related".

19 I also think that it's appropriate to
20 ensure that this be an independent health and
21 safety impact, but to not subject the selection
22 of such an expert to any kind of a -- of sort
23 of a review process in advance. I think it is
24 appropriate that an expert in this kind of

1 situation effectively meet the same burden that
2 any other expert on behalf of an applicant
3 would have to meet through the full process
4 that the SEC goes through.

5 And I think it's more appropriate
6 that we deal with all of our experts in this
7 process in that same manner. You know, they're
8 going to have to demonstrate to us that they
9 have the expertise and the outside -- all of
10 the parties participating in the process will
11 have a chance to cross-examine that party and
12 to be able to demonstrate that either that
13 party is or is not appropriately qualified to
14 be able to offer the report that they're
15 offering.

16 So, I'm comfortable with these
17 revisions as they're proposed.

18 CHAIRMAN HONIGBERG: Director Muzzey.

19 DIR. MUZZEY: Thank you. I'm
20 comfortable with these revisions as well, with
21 one possible suggestion. This theme of what
22 constitutes a "gas pipeline project", you know,
23 is mentioned a number of times in the comments
24 and throughout the rules. And, so, one option

1 would be, particularly considering that we
2 would like these rules to have some -- a long
3 lifespan, and pipeline technology does change,
4 as we've seen fairly recently, we could add
5 "associated compressor, valve, metering, and
6 pigging stations, or any other ancillary
7 structure". That's a phrase that I believe is
8 either used elsewhere in the comments or
9 elsewhere in these rules. And that would be
10 that catch-all, in case there's something
11 unforeseen that needs to be considered as well
12 in the CHIA.

13 CHAIRMAN HONIGBERG: You're adopting
14 "CHIA" as well as your phrase for this?

15 DIR. MUZZEY: I wasn't going to, but
16 then I just went for it, yes.

17 CHAIRMAN HONIGBERG: Commissioner
18 Scott.

19 CMSR. SCOTT: Thank you. I'm fine
20 with the change, adding -- all the changes. I
21 will note, at least in my view, when we talk
22 "high pressure gas pipelines", that's talking
23 about the facility, in my view, and that means
24 everything associated with it. So, in some

1 respects, again, I'm fine with the change, but
2 by being -- then getting more specific, then
3 you do allow for things unforeseen being
4 excluded. Where, if you had kept it to "gas
5 pipelines" or maybe "gas pipeline facility",
6 that to me is a catch-all that does guard us
7 against future changes. So, I'm a little bit
8 reluctant to start getting specific, because we
9 may miss something.

10 I guess that I would suggest is we
11 just say, if we're going to go down that road,
12 we just say "gas pipeline facility" and let it
13 set there. But I'm not stuck on that.

14 CHAIRMAN HONIGBERG: And that really
15 was the way it was before.

16 CMSR. SCOTT: Yes.

17 CHAIRMAN HONIGBERG: It used to say
18 "facility-related contaminants from high
19 pressure gas pipelines". And that, I'm
20 inclined to agree with Commissioner Scott that
21 worded that way, it includes everything. It
22 includes the compressors, valves, meters, and
23 pigging stations. And, in five years from now,
24 pigging stations aren't used, but something

1 else is used, it would still be captured. You
2 can add more words to say "facility-related gas
3 pressure -- high pressure gas pipelines,
4 including these and any other", as Commissioner
5 Burack would have gone with. But the proposed
6 language is the one that is narrower than the
7 language we proposed, I think. And I'm fairly
8 confident that the commenters would not want
9 that. And, if we're trying to capture it all,
10 I don't think we want it either.

11 Ms. Weathersby.

12 MS. WEATHERSBY: Thank you. I agree
13 we would like this to be as broad as possible.
14 And, when I look at the definition of "high
15 pressure gas pipeline", at 102.221, it's
16 defined as "a transmission pipeline that
17 transports natural gas or other flammable
18 gases", *etcetera, etcetera*. And, so, I'm
19 concerned that that doesn't include all of the
20 associated facilities.

21 And I'm wondering if we might want to
22 add a new definition, "high pressure gas
23 pipeline infrastructure", that would include
24 all of these components. It could be something

1 like "High pressure gas pipeline
2 infrastructure" means a high pressure gas
3 pipeline and all associated facilities
4 comprising its infrastructure, including but
5 not limited to compressor stations, valve
6 stations, metering stations, and pigging
7 stations."

8 And I think that that concept of
9 addressing the entire infrastructure comes up a
10 couple times in these rules, and we might just
11 want to plug that definition in.

12 CHAIRMAN HONIGBERG: Well, and I
13 understand that suggestion. If people want to
14 go with that, we're going to be plugging it in
15 today, as we sit here. So, how do people feel
16 about what Ms. Weathersby just proposed? Which
17 would be to add a definition to Site 102, which
18 is the shorter of our two rulemakings, and then
19 use the new defined term in the new proposed
20 language for 301.08(c), and then find wherever
21 else it would be appropriate to plug it in and
22 do that as well.

23 Commissioner Burack.

24 VICE CHAIRMAN BURACK: May I ask a

1 question? Could we, rather than creating an
2 additional definition, could we take the
3 existing proposed definition here of "high
4 pressure gas pipeline" and revise it to include
5 those additional infrastructure elements that
6 are just included in your "infrastructure"
7 definition?

8 *(Ms. Weathersby nodding in the*
9 *affirmative.)*

10 VICE CHAIRMAN BURACK: That way we,
11 presumably, if it would be appropriate,
12 wherever the term "high pressure gas pipeline"
13 is already used in the rules, and we don't run
14 the risk that, as we go through this, just
15 trying to get this finalized today, that we
16 don't miss some place where we should have
17 included it. Presumably, we -- we already know
18 where the term "high pressure gas pipeline"
19 should appear here.

20 Would that work as an alternative
21 approach?

22 MS. WEATHERSBY: I think that's an
23 excellent suggestion.

24 CMSR. BAILEY: I think that could

1 have unintended consequences.

2 CHAIRMAN HONIGBERG: I agree.

3 CMSR. BAILEY: And I think it's a
4 better formulation to go with what you
5 recommended, Ms. Weathersby. Because then, in
6 each place where we're adding this new
7 requirement, we know what we're doing. If we
8 just change the definition of "high pressure
9 gas pipeline" right now, then I would not be
10 comfortable adopting that without rereading all
11 the rules to find out what we're adding.

12 CHAIRMAN HONIGBERG: Just as an
13 example, in 301.03 -- I'm sorry, 301.03,
14 "Contents of Application", in subparagraph
15 (e)(3), which is in our Initial Proposal, looks
16 like the first page of the Initial Proposal, we
17 are supposed to -- "the application shall
18 include: The facility's size and
19 configuration, including, for a high pressure
20 gas pipeline, any associated compressor
21 stations." And that's a new rule that no one's
22 commented on, everybody seems satisfied with
23 that rule, and it separates the high pressure
24 gas pipeline from the associated compressor

1 station. It doesn't ask about other types of
2 facilities. And, so, if we create a very broad
3 definition of "high pressure gas pipeline",
4 we're going to create or may accidentally
5 create a number of new requirements that may or
6 may not make sense.

7 So, my inclination would be to
8 continue to use "high pressure gas pipeline"
9 narrowly, and, to the extent we need an
10 additional definition, create it, to be used
11 where appropriate, when we want to be -- when
12 we want information or intend to look at all of
13 the other associated things that are needed to
14 operate a high pressure gas pipeline.

15 Other thoughts or comments?

16 *[No verbal response.]*

17 CHAIRMAN HONIGBERG: All right. I
18 think, Ms. Weathersby, are you -- are you
19 comfortable basically retreating to the earlier
20 position you had of creating a definition?

21 MS. WEATHERSBY: Yes.

22 CHAIRMAN HONIGBERG: All right. Do
23 you have in front of you what you wrote down,
24 because you seemed to be reading something?

1 MS. WEATHERSBY: It comes from
2 Mr. Husband's comments of June 17th. This was
3 actually his idea. I can't claim ownership.
4 And what I've written down that he wrote is --
5 would you like me to repeat it?

6 CHAIRMAN HONIGBERG: Yes.

7 MS. WEATHERSBY: "High pressure gas
8 pipeline infrastructure" means a high pressure
9 gas pipeline, and all associated facilities
10 comprising its infrastructure including but not
11 limited to compressor stations, valve stations,
12 metering stations, and pigging stations."

13 CHAIRMAN HONIGBERG: See, that's the
14 broad definition of "high pressure gas
15 pipeline" again, isn't it? No, we -- somebody
16 had suggested that we do it separately. Or did
17 I misunderstand what you just said?

18 MS. WEATHERSBY: This is a new
19 definition for "high pressure gas" -- "high
20 pressure pipeline infrastructure", --

21 CHAIRMAN HONIGBERG: I'm sorry.

22 MS. WEATHERSBY: -- which encompasses
23 the larger facility.

24 CHAIRMAN HONIGBERG: My mistake. All

1 right. Ms. Monroe or Ms. Schuetz needs to
2 write this down. Because this is going to be,
3 assuming this goes in the direction I think
4 it's going to go, may well become a new
5 definition that's going to be added to 102, and
6 adopted, voted on by this body this morning.

7 So, --

8 ADMINISTRATOR MONROE: So, because I
9 have Mr. Husband's comments in front of me,
10 too, so, let me read it back and make sure I
11 have it.

12 So, you would propose to add a
13 definition of "high pressure gas pipeline
14 infrastructure" to be defined as "all
15 associated facilities comprising its complete
16 infrastructure including but not limited to
17 compressor stations, valve stations, metering
18 stations, and pigging stations." Do I have
19 that correct?

20 MS. WEATHERSBY: Yes. I didn't
21 include the word "complete", I thought that was
22 a little bit redundant, but --

23 ADMINISTRATOR MONROE: Okay. And
24 "all associated facilities including but not

1 limited to".

2 VICE CHAIRMAN BURACK: So, could you
3 read that back to us, what the language would
4 be?

5 ADMINISTRATOR MONROE: So, the
6 definition would be "'High pressure gas
7 pipeline infrastructure" means all associated
8 facilities including but not limited to
9 compressor stations, valve stations, metering
10 stations, and pigging stations." Did I mix up
11 the words?

12 MS. WEATHERSBY: I think a phrase is
13 missing. I think a "'High pressure gas
14 pipeline infrastructure" means a high pressure
15 gas pipeline", --

16 ADMINISTRATOR MONROE: Uh-huh.

17 MS. WEATHERSBY: -- the big concept
18 of the pipeline, and then "and all associated
19 facilities comprising its infrastructure,
20 including but not limited to compressor
21 stations, valve stations, metering stations,
22 and pigging stations."

23 ADMINISTRATOR MONROE: Sorry. I'm a
24 little slow on the uptake here.

1 MS. WEATHERSBY: That's okay.

2 CHAIRMAN HONIGBERG: We now have a
3 defined term within another defined term.

4 Ms. Whitaker.

5 MS. WHITAKER: So, just to be clear,
6 we would keep the definition of the "high
7 pressure gas pipelines", but we would add an
8 additional definition for "high pressure gas
9 pipeline infrastructure"?

10 MS. WEATHERSBY: Uh-huh.

11 MS. WHITAKER: Which would lead us to
12 use the "high pressure gas pipeline
13 infrastructure" phrase in the 301.08(c)(1), is
14 that correct?

15 CHAIRMAN HONIGBERG: That's the
16 thought, yes.

17 MS. WHITAKER: Okay. So, would that
18 mean that we'd be getting rid of the bold,
19 italicized "and associated compressor, valve,
20 metering, and pigging station" phrase?

21 CHAIRMAN HONIGBERG: And replacing it
22 with?

23 MS. WHITAKER: Just "high pressure
24 gas pipeline infrastructure"?

1 CHAIRMAN HONIGBERG: Yes.

2 MS. WHITAKER: Okay.

3 CHAIRMAN HONIGBERG: Director Muzzey,
4 then Commissioner Bailey.

5 DIR. MUZZEY: Just to be double sure
6 about this, our existing definition of "high
7 pressure gas pipeline" means a transmission
8 pipeline that transports natural gas or other
9 flammable gases to and from compressor
10 stations, to a distribution center, to a
11 storage center, or to a large industrial
12 customer, at a pressure greater than required
13 to operate a distribution pipeline."

14 To make sure I understand this
15 definition, it's narrowed to just the pipeline
16 part of that facility. It's not the compressor
17 station, the distribution center, a storage
18 center, or the large customer. Those are just
19 referenced within that definition?

20 CHAIRMAN HONIGBERG: Correct.

21 DIR. MUZZEY: And, so, this is "high
22 pressure gas pipeline infrastructure" would
23 include both that pipeline and the other
24 things?

1 *(Ms. Weathersby nodding in the*
2 *affirmative.)*

3 CHAIRMAN HONIGBERG: That's the
4 proposal.

5 DIR. MUZZEY: And we need both of
6 those, because sometimes we are just referring
7 to the pipe, and other times we're referring to
8 the whole thing?

9 CHAIRMAN HONIGBERG: Correct.

10 DIR. MUZZEY: Okay. Great. Thank
11 you.

12 CHAIRMAN HONIGBERG: Commissioner
13 Bailey.

14 CMSR. BAILEY: Back to the definition
15 that we're trying to create about the
16 "infrastructure", and the use of the term
17 "infrastructure" within the definition. I
18 don't think it's necessary. I think you could
19 delete that phrase and just say "high pressure
20 gas pipeline infrastructure" means a high
21 pressure gas pipeline and all associated
22 facilities including but not limited to".

23 CHAIRMAN HONIGBERG: I see some
24 nodding heads there.

1 MS. WEATHERSBY: Sure. So, striking
2 "comprising its infrastructure"?

3 CMSR. BAILEY: Yes.

4 MS. WEATHERSBY: Yes. That would --
5 I'm fine with that.

6 CHAIRMAN HONIGBERG: Commissioner
7 Burack.

8 VICE CHAIRMAN BURACK: Ms. Monroe,
9 could you just read to us again one last time
10 what the "including but not limited to"
11 includes?

12 ADMINISTRATOR MONROE: It would
13 include "compressor stations, valve stations,
14 metering stations, and pigging stations". And
15 we would have the term in there "including but
16 not limited to".

17 VICE CHAIRMAN BURACK: Thank you.

18 CHAIRMAN HONIGBERG: All right. So,
19 this is going to be a multistage process to get
20 this done. And one of those stages isn't going
21 to happen immediately. If we want to adopt
22 that definition, we should vote to do so.
23 Then, we can deal with its placement in 301.08.
24 But, before we do -- before we get to the end,

1 we're going to need to take a break at some
2 point, and look at the other rules we're
3 proposing where the phrase "high pressure gas
4 pipeline" is used, where there are references
5 to "compressor stations" or other types of
6 facilities, and see whether that definition,
7 the new definition, would be appropriate to use
8 there, or other things.

9 Commissioner Scott.

10 CMSR. SCOTT: Another complication,
11 at least in my eyes, is we talk about generally
12 for the -- for instance, in 301, we talk about
13 the application, and we talk about -- we
14 reference "facility". And I guess my question
15 would be -- and then, you know, we do have
16 changes, including we've added, for instance,
17 you must talk about "the facility's size and
18 configuration", then we added "including, for a
19 high pressure gas pipeline, any associated
20 compressor stations".

21 So, I'm a little bit worried we're
22 going down a path where we're very much
23 confusing our rules here. But I guess that
24 would be -- my question is, is that going to

1 change the impact of that kind of language,
2 when we talk about "facility", when we have
3 "pipeline infrastructure" over here, but then
4 we're talking about "tell us about your
5 facility" over here?

6 CHAIRMAN HONIGBERG: Well, I think
7 we're talking about your "infrastructure" over
8 there. I don't think there's any ambiguity in
9 existing 301.03(3), if we do what we've just
10 talked about doing. Because, as worded,
11 301.03(3) doesn't ask about any infrastructure
12 other than the pipeline and the compressor
13 station.

14 CMSR. SCOTT: I agree.

15 CHAIRMAN HONIGBERG: So -- but,
16 again, that's the type of thing we need to look
17 at when we go down a route like this.

