

STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

August 27, 2010 - 2:10 p.m.  
Public Utilities Commission  
21 South Fruit Street  
Suite 10  
Concord, New Hampshire

DAY 5  
AFTERNOON SESSION  
ONLY

PUBLIC SESSION

RE: Application of Laidlaw Berlin  
BioPower for a Certificate of  
Site and Facility for a 70 MW  
Biomass Fueled Energy Facility  
in Berlin, Coos County, New  
Hampshire.  
(Hearing on the Merits)

PRESENT:

SITE EVALUATION SUBCOMMITTEE:

Thomas Burack, Cmsr. (Presiding as Chairman)	Dept. of Environmental Services
Amy Ignatius, Cmsr.	PUC
William Janelle	DOT
Elizabeth Muzzey	N.H. Div. of Hist. Res.
Harry Stewart	Water Division - DES
Craig Wright	Air Resources Div - DES
Donald Kent	DRED
Christopher Northrop	OEP
Michael Harrington	PUC

\* \* \*

Counsel for the Committee: Michael Iacopino, Esq.

COURT REPORTER: SUSAN J. ROBIDAS, LCR NO. 44

1 ALSO PRESENT:

2 REPRESENTING LAIDLAW BERLIN BIOPOWER, APPLICANT:

3 Barry Needleman, Esq.  
4 Gregory H. Smith, Esq.  
5 Cathryn E. Vaughn, Esq.  
(McLane, Graf, Raulerson &  
Middleton)

6

7 REPRESENTING CITY OF BERLIN:

8 Peter Van Oot, Esq.  
9 Merritt Schnipper, Esq.  
(Downs Rachlin Martin)

10

11 REPRESENTING CLEAN POWER DEVELOPMENT:

12 James T. Rodier, Esq.

13

14

COUNSEL FOR THE PUBLIC:

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16 K. Allen Brooks, Esq.  
17 Peter C. L. Roth, Esq.  
Senior Asst. Attys. General  
N.H. Dept. of Justice

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(Hearing resumed at 2:10 p.m.)

1  
2  
3 CHAIRMAN BURACK: Good  
4 afternoon. Calling to order the afternoon  
5 session of the New Hampshire Site Evaluation  
6 Committee proceedings in SEC Docket No. 2009-02,  
7 Application of Laidlaw Berlin BioPower, LLC for a  
8 Certificate of Site and Facility for a  
9 70-megawatt biomass fuel energy facility in  
10 Berlin, Coos County, New Hampshire.

11 First going to ask counsel for  
12 the Committee, Mr. Iacopino, if he has some  
13 documents to mark.

14 MR. IACOPINO: Yes, Mr.  
15 Chairman. Pursuant to some requests made of the  
16 Applicant during the course of the testimony in  
17 this matter, the Applicant has provided some new  
18 exhibits. The first is marked as Exhibit 67, and  
19 it is entitled, "Community Development Financial  
20 Institutions Fund, New Market Tax Credit, CDE  
21 Certification, Glossary of Terms." And that's a  
22 multi-page exhibit, marked as Exhibit 67.

23 (Laidlaw Exhibit 67 marked for  
24 identification.)

1 MR. IACOPINO: They have also  
2 provided a one-page exhibit entitled, "Cate  
3 Street Capital, Inc. Project Development and  
4 Investment Management." This was submitted at  
5 the request of the Committee and it has been  
6 marked as the Applicant's Exhibit No. 68.

7 (Laidlaw Exhibit 68 marked for  
8 identification.)

9 MR. IACOPINO: The third  
10 exhibit that has been presented to us from the  
11 Applicant in response to a question from the  
12 Committee is entitled, "Laidlaw Berlin BioPower,  
13 LLC Response to Site Evaluation Committee Request  
14 to Applicant's Witness Dammon Frecker for  
15 Information Regarding the Project's Estimated  
16 Wood Fuel Consumption." And this is a two-page  
17 document that is marked as Applicant's Exhibit  
18 No. 69.

19 (Laidlaw Exhibit 69 marked for  
20 identification.)

21 MR. IACOPINO: The Applicant  
22 has also provided a one-page exhibit which has  
23 been marked as Exhibit 70. Exhibit 70 is a  
24 one-page exhibit containing the FIA URL. And

1 that is Exhibit 70, Applicant's Exhibit 70.

2 (Laidlaw Exhibit 70 marked for  
3 identification.)

4 MR. IACOPINO: The next new  
5 exhibit is Exhibit No. 71. It is entitled,  
6 "Kusche," K-U-S-C-H-E, "Supplemental Testimony,  
7 Exhibit 55, Line 16." And this is that portion  
8 of the testimony that Mr. Kusche corrected at the  
9 beginning of his testimony, and it's marked as  
10 exhibit -- Applicant's Exhibit No. 71.

11 CHAIRMAN BURACK: Can you --  
12 okay. Thank you.

13 MR. IACOPINO: I'm sorry. Is  
14 there --

15 CHAIRMAN BURACK: No, we're  
16 fine. Thank you.

17 (Laidlaw Exhibit 71 marked for  
18 identification.)

19 MR. IACOPINO: Okay. And the  
20 final new exhibit from the Applicant is marked as  
21 Exhibit 72, Applicant's Exhibit 72. And it is a  
22 two-page, oversized document containing two  
23 photographs and two insets demonstrating a visual  
24 simulation with ash silo, existing view looking

1 northeast from recreation site towards facility.  
2 That's in the lower right-hand column of the  
3 first page of that exhibit. And that exhibit is  
4 Applicant's Exhibit 72.

5 (Laidlaw Exhibit 72 marked for  
6 identification.)

7 MR. IACOPINO: I also  
8 understand that Mr. Rodier has a motion to make  
9 that pertains to Clean Power Development  
10 Exhibit 3, and a request for redaction and  
11 non-public disclosure.

12 CHAIRMAN BURACK: Mr. Rodier,  
13 do you wish to make that motion at this time?

14 MR. RODIER: Yes, I do. We  
15 complied with the applicable protective order.  
16 What's available on the Committee's Web site is  
17 the public, redacted version of the testimony.  
18 However, when the docket -- our exhibit book was  
19 prepared -- I think it's Exhibit 3 -- it's in  
20 that book. Inadvertently, the non-public,  
21 unredacted version is in the exhibit books handed  
22 out. I don't think anybody on the Committee or  
23 any other party has a copy of that exhibit book.  
24 But in any event, what we really should do is we



1 should substitute for our -- we want to add an  
2 Exhibit 3A, which is the public, redacted  
3 version. And we want to protect the original  
4 Exhibit 3 that's in the exhibit book, which  
5 unfortunately was the unredacted version.  
6 Pursuant to the Committee's applicable protective  
7 order, the Committee recognized that this is, you  
8 know, energy infrastructure critical, something  
9 like that. It should be protected. Everybody  
10 understood that. And it was our error in putting  
11 our book together. So we'd like to correct that.

12 MR. IACOPINO: Can I ask Mr.  
13 Rodier a question?

14 CHAIRMAN BURACK: Please do,  
15 Attorney Iacopino.

16 MR. IACOPINO: Mr. Rodier, as  
17 I understand it, what was contained in the answer  
18 to question -- or in the supplemental testimony  
19 of Mr. Gabler in Exhibit 3 included portions of  
20 the system impact study that was previously ruled  
21 to be a non-public document by the Chairman; is  
22 that correct?

23 MR. RODIER: Yes.

24 MR. IACOPINO: Okay. And so

1 what you're doing is you're offering a redacted  
2 version for a public version. You're asking the  
3 Committee -- you're asking the Chairman to order  
4 that the original Exhibit No. 3 be a non-public  
5 document -- is that correct -- because it  
6 contains critical energy infrastructure  
7 information?

8 MR. RODIER: That's right.

9 MR. IACOPINO: All right. I  
10 have already marked the redacted copy as a public  
11 record, CPD 3A.

12 CHAIRMAN BURACK: Thank you.  
13 I appreciate your motion, Attorney Rodier, and I  
14 grant your motion. And we will follow-up in  
15 writing to set forth and confirm the basis for  
16 our granting of this motion.

17 (CPD Exhibit 3A marked for  
18 identification.)

19 MR. IACOPINO: And I'm passing  
20 out copies of 3A to the Committee. But just so  
21 the Committee knows, Document 3 you're entitled  
22 to, and it has more information in it than 3A.

23 CHAIRMAN BURACK: But  
24 Document 3 should now be labeled as a

1 confidential document.

2 MR. IACOPINO: Yes, you should  
3 label it as, "Confidential," and you should not  
4 disclose it to the public.

5 I understand that Mr.  
6 Needleman has three or four questions asked by  
7 the Committee, where he has been asked to get the  
8 answers and get back to us. And I understand  
9 that he has those answers now, Mr. Chairman. I  
10 don't know if you want to take them up at this  
11 point or --

12 CHAIRMAN BURACK: How much  
13 time do you think you need to provide us with  
14 these answers?

15 MR. NEEDLEMAN: Five minutes.

16 CHAIRMAN BURACK: Five  
17 minutes? Why don't we go ahead and do that, just  
18 so that we can largely complete your case in  
19 chief.

20 MR. NEEDLEMAN: Thank you, Mr.  
21 Chairman.

22 One of the members of the  
23 Committee, I can't remember who, asked what the  
24 criteria were for extending the period of time

1 that the New Market Tax Credit allocations could  
2 be granted. And the information that I've  
3 received tells me that extensions are purely at  
4 the discretion of the allocatees and that the  
5 allocatees have several factors that incentivize  
6 them to disburse these credits quickly, including  
7 that the allocatees get a fee the quicker that  
8 they're disbursed; and also, if they demonstrate  
9 that they are disbursing these, they will get  
10 more of them from the Treasury. And so those  
11 incentives, combined with the fact that it's  
12 purely in the discretion of the allocatee, I  
13 believe answers the Committee's question on that.

14           The Committee asked how  
15 frequently the FIA data is updated. And we  
16 received brief response by e-mail from the Forest  
17 Service that told us that new data is added once  
18 per year, but there is no specific time during  
19 the year when they add the new data, that it is  
20 done largely based on when they receive it and  
21 collate it. We were not able to get more  
22 information than that.

23           Mr. Wright, at one point,  
24 asked whether the facility would be applying for

1 an exemption under RSA 72-A related to certain  
2 pollution control equipment. Pursuant to the  
3 stipulation with the City, it is not our  
4 intention to do so at this point. There is a  
5 provision in the stipulation that exclusively  
6 reserves the right to the City and the Applicant  
7 to discuss the negotiation of a payment in lieu  
8 of taxes. And based on my discussion with the  
9 City, it is our intention to try to undergo that  
10 process, and presumably any pollution exemption  
11 would be accounted for in that process.

12 And then I believe the last  
13 outstanding question was that the Committee had  
14 asked us whether we would be able to get any  
15 additional air emissions information pertaining  
16 to the two Babcock & Wilcox boiler conversions  
17 that were mentioned in Georgia and Tennessee. We  
18 have continued to try to get that information and  
19 have no further update beyond what Mr. Frecker  
20 provided to you the other day. And that was it.

21 CHAIRMAN BURACK: Thank you  
22 very much, Mr. Needleman.

23 Attorney Rodier, before I turn  
24 things over to you to present your first witness,

1 I just want to explain for the members of the  
2 public who are present, and really for all the  
3 parties, what we were working on late yesterday  
4 afternoon and this morning up until our lunch  
5 break, and how I'm hoping to proceed from here.

6 We were in a non-public  
7 session starting middle of the afternoon  
8 yesterday until just before our lunch break today  
9 to review a series of 12 confidential documents  
10 that were all presented to us by the Applicant.  
11 In the course of our consideration of those  
12 documents, there are just a couple of topics that  
13 came up that I think it's important that we state  
14 on the public record.

15 One, is there was some  
16 discussion regarding information that would be  
17 collected by the Applicant pertaining to wood  
18 usage and sources of wood in connection with  
19 their wood supply agreement, to which would be  
20 attached their Exhibit 60, which is a proposed  
21 sustainability condition. And we asked the  
22 Applicant whether they would consider reporting  
23 data they collect pursuant to that document, as  
24 well as possibly other data relating to wood

1 usage, whether they would consider reporting that  
2 periodically to the Committee. And I understand  
3 that the Applicant indicated that they would not  
4 object to such a condition if the Committee were  
5 to issue a certificate in this matter.

6           Second, there was another  
7 exhibit, Exhibit 38, a confidential exhibit of  
8 the Applicant which is entitled, "Development  
9 Agreement and Associated Documents." This  
10 agreement had appended to it certain documents,  
11 which, upon closer examination, the Committee  
12 determined are, in fact, public documents because  
13 they had been recorded in the registry of deeds;  
14 and accordingly, those documents will be released  
15 and made part of the public portion of the record  
16 in this proceeding. And that portion of the  
17 transcript of the non-public session relating to  
18 inquiries about one of those documents will also  
19 be made part of the public record in this  
20 proceeding. And again, I just wanted to just put  
21 those pieces of information on the record of the  
22 public proceeding here -- the public portion of  
23 this proceeding, I should say.

24           I believe those are all the

1 housekeeping items we need to attend to. My goal  
2 here for this afternoon is to do our best to try  
3 to get through Clean Power Development's case in  
4 chief, which is a presentation of two witnesses,  
5 Mr. Liston and Mr. Gabler, and then to proceed to  
6 closing arguments, resolution of any outstanding  
7 motions, and then opportunity for public comment.  
8 We're just going to have to see how quickly this  
9 process moves forward. I'm going to ask counsel  
10 and all parties involved to please be as clear  
11 and direct as you can in your questioning and  
12 cross-examination of the witnesses, and we will  
13 see if we're going to be able to complete all of  
14 this this afternoon or whether we're going to  
15 have to extend this portion of this proceeding to  
16 another day.

17 So, with that, Attorney  
18 Rodier.

19 MR. RODIER: Okay. Mel  
20 Liston.

21 Mr. Chairman, if we get to the  
22 point where there may be a time constraint, CPD's  
23 certainly willing to stand down to allow the  
24 people who drove all the way from Berlin here



1 this afternoon to make public comment, to do it  
2 today so they don't have to drive down again  
3 Monday. That's just the worst case.

4 CHAIRMAN BURACK: Thank you.  
5 I appreciate you making me aware of your  
6 willingness.

7 MR. RODIER: Okay. Can we  
8 have Mr. Liston sworn in, please.

9 (WHEREUPON, the witness was duly sworn  
10 and cautioned by the Court Reporter.)

11 MELVIN E. LISTON, SWORN

12 DIRECT EXAMINATION

13 BY MR. RODIER:

14 Q. Mr. Liston, will you identify yourself.

15 What's your full name?

16 A. Melvin Edward Liston.

17 Q. What's your current title at CPD?

18 A. My current title at Clean Power Development  
19 is as the general manager.

20 Q. Okay. And when we filed -- we're talking  
21 here about what's been marked for  
22 identification as CPD Exhibit 1; is that  
23 correct.

24 A. Exhibit 1 is what? My testimony?

1 Q. Yeah. Let me just -- let's just assume  
2 that's the case, okay, so we can keep going.

3 And in that testimony, what title did  
4 you designate for yourself?

5 A. President of CPD.

6 Q. Okay. So is that -- that would be a  
7 correction to your testimony --

8 A. Yes. That's the only correction.

9 Q. And you're saying that's the only  
10 correction.

11 A. That's the only correction.

12 Q. Okay. Now, you prepared this testimony  
13 yourself?

14 A. Yes.

15 Q. Nobody else wrote it for you or anything  
16 like that?

17 A. Correct.

18 Q. Okay. And is it accurate, fully accurate,  
19 to the best of your information, knowledge,  
20 and belief?

21 A. You're talking about the prefilled testimony?

22 Q. Yes.

23 A. I adopt it completely. It's accurate based  
24 upon the information that was available to

1 us in the documents and the application of  
2 Laidlaw BioPower at the time we submitted  
3 it, which was in May 2010.

4 Q. Okay. Now, mindful of the Chairman's  
5 admonition, if you will, that we want to  
6 keep this moving, I would like you to begin  
7 by sort of a brief statement of the purpose  
8 and summary of your testimony, if you would.

9 A. Okay. My testimony is obviously about  
10 biomass. There's several areas of that that  
11 we have to go over in greater -- lesser or  
12 greater amount. It involves project sizing;  
13 fuel requirement; fuel supply available,  
14 which has a couple of subsets involved; and  
15 sustainability and price; concern for the  
16 ratepayers, and the effect on green jobs.

17 Q. Okay. And those kind of correspond with the  
18 subject headings in your written testimony;  
19 is that right?

20 A. Yes.

21 Q. Okay. Well, let's turn to Page 4 of what's  
22 been marked as CPD 1. That's your prefiled  
23 testimony. Do you have it in front of you?

24 A. I do.

1 Q. Okay. I want you to -- on Page 4, there's a  
2 section here on proper project sizing.

3 A. Correct.

4 Q. Can you just briefly summarize where you're  
5 coming from on that.

6 A. Well, proper project sizing would be that it  
7 matches the fuel available on a sustainable  
8 basis and an affordable price for a merchant  
9 power developer who needs to be -- as a  
10 merchant power developer, take a fuel risk.  
11 And there are a number of things that  
12 correlate in that. But generally speaking,  
13 a 50-mile radius is the max. Now, there are  
14 examples around the country that are totally  
15 different than what we have in Berlin, where  
16 there are larger radius plants. You  
17 probably will get into that. But 50 miles  
18 is the max.