18 Director Muzzey.

19 DIR. MUZZEY: My assumption, when we
20 talk about "high pressure gas pipeline
21 infrastructure" was that we were indeed talking
22 about the facility and talking about it in a
23 more comprehensive way than just the pipeline
24 or just the compressor station. And, to get

1 back to something Commissioner Scott said a
2 little while ago, would it make sense to,
3 instead of using "high pressure gas pipeline
4 infrastructure", to call it the "high pressure
5 gas pipeline facility", and introduce that idea
6 that this is -- we are looking at an
7 application for a facility that includes more
8 than just the pipeline?

9 CHAIRMAN HONIGBERG: That's a
10 separate discussion. So, the answer is
11 "perhaps".

12 DIR. MUZZEY: Okay.

13 CHAIRMAN HONIGBERG: We're trying to
14 focus on the one comment we have, try -- seeing
15 if we can deal with that, and then see what
16 other things we might want to do with that
17 definition. It could well be that we would
18 want to circle back to 301.03 and say "Hmm, you
19 know, we should talk about it in that way."
20 But I want to try and keep us narrowly focused
21 for the moment, see if we can come to a
22 resolution of this, even if it requires us to
23 change the term later. If we've got the
24 definition in place, and call it something else

1 if we need to, to make it work with the other
2 things we're doing. I'm trying to avoid --
3 hoping to avoid the unintended consequences of
4 changes.

5 Other thoughts or comments?

6 *[No verbal response.]*

7 CHAIRMAN HONIGBERG: All right.

8 ADMINISTRATOR MONROE: Could I just
9 ask --

10 CHAIRMAN HONIGBERG: You may.

11 ADMINISTRATOR MONROE: Because I
12 think this is the only place where we would
13 talk about the valves, the metering, generally,
14 it's "high pressure gas pipeline", that was a
15 comment of Commissioner Bailey in the Initial,
16 that we use that throughout. And that's the
17 term we've used throughout. And, then, we've
18 added in various places the "compressor
19 stations". We have specific requirements for
20 vibration and sound for compressor stations.

21 I don't believe anywhere else these
22 specific terms are used in the rules as they're
23 currently proposed.

24 CHAIRMAN HONIGBERG: I believe you

1 are correct. And I believe that the commenters
2 largely haven't gone after that. They have
3 been satisfied that the things they care about
4 for the most part are the pipeline and the
5 compressor stations.

6 ADMINISTRATOR MONROE: Correct.

7 CMSR. BAILEY: So, maybe we don't
8 need a new definition. We just need to insert
9 these terms in this particular rule, and then
10 we avoid the issue of unintended consequences.

11 CHAIRMAN HONIGBERG: So, here's what
12 we're going to do. We're going to park this
13 conversation for the moment, because that is a
14 possibility after we're done with this. But
15 we're only on Comment Item 3 or 4 or something
16 like that, and we have another 12 or so. Let's
17 look through those. And, when we're done, we
18 will have -- we will know pretty much what
19 other changes we feel we want to make. Then,
20 we will be able to take a break, look at the
21 rules, and see how useful that new definition,
22 which would be a good one, if we need it, is
23 necessary. Because, if it's only going to be
24 used once, it's not necessary. And just put it

1 where it belongs and deal with it.

2 So, how does that sound as an
3 approach?

4 *[Multiple members nodding in the*
5 *affirmative.]*

6 CHAIRMAN HONIGBERG: Oh, I've got
7 nodding heads all around. All right.

8 ADMINISTRATOR MONROE: Okay. Moving
9 right along to Number 5. This is a comment by
10 Mr. Husband and Ms. Fletcher regarding a
11 decommissioning plan.

12 VICE CHAIRMAN BURACK: Do you mean
13 Number 4?

14 ADMINISTRATOR MONROE: Sorry, Number
15 4. Regarding the decommissioning plan, having
16 an independent expert, and also suggestions
17 regarding what would need to be in that
18 decommissioning plan, as well as adding a
19 provision for financial assurance.

20 The existing 301.08(c)(2) -- (c)(2)d,
21 already requires the removal of underground
22 infrastructure if it's less than 4 feet in
23 depth. In addition to that, the PUC rules
24 direct and operate, as well as the federal

1 rules, require the operator -- they direct them
2 of how to abandon it in place. And there are
3 certain requirements that come with abandoning
4 existing pipelines in place.

5 So, what we're proposing here, and,
6 in addition to that, the rules also require
7 that, in Site 301(c)(2) [301.08(c)(2)?], that
8 an independent, qualified person with
9 demonstrated knowledge of the facility --
10 similar facilities prepare a decommissioning
11 plan, and a provision for financial insurance
12 [assurance?], which includes an irrevocable
13 standby letter of credit, performance bond,
14 surety bonds, and unconditional payment
15 guarantees.

16 So, it's our opinion that these
17 requirements are already covered in the
18 existing rules.

19 CHAIRMAN HONIGBERG: Thoughts or
20 comments?

21 Director Muzzey.

22 DIR. MUZZEY: So, for 301.08(a)(7)
23 and (8), are those the sites you were just
24 referring to?

1 ADMINISTRATOR MONROE: Correct. In
2 the existing rules, correct.

3 DIR. MUZZEY: Are those limited to
4 wind facilities?

5 ADMINISTRATOR MONROE: Sorry. No.
6 No, the cite is actually 301.08(c)(2).

7 DIR. MUZZEY: Great. Thank you very
8 much.

9 ADMINISTRATOR MONROE: And that
10 applies to "all energy facilities". You are
11 correct, there are specific provisions that are
12 unique to wind facilities, and that would be at
13 301.08(a)(7) and (8). But (c)(2)a through d
14 requires -- sets forth the requirements for a
15 decommissioning plan for all energy facilities.

16 DIR. MUZZEY: Okay. Thank you. I
17 was looking at the previous.

18 CHAIRMAN HONIGBERG: Other comments
19 or thoughts?

20 *[No verbal response.]*

21 CHAIRMAN HONIGBERG: I don't see any
22 great rush to doing something.

23 Ms. Weathersby.

24 MS. WEATHERSBY: Just I have a

1 question, I guess not being all that familiar
2 with decommissioning plans. Do they usually
3 include a description of the items that would
4 be decommissioned and how they would be removed
5 and disposed of? And that would factor into
6 the cost, which is required. But would the
7 plan include the items that would be
8 decommissioned and how they would be disposed
9 of, generally speaking? And, if not, is that
10 something that -- it seems like that would be
11 something that would be worthwhile to include.

12 ADMINISTRATOR MONROE: So, just to
13 answer your question. In 301.08(c)(2)d
14 requires, this is part of the decommissioning,
15 "all underground infrastructure at depths less
16 than 4 feet below grade". Does that answer
17 your question?

18 MS. WEATHERSBY: No, I think -- well,
19 in part, thank you. But, also, knowing that
20 the pipeline "facility" would include
21 different -- the different stations, and
22 there's more to it than just the underground
23 pipeline, and there's been concern about
24 contaminants. And I just didn't know if the

1 decommissioning plan would indicate how those
2 pieces, in addition to the pipeline, would
3 be -- would be included and how they'd be
4 removed and disposed of.

5 CHAIRMAN HONIGBERG: Ms. Monroe, what
6 else does 301.08(c)(2), regarding the
7 decommissioning plan, require?

8 ADMINISTRATOR MONROE: Well, the
9 lead-in language in (2) talks about a "facility
10 decommissioning plan".

11 CHAIRMAN HONIGBERG: That's because
12 these are about applications for site and
13 facility.

14 ADMINISTRATOR MONROE: Right.

15 CHAIRMAN HONIGBERG: So, that's the
16 broad word here. So, what does it then
17 require?

18 ADMINISTRATOR MONROE: In a through
19 d, is that your question?

20 CHAIRMAN HONIGBERG: Yes.

21 ADMINISTRATOR MONROE: So, talks
22 about the funding to implement the plan that's
23 submitted, the financial assurance,
24 specifically transformers, if there are any,

1 have to be submitted [transported?] off-site,
2 and then the underground infrastructure at
3 depths below four feet. Those are the four
4 things that are currently required in the
5 existing rules.

6 CHAIRMAN HONIGBERG: And the statute
7 that that is implementing is in 162-H
8 somewhere?

9 ADMINISTRATOR MONROE: Yes.

10 CHAIRMAN HONIGBERG: And do you
11 recall what that language says?

12 ADMINISTRATOR MONROE: Actually, that
13 was a good question. So, RSA 162-H:10-a, I
14 think I'm getting led here, good job, talks
15 about, for the wind energy systems, the
16 requirements, there's specific decommissioning
17 requirements in H:10-a, II(7). "Site
18 decommissioning, including sufficient and
19 secure funding". And these rules were I think
20 expanded beyond wind systems to include other
21 energy infrastructure.

22 If you look at the requirements that
23 this rulemaking is under, which is RSA
24 162-H:10-b, there's actually -- the Committee

1 was not charged with addressing decommissioning
2 of gas pipelines. So, there's existing
3 requirements that would apply, but the
4 Committee was not specifically charged with
5 coming up with some independent decommissioning
6 plan specific to pipelines.

7 CHAIRMAN HONIGBERG: I do believe
8 that there is a general provision, I think it
9 is 162-H:7, V(g), which is a very general
10 statement in the statute that says "Describe in
11 reasonable detail the elements of and financial
12 assurances for a facility decommissioning
13 plan."

14 ADMINISTRATOR MONROE: Yes.

15 CHAIRMAN HONIGBERG: That's the
16 general authorization and requirement for the
17 preparation and submittal of a decommissioning
18 plan. There is a general rule that applies
19 that we already have in place. And then a
20 specific directive to do more with wind energy
21 facilities, but no specific directive to do
22 more with gas pipeline facilities. Is that
23 correct, Ms. Monroe?

24 ADMINISTRATOR MONROE: Yes. That is

1 correct. Thank you.

2 CHAIRMAN HONIGBERG: I just wanted to
3 make sure we understood what the lay of the
4 land was, as it were.

5 ADMINISTRATOR MONROE: Yes. Thank
6 you.

7 CHAIRMAN HONIGBERG: Ms. Weathersby.

8 MS. WEATHERSBY: And, so, are we
9 then -- we'd be exceeding our authority to make
10 rules concerning the decommissioning of
11 pipelines?

12 CHAIRMAN HONIGBERG: No, we would
13 not. It depends on how far we went. But, if
14 we felt that it was appropriate, that would not
15 be -- that would not exceed our authority, in
16 my non-legal opinion, because I'm not sitting
17 here as a lawyer.

18 Commissioner Scott.

19 CMSR. SCOTT: I'll raise this
20 question again just to make myself feel better.
21 So, on pipelines, I continue to be
22 uncomfortable with the specter of digging up
23 the pipeline that could be hundreds of miles,
24 decades after it's installed, because my

1 concern is the environmental impact, the public
2 nuisance value to the disruption to people's
3 lives, to me, could be very significant.

4 So, I just want to remind myself and
5 the Committee, Ms. Monroe. So, under the
6 waiver clauses, we could have an applicant with
7 this requirement, but then ask for a waiver of
8 that, is that correct?

9 ADMINISTRATOR MONROE: Yes. That is
10 correct.

11 CMSR. SCOTT: Okay.

12 CHAIRMAN HONIGBERG: And, if someone
13 has come in with an application to build a many
14 miles long pipeline that has a few compressor
15 stations that are above ground and large, one
16 would expect the aboveground facilities to be
17 part of the decommissioning plan that would be
18 submitted in reasonable detail, with financial
19 assurance, under the general authority,
20 wouldn't you?

21 ADMINISTRATOR MONROE: Yes. I would
22 agree with that.

23 CHAIRMAN HONIGBERG: Would you think
24 that subcommittees going forward next year and

1 the year after that would probably take a dim
2 view of an applicant whose proposal might be to
3 leave all of their facilities just where they
4 are when they're done with them?

5 You don't have that to answer that.
6 That's a rhetorical question.

7 ADMINISTRATOR MONROE: That's to be
8 decided.

9 CHAIRMAN HONIGBERG: All right. Does
10 anyone feel the need to do anything additional
11 with the decommissioning plan requirement at
12 this time?

13 Director Muzzey.

14 DIR. MUZZEY: Looking at both the law
15 and our rule, as we've interpreted it, in
16 adding Section d, about "underground
17 infrastructure", it does concern me that,
18 because that is presented in such a detailed
19 way, that it seems to exclude aboveground
20 infrastructure. The words in the law "in
21 reasonable detail the elements of" are not
22 actually carried over into the decommissioning
23 plan rule. That, because of the concerns that
24 were brought to us at the time, you know, the

1 first two, a and b parts of (2), speak to the
2 finances and how that will be assured.

3 But I'm wondering if it may be useful
4 to add this concept of "in reasonable detail
5 the elements of", in order to broaden our --
6 what our expectation is in a decommissioning
7 plan?

8 CHAIRMAN HONIGBERG: Commissioner
9 Burack.

10 VICE CHAIRMAN BURACK: Mr. Chairman,
11 listening to this discussion, I would be
12 comfortable with the kind of approach that
13 Director Muzzey is proposing, or,
14 alternatively, to include some language that
15 essentially says that they need to identify
16 within the plan what will happen upon
17 decommissioning to each of the -- each of the
18 components or elements of the pipeline that are
19 above ground, or each of the major components
20 that are above ground. Or it could be the list
21 of things that are currently in this definition
22 of "high pressure gas pipeline infrastructure".

23 But I think the nature of the concern
24 that we're hearing from our commenters is that

1 they really want to know that the facility
2 operator truly has thought through what's going
3 to happen to each of these things that is part
4 of what makes this pipeline work.

5 CHAIRMAN HONIGBERG: Commissioner
6 Bailey.

7 CMSR. BAILEY: I think leaving it
8 more general would allow the Committee at the
9 time to hear arguments about why the
10 decommissioning plan is not adequate, if it
11 doesn't include details about decommissioning
12 the compressor stations, for example.

13 So, I am reluctant to make changes,
14 because of the unintended consequences that
15 they could make.

16 ADMINISTRATOR MONROE: Mr. Chair, can
17 I just add one kind of technical matter that
18 I'm not quite sure I know the answer to. But
19 we have not opened up the decommissioning rules
20 as part of this rulemaking. So, it wasn't part
21 of the comment, if you will, that we've -- part
22 of the public hearing. I don't --

23 CHAIRMAN HONIGBERG: I will say that
24 there is some recent history of the Public

1 Utilities Commission making a change to a rule
2 in the rule process that was not part of the
3 original rulemaking or the language was never
4 proposed to the public, and so there was no
5 opportunity for public comment, and having that
6 rule rejected by JLCAR.

7 ADMINISTRATOR MONROE: Okay.

8 CHAIRMAN HONIGBERG: So, that is a
9 legitimate concern. I don't know the
10 legalities of it. I just know the practicality
11 of having just gone through the process
12 probably a year and a half ago, and having
13 JLCAR reject a proposed rule change that had
14 not -- that may or may not have been within the
15 scope of the original Notice of Rulemaking.

16 My feeling is that the language of
17 the statute controls, regardless of whether we
18 have it in the rule or not, and putting it in
19 the rule is redundant, and, in fact, as I've
20 said in other occasions, in other contexts, in
21 SEC rulemaking meetings, that it frustrates me
22 when we repeat language of statutes in rules,
23 because the statutes apply whether we say them
24 or not.

1 And, so, I don't think we need to add
2 that. And I think it is unlikely, in the
3 extreme, that a serious applicant would bring
4 an application to the SEC and would not deal
5 with its aboveground infrastructure in its
6 decommissioning plan. I think that the notion
7 that that wouldn't be greeted with scorn,
8 laughs, and even, you know, it might be
9 rejected out-of-hand at the first meeting to
10 see whether the application was sufficient.
11 You know, maybe there's a -- never say "never",
12 but I don't see that happening.

13 Commissioner Burack.

14 VICE CHAIRMAN BURACK: Mr. Chairman,
15 thank you for that. And, thank you,
16 Ms. Monroe, for reminding us regarding what the
17 scope of the original rulemaking notice was.

18 Given all of these additional
19 elements in our discussion, I would be
20 comfortable leaving these provisions as they
21 are for the moment, and recognizing that this
22 decommissioning plan is going to be part of the
23 overall application process, it will get
24 reviewed. And, as Commissioner Bailey has

1 suggested, if the Committee at that time finds
2 it's inadequate, there would be -- that would
3 be an ample and appropriate opportunity for the
4 applicant to update or expand upon what they
5 are proposing.

6 ADMINISTRATOR MONROE: Yes.

7 CHAIRMAN HONIGBERG: Any other
8 thoughts or comments on this section?

9 *[No verbal response.]*

10 CHAIRMAN HONIGBERG: Seeing none,
11 let's move on.

12 ADMINISTRATOR MONROE: Comment Number
13 5, from Mr. Husband, he requested that we
14 prohibit pre-filing submissions of
15 applications. The statute 162-H:10, I,
16 requires an applicant to hold a pre-application
17 public information session in each county where
18 the facility will be sited. It's been the
19 practice of the SEC -- and they're required to
20 also file the notice of that public information
21 session with the Site Evaluation Committee.
22 So, in practice, what has happened is that has
23 been the time where a docket has been opened by
24 the SEC to inform the public that there may be

1 an application coming forward.

2 So, I would argue that's contrary --
3 that would be contrary to the statute.

4 CHAIRMAN HONIGBERG: Commissioner
5 Bailey.

6 CMSR. BAILEY: Also, as noted in your
7 response, we have the same problem about notice
8 of changing a rule that isn't open at this
9 point for change.

10 ADMINISTRATOR MONROE: Yes. Thank
11 you.

12 CHAIRMAN HONIGBERG: Yes. I mean, I
13 just think that they're required to hold it,
14 they're required to provide notice to the SEC.
15 The SEC has to be able to keep track of that in
16 some way. And we have to assign a docket,
17 because it's the only way we can -- we know
18 we've got it. And that -- I don't see any need
19 to do anything with that.

20 Let's move on to Number 6.

21 ADMINISTRATOR MONROE: Okay. Here's
22 the adding a new subsection (j) to 301.17
23 regarding annual statements of the amount of
24 gas lost or unaccounted for. Again, similar to

1 what Commissioner Bailey just pointed out, is
2 that that specific provision of the rule is not
3 open for comment at this time. But, in
4 addition to that, the existing 301.17(i) gives
5 the Committee some broad authority to include
6 conditions in a certificate that are necessary
7 to serve the objectives of 162-H. So, it could
8 be within the discretion of the Committee to
9 include such a condition in the certificate
10 regarding potential gas that might be lost or
11 unaccounted for.

12 CHAIRMAN HONIGBERG: Thoughts or
13 comments on this?

14 *[No verbal response.]*

15 CHAIRMAN HONIGBERG: Seeing none,
16 Number 7.

17 ADMINISTRATOR MONROE: Number 7 is by
18 Ms. Learner, specific recommendations for a
19 whole host of environmentally regulated waste,
20 water use, disposal, road use, comprehensive
21 impact assessment, etcetera.

22 One of the things the statute
23 162-H:7, VI-c, does require all state agencies
24 that have permitting or other regulatory

1 authority to submit to the SEC final decisions
2 on those parts of the application that apply to
3 their authority.

4 In addition, I'm well aware that DES
5 has a comprehensive air permitting program for
6 air emissions, and they're delegated to
7 administer that under the Clean Air Act.

8 So, many of these -- all of these
9 issues would be addressed through existing
10 regulatory authority, with Environmental
11 Services or New Hampshire DOT or Public Utility
12 Commission's rules.

13 CHAIRMAN HONIGBERG: Anyone have any
14 thoughts or comments?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: Does anyone feel
17 like taking on and adding language as suggested
18 by the comment?

19 I don't see anybody reaching for the
20 microphone. Director Muzzey.

21 DIR. MUZZEY: The first list of the
22 long list of things included in this comment
23 are "setbacks".

24 ADMINISTRATOR MONROE: Yes.

1 DIR. MUZZEY: And, whereas many of
2 the state agency reviews will incorporate some
3 aspect of "setbacks", I'm not certain that they
4 do in the comprehensive way that this commenter
5 may have been requesting. And we know that
6 many other commenters referred to "setbacks",
7 and some had some very specific ideas as to
8 appropriate types of setbacks.

9 Will we be talking about that idea of
10 "setback" again later?

11 ADMINISTRATOR MONROE: Yes, in Number
12 20.

13 DIR. MUZZEY: Okay. As long as we
14 will cover that again, I have no further
15 comment.

16 ADMINISTRATOR MONROE: Yes. Okay.
17 Number 8, Mr. Silverman, Chair of the Planning
18 Board, Town of Fitzwilliam, he raises the issue
19 of "federal preemption should not prevent state
20 and local governments from adopting rules." I
21 would say that's what we're here doing. The
22 Legislature has required us to do. And that
23 the rules are consistent with the authority
24 established in 162-H:10-b. And that, in

1 addition to that, as I previously noted, there
2 is consideration given to the views of
3 municipalities as part of the SEC process.

4 So, no change is recommended.

5 CHAIRMAN HONIGBERG: Any thoughts or
6 comments on that?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: Seeing none.

9 ADMINISTRATOR MONROE: Mr. Kanoff,
10 attorney for the Pipeline Coalition, he's
11 asking for, again, this is relative to local
12 authority, that we should amend the rules to
13 require the local rules, statutes, ordinances,
14 a measure that they plan to comply with them.

15 Again, the applicant is required,
16 under the RSA 162-H, to give written
17 notification of the proposed project to each of
18 the communities where it will be located. And,
19 in addition to that, as we've previously
20 discussed, there is a provision in the statute
21 that due consideration is given to municipal
22 requirements.

23 So, no change is recommended.

24 CHAIRMAN HONIGBERG: Any thoughts or

1 comments on this?

2 *[No verbal response.]*

3 CHAIRMAN HONIGBERG: Seeing none.

4 ADMINISTRATOR MONROE: Moving on to
5 Number 10, Mr. Kanoff again, amending (h)(6)
6 and 1.14(g) [301.14(g)?]. Let's see. He's
7 asking about the "cumulative impacts of the
8 project". And, again, I just go back to the
9 authority for the wind rules that were adopted
10 had a specific requirement in H:10-a, II(2),
11 that was specific to requiring the Committee to
12 adopt rules for "cumulative impacts". Under
13 10-b, that language is not included.

14 CHAIRMAN HONIGBERG: The Office of
15 Legislative Services and JLCAR, in fact,
16 expressed displeasure with our general rules
17 when we attempted to include a "cumulative
18 impacts" notion in our general rules outside of
19 the wind context. I think that is instructive.

20 Any other thoughts or comments?

21 *[No verbal response.]*

22 CHAIRMAN HONIGBERG: Seeing none,
23 Item 11.

24 ADMINISTRATOR MONROE: Again,

1 Mr. Kanoff for the Coalition, should amend
2 301.14(c) and (d), which is the criteria for
3 unreasonable adverse effects, to include again
4 local statutes, rules, or ordinances, and the
5 effectiveness of the measures proposed, to
6 avoid, minimize, and mitigate unreasonable
7 adverse effects.

8 And I just refer back to the same
9 provision, 162-H:16, IV, that that is a
10 requirement in the statute that the Committee
11 has to make a specific finding that it will not
12 unduly interfere with the orderly development
13 of the region.

14 And, regarding air and water quality,
15 again, the SEC bases its decision on whether or
16 not DES could, or other agencies, would they
17 authorize the construction and operation of the
18 project.

19 So, again, I believe that that's
20 covered.

21 CHAIRMAN HONIGBERG: Any thoughts or
22 comments?

23 *[No verbal response.]*

24 CHAIRMAN HONIGBERG: Seeing none,

1 Item 12, which I think will take virtually no
2 time, because it reproduces something we've
3 already dealt with in other comments, correct?

4 ADMINISTRATOR MONROE: Correct.

5 Moving on to 13, references the decommissioning
6 plan, and this is -- I think we've already
7 discussed this. Provide for the removal of all
8 structures and restoration of the site.

9 And, again, as I pointed out earlier,
10 the rules require removal if it's buried less
11 than four feet in depth. PUC rules do not
12 require the pipeline to be removed.

13 But, in addition to that, there is an
14 Environmental Assessment requirement and a
15 Resource Report 1 that would require a
16 developer of a gas pipeline, at the point they
17 wanted to abandon it, how the site would be
18 restored. So, there's already federal
19 requirements there.

20 CHAIRMAN HONIGBERG: Any thoughts?

21 *[No verbal response.]*

22 CHAIRMAN HONIGBERG: Seeing none,
23 Item 14.

24 ADMINISTRATOR MONROE: Fourteen.

1 Mr. Kanoff has recommended -- so, in the rules
2 as proposed, there are sound limitations for
3 intrastate pipelines that mirror that of the
4 wind, which is the 40 dBA, and, for interstate
5 pipelines, it's 55 dBA. And the reason for
6 that is because there are -- there is a federal
7 standard for interstate pipelines that's 55.
8 So, if you were to adopt rules that were more
9 stringent, you could possibly have a preemption
10 issue.

11 But what this does is it puts the 55
12 dBA, which is the federal requirement, in state
13 rules, therefore, the SEC could enforce those
14 rules as to the project.

15 CHAIRMAN HONIGBERG: Anyone have any
16 thoughts or comments on 14?

17 Commissioner Burack.

18 VICE CHAIRMAN BURACK: Thank you.
19 Just want to make sure I'm understanding then
20 what's being proposed here. Because what
21 you've just described is a little different
22 from the way I had originally read this
23 suggestion or comment.

24 What you're saying is that what this

1 language -- the proposed language would do
2 would be to write the 55 dBA into our state
3 rules? Is that --

4 ADMINISTRATOR MONROE: I believe what
5 Mr. Kanoff is suggesting is that we lower the
6 standard for interstate pipelines. Currently,
7 it's in there for 55 for interstate pipelines,
8 in the rules as proposed. I believe what he's
9 requesting is that we would lower that standard
10 for interstate pipelines to 40, which is more
11 stringent than the federal requirement.

12 VICE CHAIRMAN BURACK: Okay. Thank
13 you. So, the way our rule reads right now, we,
14 in fact, have the 55 dBA as our state standard
15 for interstate pipelines, is that correct?

16 ADMINISTRATOR MONROE: Correct.

17 VICE CHAIRMAN BURACK: Okay. Thank
18 you. I am comfortable then leaving this as it
19 stands.

20 CHAIRMAN HONIGBERG: Other thoughts
21 or comments?

22 *[No verbal response.]*

23 CHAIRMAN HONIGBERG: Seeing none,
24 Item 15.

1 ADMINISTRATOR MONROE: Item 15, and
2 this shows up in some other comments, too, and
3 Mr. Silverman also testified about blasting
4 relative to construction of the pipelines.
5 And, based on our research, blasting is
6 regulated by OSHA, it's federal law, as well as
7 the New Hampshire Department of Safety, and as
8 well as the PUC also has rules on that.

9 And, again, I think the 301.17(i)
10 could give the SEC authority to impose
11 conditions for blasting, if it so chose, as
12 part of the certificate.

13 CHAIRMAN HONIGBERG: Anyone have any
14 thoughts or comments on Item 15?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: It would appear
17 not. Let's move on.

18 ADMINISTRATOR MONROE: Moving onto
19 Number 16, Mr. Kanoff has suggested a whole
20 host of requirements here for traffic and
21 roadway considerations, including road
22 classifications, peak traffic counts, etcetera.
23 He didn't really explain why that information
24 would be necessary or what the SEC would do

1 with it.

2 But there -- I did want to point out
3 there is an existing Site 301.03 that requires
4 the applicant to provide information on the raw
5 materials that would be used or transported as
6 part of the construction of the project and how
7 those would be transported. So, there is a
8 small area that's already covered there.

9 CHAIRMAN HONIGBERG: Am I correct
10 that, during the construction phase of anything
11 like this, you have to work with whatever
12 authorities have control of the various roads,
13 for closures and strain on roadways, whatever
14 would need to be done? That's correct, is it
15 not?

16 ADMINISTRATOR MONROE: Yes, it is.
17 And there may be DOT permits, driveway
18 permits, --

19 CHAIRMAN HONIGBERG: Right.

20 ADMINISTRATOR MONROE: -- required as
21 part of that process.

22 CHAIRMAN HONIGBERG: And, then,
23 during operation, there would certainly have to
24 be a plan for how to get to whatever

1 facilities, ancillary facilities or
2 infrastructure that's relevant to the pipeline,
3 however it needs to be accessed. And that
4 would come up perhaps in an application, it
5 would also come up again in dealing with
6 whatever entities control the various roadways,
7 would it not?

8 ADMINISTRATOR MONROE: Yes. That is
9 correct.

10 CHAIRMAN HONIGBERG: All right. Does
11 anyone see the need to do anything further with
12 this?

13 *[No verbal response.]*

14 CHAIRMAN HONIGBERG: All right.
15 Seeing no, let's move on to 17.

16 ADMINISTRATOR MONROE: This is
17 Mr. Kanoff, and a similar comment by Ms. Steed
18 Mawson was submitted. And this is, again,
19 relative to water supply, uses of water, water
20 availability, changes to existing water
21 supplies, a hydrostatic testing plan.

22 This is, I assume, Commissioner
23 Burack, these are activities that are regulated
24 already by the DES that would have to be

1 addressed as part of any Application. And,
2 again, 301.07(b) requires the applicant to
3 provide information regarding the effects of
4 and plans for avoiding, minimize, or mitigating
5 potential adverse effects on water quality.
6 So, there is already an existing requirement in
7 the rules.

8 VICE CHAIRMAN BURACK: Thank you.
9 I'll just comment that I can't, as we sit here
10 today, reading this very broad language and
11 very comprehensive language here, tell anybody
12 definitively that all of what would be proposed
13 to be covered were we to adopt these provisions
14 are already covered by or would already be
15 covered by existing rules or regulations or
16 statutes.

17 But I would be comfortable with the
18 notion that, if these kinds of issues or
19 concerns were raised in any proceeding, and it
20 was determined that specific DES rules or
21 regulations did not necessarily adequately
22 address them, I believe, as with a number of
23 other items that we've discussed already, the
24 Committee would have the authority to impose

1 additional conditions or requirements as
2 necessary.

3 So, I think that we are -- that there
4 are appropriate safeguards in place to address,
5 I believe, the concerns that are being raised
6 here.

7 ADMINISTRATOR MONROE: Thank you.

8 CHAIRMAN HONIGBERG: Other thoughts
9 or comments on 17?

10 *[No verbal response.]*

11 CHAIRMAN HONIGBERG: All right.
12 Seeing none, let's move on to 18.

13 ADMINISTRATOR MONROE: Number 18 is
14 relative to adding a "public interest"
15 criteria. There is an existing, in 301.16,
16 there is a criteria relative to finding of a
17 public interest. And, again, this section of
18 the rules was not -- we weren't proposing to
19 amend that. So, it was not included in this
20 rulemaking.

21 CHAIRMAN HONIGBERG: And my sense is
22 is that this is an invitation to take on a
23 "public interest" standard that I think many,
24 in the broad rulemaking proceeding, discussed

1 at length. And I think was the subject of OLS
2 memos and JLCAR comments about what the "public
3 interest" means or how it should be interpreted
4 by the SEC. Is my memory correct on that?

5 ADMINISTRATOR MONROE: Yes. That is
6 correct. And there are actually ten different
7 considerations that are in the existing rules
8 relative to a finding of public interest that
9 are currently there: Welfare of the
10 population, private property, location and
11 growth of industry, historic sites, aesthetics.

12 So, there's a pretty comprehensive
13 list in the existing rules relative to "public
14 interest".

15 CHAIRMAN HONIGBERG: Any other
16 thoughts or comments on 18?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: Seeing none,
19 let's move on to 19.

20 ADMINISTRATOR MONROE: This is --
21 there were a number of comments regarding the
22 pipeline components, the thicknesses, and
23 corrosion. In the proposed rules, if they were
24 to be adopted, we added, in Site 301.14(f)(5)e,

1 would require the applicant to meet the most
2 stringent requirements, which are Class 4
3 requirements, for pipeline construction. And
4 that includes -- again, I'm not an expert here,
5 but I have spoken with Mr. Knepper, who made
6 this recommendation, that these most stringent
7 standards would apply.

8 CHAIRMAN HONIGBERG: Just for the
9 record, Mr. Knepper is the Director of the
10 Safety Division of the Public Utilities
11 Commission, and one of his responsibilities,
12 probably his main responsibility, in fact, is
13 pipeline safety.