19 And in the case of Berlin, because of  
20 the fact that the northern part of New  
21 Hampshire, from a biomass development  
22 standpoint, is basically mature -- in that,  
23 there are a significant number of biomass  
24 plants already up there -- therefore, there

1 is a significant demand on the same resource  
2 that another plant would use.

3 Q. Mr. Liston, are you trying to say you don't  
4 put the cart before the horse -- meaning,  
5 you don't -- you know, what comes first is  
6 you look at the fuel available, and then you  
7 say what's the proper project size? The  
8 reverse of that is if you say, okay, this is  
9 the project size, now let's go and determine  
10 how much fuel we need, how we're going to  
11 get it? Is that what you're saying?

12 MR. ROTH: Mr. Chairman,  
13 before he answers this question, I want to object  
14 to the direct testimony being given and the  
15 leading questions asked by Attorney Rodier. I  
16 don't believe that the Applicant's witnesses were  
17 provided an opportunity through a series of  
18 leading questions to essentially elaborate on  
19 their direct testimony. The purpose of the  
20 proceeding is to provide an opportunity for  
21 cross-examination. A brief statement about the  
22 purpose of the testimony is one thing, but I  
23 think Attorney Rodier is going way beyond that at  
24 this point.

1 MR. NEEDLEMAN: Mr. Chair, we  
2 would join in that objection.

3 MR. RODIER: Well, Mr.  
4 Chairman, if I could respond. I thought I  
5 understood yesterday, you said, how much time do  
6 I need for my direct testimony. I said 15  
7 minutes. You said very good.

8 As far as the leading  
9 questions are concerned, we're here to get  
10 through this thing as quickly as possible. I  
11 know. Obviously, I ask leading questions on  
12 cross-examination all the time. I know the  
13 difference. And I'm just doing this to keep  
14 things moving. I don't think there's any  
15 prejudice to any party at all from what I'm  
16 doing.

17 CHAIRMAN BURACK: Attorney  
18 Rodier, I'm going to allow you to proceed. I  
19 hear the objection. I did tell you yesterday,  
20 yes, you could have some time to quickly get a  
21 summary of his testimony out here. But I would  
22 ask you to please recall that the Committee has  
23 had this testimony, we have all reviewed this  
24 testimony. And I think if there are very

1 particular pieces that you wish to call out and,  
2 for example, to confirm that Mr. Liston still  
3 subscribes to those positions, I think that's  
4 fine. But I think ultimately what we need is an  
5 opportunity for us to be able to ask questions of  
6 Mr. Liston. Okay?

7 MR. RODIER: Okay. I  
8 understand that. And I think that's very fair  
9 and it's appropriate. So I guess what I'm going  
10 to do then is ask --

11 BY MR. RODIER:

12 Q. Mr. Liston, you heard what the Chairman  
13 advised us to do?

14 A. Correct.

15 Q. I'll ask you to take one minute or two  
16 minutes, one minute, to finish up what we've  
17 tried to do here in summary of your  
18 position.

19 MR. RODIER: By the way, Mr.  
20 Chairman, I did rise the other day and say, when  
21 the Committee gave Laidlaw every opportunity to  
22 comment and critique on Mr. Liston's testimony, I  
23 said we're going to need an opportunity to  
24 respond and rebut, Mr. Chairman. And I thought

1 we all agreed to that. But having said that, I  
2 understand Attorney Iacopino has in mind some  
3 questions that may help resolve our concern on  
4 that.

5 BY MR. RODIER:

6 Q. So, Mr. Liston, would you take a couple  
7 minutes then and wrap it up.

8 A. So as we get into the next category, which  
9 is fuel requirement, that involves a  
10 determination using a number of different  
11 variables which are somewhat arbitrary.  
12 Sometimes some of the numbers that you might  
13 pick would be what would be called  
14 conservative and others might be aggressive.  
15 But when you're making these analyses about  
16 the fuels required, you're looking at things  
17 like the moisture content, the boiler  
18 efficiency. We should also be looking at  
19 the turbine efficiency or the plant heat  
20 rate --

21 Q. Mr. Liston, I'm going to have to ask you to  
22 move on to Existing Biomass Use is  
23 Understated. We've only got a limited  
24 amount of time here, okay.



1 A. Existing biomass...

2 Q. That's the next section, on Page 13. Just  
3 looking for one or two sentences on each. I  
4 know that this is kind of unexpected from  
5 what I prepared you for, but it is the way  
6 it is.

7 A. All right. Major issue I would have with  
8 this is that the chart, Table 1, was  
9 presented to us in the application. And  
10 it's got a lot of errors and a lot of flaws  
11 and a lot of misleading information. But it  
12 does establish that there was  
13 6.2 million tons of wood assigned.

14 And then we go into the discussions. I  
15 mean, there's facilities left out. There's  
16 a major error in the consideration of the  
17 Schiller plant, which plays into this whole  
18 thing quite nicely. And --

19 Q. Okay. Mr. Liston, how about fuel that  
20 was -- how about moving on to fuel  
21 availability? That was on fuel consumption.  
22 How about a few words on fuel availability?  
23 Of course, that means how much is available,  
24 as you know more than I do.

1 A. Yup. Got to get to the right page, I guess,  
2 for that.

3 CHAIRMAN BURACK: Can you tell  
4 us where in your testimony you address that  
5 issue?

6 MR. LISTON: Page 13 is where  
7 I want to go for that.

8 CHAIRMAN BURACK: Page 13.

9 MR. LISTON: Yes. Starts at  
10 Page 13. I'm going the wrong direction.

11 A. Oh, okay. That has to do with how the  
12 biomass is assigned and all the assumptions  
13 about use of biomass. So we started out  
14 with a, I think 6.2 million amount of fuel.  
15 That gets to 6.7 through an increased  
16 utilization factor, which I think was  
17 misleadingly talked about. And then it goes  
18 to, I believe, 7.2, which is as a result of  
19 a more competitive market, which means  
20 price.

21 Q. Okay. That was good.

22 Did I hear you correctly by saying your  
23 last matter in summarizing your testimony  
24 was green jobs? Did you say that?

1 A. Concern for the ratepayers and green jobs,  
2 yes.

3 Q. Okay. Can you briefly summarize your  
4 testimony on those two areas.

5 A. Well, once again, in order to put a  
6 70-megawatt plant down in the middle of a  
7 bunch of existing plants where the forest  
8 supply of material is already presently used  
9 up or accounted for, fuel's going to have to  
10 come from a great distance. And every  
11 implication is that their plan for this is  
12 that they're going to be able to pay more to  
13 make that happen; also, that they're going  
14 to pay more and be able to attract wood away  
15 from other users, which is going to have a  
16 negative impact on their ability to stay  
17 economically viable and, therefore, their  
18 ability to maintain what green jobs they  
19 have.

20 There's at least five biomass plants  
21 that are in close proximity, with about 100  
22 employees that work in those plants.

23 It's pretty clear from conversations  
24 I've had with them, that they're all

1 concerned that, if this goes forward, they  
2 won't be economically viable and that  
3 they'll shut down.

4 Q. Okay. How about a few words on -- what did  
5 you say? Concern for ratepayers?

6 A. Well, obviously --

7 Q. Give us a long sentence, one sentence, okay,  
8 on your concern for ratepayers.

9 A. This plant is going to pay an above-market  
10 rate and appears to have out-of-the-market  
11 terms in a redacted purchase power  
12 agreement. That is not a merchant power  
13 plant.

14 Q. Okay. Thank you. Let's stop there. That  
15 was very good.

16 MR. RODIER: This witness is  
17 ready for cross-examination, Mr. Chairman. Thank  
18 you.

19 CHAIRMAN BURACK: Well, thank  
20 you very much, Mr. Rodier. Be assured that you  
21 will have a full opportunity for any redirect  
22 here, if there are any additional items --

23 MR. RODIER: Sure.

24 CHAIRMAN BURACK: -- that you

1 wish to ensure are brought out, that are not  
2 brought out.

3 So, the first party who will  
4 have an opportunity to cross-examine this witness  
5 will be the Applicant, Attorney Needleman.

6 MR. NEEDLEMAN: Thank you, Mr.  
7 Chair.

8 CROSS-EXAMINATION

9 BY MR. NEEDLEMAN:

10 Q. Good afternoon, Mr. Liston.

11 A. Hi. Good afternoon.

12 Q. Could you turn your attention to Page 35 of  
13 your prefiled testimony, please.

14 A. Thirty-five?

15 Q. And could you please read aloud Lines 9  
16 through 11.

17 A. "The most serious impact that will assuredly  
18 play out relates to the increased pressure  
19 that will be placed upon local forest  
20 resources to supply biomass. It is an  
21 illusion to think that the local area will  
22 not be over-harvested in the 70-megawatt  
23 Laidlaw scenario."

24 Q. Thank you. When you wrote that, you did not

1 know that Laidlaw would actually have the  
2 supply agreement that we now know about with  
3 Cousineau; is that correct?

4 A. That's correct. It was not part of the  
5 prefiled information.

6 Q. And you also had not seen the proposed  
7 sustainability condition which Laidlaw has  
8 submitted as Exhibit 60; is that correct?

9 A. That is correct.

10 Q. And you also had not heard all of the  
11 testimony that this Committee has heard over  
12 the last four and a half days; is that  
13 correct?

14 A. That's correct.

15 Q. And you had also not heard various  
16 expressions from the Committee from time to  
17 time about the desire to see -- to ensure  
18 that Laidlaw would purchase as much wood as  
19 possible from local resources; is that  
20 correct?

21 A. That's correct.

22 Q. Given all of those things that you did not  
23 have access to, which you now have access  
24 to, do you still believe your statement here

1 to be true?

2 A. Absolutely true.

3 Q. You told me at the technical session on  
4 June 25th that your proposed plant in Berlin  
5 will use 340,000 tons per year of wood; is  
6 that right?

7 A. Correct.

8 Q. And you also told me that you will  
9 sustainably acquire that wood from a 30-mile  
10 radius; is that correct?

11 A. That's correct.

12 Q. And you said here today, and you said  
13 previously, that you believe the Laidlaw  
14 plant is too big; is that correct?

15 A. That is correct.

16 Q. And you've also suggested that you really  
17 can't go out beyond a 50-mile radius to get  
18 wood; is that correct?

19 A. You can't get it out there with a favorable  
20 price beyond the 50.

21 Q. And so you would suggest that there's no way  
22 that Laidlaw can get its 750,000 tons of  
23 wood within a 50-mile radius; is that  
24 correct?

1 A. Laidlaw can get a million tons of wood at  
2 50 miles if they pay more money than  
3 everybody else because it will come out of  
4 the other power plants. Two million, even.  
5 I don't know what the upper limit -- they  
6 can have it all if they can pay whatever  
7 price it takes.

8 Q. We've gone through a lot of analysis here  
9 trying to look at the different ways to  
10 figure out whether there's enough wood.  
11 What I'd like to do is take a moment, forget  
12 all of that, and just focus on your facts  
13 and the numbers you used and explore from  
14 that perspective. And what I'm going to do  
15 is go up to the board so everybody can see  
16 what I'm thinking. And I wonder if there's  
17 an easy way for you to turn around and  
18 follow along with me on this.

19 MR. NEEDLEMAN: And I guess  
20 we'll probably designate this as Applicant's  
21 Exhibit 73; is that right?

22 MS. VAUGHN: Yes.

23 MR. IACOPINO: I would just  
24 ask that as you do this, you be mindful that the



1 stenographer is taking down everything that's  
2 said. So, Mr. Liston, if when you do speak, if  
3 you could turn in her direction so she could see  
4 your lips.

5 MR. ROTH: Mr. Chairman,  
6 excuse me. It's a little unusual for the witness  
7 to be forced to stand to watch Attorney Needleman  
8 testify. And I can't see the board.

9 MR. NEEDLEMAN: I'm happy  
10 to -- want to pull a chair around?

11 (Mr. Needleman drawing on White Board.)

12 BY MR. NEEDLEMAN:

13 Q. So what I've done here is drawn a circle  
14 with a line and I've put 30 on there, and  
15 that represents a 30-mile radius. And I've  
16 got your plant in the middle of the 30-mile  
17 radius. Do you follow that so far?

18 MR. RODIER: Mr. Chair, the  
19 hearing's not about CPD. So I just would make  
20 that general objection, okay, and leave it to you  
21 to decide if this needs to be curtailed.

22 CHAIRMAN BURACK: I'm going to  
23 allow this line of questioning to proceed. But I  
24 hear your point.

1 BY MR. NEEDLEMAN:

2 Q. In order to get the area here, we take pi  
3 times the radius squared; is that right?

4 A. Correct.

5 Q. So if we multiply 3.14 times the radius  
6 squared, which is 900 -- are you following  
7 me?

8 A. I am.

9 Q. -- we get 2,826. So there's 2,826 square  
10 miles in your circle; is that correct?

11 A. I'm not going to challenge your math.

12 Q. Okay.

13 A. It is what it is.

14 Q. Then you told me you're going to use 340,000  
15 tons of wood for your plant; correct?

16 A. Correct.

17 Q. So, if I take 340,000 tons and I divide it  
18 by 2,826, I get 120.3 tons of wood per  
19 square mile in that radius. So you're  
20 telling me that your plant will sustainably  
21 acquire 120.3 tons in that radius; is that  
22 correct?

23 A. Correct.

24 Q. So, if I now expand the circle out and make

1           it a 50-mile radius, which you say is the  
2           maximum, and we assume that the Laidlaw  
3           plant is in there, let's do the math.  
4           Again, doing the area, pi times the radius  
5           squared, we multiply 3.14 times 50 squared,  
6           which is 2500, and we get an area of  
7           7,850 miles, a much bigger circle. And then  
8           when we multiply 7850 times 120.3, I get  
9           944,355 tons of wood available in that  
10          50-mile radius. So, using your math, that  
11          shows that there's almost 200,000 tons more  
12          available for Laidlaw than we're proposing  
13          to use; isn't that correct?

14        A.    That's absolutely wrong.

15        Q.    Why is that wrong?

16        A.    I'm going to come up and draw pictures now.

17        Q.    Sure.

18                        (Mr. Liston drawing on White Board.)

19        A.    Let's assume this is north. You left --  
20            good trick. You leave me with one that  
21            won't write.

22        Q.    I think there's others that will work.

23        A.    North. So this would be east, okay, west  
24            and south. So let's just say that Berlin's,

1           like, right there, okay. Starting right  
2           about here, you got White Mountain National  
3           Forest that gets bigger as you go up, okay.  
4           Thirty miles away you got a plant called  
5           Whitefield right about here. Then you got  
6           another one over here called Bethlehem. And  
7           you got another one on the Vermont border.  
8           We'll say that's there. Right there.  
9           They're all -- I think this one's 16, this  
10          one's 20 and this one's 20, okay. There's  
11          almost 60 megawatts of installed power  
12          there. Each one of them has an overlapping  
13          thing, okay. Each one of them, using  
14          your -- what do you call it, amoebas -- they  
15          have a tendency to go where the fuel is  
16          available, in whatever direction. Nobody  
17          goes in here. This is No Man's Land.

18                 So that piece right there, as you go  
19                 out into your thing, you're not going to be  
20                 able to get wood out of all of this. And  
21                 that is a rough interpretation of it.

22                 But as you get here, you're up against  
23                 another outfit that also has 30 miles. So  
24                 that 30-mile one is going right around like

1 that, and this one's going right around like  
2 that. Okay?

3 These guys -- as you know, wood goes  
4 where it's easiest. So if you drew a line  
5 right through there, you might say we're in  
6 contention with this bunch, okay, because  
7 that's the median line. And if we have to  
8 get extra, it's going to come from up here.  
9 It's going to come from up here.

10 We also looked at -- or in our study,  
11 we also get almost half of our wood from  
12 round wood. We don't use the round wood --  
13 or we don't think of the round wood the same  
14 you do. We consider it opportunity wood.  
15 We're interested in the round wood that  
16 really doesn't have another market, that if  
17 you put it on a pulp load, if you deliver a  
18 pulp load that's got logs like this and logs  
19 like this, you got a downgraded pulp log  
20 load. You're going to get less for that.  
21 The kind of pulp logs we're talking about  
22 presently go for about 23 tons, or something  
23 like that. They dry faster than wood chips.  
24 So the more of them you buy -- oftentimes

1           they're lighter when they're delivered, so  
2           you're not paying as much for it. And it's  
3           a more effective way of keeping your fuel  
4           costs down and getting the volume you need.

5    Q.    So if I could just pause for a minute. So  
6           you're basically saying that the analysis  
7           works out to 30 miles. But when we extend  
8           it from 30 to 50, there's something going on  
9           in that next 20 miles that causes it to  
10          break down. That's your argument?

11   A.    You're coming up against three plants here.  
12          If you want to go out 40, you got  
13          Alexandria --

14   Q.    Well, actually --

15   A.    -- and down here just a little bit  
16          further --

17                           MR. RODIER: Let the  
18   witness --

19                           (Court Reporter interjects.)

20                           MR. RODIER: I said we should  
21   let the witness finish his answer before  
22   interrupting him.