14 ADMINISTRATOR MONROE: But my
15 understanding is that Class 4 provision brings
16 with it a lot of additional requirements,
17 regarding thickness and pressure, and things
18 that are way outside of my area of expertise,
19 but certainly within his.

20 CHAIRMAN HONIGBERG: Any other
21 thoughts on Item 19?

22 *[No verbal response.]*

23 CHAIRMAN HONIGBERG: All right.
24 Seeing none, let's move on to 20.

1 ADMINISTRATOR MONROE: And this gets,
2 Director Muzzey, to your comment earlier. So,
3 we did receive a number of comments relative to
4 the potential impact radius, proximity of the
5 pipelines to churches, residents, schools,
6 electric power lines. Ms. Fletcher commented,
7 for the Mason Pipeline Committee, that the
8 pipeline and the associated infrastructure
9 should be set back from high voltage electrical
10 transmission lines by at least a thousand feet.
11 Mr. Lewicke testified at the public comment
12 period that it should be anywhere from 1,000 to
13 5,000 feet.

14 So, the Site 301, as proposed,
15 301.08(c)(3) and (4), would require the
16 applicant to provide a description of all the
17 planned setbacks of all the facility types,
18 including the transmission lines, and why those
19 setbacks are adequate to protect the public
20 health from the risks associated with the
21 operation of the pipeline or any associated
22 compressor station.

23 Again, the adjudicative part of the
24 SEC process, there would be proceedings where,

1 you know, experts, I guess, could agree or
2 disagree as to whether or not those are
3 adequate to protect public health.

4 And I would think that the rules as
5 currently worded cover these comments.

6 CHAIRMAN HONIGBERG: Any thoughts or
7 comments on Item 20?

8 Let's pause for a minute, because I
9 think people are reading.

10 I know Commissioner Burack has a
11 comment, but just hold off for one second.

12 (Short pause.)

13 CHAIRMAN HONIGBERG: Commissioner
14 Burack.

15 VICE CHAIRMAN BURACK: Thank you. I
16 just want to offer the general observation that
17 I am comfortable with this as an approach. I
18 understand that there are various studies that
19 have been done out there. The practical
20 reality here is that, because these kinds of
21 proceedings are going to come up periodically
22 over time, new information is going to be
23 developed, new studies will have been done, new
24 experiences will have been had elsewhere in the

1 country, and even around the world, with
2 similar types of facilities. And I think it's
3 best that we not -- we not write any specific
4 number into the rule on this. But, instead,
5 really leave it to each proceeding, and the
6 best information and expertise available to
7 guide the Committee at that time.

8 So, I'm comfortable leaving these
9 provisions as they are.

10 CHAIRMAN HONIGBERG: Other thoughts
11 or comments?

12 CMSR. BAILEY: I would agree with
13 Commissioner Burack. I think that it makes the
14 most sense to deal with this on a case-by-case
15 basis.

16 CHAIRMAN HONIGBERG: Anyone else?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: All right.
19 Seeing none, Item 21, which is, in part, a
20 repeat, but has one other concept buried within
21 it.

22 ADMINISTRATOR MONROE: Correct.

23 Ms. Fletcher, for the Mason Pipeline Committee,
24 stated that she felt if people -- if the

1 setbacks weren't sufficient and people didn't
2 feel safe, that their property should be
3 bought.

4 And I don't believe that RSA 162-H
5 provides the Committee with authority to
6 require applicants to purchase these
7 properties.

8 CHAIRMAN HONIGBERG: I'm sure no one
9 wants to disagree with that.

10 Before you go to 22, I know there was
11 a late comment or two that came in. Are the
12 issues raised by the late commenters captured
13 by what we've already discussed or are there
14 certain things we should at least make sure
15 we've touched on, before we talk about the
16 interesting memo we got from OLS?

17 ADMINISTRATOR MONROE: Yes. This was
18 the late comment just received this morning by
19 the Pelham Pipeline Awareness Committee. And,
20 again, this talks -- it's relative to pipeline
21 safety, the pipeline materials, components,
22 qualifications for construction. Again, I
23 believe, from talking with Mr. Knepper, that
24 having this Class 4 requirement as part of the

1 construction requirements that we're proposing
2 in the rules I believe would cover these
3 comments that we received.

4 A lot of these are relative to
5 testing after-the-fact. My understanding is
6 you could construct a Class 1 or 2, and then,
7 to the extent more people move to that area,
8 they might have to go back and check whether or
9 not they needed a higher standard. Whereas,
10 these rules will require any new construction
11 projects to already meet that more stringent
12 standard.

13 CHAIRMAN HONIGBERG: Commissioner
14 Scott.

15 CMSR. SCOTT: Mr. Chairman, whenever
16 you feel appropriate, I do have some -- I want
17 to discuss Section 302. Some of the changes
18 that were made were not sufficient in my mind.

19 CHAIRMAN HONIGBERG: Okay. Is there
20 anything else people want to talk about, in
21 terms of the things we've already discussed?
22 We're going to be circling back to the Health
23 Assessment provision, 301.08.

24 But, yes, Ms. Weathersby.

1 MS. WEATHERSBY: I was hoping to
2 circle back to Comment 4, which concerns -- had
3 a concept in there that we didn't discuss, and
4 that was the bond that's put up for the
5 decommissioning. And there was a concept
6 suggested that the bond be non-terminable and
7 also not able to be discharged in bankruptcy.
8 And those seem like worthy concepts to me,
9 because you want to be sure that the bond that
10 is put up is there at the end. And that refers
11 to Section 301.08, in Section (d)(2)b.

12 CMSR. SCOTT: Mr. Chair, am I
13 correct, that's another area where it may be
14 worthy, but we haven't noticed that we're going
15 to change the decommissioning rules?

16 ADMINISTRATOR MONROE: I believe also
17 there was some discussion in the Legislature
18 this past session regarding bonding/insurance
19 type things for pipelines, that, for whatever
20 reason, I don't know if it was a preemption
21 concern, may not have -- that were voted
22 "inexpedient to legislate".

23 But we do have existing 301.08(c)(2),
24 and, again, as Commissioner Scott pointed out,

1 there are requirements in the decommissioning
2 plan requirements currently.

3 CHAIRMAN HONIGBERG: Commissioner
4 Burack.

5 VICE CHAIRMAN BURACK: Ms. Monroe,
6 would I be correct in understanding that, in
7 addition to these provisions here that you've
8 just cited us to, or notwithstanding these
9 conditions, that there is nothing in statute
10 that would prohibit the Committee from imposing
11 additional requirements with respect to
12 financial assurance, to ensure, for example,
13 that financial assurance could not be defeated
14 by a bankruptcy proceeding, for example? That
15 is, similar to other authorities of the
16 Committee to be able to impose, you know, those
17 conditions as necessary, and, again, I don't
18 have the statutory language right in front of
19 me, I'm not sure the Committee has ever taken
20 that kind of a measure with respect to a
21 financial assurance. But I'm not sure that the
22 Committee would necessarily be precluded from
23 doing that.

24 I'm also -- I also am concerned that,

1 because we did not specifically, in the
2 Rulemaking Notice, say that we were going to
3 look at these specific issues, I would have
4 some concern about our trying to open up and
5 amend this at this particular moment.

6 ADMINISTRATOR MONROE: Right. And
7 I'd also point out, in the statutory authority
8 for this rulemaking, there's no specific
9 provision that the Legislature imposed
10 regarding financial assurance mechanisms.

11 CHAIRMAN HONIGBERG: The current rule
12 regarding financial assurance requires the
13 applicant to provide "A description of
14 sufficient and secure funding to implement the
15 plan, which shall not account for the
16 anticipated salvage value of facility
17 components or materials", and also include "The
18 provision of financial assurance in the form of
19 an irrevocable standby letter of credit,
20 performance bond, surety bond, or unconditional
21 payment guaranty executed by a parent company
22 of the facility owner maintaining at all times
23 an investment grade credit rating." Those are
24 some pretty strong requirements. I'm sure more

1 could be done, but that's a lot. And that was
2 not without controversy during the large
3 rulemaking that we went through, the broad
4 rulemaking.

5 So, even if we were to open it up,
6 that would be -- I would question whether we
7 would be able to do additional work under our
8 statutory authority than that. But, if we
9 could, we are requiring a lot right now of
10 applicants, in terms of proving financial
11 ability to cover decommissioning, my opinion.

12 Other thoughts or issues, before
13 we -- I want to do what Commissioner Scott
14 wants to do, before we talk about the OLS memo.
15 So, are there other things?

16 (*Chairman Honigberg and Vice*
17 *Chairman Burack conferring.*)

18 CHAIRMAN HONIGBERG: Commissioner
19 Scott.

20 CMSR. SCOTT: Thank you. I want to
21 draw the Committee's attention to Site 302, and
22 remind the Committee we had a discussion at an
23 earlier meeting, not the public comment
24 hearing, but a meeting where we discussed RSA

1 162-H:12, where it gives the Committee some
2 flexibility, it says "the Committee may
3 suspend" and "may revoke". And, despite my
4 desire to tell OLS we're going to use that
5 language, probably wiser heads suggested we
6 just put in language to specify that, where we
7 would use that discretion. So, Staff applied
8 some language under 302.03 for the "Revocation
9 of Certificate", which I find very well done,
10 and I'll read it. It says "after due
11 consideration of any mitigating circumstances
12 and a determination of whether revocation is in
13 the best interests of the public, or would
14 result in an inability to assure the state has
15 an adequate and reliable supply of energy in
16 conformance with sound environmental
17 principles", then we shall do certain things,
18 basically, look at revocation.

19 My intention at the time was that
20 type of language also be applied to Site 301(f)
21 and 302(d). So, these are --

22 CHAIRMAN HONIGBERG: Read those
23 sections again.

24 CMSR. SCOTT: Okay.

1 CHAIRMAN HONIGBERG: It's 302.01(f),
2 right?

3 CMSR. SCOTT: Correct.

4 CHAIRMAN HONIGBERG: Yes.

5 CMSR. SCOTT: And 302.02(d). Both of
6 those sections, in this case, don't talk about
7 "revocation", but it says "we shall suspend",
8 and, again, my desire had been "may suspend".

9 So, to give us that same type of
10 flexibility, I would like that -- I had
11 intended and I would like that language that
12 was added for revocation to be added to those
13 two sections also. Obviously, we would replace
14 the word "revocation" with "suspension" in
15 these two places.

16 So, I can read it again or --

17 CHAIRMAN HONIGBERG: I think people
18 have it in front of them. Director Muzzey.

19 DIR. MUZZEY: Thank you for bringing
20 that up. I had felt the same way about the
21 language added to 302.03(d), and thought it was
22 very useful language. And I would agree that
23 adding it to 302.01(f) would be both consistent
24 and wise going forward.

1 CHAIRMAN HONIGBERG: What about
2 302.02(d)?

3 DIR. MUZZEY: Commissioner Scott had
4 requested it being added to both places, is
5 that correct? Yes, I would agree with that as
6 well. I'm sorry, I forgot 302.02(d) as well.

7 CHAIRMAN HONIGBERG: Are there other
8 thoughts or comments about that issue?

9 Commissioner Burack.

10 VICE CHAIRMAN BURACK: Mr. Chairman,
11 really just to echo what we've heard before, I
12 likewise thought that this revised draft,
13 particularly 302.03, I thought did things very
14 well. It had not necessarily struck me that it
15 would be necessary to add this language to the
16 other provisions as well. But I would have no
17 objection to doing so. And, certainly, I think
18 it would -- it would provide us with a clear
19 set of standards throughout the entire
20 enforcement process. We won't be applying
21 necessarily different tests at different times,
22 but the same tests in determining as we move
23 forward to different levels of really
24 enforcement action.

1 CHAIRMAN HONIGBERG: Does anyone have
2 any other or different thoughts regarding those
3 sections?

4 *[No verbal response.]*

5 CHAIRMAN HONIGBERG: All right.
6 Here's what we're going to do with those.
7 During the break, which is not too far from
8 now, we're going to ask that 302.01(f) and
9 302.02(d) be rewritten to include the language
10 from 302.03(d). So that, when we are done, in
11 one of the last stages, we will be adopting
12 that language in 302.01 and 302.02.

13 Is that understandable?

14 *[Multiple members nodding in the*
15 *affirmative.]*

16 CHAIRMAN HONIGBERG: All right.
17 Let's talk about the OLS memo, which is the
18 last item in the synthesis of the comments.

19 ADMINISTRATOR MONROE: So, if you
20 have -- you all should have the comments from
21 the Office of Legislative Services. And, in
22 that, there is a -- I guess a memorandum
23 entitled "JLCAR Staff Comments Relative to
24 Authority". And it discusses the

1 constitutional issue of federal preemption. We
2 agree that there is a potential preemption
3 issue here, which we've tried to really, again,
4 when we talk about the sound standards, we
5 didn't feel it was appropriate to adopt more
6 stringent standards, realizing that that could
7 possibly fall to a preemption challenge. So,
8 what we've attempted to do is craft rules that
9 are consistent with the charge that's been
10 given to the Committee by the Legislature to
11 adopt rules for the siting of high pressure gas
12 pipelines, acknowledging that there are federal
13 requirements, and to craft them in a manner
14 that would not conflict with the federal rules,
15 but could be enforced by the state.

16 CHAIRMAN HONIGBERG: In addition,
17 there were some editorial comments that were
18 suggested by OLS, and those are -- those are
19 all things that seemed benign.

20 ADMINISTRATOR MONROE: Correct.
21 There is no problem with any of those.

22 CHAIRMAN HONIGBERG: So, in adopting
23 the final language today, we are going to be
24 incorporating those changes, so that we will

1 adopt the language that we'll be submitting to
2 the process. Is that correct?

3 ADMINISTRATOR MONROE: Yes. That is
4 correct.

5 CHAIRMAN HONIGBERG: All right. Does
6 anyone have any thoughts or comments on the OLS
7 memo? And which doesn't really call for us to
8 do anything, but does stake out a pretty clear
9 position regarding the scope of federal
10 preemption.

11 Commissioner Scott.

12 CMSR. SCOTT: I agree. I don't think
13 that the JLCAR Staff Comments really need us to
14 do anything. So, I'm very much in favor of not
15 doing anything. But, having --

16 CHAIRMAN HONIGBERG: We're good at
17 that.

18 CMSR. SCOTT: Having said that, and I
19 also view the audience, it was probably less us
20 than the JLCAR itself. So, you know, if they
21 wish to do something, then it's obviously in
22 their purview.

23 CHAIRMAN HONIGBERG: Other thoughts
24 or comments?

1 [No verbal response.]

2 CHAIRMAN HONIGBERG: All right.
3 Seeing none. We are close to our break. And
4 we're going to break for about -- oh, I'm
5 sorry, Ms. Monroe, you have something before we
6 go?

7 ADMINISTRATOR MONROE: I just -- I
8 can provide to the Committee a draft rule that
9 shows the -- that would address the comments of
10 JLCAR, along with what we've just discussed
11 here, incorporating Commissioner Scott's
12 comments, if that would be helpful, after the
13 break?

14 CHAIRMAN HONIGBERG: I believe it
15 would, because that's what we're going to be
16 voting on.

17 But the other thing we're going to
18 need to do is to look at 301.08(c); the
19 definitions in 102; and then the rest of the
20 300 rules that are in play, to see how the
21 phrase "high pressure gas pipeline" and the
22 possible addition of "high pressure gas
23 pipeline infrastructure" would be used, if at
24 all, in other sections.

1 So, let's go off the record for a
2 minute.

3 *[Brief off-the-record discussion*
4 *ensued.]*

5 CHAIRMAN HONIGBERG: Let's go back on
6 the record. How long do we think it will take
7 to go through the other rules, to look at those
8 two phrases to see what needs to be done? I
9 don't -- I think it's also probably appropriate
10 for people to get a quick bite while we're at
11 our break.

12 Unless -- unless we feel like we can
13 get everything done during a 45-minute break,
14 and then reopen and get back off the record and
15 done by about 1:00 o'clock, how do people feel?
16 Do we want to break for lunch or do we want to
17 break for 45 minutes and see if we can get
18 everything done?

19 Director Muzzey.

20 DIR. MUZZEY: In reviewing the idea
21 of "high pressure gas pipeline" versus "high
22 pressure gas pipeline infrastructure", would we
23 need to look at both the rules that we are
24 suggesting for amendment and the existing

1 rules, or just the amended part?