23                           CHAIRMAN BURACK: The witness  
24   certainly may finish his answer.

1 A. Unless you got another question, I think I'm  
2 finished there.

3 MR. RODIER: I didn't even --  
4 I was unable to hear your answer, Mr. Liston,  
5 because of Attorney Needleman. So, if nobody  
6 else --

7 CHAIRMAN BURACK: Repeat your  
8 last couple sentences and your response, please.

9 A. What he's asking about is what happens as  
10 you go beyond the 30-mile.

11 Actually, by the way, we figure these  
12 things as the wood -- I think it was in  
13 20-mile -- how much wood you get in 20-mile,  
14 how much wood you get in 30-mile, in bands.  
15 So as you go out to the next one, if we say  
16 the next one is 60 or 70 miles, let's say,  
17 that's a band. And because of that  
18 distance, that wood coming from that band  
19 costs more than the wood that's coming from  
20 the 30-band or from, say, a 10-band, okay.  
21 But the further you go out, the more  
22 facilities that you're impacting.

23 And when you're talking about any  
24 high-grade logs -- I know it was brought up

1 in testimony, about the idea that there used  
2 to be 1.2 million tons of demand in Berlin.  
3 A big piece of that demand is now handled  
4 through Shelburn, which is, I think, one  
5 town south of Gorham, the Shelburn Landing  
6 where they bring in the logs, debark them.  
7 I don't know if they grind them. I think  
8 they might chip them there. Or they may  
9 deliver them in log form. But they're  
10 basically gathering these logs out of this  
11 area that you say, you know -- or some of  
12 the people have said those logs are no  
13 longer, you know, producing, or we're going  
14 to win them back. Well, you're going to win  
15 back wood from these power plants, from that  
16 Shelburn Landing where they collect logs and  
17 then truck them over to NewPage in Rumford.

18 BY MR. NEEDLEMAN:

19 Q. Well, let me ask it this way: You would  
20 agree with me that, certainly in the first  
21 30 miles, if Laidlaw were built, they would  
22 have the 340,000 tons available that your  
23 plant proposes to use -- assuming for the  
24 moment your plant is not built, just looking



1 at Laidlaw; is that fair to say?

2 A. That's absolutely correct.

3 Q. And you would agree with me that there's  
4 some amount beyond that area, from 30 miles  
5 to 50 miles. And I've suggested it's about  
6 950, which is 200,000 more than we need.  
7 You're suggesting it's some amount less; is  
8 that correct?

9 A. I would be surprised if it was as much as  
10 you think. You're picking up on diminishing  
11 returns as you go out, with competition  
12 coming back at you from other facilities.

13 Q. Do you know how much wood would be  
14 available, using your math, if we took those  
15 circles out just to 55 miles?

16 A. I didn't study it.

17 Q. One point one four million tons.

18 Do you know how much would be  
19 available, using your math, if we took it  
20 out to 60 miles? One point three six  
21 million. So, just going out to a 60-mile  
22 radius, using your math, we have  
23 1.36 million tons available, which is  
24 700,000 tons more than this plant needs.

1 A. No way. No way.

2 Q. I'm just using your numbers. We don't have  
3 to --

4 A. What I'm telling you is you have hardly any  
5 wood that's available in this next band  
6 going south because it's already taken by  
7 other facilities. The only way you're going  
8 to get it is to pay a higher price and take  
9 it away from other facilities that presently  
10 use it and maintain three jobs.

11 Q. Now, you also assessed in your testimony the  
12 amount of wood that you think the Laidlaw  
13 facility will use; is that correct?

14 A. Yes.

15 Q. And you did this in several ways. And what  
16 I want to do is look at a couple of the ways  
17 you did it and ask you some questions about  
18 it.

19 Let me begin by looking at your  
20 testimony on Page 12, if you would, please.  
21 I'm looking particularly at Lines 2 and 3.  
22 And we've talked a lot about this "rule of  
23 thumb" and 13,000 tons per megawatt during  
24 this proceeding. I just want to ask you

1 some questions about that.

2 Have you had a chance yet to read  
3 Committee Exhibit No. 11, which is the  
4 "Energy From Forest Biomass Potential  
5 Economic Impacts in Massachusetts"? Are you  
6 familiar with that?

7 A. That's the one you gave out yesterday?

8 Q. I believe so, yes.

9 A. I'm about halfway through it.

10 Q. Okay. I'm looking -- do you have a copy of  
11 it?

12 A. I think so.

13 Q. I'm looking on Page 15 of that exhibit.

14 A. What's the exhibit number?

15 Q. It's Committee Exhibit No. 11.

16 A. I know I got one, but I don't know if I have  
17 it with me.

18 Q. We can get you a copy.

19 A. I've got one. "Energy from Forest Biomass  
20 Economic Impacts in Massachusetts." Is that  
21 the one?

22 Q. Yes.

23 A. All right. I got it listed as 10.

24 Q. I may be wrong.

1 A. It's 11, huh.

2 CHAIRMAN BURACK: I believe we  
3 have marked that as Committee Exhibit 11.

4 BY MR. NEEDLEMAN:

5 Q. Okay. I'm looking at the top of Page 15.

6 A. Yeah, I didn't read this far. But, anyway.

7 Q. And there's an incomplete paragraph on the  
8 top of Page 15, but there's a point that  
9 starts on the second line toward the end  
10 where it says "From these figures." Do you  
11 see that?

12 A. Which paragraph?

13 Q. It's the incomplete paragraph at the top of  
14 Page 15.

15 A. Okay.

16 (Witness reviews document.)

17 A. Okay. "From these figures..." -- you want  
18 me to read it?

19 Q. Yeah, could you please --

20 MR. RODIER: Excuse me just a  
21 second. Mr. Liston, only if you know the answer  
22 to the question do you have to answer it, okay.  
23 You're not familiar with this document, so I'd  
24 like you to only answer if you are sure of your

1 answer.

2 BY MR. NEEDLEMAN:

3 Q. Could you please read that, Mr. Liston, out  
4 loud.

5 A. I can read it.

6 Q. Okay.

7 A. "From these figures we then calculate  
8 biomass plant wood demand to be 10,389 tons  
9 per megawatt of biomass capacity per year,  
10 or 1.7 million additional tons of wood chips  
11 annually for the 165-megawatt scenario to be  
12 modeled."

13 Q. Thank you. Could you look at Page 15 of  
14 your testimony, please.

15 A. I presume that when I read something I don't  
16 get a chance to comment on it? Is that the  
17 way it is?

18 Q. We'll come back to it.

19 A. Okay. Which page you want me on?

20 Q. Page 15 of your testimony.

21 A. Okay.

22 Q. Looking at Line 10 -- there's obviously more  
23 there than just Line 10 -- tell me if I'm  
24 characterizing this right. You are saying

1 in your testimony that, based on 2009 data,  
2 the PSNH Schiller plant used 533,721 tons of  
3 wood; is that right?

4 A. Not there. I'm basing that on a piece of  
5 paper I got from the timberland owners that  
6 verifies it, because Public Service provided  
7 that information to them.

8 Q. And I'm not contesting that. I accept that  
9 number. Do you know what size plant PSNH  
10 Schiller is?

11 A. Fifty megawatts.

12 Q. And do you know how many tons per megawatt  
13 that would equate to if you divided 533,721  
14 by 50 megawatts?

15 A. I don't have a calculator.

16 Q. I can represent to you that it would be  
17 10,660 tons per megawatt.

18 A. That has to do with the amount of hours'  
19 operation at full load. That's a dispatched  
20 plant that doesn't run very often. They  
21 have a lot of maintenance problems. I  
22 suspect they got a really poor availability.

23 Q. Do you have a copy of exhibit -- Applicant's  
24 Exhibit No. 57 in front of you?

1 A. No.

2 Q. Let me give you a copy.

3 A. I got my own.

4 Q. Oh, do you?

5 A. Of course. You listed it and I made it.

6 Q. I'll take that back then.

7 A. I got to find it, though. Yes.

8 Q. Applicant 57 is a description of a proposed  
9 biomass plant named the Nacagdoches  
10 generating facility; is that right?

11 A. Correct.

12 Q. And do you see a heading on that sheet that  
13 says "Size"?

14 A. That's a 100-megawatt biomass plant.

15 Q. Okay. And if you go down to the Technology  
16 section, the second paragraph, do you see  
17 that?

18 A. Well, I don't know if I have the same exact  
19 thing. I've got a bunch of stuff I took  
20 off. You better give me yours back.

21 Q. Let me make sure you're looking at the right  
22 one. Do you see that second paragraph?

23 A. Size, you're talking about?

24 Q. The second paragraph under Technology.

1 A. Okay. Technology consists of bubbling  
2 fluidized --

3 Q. Well, I'm not asking you to read that. I'm  
4 asking if you see the second paragraph under  
5 Technology that begins, "Approximately..."

6 (Witness reviews document.)

7 A. Yeah.

8 Q. Okay. What is the fuel consumption  
9 estimated for this plant?

10 A. The fuel, which consists of agricultural  
11 waste --

12 Q. No, the total amount. Approximately how  
13 much --

14 A. I'm going to define the fuel.

15 Q. I'm asking you to just --

16 MR. RODIER: This witness  
17 should have an opportunity. He's being  
18 confronted with something that's not his  
19 testimony at all. He deserves an opportunity to  
20 take a moment to read this and think about it for  
21 a moment, rather than being pressured for an  
22 answer on the spot, Mr. Chairman.

23 BY MR. NEEDLEMAN:

24 Q. Please take as long as you'd like to read



1 the document and let me know when you're  
2 ready.

3 A. I'm ready.

4 Q. Okay. Under Technology, the paragraph that  
5 begins "Approximately," what are they saying  
6 will be the total amount of fuel used at  
7 this facility?

8 A. Approximately 1 million tons of fuel, of  
9 which is multiple kinds of biomass, not wood  
10 chips.

11 Q. I understand. And the size of the facility  
12 is 100 megawatts; is that right?

13 A. That is correct.

14 Q. So, then, it would be correct to say that  
15 this facility will use about 10,000 tons per  
16 year -- 10,000 tons per megawatt of fuel; is  
17 that correct?

18 A. You know, it's fuel of multiple parameters  
19 and specifications. Some of it's dried,  
20 some of it's wet. It's not wood chips.

21 Q. Are you familiar -- could you turn to  
22 Exhibit 58, please.

23 A. Exhibit 58. I don't have any exhibits up  
24 here.

1 CHAIRMAN BURACK: This is  
2 Applicant's 58, Counsel?

3 MR. NEEDLEMAN: Correct.

4 BY MR. NEEDLEMAN:

5 Q. Take a minute to read that, please.

6 A. You want me to read the whole thing, or just  
7 the part you got underlined?

8 Q. Well, if you're more comfortable reading it  
9 all, you certainly can. But I'm just going  
10 to ask you questions about the parts I have  
11 underlined.

12 (Witness reviews document.)

13 MR. RODIER: I'm going to have  
14 to look on because I don't know what he's  
15 underlined, Mr. Chairman. May I approach and  
16 stand by the witness?

17 CHAIRMAN BURACK: Yes, you may  
18 for that purpose.

19 MR. RODIER: Okay.

20 BY MR. NEEDLEMAN:

21 Q. Do you know the size of this facility, Mr.  
22 Liston?

23 MR. RODIER: One moment,  
24 please. This print is so small, I can't read it.

1 So I'll just let Mr. Liston do the best that he  
2 can.

3 BY MR. NEEDLEMAN:

4 Q. Okay. What's the size of this facility?

5 A. The same as in all of the three that they  
6 proposed: They're all 100-megawatt plants  
7 that burn multiple types of biomass, a minor  
8 component of wood. And they use a 75  
9 radius -- a 75-mile radius, each of them.

10 Q. How much fuel will this consume per year?

11 A. One million tons.

12 Q. So that's also about 10,000 megawatts per  
13 ton; is that right?

14 A. Totally unapplicable, but yes.

15 Q. And do you have Applicant's Exhibit 59 in  
16 front of you?

17 A. No, but you got one for me, don't you?

18 Q. I certainly do.

19 A. This is how I collect them. I make sure  
20 that you give them to me. Biopak...

21 Q. Would you take a minute to read that,  
22 please.

23 A. They've changed the name of it.

24 (Witness reviews document.)

1 MR. RODIER: Mr. Chairman,  
2 could we have an explanation of what this -- the  
3 point this is going to, the relevance?

4 CHAIRMAN BURACK: Attorney  
5 Needleman, can you express for us what the  
6 relevance is of this line of inquiry?

7 MR. NEEDLEMAN: Mr. Liston's  
8 testimony was that a rule of thumb is 13,000  
9 megawatts -- or 13,000 tons of fuel per megawatt.  
10 And I'm using these to illustrate that's  
11 incorrect and that --

12 A. You misunderstand my testimony. It's --

13 BY MR. NEEDLEMAN:

14 Q. Well, I'm sure you'll have --

15 A. It's 13,000 tons per megawatt for a  
16 wood-fired biomass plant.

17 Q. I'm sure you'll have an opportunity on  
18 redirect to clarify that.

19 MR. NEEDLEMAN: That's the  
20 purpose of this testimony and these exhibits, Mr.  
21 Chair.

22 CHAIRMAN BURACK: Okay. I'm  
23 going to allow you to proceed.

24 MR. NEEDLEMAN: Okay. Thank

1 you.

2 BY MR. NEEDLEMAN:

3 Q. And this is the last exhibit I'm going to  
4 use here. So, Mr. Liston, how large is this  
5 plant?

6 A. Three hundred and fifty megawatts.

7 Q. And do you see a little bit further down, I  
8 think in the third paragraph, how much fuel  
9 it's going to use per year?

10 A. Three million tons.

11 Q. And so that comes out to about 8,571 tons  
12 per megawatt; is that correct?

13 A. That's correct.

14 Q. Okay. So, let me then summarize this and  
15 ask you a question based on the summary.

16 Exhibit No. 11 talks about 10,389 tons  
17 per megawatt. We have the Schiller station  
18 at about 10,660. We have these two plants  
19 in Gainesville and in Texas at about  
20 10,000 tons per megawatt. And we have this  
21 very large plant in the UK at about  
22 8500 tons per megawatt. Now, you compare  
23 that to the Laidlaw proposal, which is going  
24 to be about 10,700 tons per megawatt. And I

1           guess the question is, in light of these  
2           examples, do you think it would be  
3           reasonable for the Committee to conclude  
4           that that estimate of 10,700 tons per  
5           megawatt for Laidlaw is a reasonable  
6           estimate?

7           A.    I believe that it would be totally  
8           unreasonable for the Committee to even  
9           consider anything related to these non-wood-  
10          fired biomass plants.

11          Q.    Now, you also assessed the total amount of  
12          fuel that the facility is going to use based  
13          on its air permit application; is that  
14          correct?

15          A.    Yes.

16          Q.    And in your prefiled testimony, on Page 9  
17          you reproduced a letter from Peter  
18          Bloomfield; is that correct?

19          A.    That is correct.

20          Q.    And that letter was dated May 6th, 2010; is  
21          that correct?

22          A.    Yes.

23          Q.    And you relied on that letter to come up  
24          with estimates about the amount of fuel that

1 the Laidlaw plant would use; is that  
2 correct?

3 A. It was one of the examples.

4 Q. Now, Applicant's Exhibit No. 17 is CPD's  
5 June 14, 2010 response to our data requests.  
6 Did you participate in that response?

7 A. Yes.

8 Q. Okay. And there was an attachment that you  
9 provided to us which was inadvertently left  
10 out of the book, and I'm going to ask that  
11 it be distributed, which was Attachment  
12 No. 6 to that response. I'll certainly give  
13 it to you and give you a chance to read it.  
14 But I'm wondering, as you see that, whether  
15 you recall that attachment at all.

16 (Witness reviews document.)

17 MR. IACOPINO: Are you going  
18 to be offering this as an exhibit?

19 MR. NEEDLEMAN: I'm going to  
20 offer it as an amendment to our Exhibit No. 17.

21 MR. IACOPINO: So, should we  
22 just mark it as 17A?

23 MR. NEEDLEMAN: That would be  
24 fine. Thank you.

1 A. That's my handwriting on Attachment 6. So I  
2 guess I did see it. And it does serve as an  
3 example of the many different ways of  
4 looking at this topic of how much fuel is  
5 going to be used.

6 MR. IACOPINO: Can we stop for  
7 one minute so I can have the stenographer mark  
8 this.

9 (Laidlaw Exhibit 17A marked for  
10 identification.)

11 MR. IACOPINO: Mr. Chairman,  
12 the exhibit that's being discussed right now is  
13 now marked as Applicant Exhibit 17A. It is a  
14 May 7, 2010 letter or memo signed by Peter  
15 Bloomfield of Steam & Power Engineers. I'm going  
16 to pass that out to the Committee. 17A.

17 A. I'm ready to go, Barry.

18 CHAIRMAN BURACK: Please  
19 proceed.

20 MR. NEEDLEMAN: Thank you.

21 BY MR. NEEDLEMAN:

22 Q. This letter from Mr. Bloomfield is dated  
23 May 7th, 2010; is that right?

24 A. Correct.



1 Q. Can you explain why this letter wasn't  
2 referenced in your testimony in some way?

3 A. It says "Attachment 6," so it must have been  
4 given to you at some place.

5 Q. Oh, it was supplied to us as part of your  
6 data responses. I know I got it. What I'm  
7 curious about is why was this letter not  
8 included in your prefiled testimony.

9 A. No reason. Prefiled testimony on Pages 7  
10 through 12 serve only to show that there are  
11 many different ways of coming up with a  
12 number of fuel. On the low end, you call it  
13 conservative; on the high end, it's  
14 aggressive. I can skew them any way, just  
15 like you can. I can make it come out high  
16 or I can make it come out low. What we need  
17 is something that's reflective of reality.

18 Q. Well, let's look at how Mr. Bloomfield did  
19 the calculation in this May 7th letter.

20 Can you turn to the second page of that  
21 letter, please. And do you see the  
22 paragraph about halfway down that begins  
23 with the word "However"?

24 A. Yeah.

1 Q. Could you read --

2 A. Yes.

3 Q. Could you read that, please.

4 A. "However, the green wood that is purchased  
5 will average 45 percent as received. The  
6 facility will have to buy 754,000 tons of  
7 45-percent moisture content fuel in order to  
8 end up with 721,400... at forty-two five  
9 [sic] when it dries."

10 Q. So, in this letter, Mr. Bloomfield is saying  
11 that the facility's going to need  
12 754,000 tons of fuel at 45-percent moisture,  
13 which is the number that we both agree is  
14 the right moisture content. So it sounds to  
15 me like Mr. Bloomfield's agreeing with our  
16 number here; is that right?

17 A. I believe that, based on the assumptions  
18 that was used in this particular one, he  
19 would be agreeing with you, yes.

20 Q. And on Page 10 of your prefiled testimony,  
21 you reproduced a graph that we supplied to  
22 you; is that correct?

23 A. Yes.

24 Q. And if you look --

1 A. It's a --

2 Q. And if you look at that graph, at a  
3 45-percent fuel-moisture content, according  
4 to that graph, isn't it correct that we  
5 would be using about 750,000 tons a year of  
6 fuel?

7 A. I believe I questioned the graph, as to  
8 where it came from. But, obviously, the  
9 conclusion you would have on the point that  
10 you provided, where you want to focus, based  
11 on this graph, would be 740-, 750,000 tons,  
12 yes.

13 Q. So our graph and Mr. Bloomfield, in that  
14 other letter, seem to agree with each other;  
15 is that correct?

16 A. Did he use 87.5-percent capacity factor?

17 Q. Looks like it. He's referring to  
18 Attachment 9.

19 A. Okay. If he did, then on that particular  
20 analysis you agree.

21 Q. Who is Mr. Bloomfield?

22 A. Bloomfield is a member of Clean Power  
23 Development and a Steam & Power engineer.  
24 Also owns the Concord steam plant here in

1           Concord, New Hampshire.

2       Q.    Thank you, Mr. Liston.  I have nothing else  
3           at this time.

4                           CHAIRMAN BURACK:  Thank you,  
5    Attorney Needleman.

6                           Counsel for the public.

7                           MR. BROOKS:  Thank you.  Mr.  
8    Chairman.

9                           CROSS-EXAMINATION

10   BY MR. BROOKS:

11   Q.    Since it's up there and I can't resist, I do  
12           want to look at what I think is marked as  
13           Exhibit 73 on the board.  I believe --

14   A.    Pretty messy, isn't it?

15   Q.    It's coming along pretty nicely.  I don't  
16           know if I want to add to it.

17   A.    I hope I don't have to do any more drawing  
18           on that particular one.

19   Q.    We do have, I guess, Berlin as kind of the  
20           center of the universe.  That sounds right  
21           to me so far.

22                           I do want to talk about the geography,  
23           just to get it right.  And obviously, you're  
24           not a cartographer, so I don't expect you to

1 do it off your head.

2 But if Berlin is in the center, you  
3 have the White Mountain National Forest up  
4 to the northeast. My recollection is that  
5 the White Mountain National Forest is to the  
6 west and to the south --

7 A. Could very well be.

8 Q. -- of Berlin.

9 A. Doesn't matter, really, when you're looking  
10 at a circle. It affects the circle going  
11 out. So wherever I put it there -- you  
12 know, when I'm up in Berlin, I may have IT  
13 wrong. When I look up river, I think I'm  
14 looking up north. So if I've got it wrong,  
15 then that's what it is.

16 Q. Well, it may matter, though, with your  
17 description, partly because the  
18 unavailability of the outer circle --  
19 meaning the 50-mile radius -- might be the  
20 same to the south, if it's all White  
21 Mountain National Forest, both within the 30  
22 and within 50. And that might be the same  
23 to the west as well. In addition, there  
24 seems to be, in reality, overlap on the west

1 in what you're calling the Whitefield plant.  
2 So if you had a circle for Whitefield, and  
3 you had an overlapping portion of the White  
4 Mountain National Forest, I mean, isn't it  
5 true that wouldn't matter, that that  
6 wouldn't be any different for you or for the  
7 Laidlaw project? If it's unavailable there,  
8 it's unavailable within --

9 A. It's unavailable for everybody, yes.

10 Q. Right. And it would be unavailable for  
11 Whitefield also if it was the White Mountain  
12 National Forest there.

13 A. Correct. Can I draw a new map?

14 Q. It's tempting. It really is.

15 A. I will. I want to do another one.

16 Q. Well, we can't erase anything on there,  
17 though.

18 MR. IACOPINO: Wait, wait.

19 Why don't we copy this one.

20 CMSR. IGNATIUS: You can also  
21 flip it if you want.

22 CHAIRMAN BURACK: Off the  
23 record.

24 (Discussion off the record.)

1 (Laidlaw Exhibit 73 marked for  
2 identification.)

3 CHAIRMAN BURACK: We're on the  
4 record.

5 MR. IACOPINO: Mr. Chairman,  
6 there's been a new exhibit marked. It's  
7 Applicant's Exhibit No. 73. And it is a drawing  
8 that was taken off the White Board with the White  
9 Board printer. We only have the original here.  
10 Does anybody from the Committee wish to see it  
11 right now, or have you seen enough? Thank you.

12 MR. NEEDLEMAN: Could I just  
13 be told what is the pending question?

14 CHAIRMAN BURACK: Yes, what is  
15 pending question, Mr. Brooks?

16 MR. BROOKS: Whether or not  
17 the testimony was correct before: If there are  
18 overlapping zones, basically unavailability  
19 because of the White Mountain National Forest for  
20 both the 30-mile radius and the 50-mile radius,  
21 then, you know, does it matter whether you're  
22 going 30 or 50? It's going to affect both the  
23 Laidlaw radius and the CPD radius the same if  
24 basically that whole chunk is taken up by White

1 Mountain National Forest.

2 CHAIRMAN BURACK: Do you  
3 understand the question, Mr. Liston?

4 MR. LISTON: Yes.

5 CHAIRMAN BURACK: And what's  
6 your answer to that question?

7 BY MR. BROOKS:

8 Q. Or will we see it visually when you --

9 A. Yes, that's what I want to do. I don't want  
10 to not draw this picture after all of this.

11 Q. But if we can do it in just a minute or two  
12 maybe --

13 A. Oh, you want a fast one. There we go.

14 (Witness drawing on White Board.)

15 We're going to call this state of New  
16 Hampshire, which makes this the state of  
17 Vermont and makes this the state of Maine.  
18 We won't even talk about -- yeah, I'll put  
19 Massachusetts in there, too. That'll be  
20 somewhere down here. Is that close enough?

21 Q. Yeah.

22 A. All right. We've got the Schiller plant  
23 right about there. Berlin's location is  
24 right about here. White Mountains looks



1 something like this, if I remember right.  
2 That's pretty big. Come down here, and  
3 right about in this area will be Whitefield.  
4 Over there is Bethlehem. And then you got  
5 down here crossing the Vermont side  
6 somewhere is Ryegate. You drop down about  
7 40 miles as the crow flies, which I don't  
8 know exactly where it is on this map, but  
9 you got Alexandria. You get down in, I  
10 think this area, you got Tamworth.  
11 Somewhere in that area you got Bridgewater.  
12 And then you've got Concord Steam. And  
13 that's it for the big biomass plants right  
14 now.

15 MR. KELLY: Hemphill.

16 MR. LISTON: What's that?

17 MR. KELLY: Hemphill?

18 MR. LISTON: Hemphill, right.

19 That's somewhere in this area, Barry?

20 MR. KELLY: Up 89,

21 Springfield, New Hampshire.

22 MR. LISTON: I'll put it  
23 there.

24 A. All right. So now I don't really know what

1 the 30-mile ring looks like, really. But  
2 it's something like that. Maybe a little  
3 bigger.

4 And then these people want to have a  
5 30-mile radius. They're actually a little  
6 smaller, so they have a little smaller ring.  
7 And this one would have a little smaller  
8 ring. This one would have a smaller ring.  
9 What did we put in here? That's Alexandria.  
10 They got a ring. Obviously, this particular  
11 one at Whitefield's impacted on a lot of  
12 sides, so they're going to draw from down in  
13 here. Okay. Make an amoeba, so to speak.  
14 They're going to have something that looks  
15 like that. These two are going to -- they  
16 got pretty much of a draw area that works  
17 for them, okay. Springfield's about the  
18 same size, so they probably overlap into  
19 Vermont. This one's Bridgewater.  
20 Tamworth's a 22-megawatt plant. Can't quite  
21 make a circle because the White Mountains  
22 are there. So we have to have a little  
23 bigger circle. Concord Steam's really small  
24 right now. Really small. This one was

1 described as having a 75-mile radius. I  
2 don't know if I got this to scale. But it's  
3 100 miles almost exactly to here.

4 CHAIRMAN BURACK: When you say  
5 "to here," you're speaking of --

6 MR. LISTON: To Portsmouth --

7 CHAIRMAN BURACK: This is the  
8 Schiller Station you're referring to?

9 MR. LISTON: -- from Berlin.

10 A. So that tells you that's the outer radius of  
11 a 100-mile thingamajig. So it's going to  
12 look something like that for Laidlaw. So  
13 I've got -- obviously, I've got my miles --  
14 if that's a hundred miles, then all these  
15 circles are a little bit bigger, because  
16 that wouldn't be 30. So they're all a  
17 little bit bigger. But you can see what the  
18 issue is. And then you've got NewPage over  
19 in here that uses a tremendous amount of  
20 wood. And then you got --

21 Q. Okay. Mr. Liston, I'm sorry. I just want  
22 to keep us on track in the questioning. And  
23 you're doing a great job drawing. But we  
24 might be able to answer my question -- leave

1 that there, and we can maybe take notice of  
2 a public document.

3 My question was just basically in terms  
4 of availability. You're both starting in  
5 Berlin. And when I say "both," I mean CPD  
6 and Laidlaw. And you're drawing --

7 A. Correct.

8 Q. -- radii right out from there.

9 A. Yeah.

10 Q. So the simple question is: To the extent  
11 that either someone else's circle, like  
12 Whitefield or whoever is another plant, or  
13 White Mountain National Forest, overlaps  
14 both of those radii, the effect's going to  
15 be the same: They're both off limits,  
16 either way.

17 A. Correct.

18 Q. Okay. And I don't know if it's possible to  
19 just take notice of a page from a Gazetteer  
20 or something like that, that shows White  
21 Mountain National Forest area versus the  
22 Berlin area, because I do believe that to  
23 the west of Berlin there's a significant  
24 amount of overlap between White Mountain

1 National Forest area and other -- but I  
2 don't want to go any further on the drawing  
3 for now because we're taking too much time  
4 on that question. I really do appreciate  
5 you indulging me on that, Mr. Liston. I do.  
6 It's helpful.

7 A. Okay.

8 Q. You talked about the fact that -- well,  
9 first of all, let's just make sure I have  
10 some basic information correct.

11 How much wood were the two mills -- or  
12 not the two mills -- whatever number of  
13 mills that shut down, how much were they  
14 using before they shut down?

15 A. Talking about the paper mills up in Berlin  
16 and Groveton?

17 Q. Yeah. In fact, you can lump in any wood  
18 user that would now qualify as biomass  
19 that's now shut down. How much had been  
20 being used that's no longer being used?

21 A. Timco project was pretty small. I think  
22 about 4 megawatts. So they probably used, I  
23 don't know, 40,000 ton. Does that sound  
24 right? Yeah.

1 Q. And what about the mills and other --

2 A. Wood BioEnergy, which was 9 megawatts or --  
3 so, yeah, would be 90,000 tons...

4 MR. RODIER: Keep your voice  
5 up.

6 A. Paper mills supposedly used between one --  
7 is that what you want to know? They used  
8 between 1 and maybe 1.1 to 1.3 tons of  
9 mostly pulpwood and some chips.

10 Q. Okay. Is that 1.3 million tons?

11 A. Yes.

12 Q. And you mentioned two other plants: One at  
13 40,000 and one at 90,000?

14 A. I think that's correct, yeah. No, those  
15 numbers can't be right. That doesn't match.  
16 Got the wrong numbers there.

17 MR. LISTON: Bill, you want to  
18 do a calculation for me?

19 BY MR. BROOKS:

20 Q. Well, if you don't know, just say you don't  
21 know.

22 A. I don't know, really.

23 Q. Does it sound correct that at least the  
24 mills used approximately 1.3 million tons

1 before they --

2 A. I based it all on the newspaper articles  
3 when they closed and what their managers  
4 said the amount of wood they used and the  
5 problems they had getting volume and price.

6 Q. Okay. Do you have any reason to doubt that  
7 number?

8 A. The 1.1 to 1.3?

9 Q. Correct.

10 A. That's between the two of them. And I don't  
11 doubt it for a second.

12 Q. The proposition was made, I believe by the  
13 Applicant, that because now approximately  
14 between 1.1 and 1.3 million tons are no  
15 longer being used, that that is available  
16 for the Applicant. You seem to dispute  
17 that. Where do you believe that 1.3 or  
18 1.1 million tons is going now?

19 A. Well, certainly in the 30-mile radius  
20 there's still some potential available which  
21 used to be tapped regularly by them. The  
22 NewPage facility gathers pulp logs for -- I  
23 mean -- excuse me -- the Shelburn facility  
24 gathers pulp logs for the NewPage paper mill

1 in Berlin -- I mean in Rumford, Maine. And  
2 a lot of the other paper mills -- I mean,  
3 they still had to make pulp. The market was  
4 in trouble, so they had to drop a little bit  
5 of pulp production. But they still had  
6 customers and they had to supply them. So  
7 they picked up producing the pulp in other  
8 locations. So, some of it might be going to  
9 a pulp mill in Quebec, some of it might be  
10 going to pulp mills in Maine. But they all  
11 found new markets. Some of it's going to  
12 existing wood-fired plants.

13 Q. Were those biomass plants in existence  
14 before the mills shut down or after?

15 A. Let's see. I believe they all were in  
16 existence before it shut down.

17 Q. So those biomass plants would have been in  
18 competition already with the plants that  
19 have now shut down.

20 A. I wouldn't be surprised if that many biomass  
21 plants were part of the problem that forced  
22 them to have to shut down.

23 Q. You mentioned that there was some concern  
24 among other biomass plants about the Laidlaw



1 project --

2 A. Correct.

3 Q. -- is that correct? How do you know that?

4 A. I regularly talk to managers of plants,  
5 people who work in the plants, various wood  
6 people, so on and so forth. They often call  
7 me and talk to me. And they've had a  
8 concern, but their attitude was that they  
9 didn't think that this would go this far.  
10 And they're pretty well committed to  
11 opposing the purchase power agreement when  
12 that comes up.

13 Q. But as far as you know, they've chosen not  
14 to participate in this process.

15 A. I believe that some of them are going to  
16 participate today as a, you know, Johnny  
17 Come Lately type of thing.

18 Q. We might refer to that as public comment?

19 A. Yes.

20 Q. Okay. Let's see. I think on Page 4 of your  
21 testimony you make an estimate about how  
22 much -- basically how many megawatts of  
23 biomass production can reasonably occur in  
24 Berlin. Take a minute to get there and let

1 me know when you --

2 A. You on Page 4?

3 Q. Yeah.

4 A. Hmm. I don't see it. What line?

5 Q. Start at the top. "Within a reasonable  
6 distance..."

7 A. Okay.

8 Q. And it starts on the page before that. So  
9 take a minute if you want to get yourself  
10 situated.

11 (Witness reviews document.)

12 A. I'm ready.

13 Q. Okay. So your statement is that you have --  
14 well, that CPD reduced the size of its  
15 proposal to 29.5 megawatts because that was  
16 essentially exactly what you calculated the  
17 region could sustain.

18 A. Correct.

19 Q. But there's no connection to the fact  
20 that -- as far as I know, the SEC limit on  
21 review of projects is 30 megawatts. And  
22 there's no correlation between the fact that  
23 you're a half-megawatt less than --

24 A. Based on the study. Prior to that, we had

1 two projects working simultaneously: The  
2 Lancaster project and the Berlin project. A  
3 lot of things can go wrong with projects.  
4 They get an early vat, whatever,  
5 transmission lines, whatever. In this  
6 particular case -- and like down in  
7 Winchester, we reduced our project size from  
8 50 megawatts to 20 because of water  
9 limitations.