2 CHAIRMAN HONIGBERG: Well, I think we
3 probably need to look at the existing rules,
4 just to make sure. But my memory is that
5 that -- that the phrase "high pressure gas
6 pipeline" isn't used in the existing rules.
7 That's why we had to add an addition, a new
8 amendment to it.

9 DIR. MUZZEY: And someone with a
10 computer could do a pretty easy search on
11 "pipeline" to make that happen.

12 CHAIRMAN HONIGBERG: Computers are
13 amazing things. Yes.

14 Make me an offer, folks? Do we want
15 to break for 45 minutes or do we want to break
16 for an hour and twenty minutes and do it that
17 way?

18 Commissioner Burack.

19 VICE CHAIRMAN BURACK: Is it --
20 again, I have 11:52 by my watch. Would it be
21 unreasonable to think that we could be back
22 here by roughly 12:45, which is just under an
23 hour from now, both having had lunch and having
24 had a chance to do this other work? I could

1 then be here for another 45 minutes before I
2 would have to leave. But I recognize that we
3 have -- we have a sufficient quorum, so, even
4 if I have to leave at 1:30, there would still
5 be enough folks to be able to complete this if
6 it goes longer.

7 CHAIRMAN HONIGBERG: It seems
8 reasonable to me.

9 *[Multiple members nodding in the*
10 *affirmative.]*

11 CHAIRMAN HONIGBERG: All right.
12 That's a good consensus of the group. So,
13 we're going to go -- we're going to break now
14 until 12:45, and we will do our best to be back
15 at 12:45.

16 *(Recess taken at 11:53 a.m. and*
17 *the meeting resumed at 12:56*
18 *p.m.)*

19 CHAIRMAN HONIGBERG: All right.
20 We're going to go back on the record. Let's
21 deal with the low-hanging fruit first. And,
22 Ms. Monroe, why don't you read into the record
23 the language of the 300 rules that we're going
24 to amend in this process.

1 ADMINISTRATOR MONROE: Okay. In line
2 with Commissioner Scott's comment, I would
3 propose that we reword Site 302.01(f) to state
4 "If the Committee determines following the
5 adjudicative proceeding that a certificate
6 violation has occurred and is continuing, the
7 Committee shall issue an order that suspends
8 the holder's certificate until such time as the
9 violation has been corrected if the Committee
10 determines, after due consideration of any
11 mitigating circumstances and a determination of
12 whether suspension is in the best interests of
13 the public, or would result in an inability to
14 assure that the state has an adequate and
15 reliable supply of energy in conformance with
16 sound environmental principles, that the
17 following criteria have been met:"

18 CHAIRMAN HONIGBERG: And, then, you
19 would include the Items (1), (2), (3), (4) that
20 are currently in 302.03?

21 ADMINISTRATOR MONROE: No. Just
22 numbers (1) and (2).

23 CHAIRMAN HONIGBERG: Just (1) and
24 (2), as they appear today?

1 ADMINISTRATOR MONROE: Correct.

2 CHAIRMAN HONIGBERG: All right. Does
3 everyone understand that change?

4 *[Dir. Muzzey nodding in the*
5 *affirmative.]*

6 CMSR. BAILEY: Yes.

7 CHAIRMAN HONIGBERG: All right. Why
8 don't you read 302.02.

9 ADMINISTRATOR MONROE: So, we propose
10 to have 302.02(d) read as follows: "If the
11 Committee determines following the adjudicative
12 proceeding that a material misrepresentation or
13 violation of RSA 162-H or its rules has
14 occurred, the Committee shall issue an order
15 that suspends the holder's certificate until
16 such time as the holder has corrected and
17 mitigated the consequences of such
18 misrepresentation or violation if the Committee
19 determines, after due consideration of any
20 mitigating circumstances and a determination of
21 whether suspension is in the best interests of
22 the public, or would result in an inability to
23 assure that the state has an adequate and
24 reliable supply of energy in conformance with

1 sound environmental principles, that the
2 following criteria have been met:"

3 CHAIRMAN HONIGBERG: Does everyone
4 understand the change, the changes that
5 Ms. Monroe just read?

6 MS. WHITAKER: Yes.

7 CHAIRMAN HONIGBERG: All right. I'd
8 like a motion to amend our Initial Proposal to
9 replace the language in Site 302.01 and 302.02,
10 as Ms. Monroe just read it, read that language.

11 CMSR. SCOTT: So moved.

12 CHAIRMAN HONIGBERG: Is there a
13 second?

14 CMSR. BAILEY: Second.

15 CHAIRMAN HONIGBERG: Is there any
16 further discussion?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: Seeing none, all
19 in favor say "aye"?

20 *[Multiple members indicating*
21 *"aye".]*

22 CHAIRMAN HONIGBERG: Any opposed?

23 *[No verbal response.]*

24 CHAIRMAN HONIGBERG: All right. The

1 ayes have it. We have adopted that language to
2 replace the language in the Initial Proposal.

3 Where do you want to go next,
4 Ms. Monroe? Do you want to do the OLS edits or
5 do you want to do the 301.08 issue?

6 ADMINISTRATOR MONROE: We could do
7 the edits. Okay. So, starting at
8 301.03(e)(6), there was an additional comma
9 there that would be removed.

10 VICE CHAIRMAN BURACK: Excuse me.
11 That's the comma right at the end of
12 301.03(e)(6)a?

13 ADMINISTRATOR MONROE: Correct.

14 VICE CHAIRMAN BURACK: Thank you.

15 ADMINISTRATOR MONROE: After the
16 "station(s)", in parentheses, there's an
17 additional comma.

18 VICE CHAIRMAN BURACK: Thank you.

19 ADMINISTRATOR MONROE: That would be
20 deleted.

21 Moving on to 301.08(c)(2). First
22 comment, which is editorial, "including". So,
23 we would propose to have the language say "A
24 sound and vibration impact assessment prepared

1 by an expert in the field, in accordance with
2 ANSI/ASA S12.9-2013 Part 3 for short-term
3 monitoring and with ANSI S12.9-1992 2013 Part 2
4 for long-term monitoring including", so we
5 remove the term "which assessment shall
6 include", and replace that with the term
7 "including". And the rest would remain the
8 same, "the reports of a preconstruction sound
9 and vibration background study and a sound and
10 vibration modeling study."

11 VICE CHAIRMAN BURACK: I'm sorry.
12 I'm not clear on this. They would strike the
13 language "which assessment shall include"?

14 ADMINISTRATOR MONROE: Correct.

15 VICE CHAIRMAN BURACK: Is it just
16 those four words or are there more words in
17 that that need to be struck?

18 ADMINISTRATOR MONROE: "Which
19 assessment shall include", and replace that
20 with the term "including".

21 VICE CHAIRMAN BURACK: Thank you.

22 CHAIRMAN HONIGBERG: Next.

23 ADMINISTRATOR MONROE: There's also
24 an editorial comment regarding, in that same

1 part, "Incorporation by Reference Statement to
2 be included with the proposed rules."

3 CHAIRMAN HONIGBERG: We don't need to
4 take any action on that.

5 ADMINISTRATOR MONROE: Okay.

6 CHAIRMAN HONIGBERG: That's
7 ministerial for the Administrator and the
8 Chair, to make sure that we include the
9 appropriate Incorporation by Reference
10 Statements.

11 ADMINISTRATOR MONROE: Correct. So,
12 then, the last editorial comment is on
13 301.14(f)(6). And the comment was to add
14 readability, to break that, as we have proposed
15 it, kind of one run-on sentence, into different
16 a, b, c, d, e. So, I will read that. So, we
17 would propose that 301.14(f)(6) to read as
18 follows: "For high pressure gas pipelines,
19 consider: (a) The results of the comprehensive
20 health impact assessment:" b. --

21 CHAIRMAN HONIGBERG: That's a
22 semicolon.

23 ADMINISTRATOR MONROE: Semicolon,
24 excuse me. Thank you. "(b) The proximity of

1 electric transmission lines to the pipeline;
2 cross out/strike the word "and". (c) The
3 proximity of any compressor station to schools,
4 day care centers, health care facilities,
5 residences, residential neighborhoods, places
6 of worship, elderly care facilities, and farms:
7 [;?]" Strike the word "and". (d) The
8 effectiveness of measures undertaken or planned
9 to avoid, minimize, or mitigate such potential
10 adverse effects:" --

11 CMSR. BAILEY: Semicolon.

12 ADMINISTRATOR MONROE: Semicolon,
13 excuse me. And "and" would remain there, "and
14 (e) The extent to which the measures in (d)
15 represent best practical measures."

16 CHAIRMAN HONIGBERG: All right. Does
17 everyone understand the changes that Ms. Monroe
18 has read into the record and that are reflected
19 in the OLS comments that we received?

20 *[Multiple members nodding in the*
21 *affirmative.]*

22 CHAIRMAN HONIGBERG: All right. I'll
23 entertain a motion to amend our Initial
24 Proposal to adopt the changes that Ms. Monroe

1 just read.

2 VICE CHAIRMAN BURACK: So moved.

3 CHAIRMAN HONIGBERG: Is there a
4 second?

5 CMSR. SCOTT: Second.

6 CHAIRMAN HONIGBERG: Any further
7 discussion?

8 *[No verbal response.]*

9 CHAIRMAN HONIGBERG: Seeing none, all
10 in favor say "aye"?

11 *[Multiple members indicating
12 "aye".]*

13 CHAIRMAN HONIGBERG: Any opposed?

14 *[No verbal response.]*

15 CHAIRMAN HONIGBERG: All right. The
16 ayes have it, and that amendment is adopted --
17 new language is adopted.

18 Ms. Monroe, on Page 6 of the document
19 that is the OLS Comments, at 302.02, which is a
20 rule that we were changing --

21 ADMINISTRATOR MONROE: Yes.

22 CHAIRMAN HONIGBERG: -- under
23 Commissioner Scott's recommendations, there's a
24 an edit box, a comment box that says "Cite to

1 301.14, the criteria for findings of
2 unreasonable adverse effects." Is that a
3 change that we should be making here?

4 ADMINISTRATOR MONROE: Yes. And I
5 apologize, I missed that.

6 CHAIRMAN HONIGBERG: All right. So,
7 let's go to 302.02. We're okay so far, because
8 we weren't working with 302.02. But we're
9 about to amend 302.02 again, beyond what --
10 beyond what I'll call the "Commissioner Scott
11 changes" to affect the criteria in there.

12 Commissioner Burack.

13 VICE CHAIRMAN BURACK: I'd just
14 query, if the OLS is suggesting that that
15 should be adjusted in that location, there
16 actually would be three different sections in
17 this enforcement set of provisions that
18 presumably would warrant the same amendment.
19 That is both in 302.01(f)(2), in 302.02(d)(2),
20 and just looking to see -- no, I think it's
21 probably in those two locations, because that
22 language does not appear in 302.03(d).

23 CHAIRMAN HONIGBERG: And I apologize,
24 now that I look at the OLS document more

1 carefully, there is a very small line with an
2 arrow drawn to the analogous provision in
3 302.01.

4 VICE CHAIRMAN BURACK: Yes.

5 CHAIRMAN HONIGBERG: So, what we're
6 going to do is have Ms. Monroe read into the
7 record the change to 302.01(f)(2) and
8 302.02(d)(2).

9 ADMINISTRATOR MONROE: So, Site
10 302.01(f)(2) would read as follows: "The
11 violation will have an unreasonable adverse
12 effect pursuant to Site 301.14(f) on
13 aesthetics, historic sites, air and water
14 quality, the natural environment, or public
15 health and safety."

16 302.02(d)(2) would read as follows:
17 "The violation will have an unreasonable
18 adverse effect pursuant to Site 301.14(f) on
19 aesthetics, historic sites, air and water
20 quality, the natural environment, or public
21 health and safety."

22 CHAIRMAN HONIGBERG: Does everyone
23 understand the changes that Ms. Monroe has read
24 into the record?

1 *[Multiple members nodding in the*
2 *affirmative.]*

3 CHAIRMAN HONIGBERG: I'd like a
4 motion to make those changes.

5 VICE CHAIRMAN BURACK: So moved.

6 CHAIRMAN HONIGBERG: Is there a
7 second?

8 CMSR. BAILEY: Second.

9 CHAIRMAN HONIGBERG: Any further
10 discussion?

11 *[No verbal response.]*

12 CHAIRMAN HONIGBERG: Seeing none, all
13 in favor say "aye"? Oh, I'm sorry, Director
14 Muzzey.

15 DIR. MUZZEY: Just to clarify the
16 citation, 301.14, just (f) or all of them?

17 (Short pause.)

18 ADMINISTRATOR MONROE: That's a good
19 point. I think that's a good point. Maybe we
20 remove the (f) and just have "301.14"?

21 DIR. MUZZEY: I agree.

22 VICE CHAIRMAN BURACK: Mr. Chairman,
23 may I amend the motion that I would make here?

24 CHAIRMAN HONIGBERG: You may.

1 VICE CHAIRMAN BURACK: Which would be
2 to have each of these provisions read "The
3 violation will have an unreasonable" --

4 CHAIRMAN HONIGBERG: Slow down.

5 VICE CHAIRMAN BURACK: I'm sorry.
6 I'm reading in 302.01(f)(2), "The violation
7 will have an unreasonable adverse effect
8 pursuant to Site 301.14 on aesthetics, historic
9 sites, air and water quality, the natural
10 environment, or public health and safety."
11 And, then would make a similar revision to the
12 motion relating to 302.02(d)(2), so that it
13 would now read: "The violation will have an
14 unreasonable adverse effect pursuant to site
15 301.14 on aesthetics, historic sites, air and
16 water quality, the natural environment, or
17 public health and safety."

18 CHAIRMAN HONIGBERG: All right. The
19 motion is being amended by Commissioner Burack
20 who made the motion. I forgot, who made the
21 second?

22 CMSR. BAILEY: I did.

23 CHAIRMAN HONIGBERG: Commissioner
24 Bailey, are you willing to second --

1 CMSR. BAILEY: Yes.

2 CHAIRMAN HONIGBERG: -- the amended
3 motion?

4 CMSR. BAILEY: Second.

5 CHAIRMAN HONIGBERG: All right. Is
6 there any further discussion?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: Now I'm seeing
9 none. All in favor say "aye"?

10 *[Multiple members indicating*
11 *"aye".]*

12 CHAIRMAN HONIGBERG: Any opposed?

13 *[No verbal response.]*

14 CHAIRMAN HONIGBERG: The ayes have
15 it.

16 All right. Are we ready to talk
17 about 301.08 and the other potential issues
18 that it raises?

19 *[No verbal response.]*

20 CHAIRMAN HONIGBERG: I sense that we
21 are. Commissioner Bailey, you want to start?

22 CMSR. BAILEY: Thank you. I had a
23 chance to consult with an expert on pipelines.
24 And he pointed me to the federal pipeline

1 safety regulations. And, in those regulations,
2 which define terms that operators are used to
3 dealing with, "pipeline" means all parts of
4 those physical facilities through which gas
5 moves in transportation, including pipe,
6 valves, and other appurtenance attached to
7 pipe, compressor units, metering stations,
8 regulator stations, delivery stations, holders,
9 and fabricated assemblies." So, basically, in
10 shorthand, "everything attached to the pipe is
11 part of the pipeline", even including the
12 compressor stations.

13 So, I think, by adding words to these
14 rules, we may be confusing things. I'm not
15 sure. But I just want everybody to keep that
16 in mind. That the operators think of the
17 pipeline as "everything attached to the
18 pipeline".

19 So, let's just think about that while
20 we're going through these considerations.

21 CHAIRMAN HONIGBERG: So, the record
22 is clear, the expert you're referring to,
23 Commissioner Bailey?

24 CMSR. BAILEY: Is Randall Knepper,

1 the Division of -- the Safety Division Director
2 at the Public Utilities Commission.

3 CHAIRMAN HONIGBERG: What you've read
4 from the Federal Regulations creates a problem
5 in my mind for the proposed definition that we
6 have in our proposal regarding in 102.221,
7 which is the definition of "high pressure gas
8 pipeline". We have a much narrower definition
9 than that.

10 So, we either have to adopt in some
11 way all of the federal definitions and make
12 attendant changes or we need to amend our own
13 definition, create a new definition, or add
14 language, just use the existing definition that
15 we have and add language as it's been proposed.
16 Because, I think, if we don't, we are going to
17 confuse things further.