10 The project in Lancaster, it was  
11 transmission issues. And when we got the  
12 fuel study -- which pretty much applied to  
13 the spot in the Berlin, but I doubt if  
14 Lancaster would have been much different.  
15 It's a little bit further west. So 30 miles  
16 takes you into Vermont. It's a slightly  
17 different circle. We never intended to do  
18 them both. It was one or the other. And so  
19 we dropped it down to 29.5, yes.

20 Q. If the Laidlaw project is approved and their  
21 PPA is approved -- in other words, they're  
22 going forward for production -- does that  
23 mean CPD will voluntarily cease efforts to  
24 construct and operate the 30-megawatt

1 plant -- or the 29.5-megawatt plant?

2 A. If they get a permit here and then they wind  
3 up getting a purchase power agreement, the  
4 way I think it's going to be, I don't think  
5 I'd want to build a power plant within a  
6 hundred miles of them.

7 Q. Okay. So can I interpret that as a yes,  
8 that you will voluntarily cease efforts to  
9 construct and operate a plant?

10 A. Yes. Excuse me. I got to make one  
11 correction there. All of these proceedings  
12 are subject to legal appeal. And we have no  
13 intention of stopping.

14 Q. Sure. I mean, I can change the question to  
15 say, if they get the final green light,  
16 whenever that is --

17 A. Whenever that is.

18 Q. Okay. I believe on Page 30 of your  
19 testimony you mentioned concerns -- I think  
20 it was Page 30. Yeah, the second and third  
21 lines. Let me know when you're there.

22 A. Thirty. Second and third?

23 Q. Yes. And I believe this refers to that  
24 there are concerns from the environmental

1 community. So, take a minute and look at  
2 that.

3 (Witness reviews document.)

4 MR. RODIER: I'm sorry. What  
5 page?

6 MR. BROOKS: Page 30.

7 A. Yeah. Okay.

8 BY MR. BROOKS:

9 Q. So, based on what information do you base  
10 this statement that there's concern from the  
11 environmental community?

12 A. On two things: One is what's going on in  
13 Massachusetts with the -- what's it called,  
14 the Manomet? -- and the total re-evaluation  
15 of RECs and what we anticipate might come  
16 out of that, where it's leaning. And the  
17 other one was the letter from the Sierra  
18 Club -- not the Sierra Club -- the  
19 Wilderness Society.

20 But generally, I participate in  
21 conservation outfits and I -- you know, so  
22 it's kind of a discussion that's pretty much  
23 out there, the concern for our forests, the  
24 balance between protection or conserving

1           versus using.  It's a balance.

2       Q.    Are the groups that you talked to here  
3           today?

4       A.    No.

5       Q.    Part of your testimony, I believe Page 34 --  
6           and I'm going to look at the statements on  
7           Lines 15 and 16.  In general, I believe this  
8           is talking about economic risks.  And  
9           there's the statement, "Such risks could  
10          easily cause a facility to fail on a purely  
11          economic basis."  Do you see that?

12      A.    We.

13      Q.    If Laidlaw obtains both a fuel purchase  
14           agreement and a power purchase agreement  
15           that is economically favorable to them, does  
16           this danger go away?  Not to say there might  
17           not be other concerns that you've raised.  
18           But is this danger alleviated?

19      A.    Well, I don't have the unredacted portion,  
20           so I have no way of knowing what the actual  
21           clauses are relating to fuel adjustment or  
22           compensation.  But without a doubt, if they  
23           can be paid enough to draw wood from great  
24           distances, that will work for them.  So, in

1           that case, the facility may not be Laidlaw  
2           that dies, it would be the competing  
3           facilities that don't have that advantage.

4    Q.    And that brings me to my next question.  And  
5           I mean it as an honest question and not a  
6           loaded question, because there are a lot of  
7           things that play at once --

8    A.    Exactly.

9    Q.    -- in the North Country.  It's a dynamic  
10           situation.

11                 So the question is:  If a new, large  
12           facility causes an existing, let's say, wood  
13           consumer to fail, is that necessarily a bad  
14           thing for the orderly development of the  
15           region and for the economics of the region?

16   A.    Absolutely.  The power plants that are  
17           presently built, and in most -- in some of  
18           the cases all paid for, they are the  
19           cheapest electricity that can come from  
20           biomass that the ratepayers can get.  They  
21           don't have the disadvantage of debt service.  
22           Not all of them.  Some of them have been  
23           refinanced.  But the ones that don't have  
24           debt service, that's a pretty significant

1 piece of the pie. And so if we were looking  
2 to get energy from biomass, the existing  
3 facilities is the very best deal.

4 Q. For the ratepayers.

5 A. For the ratepayers.

6 Q. Okay. Let's take the ratepayers out of the  
7 equation for a minute. Presumably they'll  
8 be looked on very carefully when the PPA is  
9 examined by the PUC, including the Office of  
10 Consumer Advocate. So if I can take them  
11 out of the puzzle for a moment and look at  
12 the business, jobs, economy of the North  
13 Country.

14 A. Okay.

15 Q. Is it necessarily a bad thing if a larger  
16 plant, let's say, displaces a smaller plant?

17 A. Depends on -- on the issue of jobs, it  
18 depends on how many jobs are lost. If you  
19 create 40 jobs but destroy 100, that's not a  
20 net gain of green jobs. If you're  
21 harvesting wood and it's in the same area,  
22 and it's presently being harvested by  
23 somebody else that goes to a different  
24 market, you're not creating a new job in the



1 woods; you're just delivering it to somebody  
2 else.

3 Q. And is the converse true, that if you create  
4 a hundred jobs and you lose 30, that  
5 overall, that might be beneficial for the  
6 region?

7 A. If you create more jobs on strictly a jobs  
8 thing, if you create more jobs than you  
9 lose, that's progress on that particular  
10 aspect.

11 CROSS-EXAMINATION

12 BY MR. ROTH:

13 Q. You were here for most of the testimony over  
14 the last four and a half days, and you  
15 probably heard a lot of the discussion about  
16 trying to determine just how many jobs are  
17 going to be created. And based on your  
18 experience and your work in this area, do  
19 you have a figure on how many work -- how  
20 many jobs are created by volume of biomass?  
21 For example: If, you know, your project  
22 was -- how many? Three hundred  
23 thousand tons?

24 A. Three hundred forty thousand.

1 Q. So, 340,000 tons. Did you have worked up in  
2 your mind a figure for how many jobs, say  
3 per ton of biomass, was going to be created?

4 A. No. What we have is 23 employees. We have  
5 a more mechanized design than Laidlaw.  
6 Laidlaw is dependent upon handling all their  
7 fuel with front-end loaders. So they got an  
8 extra, probably, 9 people on payroll that  
9 are just running loaders 24/7; whereas, ours  
10 has a mechanical handling system. So we  
11 don't run our loaders in the nighttime or  
12 weekends. So, you know, there's less  
13 employees there.

14 But when you get into the woods, if you  
15 create a demand for biomass -- everybody  
16 uses different equipment. But basically,  
17 nobody has an edge over anybody else, as far  
18 as creating jobs. It really comes down to  
19 how much biomass is going to be harvested.  
20 You can't take credit for saying we're going  
21 to use 70 megawatts of wood, or 750,000, and  
22 say that's going to create all new jobs in  
23 the forest and in the harvesting and  
24 delivery, because what's going to happen is

1           that existing operators, first and foremost,  
2           are going to just have a more efficient  
3           operation. They got a bigger market. They  
4           can probably work more. They might hire on  
5           one guy. So it's not -- and if you're able  
6           to pay more money and you cause other  
7           projects to fail, then you're not replacing  
8           them with harvesting; you're just getting  
9           the fuel supply that used to go to them.

10        Q.     Right. I heard you make that point with  
11           Attorney Brooks.

12                     But as far as you know, there's no way  
13           to sort of link --

14        A.     Every project's different.

15        Q.     -- biomass volume to jobs.

16        A.     Yeah, I think the -- the thing about all of  
17           my testimony is that you can have numbers on  
18           the low side, numbers on the high side. All  
19           through this is to prove that. And what I  
20           think this Commission has to do is err  
21           somewhat on the side of conservative versus  
22           taking the aggressive numbers and accepting  
23           them, okay. If you were to talk about fuel  
24           and the amount of fuel you have in here --

1 can we talk about that or --

2 Q. No. I wasn't asking you about that.

3 A. All right.

4 Q. How much wood were you expecting that your  
5 project would procure within Coos County?

6 A. I'd have to look at the map of the 30-mile  
7 radius and how much of that was in Coos  
8 County. But I would think that would be a  
9 lot of it. Almost all of it.

10 Q. Well, if, for example, I described for you  
11 that the White Mountain National Forest  
12 actually doesn't run sort of north-south,  
13 the way you depicted, and, in fact, runs  
14 more or less east and west --

15 A. Yeah.

16 Q. -- and creates sort of a block south, a  
17 large block that you can't get at, and then  
18 you've got chunk that's west of Berlin --  
19 so, basically you're looking at sort of east  
20 of Berlin and north -- I'm assuming you  
21 would source your -- if you were talking  
22 about Coos County, would you source your  
23 wood out of that area?

24 A. A lot of it would come from the north of us,

1 all the way up to the top of New Hampshire,  
2 and some into Maine. We would probably even  
3 maybe attract some wood out of Vermont in  
4 that radius.

5 Ours wasn't based on a radius  
6 disregarding rivers and roads and the White  
7 Mountains. Our study takes all of that into  
8 account.

9 Q. So what percentage of your supply, then, do  
10 you think would come from within what's  
11 available to you in Coos County?

12 A. Well, that's a number I'm not really  
13 prepared to give you accurately. But I'll  
14 just give you a number. I believe it would  
15 be somewhere in the 75- to 80-percent range.

16 Q. Okay. Thank you.

17 Now, I notice -- I have heard, and  
18 maybe this is simply hearsay, that some of  
19 the forest areas sort of north of Milan and  
20 Dummer are owned by a small group of large  
21 landowners and that some of those have  
22 long-term contracts and pledges to provide  
23 specific volumes of timber to other mills.  
24 Are you familiar with that dynamic?

1 A. Correct.

2 Q. And does that dynamic interfere with the  
3 ability of a newcomer, such as yourself or  
4 Laidlaw, to get wood from that wood lot?

5 A. In some cases it would and in some cases it  
6 wouldn't. It would depend on who's doing  
7 your harvesting and whether they're  
8 connected there. But also, those deals that  
9 you're talking about, land-use deals, are  
10 known. Every single one of them, including  
11 what you would call the confidential parts,  
12 are known by the party that studied -- did  
13 our fuel study.

14 Q. Okay. Now, there was some suggestion, I  
15 thought, that was made that there would be a  
16 competitive disadvantage to a power producer  
17 to be required to obtain some portion of its  
18 wood supply in -- locally. Do you agree  
19 with that?

20 A. No.

21 Q. Is there an environmental benefit of any  
22 kind to importing the wood from longer  
23 distances or from, say, you know, staging  
24 yards in Henniker and down in Massachusetts?

1 A. I'm going to separate economical from  
2 environmental. You did ask environmental.

3 Q. That's right.

4 A. The environmental analysis has positives and  
5 negatives. The trucks use diesel fuel and  
6 so on and so forth. But if you're talking  
7 about are you going to go a longer distance,  
8 as opposed to doing something wrong in the  
9 forest, in my case we'll go a longer  
10 distance. We're not going to do anything  
11 wrong in the forest.

12 Q. Okay. Now, I asked some questions about how  
13 long it was going to take to develop a  
14 logging and chipping infrastructure in Coos  
15 County. I guess I'll ask you two questions  
16 about that.

17 One, do you think it's going to be  
18 necessary to develop that infrastructure, or  
19 do you think it's already there?

20 A. I think most of it is there. It just has to  
21 expand. And if it has strong markets and  
22 volume that it can shift to, I think a lot  
23 of them have the capabilities to buy another  
24 single piece of equipment or hire on one or

1 two guys and expand their operations. A lot  
2 of them -- now, if they have a more local  
3 market, in some cases, especially the guys  
4 north of us, okay, if they have to bring  
5 their chips south, we're going to be the  
6 first plant they would have to drive by. So  
7 they may have some economies there, in that  
8 they can make more trips per day with a  
9 truck. If you have a truck that's going to  
10 have to go, let's say from Berlin to  
11 Schiller, okay, you may only be able to get  
12 one, maybe two trips in a day, okay;  
13 therefore, you have to carry all the costs  
14 of that truck and the driver against those  
15 two deliveries; whereas, if you have a close  
16 delivery within the 30-mile radius, you  
17 maybe make five trips a day; therefore, you  
18 got a much more efficient utilization of  
19 your equipment and your employees.

20 Q. You've probably -- I'm sure you heard the  
21 testimony from Mr. Richmond about  
22 Cousineau's sort of long-haul and back-haul  
23 logistics; correct?

24 A. Yes.



1 Q. Do you think that when word gets out in Coos  
2 County that Laidlaw is going to use  
3 Cousineau with the long-haul and back-haul  
4 logistics, is that going to incentivize or  
5 disincentivize people in Coos County to  
6 invest in further logging equipment and  
7 infrastructure?

8 A. I think that as this comes out about  
9 Cousineau, Cousineau is probably going to  
10 have a lot of trouble, because the companies  
11 that he's been supplying to don't want this.  
12 And, you know, for him to become the  
13 exclusive supplier of a competitor that can  
14 put them out of business, that's a big deal  
15 to them.

16 And your answer is correct. If people  
17 are looking at investing a million or two or  
18 three in additional equipment, taking on  
19 crews and the obligation of hiring people,  
20 and you're supplying with somebody who's  
21 going to be putting together other  
22 mechanisms to bring fuel in from 100 to, we  
23 heard, as much as 200 miles away, there's no  
24 assurance there. That's shifting sand,

1           okay. That's not a solid base for them to  
2           go out and borrow the money and expand their  
3           harvesting capabilities.

4       Q.    Okay. Now let's assume that Laidlaw's  
5           assertions that it's going to maximize its  
6           local wood procurement opportunities is  
7           true. Do you think that that maximization  
8           of local opportunities is going to cause  
9           local wood prices to increase?

10       A.   Absolutely.

11       Q.    And do you have any opinion on what impact  
12           that increase might have on the existing  
13           users, such as the NewPage mill?

14       A.    I think they could all potentially be put  
15           out of business. I don't know where that  
16           particular paper mill is, whether it's  
17           regaining health, it's healthy, or whether  
18           it's on the edge. I don't know where  
19           they're at right now. But if you start  
20           driving up their raw material cost, it can't  
21           be a good thing for them. In the paper --  
22           in the electric generating plants in that  
23           area, it's a lot clearer, because they're  
24           not going to be able to follow this price up

1 very far at all. They don't get paid a lot  
2 of money right now selling to the market,  
3 okay. They have to do a lot of different,  
4 interesting strategies to stay in business.  
5 And there's times when they can't generate  
6 because the product they sell isn't worth  
7 what the fuel -- the variable cost of fuel.  
8 So, if the price of fuel starts going up,  
9 they are destroyed. The end result is that  
10 Laidlaw then gets their volume and replaces  
11 them. But the problem is, there's a much --  
12 many more employees involved in that  
13 decentralized approach to power. And that  
14 decentralized approach to power has a lot of  
15 very significant advantages as to the way it  
16 helps the transmission lines and as to the  
17 way that it gives multiple markets for the  
18 wood people to go to. I think if you talk  
19 to the guys out in the woods, they're going  
20 to tell you we'd rather have all those  
21 little plants than one great big plant,  
22 because when that great big plant isn't  
23 running, we don't have anyplace to take our  
24 wood. Also, once there's only one plant out

1           there and no competition, we get screwed.

2           Am I allowed to put that in testimony?

3                       But, you know, the better system is to  
4           have smaller, more efficient plants. It  
5           helps the transmission system because you  
6           don't have to do upgrades. You're supplying  
7           power locally. And it produces more tax  
8           space for more communities, and it produces  
9           a more dispersed green jobs base.

10          Q.    Thank you. That's all the questions I have.

11                               CHAIRMAN BURACK: Thank you.

12          Let's have questions now for Mr. Liston from the  
13          Subcommittee. Dr. Kent, do you wish to start?

14                               DR. KENT: Thank you, Mr.

15          Chair. I have a series of questions. I'll be as  
16          quick as I can through this.

17          INTERROGATORIES BY DR. KENT:

18          Q.    The wood suppliers within Laidlaw's proposed  
19                wood basket, are they subject to exclusive  
20                long-term agreements?

21          A.    Some of them would be, I would assume. But  
22                it would be with the parties who own the  
23                land, I would think, not the harvester or  
24                the broker. It would be ultimately with a

1 landowner.

2 Q. Can you give me some kind of feel for what  
3 percentage of that wood basket might be  
4 already tied up long-term versus subject to  
5 change at their whim?

6 A. No, but I can tell you that the available  
7 forest mass is a declining amount, okay. So  
8 whatever we think we have out there today,  
9 it's a declining amount for a lot of  
10 reasons. And it isn't just about  
11 development, where you take forest land and  
12 turn it into house lots. Things are on the  
13 horizon, such as carbon sequestration,  
14 wanting more appropriate long-term  
15 protection, so that the forests we have  
16 today continue for generations. Therefore,  
17 that utilization factor that was brought up,  
18 which I hope I get a chance to talk about,  
19 okay, eventually we're going to go to the  
20 point where that's going to become much more  
21 important, and you're going to be able to  
22 have -- say if you had a thousand acres. It  
23 wouldn't be a thousand acres that you could  
24 harvest from. There would be pieces that

1           were -- the soil was too thin. There would  
2           be pieces that are set aside for wildlife  
3           habitat and --

4       Q.    Mr. -- we're never going to get done quick.

5       A.    Okay.

6       Q.    I mean, I need you to answer my question and  
7           not pontificate for me.

8                    When Laidlaw -- if, hypothetically,  
9           Laidlaw goes into operation, do you imagine  
10          they'll force closures or force realignment  
11          of existing wood baskets for existing  
12          facilities?

13       A.    They'll definitely force closures.

14       Q.    Why wouldn't there be a realignment?

15       A.    You mean the amoeba effect you're talking  
16           about?

17       Q.    We have wood baskets.

18       A.    Correct.

19       Q.    As new plants have come on over the years,  
20          new facilities, has there been historic  
21          realignments of wood baskets to accommodate  
22          facilities?

23       A.    I would suspect that every operating  
24          business reacts to the next operating

1 business that comes online. The question  
2 is, do they have that ability.

3 Q. Now, have we seen closures as new facilities  
4 are added?

5 A. Hmm. I don't think any of the closures to  
6 date have been as a result of new  
7 facilities, but they have been as a result  
8 of not being able to get enough fiber.

9 Q. And what particularly are you referring to?  
10 What facility has closed because they  
11 couldn't get fiber?

12 A. The Timco operation closed because of the  
13 availability of fiber for their lumber, for  
14 instance; the high-grade got so bad, they  
15 couldn't compete. Your two Berlin mills  
16 that we were talking about closed because  
17 they couldn't get enough fiber at an  
18 affordable price. So those are some I can  
19 think of.

20 Q. Okay. What would have been an affordable  
21 price? Is that they weren't able to pay  
22 market price, or they were, but --

23 A. Well, if you -- if demand -- supply and  
24 demand always apply. If the demand

1 increases, the price goes up. But some of  
2 the parties won't be able to pay that price  
3 because their business model can't handle  
4 it, so they go out of the business.  
5 Eventually the demand comes back to what can  
6 be sustained, but it's at a -- it's not  
7 necessarily even at a higher price, because  
8 after the others are out of business, then  
9 the demand goes back to a supply and demand.  
10 So the price that the -- for instance, if  
11 this happened up in Berlin, and two or three  
12 or four plants went out of business, chances  
13 are, with Laidlaw the only one standing,  
14 they'll probably get cheaper wood than any  
15 of the rest of them were paying when they  
16 were all running, because the demand will  
17 now be lower than what it was when they were  
18 all in business.

19 Q. Is it unusual -- you know, because I'm not  
20 in the wood business, that seems like normal  
21 course of business for businesses, that  
22 there's competition and shifting and people  
23 come on and people disappear from the  
24 markets.



1 A. You are correct. And supply and demand  
2 applies. So the question we have right now  
3 is: Do we want to have a Laidlaw project  
4 come on, a single project, at the expense of  
5 three or four others? And those three or  
6 four others enhanced our electric system  
7 through the distributed location of them.  
8 And they enhanced the situation for the  
9 people who are in the forest products  
10 business because they have multiple  
11 locations to take their wood instead of one.  
12 And they employ, collectively, more people,  
13 and they pay taxes to more towns.

14 Q. Maybe we should go at it this way: What do  
15 you consider a high fuel cost?

16 A. High fuel cost?

17 Q. Yes.

18 A. In today's market, it would probably -- it's  
19 based on what you can sell your products  
20 for. In today's market, a new merchant  
21 plant that's selling to the market, okay, or  
22 is out getting what they call strips,  
23 short-term obligations, a high fuel price  
24 for them probably \$28, \$29 a ton.

1 Q. You're saying existing today --

2 A. Yeah.

3 Q. -- 28, 29 is high?

4 A. No. Well, I'm saying at that point, they  
5 still have trouble operating because the  
6 price of electricity as a merchant selling  
7 into the market is very low. The  
8 combination of revenue sources coming to  
9 these plants are selling energy, capacity  
10 payments and renewable energy credits.

11 Q. We heard testimony earlier that, for  
12 Schiller and facilities north of the Notch,  
13 30-plus is typical. But you're saying 28,  
14 29 is high and will drive people out of  
15 business.

16 A. No. I think it's high, but it may not be  
17 the point they'd drive out of business. The  
18 prices right now for the timberland owners  
19 in the third quarter -- excuse me -- in the  
20 second quarter of 2002 --

21 CHAIRMAN BURACK: Second  
22 quarter of 2002?

23 MR. LISTON: Excuse me. 2010.

24 CHAIRMAN BURACK: Thank you.

1 A. In the north zone, wood chips had a low  
2 price of 22 and a high price of 33, with an  
3 average of 28.5. And in the quarter before  
4 that, the low price was 23 and the high was  
5 33 and the fuel average was 28. So,  
6 basically the same. And it's the same going  
7 back into 2009. It's 24 to 32, with a 29  
8 average.

9 Q. Let me ask my question again. At what  
10 point -- at what price do we force  
11 facilities to close because they can't  
12 afford the price?

13 A. I think you're getting there at \$34 a ton  
14 for the existing facilities, unless they can  
15 get a purchase power agreement from somebody  
16 that improves on market prices.

17 Q. Could you explain a little more detail your  
18 concern about Cousineau's relationship with  
19 Laidlaw and how that will force the closure  
20 of other facilities.

21 A. Well, for starters, Cousineau described  
22 himself as supplying fuel to the Schiller  
23 plant as if he was their supplier. But he  
24 isn't.

1 Q. Excuse me. I believe his testimony was that  
2 he supplies 10 percent of Schiller.

3 A. That's right. And then he corrected it and  
4 he said, "I supply 10 percent." But in that  
5 process, he said he understood their fuel  
6 supply and where they got their wood and  
7 understood all that, okay.

8 But this Laidlaw project affects  
9 Schiller. Schiller won't go out of  
10 business. It's going to wind up costing the  
11 ratepayers more for the Schiller operation.  
12 But it won't go out of business, because  
13 Laidlaw's going to cut deep into their  
14 supply area.

15 Q. Do you have some evidence to substantiate  
16 that statement?

17 A. I'm going to use my map again. I think he  
18 mentioned they're right up on the ocean.  
19 They're built right on the ocean --

20 Q. I understand that. But how does Laidlaw cut  
21 into Schiller's supply, that they are no  
22 longer able to operate? Is that what you --

23 A. No, I didn't say they wouldn't be able to  
24 operate. I said their price for elect- --

1 their price for fuel's going to go up and it  
2 gets passed through to the ratepayer. So  
3 their price for fuel is going to go up, and  
4 the ratepayer's going to pay more for what  
5 energy comes out of there.

6 Q. Because Laidlaw is monopolizing the fuel  
7 supply?

8 A. No. We said that they would get wood from  
9 75 miles, supposedly in a arc, which is  
10 actually bigger than that. Be something  
11 like that. They take in a lot of  
12 Massachusetts. They have a 180-degree side  
13 where they can get their fuel.

14 (Mr. Liston drawing on White Board.)

15 Q. So when you say -- excuse me. Are you  
16 suggesting that there's -- we've reached our  
17 limit of available wood there?

18 A. Pretty close.

19 Q. Have you done an analysis of that --

20 A. The University of New Hampshire did. They  
21 said that they figured that -- I think it  
22 was Hebert -- that the remaining  
23 potential -- the remaining potential for the  
24 state of New Hampshire, if we were using all

1 the wood in the state of New Hampshire, the  
2 remaining potential is like 80 megawatts.  
3 If you used it all, 80 megawatts, if you  
4 used it all to generate electricity. This  
5 is the same wood that we would make wood  
6 pellets out of. It's the same wood we would  
7 make firewood out of.

8 Q. Understood. You just brought up something  
9 we have not on the record -- we've never  
10 seen it. So, perhaps it would be helpful if  
11 you provided that study, substantiating your  
12 statements, okay.

13 A. Yeah.

14 Q. Thank you.

15 You're familiar with 162-H, the energy  
16 facility evaluation, siting, construction  
17 and operation statutes?

18 A. I believe so. I don't have -- you know, I  
19 wouldn't say that I could quote it chapter  
20 and verse. Usually when I have a question  
21 related to that, I would go and look at it.

22 Q. Okay. Are you familiar with the criteria  
23 this Committee must use to evaluate whether  
24 a certificate should be granted or not?

1 A. Yes. And let me see if I can dredge that  
2 up.

3 Q. I'll make it simple for you since you don't  
4 have it in front of you.

5 A. Okay.

6 Q. Are you suggesting that Laidlaw does not  
7 have adequate financial, technical or  
8 managerial capability to construct and  
9 operate a facility?

10 A. No.

11 Q. Are you suggesting that the Laidlaw plant  
12 will interfere with the orderly development  
13 of the region?

14 A. Yes.

15 Q. Okay. Why?

16 A. Well, for one thing, I would presume that,  
17 if you destroy existing employers who are  
18 presently in green jobs, so that you have a  
19 net loss of jobs, that that's not a very  
20 orderly development. I would also say that,  
21 if you destroy projects that enhance the  
22 electrical system by providing power in  
23 pockets where the power would have to come  
24 in and now it goes out, some of those

1 situations would cause the utilities to have  
2 to do upgrades. An example is the Tamworth  
3 project. The Tamworth project specifically  
4 prevents the need for Public Service Company  
5 to have to run stronger lines in there and  
6 put in bigger transformers, et cetera,  
7 because they're generating power out versus  
8 the power having to come in.

9 Q. Do you have any studies that you know of  
10 that demonstrate an expected impact, a  
11 negative impact to the region if Laidlaw  
12 were to become operational?

13 A. I don't believe anybody's done such a study,  
14 including Laidlaw. I would presume that the  
15 Applicant would be the one that would have  
16 to study that.

17 Q. Do you know how the municipal and regional  
18 planning authorities in governments feel  
19 about this project? Have they spoken  
20 regarding the orderly development?

21 A. Some have. Some have held their -- you  
22 know, in each municipal organization there's  
23 people that are pro and con, okay. So  
24 you've got that situation. You've seen some



1 of the officials from Berlin come in here  
2 and show support; but yet, in the case of  
3 the mayor, he has to speak for himself,  
4 okay. He got a real problem speaking for  
5 his council because it's not that unanimous.

6 Q. All right. Are you stating that Laidlaw  
7 will have an unreasonable adverse effect on  
8 aesthetics, historic sites, air or water  
9 quality, the natural environment, public  
10 health and safety?

11 A. Aesthetics.

12 Q. Aesthetics?

13 A. Yes.

14 MR. RODIER: May I, Mr.  
15 Chairman, give Mr. Liston a copy of the statute,  
16 just so he can look at the actual words. If it's  
17 dragging this out too much, that's fine.

18 DR. KENT: I've finished  
19 questioning Mr. Liston. Thank you.

20 CHAIRMAN BURACK: All right.  
21 Thank you very much. I don't think it's  
22 necessary for him to see the statute.

23 MR. RODIER: Okay.

24 CHAIRMAN BURACK: But thank

1 you.

2 MR. RODIER: Mr. Chairman, at  
3 this point, some of these people from Berlin  
4 drove down here like this morning. So I don't  
5 know what you want to do. But I don't know if  
6 now is a good -- some of them are the affected  
7 wood plants, I heard. I don't know what you want  
8 to do, but maybe now is the time.

9 CHAIRMAN BURACK: Mr. Rodier,  
10 thank you very much. It's my intention to give  
11 the Subcommittee an opportunity to continue to  
12 question this witness. And once we have  
13 concluded that, I will then assess whether it  
14 would be an appropriate time or not to allow  
15 public comment. I do note that the hour is about  
16 4:00. You have an additional witness, Mr.  
17 Rodier. And my sense at this point is that it  
18 does not -- we'll assess where we are, once we've  
19 completed Mr. Liston's testimony, to determine  
20 whether we're going to need additional days to  
21 complete the evidentiary portion of this process.

22 Mr. Wright, do you have  
23 questions?

24 MR. WRIGHT: Thank you.

1 INTERROGATORIES BY MR. WRIGHT:

2 Q. Just a question, Mr. Liston.

3 The facility you're designing in  
4 Berlin, what's the expected life of that  
5 facility?

6 A. Of the Clean Power facility?

7 Q. Yes.

8 A. Fifty years.

9 Q. Fifty years? Okay. So the existing plants  
10 in New Hampshire were built -- most of the  
11 existing plants on your map, when were they  
12 designed and built?

13 A. Most of them were 25 years ago.

14 Q. Okay. Thank you very much.

15 CHAIRMAN BURACK: Director  
16 Muzzey, do you have questions?

17 DIR. MUZZEY: No, I don't.

18 CHAIRMAN BURACK: Director  
19 Stewart?

20 DIR. STEWART: Just really one  
21 simple thing.

22 INTERROGATORIES BY DIR. STEWART:

23 Q. Do you have any quantitative information as  
24 to where the 1.3 million tons went that the

1 pulp mills were using? I really haven't  
2 gotten anything concrete on that from the  
3 Applicant's review, or yours. In other  
4 words, it seems to me that since the mills  
5 went down, the other pulp mills haven't  
6 bumped up in capacity by some huge amount.  
7 In fact, more likely than not, in the  
8 current economy they've gone down some. And  
9 the other energy facilities are not using  
10 more, to any great degree. So I'm just  
11 trying to understand where that 1.3 million  
12 is going or if it's staying in the woods,  
13 and why that capacity is not there for these  
14 other facilities.

15 A. Well, it's just not there. And the pulp  
16 industry, when they were harvesting in the  
17 local area, I have no idea how much they  
18 harvested, say within a 30-mile radius of  
19 the Berlin facility or the Gorham facility.  
20 But that wasn't the only place they got  
21 pulp. Some of their pulp or pulp logs came  
22 all the way from the Maritime Provinces.  
23 And that was contributing to their problem  
24 with price.

1           There is some of the capability that's  
2           still there. As we did say, there's 340,000  
3           tons of material. Additionally, though, you  
4           don't get more material if some other things  
5           aren't happening. The ability to take  
6           material out of the woods -- remember, this  
7           is the low-end material associated with the  
8           high-end harvest. If the high-end harvests  
9           aren't happening, okay, then you're not  
10          going to have as much material available to  
11          you, even if you're needing it. So the  
12          demand is going to exceed the supply, the  
13          price is going to go up, and it's going to  
14          be a problem. It has a tendency to be  
15          related to what's going on in the economy at  
16          the time. So there's a lot of different  
17          parts and pieces of it.

18                 But I think, also, that when these  
19                 power plants that are up there were built,  
20                 they obviously cut into the supply for these  
21                 paper mills or pulp mills that had been  
22                 there for a long time, as far as the local  
23                 supply. So, to some extent, they negatively  
24                 impacted them. Most of the wood -- let's

1 just say the wood was 50 miles away. It  
2 just turned direction and went to the  
3 closest pulp mill. It didn't stop getting  
4 harvested. It just went to somebody else.  
5 There's still a demand. And if a big  
6 supplier drops out, there's a hole in the  
7 supply that gets made up by other  
8 facilities.

9 Q. Thank you.

10 CHAIRMAN BURACK: Thank you,  
11 Director Stewart.

12 Mr. Northrop.

13 MR. NORTHROP: Yes. I just  
14 have one question.

15 INTERROGATORIES BY MR. NORTHROP:

16 Q. You had made a statement to the effect that  
17 Timco closed because they couldn't get  
18 enough high-quality wood. Can you tell me  
19 what Timco is? Is it a power plant? Is it  
20 a pulp mill? What is Timco?

21 A. Timco was a lumberyard that I think did  
22 about 20 million board feet of pine lumber.  
23 It did maybe \$8 million of something other  
24 than pine. They had their kilns. They had

1 a small cogeneration plant, wood-fired  
2 cogeneration plant that I built -- or I  
3 managed the construction for. And Public  
4 Service bought out their rate order, okay.  
5 And when they did that, it changed their  
6 dynamics because they no longer could dry  
7 their wood at a reasonable price. They had  
8 a cogeneration way of drying their wood, and  
9 they had to go to buying oil to dry their  
10 wood.

11 Q. But primarily, were they a sawmill to create  
12 lumber --

13 A. Correct. They were primarily --

14 Q. -- boards, essentially?

15 A. -- a sawmill to do lumber. And they  
16 provided some of their own fuel for the  
17 plant. Probably purchased about 80 percent  
18 of their fuel needs.

19 Q. Okay. But they were a sawmill to create  
20 boards, and they had a cogeneration -- sort  
21 of as a byproduct, they created their own  
22 heat to run a kiln to --

23 A. They heated their buildings and they did not  
24 use their own electricity because of the way

1           it was structured.