18 CMSR. BAILEY: I agree. I think,
19 however, that "facility", and we've used
20 "facility" in several places, includes all of
21 those things, plus the right-of-way, the fence,
22 those kinds of things. And, so, maybe we leave
23 "high pressure gas pipeline" as we have it
24 defined, and we look at the term "facility" as

1 encompassing everything. And let me see if I
2 can find an example.

3 Oh. Look at 301.03(e)(3). And, so,
4 (e) says "If the application is for an energy
5 facility," which a high pressure gas pipeline
6 would be, "including an energy transmission
7 pipeline, that is not an electric generating
8 facility or an electric transmission line, the
9 application shall include: (3) The facility's
10 size and configuration", to which we added
11 "including for high pressure gas pipelines, any
12 associated compressor stations". But a
13 "facility" includes high pressure gas
14 pipelines, everything attached to those
15 pipelines, including compressor stations, then,
16 by adding that language, we may be excluding
17 something else. So, "The facility's size and
18 configuration" includes "high pressure gas
19 pipelines", in my opinion.

20 VICE CHAIRMAN BURACK: Mr. Chairman?

21 CHAIRMAN HONIGBERG: Commissioner
22 Burack.

23 VICE CHAIRMAN BURACK: Thank you. My
24 take on this would be that it would be very

1 difficult for us to assume or expect others to
2 assume into definition of "facility" certain
3 elements that are not specifically stated. And
4 I think that it would be -- I would feel more
5 comfortable if we were to take our existing
6 definition of "high pressure gas pipeline" and,
7 in some fashion, either conform it to the
8 definition that was read to us earlier, which I
9 assume were out of the PHMSA regulations?

10 CMSR. BAILEY: Federal Pipeline
11 Safety.

12 VICE CHAIRMAN BURACK: Federal
13 Pipeline Safety Regulations, either conform our
14 definition to that definition or to adopt that
15 definition by reference.

16 I'm not comfortable with the notion
17 of trying to bootstrap to a broader
18 understanding of what a pipeline is based on
19 the term "facility". I think the term
20 "facility" carries those other kind of broader
21 understandings and expectations as we have
22 applied it across a range of different kinds of
23 energy facilities, to include, for example, all
24 of the land affected, the fencing and that kind

1 of thing, as Commissioner Bailey has suggested
2 otherwise. But I don't know that one could
3 necessarily expect that folks would have those
4 same understandings with respect to the
5 detailed elements, for example, of a gas
6 pipeline.

7 And, I think, as I said, I would feel
8 more comfortable if we were to somehow conform
9 this definition here in Site 102.221 to what we
10 heard about the Federal Regulations or to adopt
11 the federal regulation by reference.

12 CHAIRMAN HONIGBERG: I concur in
13 which of what you just said.

14 Director Muzzey.

15 DIR. MUZZEY: To further complicate
16 the question, at Site 102.19, we have defined
17 "energy facility". And, then, at 102.20, we've
18 defined "energy transmission pipeline". And,
19 so, those -- those two are in the mix as well.

20 VICE CHAIRMAN BURACK: Director
21 Muzzey, for the benefit of those who -- of
22 those of us who do not have the language for
23 those two provisions right in front of us,
24 would you be kind enough to read those to us?

1 DIR. MUZZEY: I would be, with the
2 warning that "energy facility" is a fairly long
3 definition, --

4 VICE CHAIRMAN BURACK: Oh.

5 DIR. MUZZEY: -- with (a) through
6 (g).

7 VICE CHAIRMAN BURACK: You know, I
8 have -- thank you. I have just been handed a
9 copy, and I will read it for myself. Thank
10 you.

11 CHAIRMAN HONIGBERG: And I would also
12 note that the definition of "energy facility"
13 is one of those rules that repeats a statute.

14 ADMINISTRATOR MONROE: Correct.

15 CHAIRMAN HONIGBERG: So, that is a
16 statutory definition that we've adopted in the
17 rules, for better or worse.

18 ADMINISTRATOR MONROE: I can tell you
19 that the term "energy transmission pipeline" is
20 used in three places in the rules. And
21 Mr. Knepper is here, I talked to him about
22 this, because "energy transmission pipeline"
23 also includes oil pipelines.

24 CHAIRMAN HONIGBERG: Yes. That's

1 been an awkward phrase for years. And no one's
2 quite -- has ever been quite sure what it's
3 supposed to mean. But I think there had been a
4 definition in our rules. And, so, we can use
5 that. I don't think that necessarily
6 complicates the discussion we're having right
7 now, because "high pressure gas pipelines" are
8 a thing. They may also be other things, that
9 may fit within broader definitions, but they
10 are a specific thing that we have to deal with
11 here.

12 Commissioner Bailey, would you please
13 reread that definition from the Federal
14 Regulations. And I think I may have a
15 tentative proposal, based on it, once you are
16 done.

17 CMSR. BAILEY: "Pipeline" means all
18 parts of those physical facilities through
19 which gas moves in transportation, including
20 pipe, valves, and other appurtenance attached
21 to pipe, compressor units, metering stations,
22 regulator stations, delivery stations, holders,
23 and fabricated assemblies."

24 CHAIRMAN HONIGBERG: I think,

1 consistent with what Commissioner Burack said,
2 we could adapt that definition and replace what
3 we have in 102.221 with essentially that
4 definition. And, then, again, consistent with
5 what we were talking about earlier, simplify
6 the language, go back to the language in
7 301.08, that doesn't include the additional
8 types of equipment that's referenced in the
9 proposed amendment, but it would also, I think,
10 allow us, in 301.03(e)(3), to delete the
11 additional language that we were proposing to
12 include. Because it would apply to -- if this
13 rule already applies to high pressure gas
14 pipelines, it would -- anyone applying for a
15 Certificate of Site and Facility for a high
16 pressure gas pipeline would describe the
17 facility's size and configuration, and you
18 wouldn't need a specific reference to high
19 pressure gas pipelines, because it would all be
20 included, and it would include compressor
21 stations and everything else.

22 That is not necessarily true of some
23 of the other sections, which we need to take a
24 look at. But, at least in 301.03, I think one

1 of the unintended consequences we were
2 concerned about would actually allow us to
3 remove some language.

4 Commissioner Burack, you look like
5 you wanted to say something?

6 VICE CHAIRMAN BURACK: No, I was just
7 starting to look through the other language
8 here. And I agree with you, it would simplify
9 things, and, in fact, I think it would have the
10 added benefit of ensuring that, by being as
11 sort of limited and restrictive as we are in
12 this, we don't unintentionally limit the
13 information that we actually might want to have
14 up front about a particular facility. For
15 example, with respect to its -- depending,
16 again, how we phrase these things, it may well
17 be that we really would want to have
18 information about holders and pigging stations
19 and other things like that up front, as part of
20 the facility's size and configuration. And the
21 way this is drafted, we wouldn't get that
22 information necessarily, unless it were
23 volunteered to us.

24 And, likewise, in 301.03(e)(6)a,

1 where we ask for an "inventory of products and
2 waste streams", and right now we say "including
3 blowdown emissions from a high pressure gas
4 pipeline and any associated compressor
5 station(s)", by having that clause "any
6 associated compressor station(s)", we are
7 effectively limiting the information that we're
8 asking for. And it may be, depending on the
9 design of that particular pipeline, that there
10 could be other blowdown emissions from other
11 aspects of the facility that we would want to
12 know about up front.

13 So, I think that this is actually
14 going to be more helpful to all of us, if we
15 can make the kind of revisions that are being
16 suggested here.

17 But it does -- it probably does mean
18 we need to take another break and work through
19 the language and make sure that we've got it
20 all right.

21 CHAIRMAN HONIGBERG: I think you're
22 right. I think what's going to need to happen
23 is to adapt that definition. I think we need
24 to decide whether a definition of "compressor

1 station" is ultimately going to be needed after
2 we've done that. But look then at the other
3 sections that we've been adding to see what
4 needs to be changed, simplified, streamlined.
5 We may not be changing very much, as I've been
6 flipping through this. But that 301.03(e)(3)
7 caught my eye as one that I think we're going
8 to be able to deal with in a different way than
9 I think we anticipated.

10 Are there other thoughts? I'm afraid
11 we're going to need to take a break. But,
12 before we do that, Director Muzzey, then
13 Ms. Whitaker.

14 DIR. MUZZEY: So, if we replace our
15 current proposed definition for "high pressure
16 gas pipeline" with language for what's defined
17 as "pipeline" in the language that Commissioner
18 Bailey read, would we need to put at the end
19 "at a pressure greater than required to operate
20 a distribution line"?

21 *[Chairman Honigberg nodding in*
22 *the affirmative.]*

23 DIR. MUZZEY: Okay.

24 CHAIRMAN HONIGBERG: Yes.

1 DIR. MUZZEY: Okay.

2 CHAIRMAN HONIGBERG: Ms. Whitaker.

3 MS. WHITAKER: Commissioner Bailey,
4 when you read the Federal Regulation
5 definition, did it refer just to a pipeline
6 that transports gas? I'm sorry to make you
7 read it again.

8 CMSR. BAILEY: That's okay. "Through
9 which gas moves in transportation". So, it is
10 gas, yes.

11 MS. WHITAKER: So, would we also need
12 to include other flammable gases?

13 CMSR. BAILEY: No, gas is gas.

14 MS. WHITAKER: Okay. So, then, in
15 the definition of "energy transmission line",
16 it also included "oil".

17 CMSR. BAILEY: Right. We're not
18 changing the "energy transmission line"
19 definition.

20 MS. WHITAKER: Right. But do we
21 limit ourselves in any way if we reference this
22 Federal Regulation definition that just
23 references "gas"?

24 CMSR. BAILEY: I don't think so.

1 MS. WHITAKER: Okay.

2 CMSR. BAILEY: Because the reason
3 that we came up with the definition for "high
4 pressure gas pipeline" was to distinguish it
5 from the "energy transmission pipeline"
6 definition.

7 MS. WHITAKER: Okay.

8 CMSR. BAILEY: And we're creating
9 rules that only apply, in this instance, to
10 high pressure gas pipelines.

11 MS. WHITAKER: Gas pipelines. Thank
12 you.

13 CHAIRMAN HONIGBERG: All right. Are
14 there other thoughts, before we take what I
15 hope will be a relatively short break?

16 *[No verbal response.]*

17 CHAIRMAN HONIGBERG: All right. I'm
18 going to estimate 30 minutes here.

19 Commissioner Bailey would like a
20 lower estimate.

21 CMSR. BAILEY: Off the record.

22 *[Brief off-the-record discussion*
23 *ensued.]*

24 CHAIRMAN HONIGBERG: On the record.

1 We're going to take as short a break as we
2 possibly can, and be back here as quickly as we
3 can.

4 (Recess taken at 1:30 p.m. and
5 the meeting resumed at 1:54
6 p.m.)

7 CHAIRMAN HONIGBERG: Thank you all
8 for your patience. Commissioner Bailey and I
9 and the Administrator, and Ms. Schuetz, and
10 Mr. Knepper had a chance to review the
11 situation, the language in the federal rules,
12 which Mr. Knepper knows better than all of the
13 rest of us put together, Mr. Iacopino was with
14 us as well. I think we have worked through a
15 series of changes that will be fairly easy to
16 understand and clear once we're done. And I
17 think we'll go in numerical order through the
18 rules as to what changes need to be made from
19 the Initial Proposal.

20 And I will recognize Commissioner
21 Bailey regarding the definition of "high
22 pressure gas pipeline" in Site 102.221.

23 CMSR. BAILEY: As we discussed before
24 the break, I would move that we define "high

1 pressure gas pipeline" to mean "all parts of
2 those physical facilities through which gas
3 moves in transportation, including pipe,
4 valves, and other appurtenances attached to
5 pipe, compressor units, metering stations,
6 regulator stations, delivery stations, holders,
7 and fabricated assemblies, at a pressure
8 greater than required to operate a distribution
9 pipeline."

10 CHAIRMAN HONIGBERG: Does everyone
11 understand -- wait a minute. Is there a second
12 to that motion?

13 CMSR. ROSE: Second.

14 CHAIRMAN HONIGBERG: Commissioner
15 Rose seconds.

16 Does everyone understand the changes
17 that's been proposed?

18 *[Multiple members nodding in the*
19 *affirmative.]*

20 CHAIRMAN HONIGBERG: All right. Is
21 there any further discussion?

22 *[No verbal response.]*

23 CHAIRMAN HONIGBERG: Seeing none, all
24 in favor say "aye"?

1 *[Multiple members indicating*
2 *"aye".]*

3 CHAIRMAN HONIGBERG: Any opposed?

4 *[No verbal response.]*

5 CHAIRMAN HONIGBERG: All right. The
6 eyes have it.

7 I will recognize Commissioner Bailey
8 to discuss Site 301.03(e)(3).

9 CMSR. BAILEY: Having defined "high
10 pressure gas pipeline" as we just did, when
11 somebody comes in to site a facility for a high
12 pressure gas pipeline, all of those things are
13 now included. So, I would suggest that we
14 delete all of the old italicized new language
15 from this rule, and just require the applicant
16 to describe the facility's size and
17 configuration, which would include all of those
18 things.

19 CHAIRMAN HONIGBERG: Commissioner
20 Bailey moves that 301.03(e)(3) read "The
21 facility's size and configuration," which is
22 as it is in the current rules, but is an
23 amendment to our Initial Proposal. So, it will
24 require crossing out of that language in the

1 Initial Proposal.

2 Is there a second to that motion?

3 CMSR. SCOTT: Second.

4 CHAIRMAN HONIGBERG: Is there any
5 further discussion?

6 Director Muzzey.

7 DIR. MUZZEY: Looking at 301.03(e),
8 "If the application is for an energy facility,
9 including an energy transmission pipeline, that
10 is not an electric generating facility or an
11 electric transmission line", *etcetera*, is there
12 any need to put "including an energy
13 transmission pipeline or a high pressure gas
14 pipeline"?

15 CHAIRMAN HONIGBERG: I would answer
16 "no".

17 DIR. MUZZEY: Okay.

18 CHAIRMAN HONIGBERG: These rules
19 already apply to high pressure gas pipelines.
20 It is -- and that's old, existing language. We
21 were directed by statute to enact whatever
22 additional rules would be appropriate for high
23 pressure gas pipelines, but these rules already
24 applied. And a high pressure gas pipeline fits

1 within the definition of "energy facility", it
2 also fits within the definition of an "energy
3 transmission pipeline".

4 So, we were already covered there.

5 DIR. MUZZEY: Okay. That's great.

6 Thank you.

7 CHAIRMAN HONIGBERG: All right. Is
8 there any further discussion?

9 *[No verbal response.]*

10 CHAIRMAN HONIGBERG: Seeing none, all
11 in favor please say "aye"?

12 *[Multiple members indicating
13 "aye".]*

14 CHAIRMAN HONIGBERG: Any opposed?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: All right. The
17 ayes have it.

18 I'll recognize Commissioner Bailey on
19 Site 301.03(e)(6).

20 CMSR. BAILEY: In this rule, the
21 applicant is required to include production
22 information, specifically in a., "An inventory
23 of products and waste streams, including
24 blowdown emissions from a high pressure gas

1 pipeline". Now, that includes everything that
2 we talked about. So, I don't think we need the
3 phrase "and any associated compressor
4 stations".

5 So, I would move that we delete the
6 phrase "and any associated compressor
7 stations," from Site 301.03(e)(6)a.

8 CHAIRMAN HONIGBERG: Is there a
9 second to that motion? I'll note that the
10 comma was deleted in an earlier motion, when we
11 were fixing OLS typos.

12 Is there a second to Commissioner
13 Bailey's motion?

14 CMSR. SCOTT: Second.

15 CHAIRMAN HONIGBERG: Any further
16 discussion?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: Seeing none, all
19 in favor say "aye"?

20 *[Multiple members indicating
21 "aye".]*

22 CHAIRMAN HONIGBERG: Any opposed?

23 *[No verbal response.]*

24 CHAIRMAN HONIGBERG: All right. The

1 ayes have it.

2 I'll recognize Commissioner Bailey on
3 301.03(e)(8)c.

4 CMSR. BAILEY: Here, this rule
5 specifically applies to "high pressure gas
6 pipelines, the following information" needs to
7 be included. And, in c., the requirement is to
8 include "Operation and maintenance information,
9 including a description of measures to be taken
10 to notify adjacent landowners and minimize
11 sound during blowdown events at pipelines and
12 compressor stations." I don't believe we need
13 "pipelines and compressor stations" in this
14 phrase, because -- or, in this rule, because
15 it's already included -- everything is included
16 in the definition of "high pressure gas
17 pipeline".

18 CHAIRMAN HONIGBERG: So, the specific
19 motion is to delete the words "at pipelines and
20 compressor stations" at the end of that
21 section?

22 CMSR. BAILEY: It is.

23 CHAIRMAN HONIGBERG: All right. Is
24 there a second?

1 CMSR. SCOTT: Second.

2 CHAIRMAN HONIGBERG: Is there any
3 further discussion?

4 *[No verbal response.]*

5 CHAIRMAN HONIGBERG: Seeing none, all
6 in favor say "aye"?

7 *[Multiple members indicating
8 "aye".]*

9 CHAIRMAN HONIGBERG: Any opposed?

10 *[No verbal response.]*

11 CHAIRMAN HONIGBERG: The ayes have
12 it. And, now, we'll go to --

13 MS. WEATHERSBY: Marty? Mr. Chair?

14 CHAIRMAN HONIGBERG: I'm sorry. Ms.
15 Weathersby.

16 MS. WEATHERSBY: I'm wondering if we
17 also want to amend (8), Section (8)a, just
18 above, which also gets into some specifics
19 concerning compressor stations? My suggestion
20 would be to amend that as follows:

21 "Construction information, including a
22 description of the pipe to be used, depth of
23 pipeline placement, type of fuel for power, and
24 a description of any emergency shutdown

1 system." So, striking, before "power", "to be
2 used to", and, after "power", striking "any
3 associated compressor station", and also
4 striking, in the last line, the words
5 "compressor station".

6 CHAIRMAN HONIGBERG: You've made that
7 motion. Is there a second?

8 *[No verbal response.]*

9 CHAIRMAN HONIGBERG: Is there a
10 second for the purposes of discussion?

11 CMSR. SCOTT: Second.

12 CHAIRMAN HONIGBERG: Commissioner
13 Scott.

14 CMSR. SCOTT: I wonder, in this case,
15 if it's appropriate to leave that in there. I
16 think what the commenters were looking for was
17 explicitly the fuel source of the compressor
18 station. If we took "compressor station" out
19 in this case, we would actually be becoming
20 more stringent, not less stringent, I think.
21 Because now, if there's some ancillary heating
22 device or something, now they have to provide
23 the fuel source for that.

24 So, I think, in this case, I'm fine

1 with leaving it as is.

2 CHAIRMAN HONIGBERG: I understood
3 this section truly to be about concerns about
4 the compressor station. What fuel was to be
5 used, and what you would do in the event of a
6 shutdown of the compressor stations.

7 Again, I don't think we got comments
8 that were looking for it to be expanded.

9 Ms. Weathersby.

10 MS. WEATHERSBY: It may just reflect
11 my ignorance concerning pipeline. I didn't
12 know if there would be other emergency shutdown
13 systems within the pipeline, other than at
14 compressor stations.

15 CHAIRMAN HONIGBERG: I will represent
16 that, having just discussed this matter with
17 Mr. Knepper, he did not believe that this
18 section needed to be amended as we are amending
19 the others under the theory that we're
20 pursuing. I can't represent that I know that
21 myself. I can only channel Mr. Knepper on that
22 one.

23 Any further -- Ms. Weathersby.

24 MS. WEATHERSBY: Then, you know, if

1 the experts are satisfied, then I will withdraw
2 my motion.

3 CHAIRMAN HONIGBERG: Commissioner
4 Scott, I assume you'll withdraw your second?

5 CMSR. SCOTT: Correct.

6 CHAIRMAN HONIGBERG: All right. Now,
7 I'll recognize Commissioner Bailey again to
8 deal with the section that started all this,
9 301.08(c)(1).

10 CMSR. BAILEY: Okay. In this
11 provision, we need to add some language that
12 Staff recommended. So, we have to go back to
13 the Staff Summary of the Comments, on Page 3.
14 Because we do want the comprehensive health
15 impact assessment to be prepared by an
16 independent health and safety expert, and we do
17 want them to evaluate potential short-term and
18 long-term human health impacts. But we don't
19 need to call out "compressor, valve, metering,
20 and pigging stations", if we leave the language
21 for "facility-related contaminants" in. So,
22 what I would move is that we revise Site
23 301.08(c)(1) to read as follows: "A
24 comprehensive health impact assessment prepared

1 by an independent health and safety expert in
2 accordance with nationally recognized
3 standards, and specifically designed to
4 identify and evaluate potential short-term and
5 long-term human health impacts by identifying
6 potential pathways for facility-related
7 contaminants from high pressure gas pipelines
8 to harm human health, quantifying the
9 cumulative risks posed by any contaminants, and
10 recommending necessary avoidance, minimization,
11 or mitigation".

12 CHAIRMAN HONIGBERG: Is there a
13 second?

14 CMSR. SCOTT: Second.

15 CHAIRMAN HONIGBERG: Any discussion
16 or questions?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: Seeing none, all
19 in favor say "aye"?

20 *[Multiple members indicating*

21 *"aye".]*

22 CHAIRMAN HONIGBERG: Are there any
23 opposed?

24 *[No verbal response.]*

1 CHAIRMAN HONIGBERG: The eyes have
2 it.

3 Commissioner Bailey, are there any
4 other sections that require amendment, in light
5 of the changed definition in 102.221?

6 CMSR. BAILEY: No, I do not believe
7 any other changes are necessary.

8 CHAIRMAN HONIGBERG: All right. Does
9 anybody have any other issues that we'll want
10 to raise or discuss, before adopting all of the
11 language as we have amended it numerous times
12 during this meeting?

13 Director Muzzey.

14 DIR. MUZZEY: At 301.08 --

15 *[Court reporter interruption.]*

16 DIR. MUZZEY: At Site 301.08(c)(3)a,
17 (3) reads "A description of planned setbacks
18 that indicate the distance between:" And,
19 then, a. reads "The proposed pipeline and
20 existing buildings on, and the boundaries of,
21 abutting properties". The phrase "The proposed
22 pipeline and existing buildings on", is that
23 the same meaning as we've now defined "high
24 pressure gas pipelines" or is that something

1 different?

2 CHAIRMAN HONIGBERG: Understanding
3 that a., b., and c. appeared as they did
4 before, to deal with different parts of the
5 pipeline in a. and c., versus b., I think the
6 thinking that we had coming into this session
7 here is that a. and c. refer to less than all,
8 and b. refers to the very specific compressor
9 stations. Well, let me do that again. It's b.
10 that applies to less than all, it applies to
11 the compressor station, a. and c. apply to all,
12 the entire facility. Because the introductory
13 phrase is "For high pressure gas pipelines", up
14 in (c) above, then a. and c. just don't repeat
15 the whole words, but they are a reference to
16 the entire facility, whereas b., which is the
17 more -- is the -- that concerns proximity to
18 the more sensitive places is called out
19 specifically in b.

20 Did I muddy that sufficiently so that
21 no one understands what I just said?

22 DIR. MUZZEY: I think I understand
23 what you said.

24 CHAIRMAN HONIGBERG: A few. Sorry

1 about that.

2 DIR. MUZZEY: I'm just wondering
3 that, with time, will it be a point of
4 confusion, though? Because, in a. and c.,
5 we're wording those two things differently, and
6 I'm not sure, I think we mean the same thing.
7 And I think, in both a. and c., we are
8 referring to "high pressure gas pipelines".

9 CHAIRMAN HONIGBERG: Commissioner
10 Bailey.

11 CMSR. BAILEY: I agree. I think it
12 would be clarified to repeat the words, even
13 though "high pressure gas pipeline" is in the
14 beginning of this section, the use of the word
15 "pipeline" I think does create some ambiguity
16 as to whether we're talking about just the
17 physical pipe --

18 DIR. MUZZEY: Uh-huh.

19 CMSR. BAILEY: -- or the whole entire
20 facility. We could say "the proposed facility
21 and existing buildings", if we didn't want to
22 repeat the words "high pressure gas pipeline".

23 CHAIRMAN HONIGBERG: Since this just
24 refers to "high pressure gas pipelines",

1 replacing the word "pipeline" in (3)a and (3)c
2 with the word "facility" would accomplish what
3 you're proposing.

4 Commissioner Bailey moves that, in
5 301.08(c) --

6 CMSR. BAILEY: She raised it.

7 CHAIRMAN HONIGBERG: -- she's going
8 to second it -- (c)(3)a and c, that the word
9 "pipeline" be replaced with the word
10 "facility". And so that (3)a would read "The
11 proposed facility and existing buildings on,
12 and the boundaries of, abutting properties,"
13 and c would read "The proposed facility and any
14 overhead or underground electric transmission
15 line within one-half mile of the pipeline;"

16 I believe Director Muzzey will second
17 that motion. Am I correct?

18 DIR. MUZZEY: For purposes of
19 discussion, I second the motion.

20 CHAIRMAN HONIGBERG: All right. Is
21 there any discussion?

22 CMSR. SCOTT: Mr. Chair?

23 CHAIRMAN HONIGBERG: Commissioner
24 Scott.

1 CMSR. SCOTT: So, if I'm remembering
2 right, "facility" again would include fence
3 line, easements, *etcetera*, is that our
4 understanding?

5 CHAIRMAN HONIGBERG: It's the
6 proposed facility, which includes everything.

7 CMSR. SCOTT: Right. So, I do not
8 believe, in this discrete case, that was the
9 concern. I think it was the exist -- the part
10 of the facility that carries gas was the
11 concern for these setbacks. So, if that makes
12 sense?

13 So, I don't think there was an issue
14 with, unless I misunderstood the comments, the
15 distance between the fence, if there is one,
16 and these other things. I thought it was
17 the -- the concern was the existence between
18 the thing that's carrying the molecules of gas,
19 the explosive content, if you will, and those
20 entities.

21 So, in that case, I think "pipeline"
22 itself may be what they meant here.

23 CHAIRMAN HONIGBERG: Ms. Weathersby,
24 then Director Muzzey.

1 MS. WEATHERSBY: I think this can be
2 solved by changing the word "pipeline" to "high
3 pressure gas pipeline" in a. and c., just
4 repeating that phrase. So, we know that it's
5 referring to the high pressure gas pipeline as
6 we've defined it, and not the fences, etcetera.

7 CHAIRMAN HONIGBERG: Director Muzzey.

8 DIR. MUZZEY: I would agree with that
9 as well.

10 CHAIRMAN HONIGBERG: Commissioner
11 Bailey.

12 CMSR. BAILEY: Well, picking up on
13 Commissioner Scott's thoughts just for the
14 moment, do we need to have setbacks from
15 compressor stations, which didn't appear --
16 wasn't apparently included in this rule before?

17 CHAIRMAN HONIGBERG: I disagree with
18 that. It was.

19 MR. IACOPINO: It's in b.

20 CHAIRMAN HONIGBERG: It clearly was.
21 It was in b.

22 CMSR. BAILEY: In b.

23 DIR. MUZZEY: And, again, we're not
24 requiring anything with this. This is a

1 request for information and a description --

2 CMSR. BAILEY: Okay.

3 DIR. MUZZEY: -- of the planned
4 setbacks and the distance between.

5 CMSR. BAILEY: So, what are we
6 including, in addition to what was already
7 here, by making this "high pressure gas
8 pipeline"? I guess we're including setbacks
9 from "valves, other appurtenances attached to
10 the pipe, metering stations, regulator
11 stations, delivery stations, holders, and
12 fabricated assemblies."

13 That's what everybody wants to do?

14 CHAIRMAN HONIGBERG: I think the
15 theory of Commissioner Scott there is that
16 those are things that have the molecules in
17 them.

18 CMSR. BAILEY: Okay. All right. I
19 would like to amend --

20 CHAIRMAN HONIGBERG: Commissioner
21 Bailey, are you withdrawing your motion?

22 CMSR. BAILEY: Yes, I will withdraw
23 my motion.

24 CHAIRMAN HONIGBERG: And, Director

1 Muzzey, you will withdraw your second,
2 presumably?

3 DIR. MUZZEY: Yes.

4 CHAIRMAN HONIGBERG: Commissioner
5 Bailey, you want to make a new motion?

6 CMSR. BAILEY: Yes. I amend -- I
7 mean, I move that we amend Site 301.08(c)(3)a
8 to read "The proposed high pressure gas
9 pipeline and existing buildings on, and the
10 boundaries of, abutting properties;" and make a
11 similar revision to the same rule in c, to
12 state "The proposed high pressure gas pipeline
13 and any overhead or underground electric
14 transmission line within one-half mile of the
15 pipeline;".

16 CHAIRMAN HONIGBERG: Is there a
17 second?

18 DIR. MUZZEY: I'll second.

19 CHAIRMAN HONIGBERG: Director Muzzey
20 seconds. Is there any further discussion?

21 *[No verbal response.]*

22 CHAIRMAN HONIGBERG: Seeing none, all
23 in favor say "aye"?

24 *[Multiple members indicating*

1 "aye".]

2 CHAIRMAN HONIGBERG: Any opposed?

3 [No verbal response.]

4 CHAIRMAN HONIGBERG: The ayes have
5 it. Are there any other sections?

6 Ms. Weathersby.

7 MS. WEATHERSBY: In the same section,
8 (c), subsection (4), I'd amend the last part of
9 that to read as follows: "An explanation of
10 why the setbacks described" --

11 CHAIRMAN HONIGBERG: Slowly.

12 MS. WEATHERSBY: -- "described by the
13 applicant in response to Section (3) above, are
14 adequate to protect the public from risks
15 associated with the operation of the", and I
16 would add "high pressure gas pipeline", and
17 then end the sentence there, striking "and any
18 associated compressor station".

19 CHAIRMAN HONIGBERG: Is there a
20 second?

21 CMSR. BAILEY: Second.

22 CHAIRMAN HONIGBERG: Any further
23 discussion?

24 [No verbal response.]

1 CHAIRMAN HONIGBERG: Seeing none, all
2 in favor say "aye"?

3 *[Multiple members indicating*
4 *"aye".]*

5 CHAIRMAN HONIGBERG: Any opposed?

6 *[No verbal response.]*

7 CHAIRMAN HONIGBERG: The ayes have
8 it.

9 Any other sections?

10 *(Short pause.)*

11 CHAIRMAN HONIGBERG: Director Muzzey.

12 DIR. MUZZEY: On Page 5, the very end
13 of our Initial Proposal from 5/18/2016, in
14 Section 301.14(f)(6), and this may be being
15 repetitive, but I thought I would mention it.
16 "For high pressure gas pipelines, consider the
17 results of the comprehensive health impact
18 assessment, the proximity of electric
19 transmission lines to the high pressure gas
20 pipeline", is that substitution needed for
21 "pipeline" there, given what we just voted on?

22 CHAIRMAN HONIGBERG: Quite possibly.

23 CMSR. SCOTT: Mr. Chair, I would
24 argue it may not be necessary, but it's

1 certainly consistent with what we just did.

2 CHAIRMAN HONIGBERG: Director Muzzey
3 has moved that we amend (6) to add the words
4 "high pressure gas" before "pipeline" in the
5 second line of that section, the section she
6 discussed.

7 Is there a second?

8 MS. WEATHERSBY: I second that.

9 CHAIRMAN HONIGBERG: Any further
10 discussion?

11 *[No verbal response.]*

12 CHAIRMAN HONIGBERG: Seeing none, all
13 in favor say "aye"?

14 *[Multiple members indicating*
15 *"aye".]*

16 CHAIRMAN HONIGBERG: Any opposed?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: The ayes have
19 it.

20 Anything else? Ms. Monroe.

21 ADMINISTRATOR MONROE: I did --
22 excuse me. I neglected to bring up one brief
23 issue. I just wanted to let the Committee know
24 that we did send the draft rules to the policy

1 committees at the Legislature. It was
2 Representative James Belanger, House Municipal
3 and County Government Committee. He responded
4 that he had no other concerns about the
5 proposed rules after reviewing them.

6 And I received a -- they were also
7 sent to Senator Jeb Bradley, with the Senate
8 Energy and Natural Resources Committee, and he
9 responded "These look good."