2       Q.    But you said they closed primarily because  
3           they couldn't get enough high-quality wood.  
4           I'm assuming to cut into the boards --

5       A.    Correct.

6       Q.    -- to create the boards.

7                    Do you think that, if the overall  
8           health of the forest were improved so that  
9           more high-quality wood was available, would  
10          that be a factor that might help Timco have  
11          survived, or perhaps allowed them to resume?  
12          If the forest health was better, so that  
13          more high-quality wood was available, would  
14          that be beneficial to Timco, or to those --

15       A.    Whatever their --

16       Q.    -- companies like that?

17       A.    Excuse me. I'm sorry. Whatever radius they  
18          drew their logs from and whatever types of  
19          management those landowners had, both of  
20          those things could have affected them. But  
21          the first thing is they could have gotten  
22          more into managing their forest for higher  
23          production. But at the same time, they ran  
24          into the situation where they demanded more



1 than what the resource could supply, and  
2 they eventually got to the point where they  
3 couldn't afford it anymore.

4 Q. But if the supply was increased, would that  
5 have been beneficial to Timco, if there were  
6 more high-quality logs available,  
7 high-quality timber available?

8 A. I believe they would have stayed in business  
9 if their price for raw materials was lower.

10 Q. Thanks.

11 MR. WRIGHT: No further  
12 questions.

13 CHAIRMAN BURACK: Thank you.  
14 Mr. Janelle?

15 MR. JANELLE: No.

16 CHAIRMAN BURACK: Mr.  
17 Harrington.

18 INTERROGATORIES BY MR. HARRINGTON:

19 Q. Mr. Liston, I have a couple questions.

20 First, you had quoted some prices for  
21 wood chips, I believe -- low, high,  
22 average -- out of some type of a document.  
23 Could you give us the name of that document  
24 a little more specifically? You said

1 something, but I didn't have a chance to  
2 write it down.

3 A. I'll give you the three copies, because the  
4 gentleman's in the background and he can  
5 probably replace them. But why don't I just  
6 give you three copies of the Timberland  
7 Owners magazine that comes out three or four  
8 times a year -- four times a year.

9 Q. Give them to Mr. Iacopino.

10 A. There's a lot in here, okay. And you can  
11 look at the low-grade pulp logs. They're  
12 always worth more than wood chips --

13 Q. Thank you.

14 A. -- than the low end.

15 MR. IACOPINO: Are these all  
16 the same? Are these copies of the same book?  
17 No, they're different.

18 MR. LISTON: They're three  
19 different charts, three different quarters.

20 MR. IACOPINO: So you're just  
21 looking at the chart, not the whole magazine.

22 MR. LISTON: You can copy them  
23 or you can keep them.

24 MR. IACOPINO: Okay. Want to

1 have them marked?

2 CHAIRMAN BURACK: Why don't we  
3 just mark the page that you're seeing there as  
4 whatever exhibit this would be.

5 MR. IACOPINO: I'll have these  
6 marked as the next Clean Power exhibit, CPD 6 I  
7 believe we're at.

8 And do you want to mark them  
9 right now, Mr. Chairman, or should we wait?

10 CHAIRMAN BURACK: We can. Go  
11 ahead and mark them right now.

12 MR. IACOPINO: And the first  
13 one we'll mark is the NHTOA Market Pulse,  
14 Low-Grade, Third Quarter 2009. That would be  
15 Clean Power Development Exhibit 6.

16 And the next one would be the  
17 NHTOA Market Pulse, Low-Grade, First Quarter  
18 2010. And that would be CPD 7.

19 And the final exhibit will be  
20 NHTOA Market Pulse Low-Grade, Second Quarter  
21 2010. And that would be CPD 8. And I can get  
22 copies for the Committee later.

23 (CPD Exhibits 6, 7, 8 marked for  
24 identification.)

1 CHAIRMAN BURACK: Mr.  
2 Harrington, you may proceed.

3 BY MR. HARRINGTON:

4 Q. Getting back to a couple specific questions.  
5 It seems as if the testimony we've heard on  
6 the availability of wood has been one  
7 constant throughout, given by Laidlaw, their  
8 experts and yourself, and that is: If  
9 you're willing to spend enough money,  
10 there's plenty of wood. Do you agree that's  
11 correct?

12 A. That's correct.

13 Q. So, rather than harp on how much is  
14 available and from what mileage, it really  
15 comes down to price.

16 Now, in your opinion, if the Laidlaw  
17 plant was to come online, what would that  
18 be, the effect of wood prices, let's say in  
19 the Berlin area and then in New Hampshire as  
20 a whole?

21 A. It's really going to depend on how long the  
22 competition can hang on. If they're going  
23 to hang on, the price is going to rise until  
24 they can't hang on anymore and enough of

1           them drop out and go out of business, and  
2           then the price comes back down to a lower  
3           supply-demand scenario. So, ultimately  
4           Laidlaw goes forward. Six months to a year,  
5           they don't have that competition and they're  
6           paying what the price is today.

7       Q.    Okay. And I guess that same statement could  
8           made be about Clean Power Development,  
9           except on basically half the rate that  
10          Laidlaw would do it, because you would bring  
11          in about 30 megawatts and --

12       A.   There's a difference, though. Clean Power  
13          Development is a pure merchant power plant.  
14          We don't have anything in a purchase power  
15          agreement that would allow us to run the  
16          price up.

17       Q.    And as far as your plant goes -- obviously,  
18          it's not built, so it would be a brand new  
19          plant, assuming latest technology.

20                    In comparison to the existing plants  
21          out there operating right now, would you say  
22          your heat rate is the same, a little bit  
23          lower, or significantly lower?

24       A.    Ours would be a little higher. And

1 depending upon the steam customer load, it  
2 can be as much as 62 to 70 percent,  
3 depending on the number of steam customers  
4 we have. If the Fraser Paper mill stays in  
5 business and we supply them with steam  
6 somewhere down the road, minimum is  
7 62-percent efficient, probably 70. We're  
8 going to push for a district heating system,  
9 and that will seasonally help our --

10 Q. Okay. Well, I was talking about heat rate  
11 and you're talking about efficiency. So  
12 let's just stick with one term. We can  
13 stick with your term, efficiency.

14 Your plant, you're saying, is more  
15 efficient than the biomass plants up there  
16 now that are 20, 25 years ago old; is that  
17 correct, if it was built as designed?

18 A. Yes.

19 Q. You had mentioned -- and maybe this gets  
20 cleared up by a statement Mr. Rodier made  
21 and by other people who are going to speak.  
22 But we've heard from Laidlaw that the  
23 existing plants were in favor of the Laidlaw  
24 plant, in discussions that they had with

1           them. You have stated that they're opposed  
2           to the plant. And as best I can find, they  
3           haven't been here. They haven't filed as  
4           intervenors, nor have they submitted any  
5           written statements. So, can you explain, if  
6           their, as you state, very existence of their  
7           plants depends on Laidlaw not being built,  
8           why they have not filed as intervenors, or  
9           at least put in written testimony saying,  
10          like many people have, in favor or opposed  
11          to the plant?

12        A. Well, in a lot of cases they have to sell  
13          their power to Public Service, or try to  
14          sell their power to Public Service Company.  
15          And they're caught in that particular  
16          situation of biting the hand that feeds you.  
17          But Public Service is only offering very,  
18          very short terms that they'll buy power from  
19          any entities, and nowhere near the kind of  
20          deal that I believe this deal is.

21        Q. Well, I'm a little confused. Are you  
22          telling me these plants do not sell their  
23          power into the wholesale market?

24        A. Some of them do. But they're not going to

1 run very long on any moment or any period of  
2 time when their variable costs exceeds their  
3 revenue. So they would either cycle down to  
4 a lower level and stay on, like, spinning  
5 reserve, or if it looks like you're going to  
6 have a long period of time, they would  
7 probably shut down and wait.

8 Q. Okay. But you're bringing in Public  
9 Service. You're saying that they would like  
10 Public Service to pay them above-market  
11 rates, and that's why they don't criticize  
12 this, in hopes of getting a better deal with  
13 Public Service?

14 A. I think they don't criticize it, because if  
15 they did, then they wouldn't be able to get  
16 the rates that they do get.

17 Q. Well, I don't think we're getting anywhere  
18 in that conversation, and the day is getting  
19 late. I think that's all I have.

20 CHAIRMAN BURACK: Thank you,  
21 Mr. Harrington.

22 Commissioner Ignatius.

23 CMSR. IGNATIUS: Thank you.

24



1 INTERROGATORIES BY CMSR. IGNATIUS:

2 Q. Mr. Liston, you've said a couple times that,  
3 in your view, the Laidlaw project is not a  
4 merchant plant. Can you tell us more about  
5 what you mean by that.

6 A. Well, merchant plants historically take all  
7 the risk. And that's the purpose for the  
8 merchant plant. Sure, they want to mitigate  
9 the risk. They want to have as best of a  
10 deal that they can, as far as a purchase  
11 power agreement. But it gets down to the  
12 point where merchant plants do take risk on  
13 fuel supply. It may be a shared risk or it  
14 may be some type of arrangement, but they  
15 take the risk of -- the risk of capital and  
16 the risk of operations. And the purpose for  
17 that, when we first deregulated our  
18 utilities, to some degree, to get the risk  
19 away from the ratepayer and to get away from  
20 the automatic payments related to return on  
21 capital, and got some power plants in this  
22 state. So if we are going to have merchant  
23 power plants today, they do need purchase  
24 power agreements. But you have to be very

1 careful to balance what they need with  
2 what's good for the ratepayers and what's  
3 good for the environment, also.

4 Q. So, is it fair to say, in your view, the  
5 purchase power agreement takes away too much  
6 of the risk from the Laidlaw plant?

7 A. Based on the unredacted portion and the  
8 testimony that I've heard from the Laidlaw  
9 Applicants, I think, yes, they got a  
10 above-market, out-of-the-market deal that  
11 allows them to do this.

12 Q. You also said you thought the utilization  
13 factor was misused, you said earlier this  
14 afternoon. Can you explain what you  
15 think -- and I assume that's the 70-percent  
16 utilization of the --

17 A. Correct. Let me find the right document for  
18 that, something that's already filed.  
19 That's Exhibit 9, I believe, which is the  
20 "Forest Biomass Retention and Harvesting  
21 Guidelines for the Northeast" by the Forest  
22 Guild, the latest edition being May 2010.

23 CHAIRMAN BURACK: Pardon me.  
24 If I may interrupt you just a minute. We're

1 talking about Committee's Exhibit 9; is that  
2 correct?

3 THE WITNESS: I've got my own  
4 copy, so I don't know. I just put down  
5 Exhibit 9. And I don't know --

6 MR. IACOPINO: It is Committee  
7 Exhibit 9, Mr. Chairman.

8 CHAIRMAN BURACK: Thank you.

9 MR. IACOPINO: May 2010.

10 CHAIRMAN BURACK: Thank you.

11 A. And when the LandVest people produced their  
12 original study, they basically came up with  
13 6.2 million tons of available material, and  
14 then made the statement, based on a better  
15 utilization factor, going from 50 to 70 on  
16 apparently some component part of this, they  
17 could get that up to, I think it was 6.9.  
18 And then they said, based upon a more  
19 competitive market, which can only mean the  
20 ability to pay more, that they were going to  
21 get that up to 7.2 million tons. But the  
22 problem with the -- when they're talking  
23 about the utilization in the testimony,  
24 they're talk about utilization was like

1 getting more tops and getting more parts and  
2 stuff.

3 But from a Forest Guild standpoint, on  
4 Page 5 and 6 you will see that only on  
5 certain pieces of ground would they even  
6 consider it. I mean, there's pieces of  
7 ground out there where the soil is thin  
8 towards the top of a rock mountain, where  
9 there's not enough soil for any harvest or  
10 any utilization. And then, as you know,  
11 there are other pieces of ground, if you  
12 have a thousand-acre piece of ground, you  
13 know, wetlands and so on and so forth. And  
14 this guideline goes into the number of  
15 different things that might apply to some of  
16 the working forests, such as wildlife  
17 considerations and so on and so forth.

18 So the highest yield, which would be 75  
19 to 63 percent, would be on places where you  
20 had it in a 15- to 20-year harvest cycle and  
21 you never -- and when you harvested, you  
22 didn't take more than one third of the basal  
23 area of the forest, of the component that  
24 didn't have any other problems, okay. By

1 "any other problems," I mean the  
2 silviculture in the soil is correct.

3 Now, if you go through, like I say, a  
4 big piece of ground, you're going to find  
5 places where you shouldn't take any. You're  
6 going to find places where you have to take  
7 less than that. The 50-percent utilization  
8 that we have today is nothing but that.  
9 It's a 50-percent utilization. It is not  
10 tied to forest practices. It's tied, as Mr.  
11 Richmond, I think his name was, said, to how  
12 much they can effectively get when they drag  
13 trees out of the forest. They break off  
14 limbs and there's all kind of things that  
15 fall off. And by the time they get it out  
16 to the landing where they're going to chip  
17 it, and they chip it, they're averaging  
18 50-percent utilization. In some places  
19 they're taking a lot more than that,  
20 because -- and in some places they're taking  
21 none.

22 But there is no study been done on the  
23 state of New Hampshire, let alone the  
24 hundred-mile footprint of where they want to

1 draw their wood from. There's no study  
2 that's been done as to what portion, you  
3 know, the categories, if you will -- like  
4 studying the soil -- you know, there's no  
5 map that says on this section you can take  
6 20 percent and on this section you should  
7 take zero and on this section you can take  
8 70. So, to assume that you can go on to a  
9 piece of ground and take 70-percent  
10 utilization without harming it is an  
11 incorrect assumption from a sustainability  
12 basis. And that's what the Forest Guild is  
13 talking about.

14 And if you look at back at their  
15 testimony on the different things that they  
16 listed that they were going to have in  
17 their, I think they call it sustainability  
18 thing for the City of Berlin, okay, the  
19 Forest Guild guidelines were not part of  
20 that.

21 Now, remember, they testified -- and I  
22 believe it's correct -- that the Forest  
23 Guild is made up of licensed foresters. So,  
24 licensed foresters come together and they

1 create these guidelines, okay. This is a  
2 guideline that presently isn't being paid  
3 attention to. It's not something that's  
4 part of what's going on. So, to say that  
5 you can take 70 percent more of the wood  
6 and -- all the tops and limbs -- and can  
7 have that factor and that it's sustainable  
8 is not true.

9 Additionally, when you're talking about  
10 sustainability, if you're a consultant and  
11 you're going to have any value for what  
12 they've done, 6.2 million is the sustainable  
13 amount. The only way to get it higher is  
14 through this increased utilization. But if  
15 6.2 is the sustainable amount, and then you  
16 do something like raise the price to  
17 encourage people to harvest more than that  
18 6.2, then that's not sustainable forestry.  
19 If you exceed the supply of what is  
20 identified as sustainable, then you're  
21 beyond sustainable.

22 Q. So you heard Mr. Richmond testify that he  
23 thought 70 percent was a reasonable figure,  
24 70-percent utilization. You think he's just

1 wrong?

2 A. I think Mr. Richmond agrees with me. I  
3 think Mr. Richmond, when he was asked that  
4 question, talked about the fact that you  
5 could skid material out and you're going to  
6 lose some. And he was evasive, but  
7 basically, you know, I don't think he agreed  
8 with it.

9 Q. You testified a few minutes ago that you  
10 thought the Laidlaw application fell short  
11 on the question of the aesthetics of the  
12 region, but you didn't get a chance to  
13 explain that. What's your thinking there?

14 A. I think my thinking is similar to a lot of  
15 the people up in Berlin who basically don't  
16 want this project because they live next to  
17 it, is that there's no way that this project  
18 is attractive, even after they get done what  
19 they're going to do with it. It's going to  
20 be a noisy thing downtown with a lot of  
21 trucks coming and going. It's going to have  
22 a great, big, giant wood pile hazard right  
23 in the middle of the city surrounded by  
24 wooden structures. I mean, there's a lot of



1 issues. There's a lot of issues.

2 Q. All right. Mr. Richmond also testified  
3 that, for different reasons, the average  
4 price of wood chips in the North Country was  
5 about on par with the average price of wood  
6 chips at the Schiller station -- one having  
7 to do with the ocean cutting off and limited  
8 storage area, and the other having to do  
9 with the geography being that far north. Do  
10 you disagree with that?

11 A. Yes. I think the mills up in the northern  
12 part of the state, at least right now, are  
13 paying a lower price. And it's reflected in  
14 the documents; although, that's not the most  
15 recent one. It hasn't come out yet. But I  
16 think right at the particular point they're  
17 paying a lower price today because of that  
18 so-called glut that they talked about a lot.  
19 And that glut is as a result of a long  
20 period of easy winter and no mud season, so  
21 that a lot of the high-end material has been  
22 cut down and the brush piles are still out  
23 there. So, until they work through that  
24 brush pile inventory, you know, they're not

1 going to get rid of that glut.

2 But now, when you talk about Schiller,  
3 everything I've ever heard about Schiller is  
4 that it's the highest paying place in the  
5 state. They pay more for wood than anybody  
6 else. I think a lot of that's got to do  
7 with their just-in-time supply, because  
8 there's going to be times when they're  
9 almost running out and they're absolutely  
10 desperate, and so whoever they can get to  
11 bring them in fuel quickly is going to get  
12 paid a premium. There's also -- you know,  
13 for a lot of the suppliers, it's a long run  
14 over to Schiller. They can get paid more,  
15 but it's a long run, so there's less  
16 efficient utilization. And I think they  
17 have a pretty heavy turnaround time. That  
18 is the time when they pull in before they  
19 get weighed and dumped and can get back on  
20 the road. And during the Christmas season,  
21 I know that's even intensified even more  
22 because of the traffic jams in that area.  
23 So, Schiller, hands down, is the most  
24 expensive power plant in the state, as far

1 as their fuel supply.