10 CHAIRMAN HONIGBERG: All right.
11 Ms. Weathersby, did you have something else?

12 MS. WEATHERSBY: I did. I just have
13 one other minor possible change. I noticed
14 when I was looking through these the last time.
15 This concerns 301.08(c)(2). And I wonder if we
16 also want to add the word "independent", before
17 the word "expert", to be consistent with the
18 CHIA. We required that one to be an
19 "independent expert", and the sound and
20 vibration impact assessment probably should
21 also be prepared by an independent expert in
22 the field.

23 So, I would just move that we add the
24 word "independent" before "expert" in that

1 section.

2 CHAIRMAN HONIGBERG: Is there a
3 second?

4 CMSR. SCOTT: I'll second for the
5 sake of discussion.

6 CHAIRMAN HONIGBERG: Any discussion?
7 Commissioner Scott.

8 CMSR. SCOTT: Yes. I just want to
9 clarify. I think we're all on the same page.
10 When we say "independent expert", we're -- I
11 think the implication is, it should not be the
12 company's expert, meaning an employee of the
13 company. Is that -- are we all on the same
14 page? Is that what we mean?

15 MS. WEATHERSBY: Yes. Independent or
16 a third party, someone who's not associated
17 with the applicant.

18 CHAIRMAN HONIGBERG: Any other
19 discussion? Commissioner Bailey.

20 CMSR. BAILEY: Did we have any
21 comments to add this? And are there any -- can
22 anybody think of any unintended consequences?
23 I don't think it's a problem. But we're adding
24 a word where nobody asked us to add a word.

1 ADMINISTRATOR MONROE: I don't see a
2 problem with it.

3 CHAIRMAN HONIGBERG: Director Muzzey.

4 DIR. MUZZEY: I believe, in testimony
5 at our last hearing, there was a gentleman who
6 spoke about the need to have independent
7 experts in general, versus just relating to the
8 CHIA health assessment. He also spoke of the
9 need to have New Hampshire independent experts,
10 which I'm not sure we can address. But he did
11 speak in general about that. If that makes you
12 feel better.

13 CMSR. BAILEY: Thank you.

14 CHAIRMAN HONIGBERG: Any further
15 discussion?

16 *[No verbal response.]*

17 CHAIRMAN HONIGBERG: Seeing none, all
18 in favor say "aye"?

19 *[Multiple members indicating*
20 *"aye".]*

21 CHAIRMAN HONIGBERG: Any opposed?

22 *[No verbal response.]*

23 CHAIRMAN HONIGBERG: The "ayes" are
24 getting less enthusiastic. But all I heard was

1 "ayes". And, so, we're going to say that the
2 ayes have it.

3 Is there any other -- are there any
4 other matters we need to address in the rules?

5 *[No verbal response.]*

6 CHAIRMAN HONIGBERG: No?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: All right. What
9 we need to do is have Ms. Monroe go through
10 each of the changes that has been made. And,
11 then, basically read whatever's been changed.
12 If there's been no change, say "there's no
13 change to this section", "no change to this
14 section". But, when there is a change, you're
15 going to -- we're going to read it through into
16 the record to confirm what we have adopted.

17 And, then, we will take -- then, we
18 will have a motion to adopt those rules as they
19 have been read as the Final Proposal, and then
20 we'll be good.

21 This will take a few minutes, but it
22 won't take as long as you fear.

23 ADMINISTRATOR MONROE: Okay. So,
24 we're going to amend the definition of "high

1 pressure gas pipeline" at Site 102.21.

2 CHAIRMAN HONIGBERG: 102.221.

3 ADMINISTRATOR MONROE: 221, to state
4 "high pressure gas pipeline" means all parts
5 of those physical facilities through which gas
6 moves in transportation, including pipe,
7 valves, and other appurtenance attached to
8 pipe, compressor units, metering stations,
9 regulator stations, delivery stations, holders,
10 and fabricated assemblies."

11 CHAIRMAN HONIGBERG: They're leaving
12 during the credits. They don't know that
13 there's a spoiler reel at the end of this show,
14 outtakes, you never know.

15 (Laughter.)

16 CMSR. BAILEY: Mr. Chairman?

17 CHAIRMAN HONIGBERG: Commissioner
18 Bailey.

19 CMSR. BAILEY: To that we need to add
20 "at a pressure greater than required to operate
21 a distribution pipeline".

22 CMSR. SCOTT: That's correct.

23 ADMINISTRATOR MONROE: Thank you. I
24 would add that, "at a pressure greater than

1 required to operate a distribution pipeline".

2 Thank you.

3 Site 301.03(e)(3) shall be amended to
4 state "The facility's size and configuration:"

5 CMSR. BAILEY: Semicolon.

6 CHAIRMAN HONIGBERG: Semicolon.

7 ADMINISTRATOR MONROE: Semicolon. I
8 don't know what I'm -- what's with my colons.
9 I don't know. Anyway, Site 301.03(e)(6) to be
10 amended to state, (6)a, "An inventory of
11 products and waste streams, including blowdown
12 emissions from a high pressure gas pipeline;".

13 Site 301.03(e)(8)c shall read
14 "Operation and maintenance information,
15 including a description of measures to be taken
16 to notify adjacent landowners and minimize
17 sound during blowdown events".

18 CHAIRMAN HONIGBERG: Semicolon.

19 ADMINISTRATOR MONROE: Semicolon.

20 301.08(c)(1) shall be amended to read as
21 follows: "A comprehensive health impact
22 assessment prepared by an independent health
23 and safety expert in accordance with nationally
24 recognized standards, and specifically designed

1 to identify and evaluate potential short-term
2 and long-term human health impacts by
3 identifying potential pathways for
4 facility-related contaminants to harm human
5 health, quantifying the cumulative risks posed
6 by any contaminants, and recommending necessary
7 avoidance, minimization, or mitigation;".

8 CMSR. BAILEY: Can I?

9 CHAIRMAN HONIGBERG: Commissioner
10 Bailey.

11 CMSR. BAILEY: Did you leave out,
12 after reinserting "facility-related
13 contaminants", did you leave out the words
14 "from high pressure gas pipelines"
15 intentionally?

16 MR. IACOPINO: Well, it says it in
17 (c) above.

18 ADMINISTRATOR MONROE: I was reading
19 just (1), (c)(1).

20 CMSR. BAILEY: Right. And, (c)(1),
21 after the words "facility-related", that used
22 to be crossed out that are now put back in.

23 ADMINISTRATOR MONROE: Okay.

24 CMSR. BAILEY: You read "for

1 facility-related contaminants to harm human
2 health".

3 CHAIRMAN HONIGBERG: You know what
4 the problem is? In the Comment Summary
5 document, your version of 301.08(c)(1) had, in
6 regular type, the words "high pressure gas
7 pipelines", which normally meant that was in
8 the Initial Proposal. In fact, it's not in the
9 Initial Proposal.

10 ADMINISTRATOR MONROE: Correct.

11 CHAIRMAN HONIGBERG: This is why we
12 do this right at the end. We make sure we got
13 the language right. So, --

14 ADMINISTRATOR MONROE: So, it
15 would -- it would read as I have just read it.

16 CHAIRMAN HONIGBERG: Yes. I don't
17 think the words are needed, since it's in --

18 CMSR. BAILEY: Okay.

19 ADMINISTRATOR MONROE: Okay.

20 CHAIRMAN HONIGBERG: -- since it's in
21 the phrase that introduces the entire section.
22 And there's no -- it's not like we've got the
23 proposed whatever pipeline, we don't have any
24 shorthand for it in there.

1 CMSR. BAILEY: Okay. Thank you.

2 CHAIRMAN HONIGBERG: So, it as
3 Ms. Monroe just read it, rather than -- you
4 know, actually, that's different from the
5 motion that was made, to tell you the truth.
6 It's different from the motion that was made
7 earlier.

8 CMSR. BAILEY: Except don't we need
9 to have a new motion to adopt everything that
10 she just read?

11 CHAIRMAN HONIGBERG: Yes. We will
12 have a motion at the end that will adopt as a
13 Final Proposal the Initial Proposal with the
14 changes that Ms. Monroe is reading into the
15 record. So, that should clean that up.

16 Although, I think I'd feel more
17 comfortable right now if someone would move to
18 reconsider Commissioner Bailey's earlier motion
19 on Site 301.08(c)(1). Since everyone voted in
20 the affirmative, anybody can make that motion.

21 DIR. MUZZEY: So moved.

22 CHAIRMAN HONIGBERG: Is there a
23 second?

24 CMSR. SCOTT: Second.

1 CHAIRMAN HONIGBERG: All in favor of
2 reconsideration please say "aye"?

3 *[Multiple members indicating*
4 *"aye".]*

5 CHAIRMAN HONIGBERG: All right. So,
6 the motion is open again with -- and it has a
7 variance of the language that I think we, in
8 fact, want to adopt. So, I think we can just
9 vote down the motion and deal with it in one
10 motion at the end. This record is clear as to
11 what we're doing.

12 Is there any legal problem with that,
13 Mr. Iacopino?

14 MR. IACOPINO: No.

15 CHAIRMAN HONIGBERG: All right. So,
16 Commissioner Bailey, are you willing to
17 withdraw the motion?

18 CMSR. BAILEY: I am.

19 CHAIRMAN HONIGBERG: Commissioner
20 Scott?

21 CMSR. SCOTT: Yes.

22 CHAIRMAN HONIGBERG: I assume -- I
23 think you were the second on that?

24 CMSR. SCOTT: Yes, I was.

1 CHAIRMAN HONIGBERG: All right.

2 Ms. Monroe, you may continue.

3 ADMINISTRATOR MONROE: Site
4 301.08(c)(2) would read as follows: "A sound
5 and vibration impact assessment prepared by an
6 independent expert in the field, in accordance
7 with ANSI/ASA S12.9-2013 Part 3 for short-term
8 monitoring and with ANSI S12.9-1992 2013 Part 2
9 for long-term monitoring, including the reports
10 of a preconstruction sound and vibration
11 background study and a sound and vibration
12 modeling study." That includes the editorial
13 language by the Office of Legislative Services.

14 Site 301.08(c)(3)a shall read as
15 follows: "The proposed high pressure gas
16 pipeline and existing buildings on, and the
17 boundaries of, abutting properties."

18 Site 301.08(c)(3)c shall read as
19 follows: "The proposed high pressure gas
20 pipeline and any overhead or underground
21 electric transmission line within one-half mile
22 of the pipeline."

23 Site 301.08(c)(4) shall read as
24 follows: "An explanation of why the setbacks

1 described by the applicant in response to (3),
2 above, are adequate to protect the public from
3 risks associated with the operation of the high
4 pressure gas pipeline;".

5 CMSR. BAILEY: "and".

6 CHAIRMAN HONIGBERG: "and".

7 ADMINISTRATOR MONROE: "and".

8 CMSR. SCOTT: Mr. Chair?

9 CHAIRMAN HONIGBERG: Commissioner
10 Scott.

11 CMSR. SCOTT: On 301.08(c)(3)c, what
12 I just heard is we replaced -- there's two, the
13 word "pipeline" is used twice here. And we
14 replaced the first one with "high pressure gas
15 pipeline", but not the second. I'm not sure I
16 really care that much. But, to be consistent,
17 shouldn't we do both?

18 ADMINISTRATOR MONROE: You could
19 remove the "of the pipeline", I think, at the
20 end of that?

21 CMSR. SCOTT: That's even better.

22 ADMINISTRATOR MONROE: I'll read
23 reread that, just so that we're all clear. So,
24 Site 301.08(c)(3)c would read: "The proposed

1 high pressure gas pipeline and any overhead or
2 underground electric transmission line within
3 one-half mile;".

4 CMSR. SCOTT: Thank you.

5 ADMINISTRATOR MONROE: Site
6 301.14(f)(6) shall read as follows: "The high
7 pressure gas" -- "For high pressure gas
8 pipelines, consider: a. The results of the
9 comprehensive health impact assessment; b. The
10 proximity of electric transmission lines to the
11 high pressure gas pipeline; c. The proximity of
12 any compressor station to schools, day care
13 centers, health care facilities, residences,
14 residential neighborhoods, places of worship,
15 elderly care facilities, and farms; d. The
16 effectiveness of measures undertaken or planned
17 to avoid, minimize, or mitigate such potential
18 adverse effects; and e. The extent to which the
19 measures in d.", small d, "represent best
20 practical measures."

21 Site 302.01(f) shall read as follows:
22 "If the Committee determines following the
23 adjudicative proceeding that a certificate
24 violation has occurred and is continuing, the

1 Committee shall issue an order that suspends
2 the holder's certificate until such time as the
3 violation has been corrected if the Committee
4 determines, after due consideration of any
5 mitigating circumstances and a determination of
6 whether suspension is in the best interests of
7 the public, or would result in an inability to
8 assure that the state has an adequate and
9 reliability supply of energy in conformance
10 with sound environmental principles, the
11 defined criteria have been met:"

12 Site 302.01(f)(2) shall read: "The
13 violation will have an unreasonable adverse
14 effect pursuant to Site 301.14 on aesthetics,
15 historic sites, air and water quality, the
16 natural environment, or public health and
17 safety.

18 Site 302.02(d) shall read as follows:
19 "If the Committee determines following the
20 adjudicative proceeding that a material
21 misrepresentation or violation of RSA 162-H or
22 its rules has occurred, the Committee shall
23 issue an order that suspends the holder's
24 certificate until such time as the holder has

1 corrected and mitigated the consequences of
2 such misrepresentation or violation if the
3 Committee determines, after due consideration
4 of any mitigating circumstances and a
5 determination of whether suspension is in the
6 best interests of the public, or would result
7 in an inability to assure that the state has an
8 adequate and reliable supply of energy in
9 conformance with sound environmental
10 principles, that the following criteria have
11 been met:"

12 Site 302.02(d)(2) shall read as
13 follows: "The violation will have an
14 unreasonable adverse effect pursuant to Site
15 301.14 on aesthetics, historic sites, air and
16 water quality, the natural environment, or
17 public health and safety."

18 I believe that covers it all.

19 CHAIRMAN HONIGBERG: All right. Does
20 anyone have any comments or further corrections
21 that need to be made?

22 *[No verbal response.]*

23 CHAIRMAN HONIGBERG: All right. I'll
24 entertain a motion to adopt as our Final

1 Proposal the Initial Proposal with the changes
2 as Ms. Monroe just read them into the record?

3 CMSR. SCOTT: So moved.

4 CMSR. BAILEY: Second.

5 CHAIRMAN HONIGBERG: Is there any
6 further discussion?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: Seeing none, all
9 in favor say "aye"?

10 *[Multiple members indicating*
11 *"aye".]*

12 CHAIRMAN HONIGBERG: Are there any
13 opposed?

14 *[No verbal response.]*

15 CHAIRMAN HONIGBERG: The ayes have
16 it.

17 CMSR. SCOTT: That was more
18 enthusiastic.

19 CHAIRMAN HONIGBERG: I think people
20 were enthusiastic about that one.

21 So, Ms. Monroe, Ms. Schuetz, and I
22 will be responsible for getting the documents
23 prepared, the appropriate Incorporation by
24 Reference things done, and getting them filed

1 with Legislative Services as soon as we
2 reasonably can.

3 Is there anything else we need to do
4 this afternoon?

5 ADMINISTRATOR MONROE: I believe we
6 need to do that by July 7th.

7 CHAIRMAN HONIGBERG: Plenty of time.
8 It's not even July yet, another few hours. So,
9 that's by, what, end of next week, right? Or,
10 middle of next week. All right. So, we will
11 do that.

12 And I think we're ready to adjourn.
13 Is there anything else?

14 *[No verbal response.]*

15 CHAIRMAN HONIGBERG: Commissioner
16 Scott moves we adjourn.

17 CMSR. SCOTT: Wholeheartedly.

18 CHAIRMAN HONIGBERG: Commissioner
19 Rose seconds. Is there any further discussion?

20 *[No verbal response.]*

21 CHAIRMAN HONIGBERG: Seeing none, all
22 in favor say "aye"?

23 *[Multiple members indicating*
24 *"aye".]*

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CHAIRMAN HONIGBERG: Any opposed?

[No verbal response.]

CHAIRMAN HONIGBERG: The ayes have
it, and we are adjourned.

***(Whereupon the meeting was
adjourned at 2:41 p.m.)***