2 Q. Thank you. No other questions.

3 CHAIRMAN BURACK: Attorney  
4 Iacopino, questions for the witness?

5 MR. IACOPINO: Yes. Thank  
6 you.

7 INTERROGATORIES BY MR. IACOPINO:

8 Q. What I want to do is -- and I didn't want to  
9 do it this way originally, but I think I'm  
10 going to because it'll be faster. I want to  
11 go over some questions that were raised by  
12 your direct testimony first, and then I'm  
13 going to ask you questions that will give  
14 you an opportunity to respond to some of the  
15 critiques of your testimony by witnesses  
16 from the Applicant.

17 But the first question that I want to  
18 ask you is, looking at Exhibit 73, the  
19 original diagram that was up there, and even  
20 looking at the diagram that's still on the  
21 board behind you, aren't you a little bit  
22 afraid that you're, in fact, making  
23 Laidlaw's point about the wood basket being  
24 more like an amoeba than concentric circles?

1 A. It is not concentric circles. I mean, there  
2 are parts of it that you can't deal with.  
3 But I mean, if you do a study of 30 miles,  
4 for instance, each ring around that mile  
5 represents distance. So as you go out in  
6 distance, each ring has a different amount  
7 of fiber that it can supply. But it also  
8 has a different delivery cost, so it becomes  
9 more expensive the further you go out. And  
10 in each ring, the way it was studied for us  
11 for our project by, you know, Eric Kingsley  
12 of Innovative Natural Resources, you're  
13 looking at that ring as to what that  
14 particular ring can produce. If that  
15 particular ring is missing a large piece of  
16 productive area, then that's what you figure  
17 for the volume from that ring.

18 Q. But that missing piece of productive area,  
19 in fact, causes the market to develop in a  
20 non-circle shape; isn't that correct?

21 A. Yes.

22 Q. And do you agree that there would be  
23 adjustments with even something perhaps not  
24 just from competition, even just from usage

1 of the forest, that those shapes will change  
2 over time?

3 A. Those shapes will change. And you don't  
4 have -- even in the area, you don't have a  
5 lock on it, okay. The individual harvesters  
6 have arrangements with different places to  
7 bring so much wood and so on and so forth.  
8 So, harvesters for the different locations  
9 can be working in overlapped territory.

10 Q. The next question I have from your direct  
11 testimony -- I may have gotten this wrong,  
12 so please let me know.

13 It seems to me at the beginning of your  
14 direct testimony you suggested that you were  
15 actually going to use a different mix of  
16 wood than what Laidlaw is proposing to use.  
17 Could you explain that?

18 A. Well, I don't know. I don't remember that.  
19 Talking about in direct testimony?

20 Q. Yeah, I believe it was in your direct  
21 testimony, yes.

22 A. Well, one of the things I saw when I was  
23 looking at the Laidlaw thing, first of all,  
24 I think they said they were going to use 15

1 percent of the sawlogs, all of the round,  
2 low-end round wood in their hundred-mile  
3 radius, plus wood chips. But when we saw  
4 something else that came after that, it was  
5 in the sustainability --

6 Q. Okay. But Mr. Liston, I'm not talking about  
7 amount of wood. I'm talking about the types  
8 of wood.

9 A. Yeah.

10 Q. Should I believe that both your plant --  
11 your proposed plant and the Laidlaw proposed  
12 plant are going to be using the same types  
13 of fuel?

14 A. No, we're not.

15 Q. Okay. Please tell us what the difference in  
16 those fuels will be.

17 A. Well, we would use whole-tree chips and logs  
18 that we brought on site to chip. We would  
19 not probably use bark. We would not use  
20 wood pellets. And we wouldn't chase the  
21 board-end market or the forest product's  
22 waste market, because it's substantially  
23 taken -- at least the sawdust component is  
24 all wrapped up with the Jaffrey pellet mill.

1 They got a lock on almost all of that. So  
2 we have fewer supplies or fewer sources that  
3 we're going to take our fuel from, yes.

4 Q. So what you're saying is you're going to be  
5 more selective in the type of fuel that  
6 Clean Power Development plant will use  
7 than --

8 A. Yes.

9 Q. -- what is proposed for Laidlaw?

10 A. I'm not sure if we would want to use bark,  
11 or how much we'd want to use it. It causes  
12 problems for your boiler maintenance. It  
13 adds ash, you know, to the thing. And it  
14 can cause you to have glass forming in the  
15 boiler and all kinds of things that will  
16 give you problems.

17 Q. Would bark be the only difference in the  
18 make-up of the wood at your facility as  
19 opposed to the Laidlaw facility?

20 A. The largest difference that I saw in theirs  
21 was the inclusion of wood pellets. They are  
22 going to use wood pellets for fuel. And  
23 that has some serious ramifications that you  
24 should focus on. If you would like me to

1 say what it is --

2 Q. Go ahead. We'll give you the opportunity to  
3 explain why using wood pellets is a problem.

4 A. Okay. Now, this plant, we're talking about  
5 having approval based on the amount of tons  
6 of biomass. Wood chips or wood pellets are  
7 10-percent moisture, okay, even 8-percent  
8 moisture content. They've already taken it  
9 out in their wood pellets. Whereas,  
10 whole-tree chips are delivered anywheres  
11 from 55 percent in the dead of the winter to  
12 maybe sometimes you get lucky and 45 percent  
13 on delivery.

14 But if you are -- if you have a  
15 limitation on the amount of wood by weight,  
16 one of the ways to cure that is to bring in  
17 more dense fuel that weighs less. And you  
18 might think that that's okay. But I mean,  
19 what they're doing is they can have a fuel  
20 that winds up with them having less or  
21 meeting their tonnage requirement, but the  
22 fact is that that tonnage of wood pellets  
23 comes from more trees or more fiber than  
24 what would have come from wood chips.



1 Q. If I understand your testimony correctly,  
2 their model is based on the same average  
3 moisture content that your plant is based  
4 on, 45 percent. So if you have 10 percent  
5 in some wood chips, but 50 percent in some,  
6 the average is going to be 45 percent. And  
7 that's what, from an engineering standpoint  
8 and an economic standpoint, is what's the  
9 best for their plant. At least that's what  
10 I hear them saying. Do you agree with that?

11 A. Yeah. Remember, they're -- I'm questioning  
12 their volume. I believe they're going to  
13 use more wood than what they say. And one  
14 of the ways that they -- if they find out  
15 themselves that it is going to be more wood,  
16 and they're restricted to the volume, one of  
17 the ways they could get their volume down  
18 when measured by weight would be to bring in  
19 more BTU-dense fuel. And wood pellets are  
20 significantly more dense fuel, BTU-dense.

21 Q. Okay. I'm going to shift gears a little  
22 bit. You mentioned two facilities, Shelburn  
23 and NewPage. First of all, what is  
24 Shelburn?

1 A. Shelburn's an accumulation lot that brings  
2 in pulp logs and debarks them. I'm not sure  
3 if they chip them there, but they may. And  
4 their product is for the NewPage Paper mill  
5 in Rumford. You know, it's a local place to  
6 accumulate logs and debark them and ship  
7 them out to the Rumford mill to be turned  
8 into pulp.

9 Q. And do you know who owns Shelburn?

10 A. I'm pretty sure it's NewPage.

11 Q. And did Shelburn -- did this lot, I guess,  
12 or accumulation yard in Shelburn, did it  
13 exist before the paper mills in Berlin and  
14 Groveton went out of the business?

15 A. I don't know. It could have. It could have  
16 existed. And I don't know at what level it  
17 was at for operations then or now.

18 Q. And Shelburn is in Vermont?

19 A. No.

20 Q. It's in Canada?

21 A. No. I think it's the next town south of  
22 Gorham. It's right close to the  
23 Berlin-Gorham area.

24 MR. ROTH: East of Gorham.

1 BY MR. IACOPINO:

2 Q. And what about NewPage? Did NewPage  
3 exist --

4 A. Yes.

5 Q. -- before the paper plants in Berlin?

6 A. NewPage has existed for a long time.

7 Q. You made a comment during your, I believe it  
8 was your direct examination, that, "If we  
9 have to go further than our 30 miles, we're  
10 going to do that, because we're not going to  
11 do nothing wrong in the forest." Do you  
12 recall making that statement?

13 A. Yes.

14 Q. Well, do you think that Laidlaw or its  
15 supplier, Cousineau, will do something wrong  
16 in the forest; and if so, what?

17 A. I think that their price will encourage  
18 over-harvesting.

19 Q. I'm asking about them.

20 A. That's what I'm saying. I think that's what  
21 would happen and that's what they would do.

22 Q. And you think that, despite the  
23 sustainability conditions that they've  
24 provided to the Committee?

1 A. Yes, because the sustainability criteria  
2 that they have there are focused on existing  
3 laws and forest practices and certifications  
4 of loggers and so on and so forth. But it's  
5 not -- it doesn't use these guidelines. And  
6 this is -- I think the other day we were  
7 asking around, does anybody have a  
8 definition of sustainability? Well, the  
9 Forest Guild does.

10 Q. Okay. But when you're saying "these  
11 guidelines" you're referring to the May 2010  
12 Forest Biomass Retention and Harvest  
13 Guidelines that just came out two months  
14 ago, three months ago.

15 A. It's been out in about four previous drafts.  
16 And when it was utilized by them, it was in  
17 an early draft.

18 Q. And if they utilized these guidelines as  
19 part of -- if they were required to utilize  
20 these guidelines as part of their  
21 certificate, would that help to calm your  
22 concern about that?

23 A. It would.

24 Q. How many plants does Clean Power have under

1 development right now?

2 A. Two.

3 Q. And what's the total capacity or, you know,  
4 nameplate capacity?

5 A. Berlin's 29 megawatts right now, and  
6 Winchester is 20.

7 Q. So that's 49 megawatts; correct?

8 A. Correct.

9 Q. And you mentioned in your direct testimony  
10 about a study that suggested that only 80  
11 megawatts were available in the entire  
12 state. Do you recall that?

13 A. In the footprint of the state of New  
14 Hampshire, yes, that's what was studied by  
15 the UNH professor.

16 Q. And yet, Clean Power, if you build those two  
17 plants, would take up 50 megawatts of that.

18 A. Absolutely true. But we wouldn't take all  
19 of the fuel out of -- selectively out of  
20 that, just that basket. I mean, we're right  
21 on the border with Vermont and  
22 Massachusetts, down in the lower corner,  
23 lower western corner of the state.

24 Q. You also testified a little bit about

1 employment and keeping people employed in  
2 the North Country and how you believe that  
3 Laidlaw may create -- ultimately wind up  
4 with less jobs being created, or a net loss  
5 of jobs.

6 Would you agree that one of the things  
7 that is important for employers is that they  
8 be stable employers?

9 A. Yes.

10 Q. And would you agree that a power plant  
11 employer that has a power purchase  
12 agreement, or a long-term power purchase  
13 agreement, is a more stable employer than  
14 one who does not and is just a merchant?

15 A. Yes.

16 Q. Would you also agree that a power producer  
17 that has a supply agreement is also a more  
18 stable employer?

19 A. I'm pretty sure all of them have supply  
20 agreements, as would we.

21 Q. And is it important to have that to be  
22 stable?

23 A. Yes.

24 Q. And so the difference between Laidlaw and

1 the existing plants, as I understand it,  
2 then, is that Laidlaw has this purchase  
3 power agreement that is what you consider to  
4 be a competitive edge; is that correct?

5 A. Absolutely.

6 Q. All right, sir. I'm now going to turn -- do  
7 you have your testimony in front of you?

8 A. I do.

9 Q. Because I want to give you an opportunity to  
10 respond to some of the criticisms made of  
11 your testimony. And the first one I think  
12 goes to Page 4 of your testimony, down at  
13 Line 19.

14 And if you recall, I asked Mr. Bravakis  
15 and the representative from Laidlaw about  
16 whether or not they agreed that your -- that  
17 50 megawatts was the highest capacity that  
18 could be reasonably sustained in the area.  
19 And they disagreed, and they gave us  
20 examples of other large manufacturers. How  
21 do you respond to their examples?

22 A. Their examples are not wood-fired biomass  
23 plants. Biomass is a large category.  
24 Everything from municipal sewerage to

1 agricultural waste, to wood, to turkey  
2 manure in the south. I mean, there's a  
3 number of different things.

4 When you get into the Texas situation,  
5 where the Nacagdoches plant is being built  
6 or operated -- I'm not sure exactly where  
7 they're at right now -- they got a  
8 hundred-megawatt plant. They're going to be  
9 supplied from 75 miles. I believe, if I  
10 recall correctly, less than 40 percent of  
11 their supply is wood. They're in a place  
12 where -- they're actually in a part of Texas  
13 where there is a lot of wood, and they don't  
14 have competing users for this low-end wood.  
15 They also are going to use construction  
16 debris and regular wood waste that goes to  
17 one or more large municipal things that are  
18 in the surrounding area. And they're also  
19 going to depend on agricultural waste, but  
20 it doesn't say what types of agricultural  
21 waste.

22 Q. Now, are you getting this information from  
23 Exhibit 57 that was presented by the --

24 A. No, I have my own knowledge of this thing



1 and my own papers.

2 Q. Because I'm just going to read you what it  
3 says about the fuels in Exhibit 57.  
4 Applicant 57 says, "The plant will be fueled  
5 with biomass materials, including forest  
6 residue from surrounding areas,  
7 wood-processing residues and clean municipal  
8 wood waste."

9 Do you have information that there is  
10 different fuel than that to be used in  
11 Nacagdoches?

12 A. You said wood biomass?

13 Q. Right. Forest residue from surrounding  
14 areas, wood-processing residues and clean  
15 municipal wood waste. I'm just reading from  
16 the exhibit.

17 A. Did you say agricultural waste?

18 Q. I don't see that in there.

19 A. Okay. Well, I know I have papers and  
20 documents that say they would use  
21 agricultural waste and construction debris.  
22 I will have to find them. I guess that's  
23 your stuff.

24 Q. Okay. The information that we've been

1 provided with regard to the Gainesville  
2 Renewable Energy Center -- are you familiar  
3 with that one, Exhibit 58?

4 A. Same company is developing three of these  
5 100-megawatt biomass plants to draw fuel  
6 from 75 miles. Each one of them have found  
7 places in the United States where they can  
8 get that much biomass from multiple sources.

9 Q. And in this particular exhibit, Exhibit 58,  
10 it suggests that the project will be fueled  
11 by biomass, including forest residue from  
12 the surrounding heavily wooded areas of  
13 northern Florida, wood-processing residues,  
14 and clean municipal wood waste. Are you  
15 aware of that?

16 A. No. I mean, you got a document there that  
17 they've provided you. And I'm telling you  
18 there's other documents out there that get  
19 into it more --

20 Q. That's my point. Is there something more  
21 about what that particular plant is going to  
22 use for fuel that you're aware of?

23 A. I'll keep looking for it.

24 MR. RODIER: Perhaps we can

1 provide that to the Committee rather than Mel  
2 trying to find it right now.

3 BY MR. IACOPINO:

4 Q. If you can --

5 A. The other aspect is that those plants are in  
6 virgin locations -- that is, there are no  
7 competing biomass energy plants around them.  
8 When we talk about northern New Hampshire,  
9 we're in a situation, even by Laidlaw's  
10 analysis, is heavily used. Whether it's  
11 6.2 million or 7.2 or 7.8, out of all we  
12 have, that's a pretty high utilization of  
13 biomass already, okay. And so we're talking  
14 about setting down another plant where there  
15 are several existing plants. And that's not  
16 the same as what the Texas scenarios have.

17 Q. If you can find that, we'll take that from  
18 you, okay, Mr. Liston. I want to move on to  
19 the next area.

20 Page 7 of your testimony, you made the  
21 statement that -- well, actually, it starts  
22 on the bottom of Page 6, "Laidlaw did not  
23 come to be a 70-megawatt project as a result  
24 of thorough analysis of biomass fuel

1 potential within a reasonable distance of  
2 Berlin. Quite to the contrary. It is based  
3 upon trying to make everything else fit for  
4 an existing facility. That does not lend  
5 itself well for size reduction to match the  
6 fuel availability constraints and other  
7 issues." Now, Mr. Bravakis and the  
8 representative from LandVest took issue with  
9 that. And they explained the way that they  
10 made the determinations that they did.

11 Do you have any information, other than  
12 simply your suspicions, that this is the way  
13 that plant was actually sized?

14 A. They proved my case with their fuel studies  
15 and whatever comes out of the transmission  
16 studies, that there's problems accommodating  
17 that size facility. There could be problems  
18 related to transmission. But I clearly and  
19 totally, with every fiber in my body,  
20 believe that there is not enough wood up  
21 there for that type of facility and that  
22 there will be ramifications that result in  
23 less green jobs.

24 Q. Just a little bit down on that same page,

1 Page 7 of your prefiled testimony, you  
2 reference the prior LandVest study, the one  
3 performed for North Country Council, which  
4 has become one of our exhibits in this  
5 proceeding.

6 A. Which lines?

7 Q. I'm sorry. It's Line 7. And that is a  
8 study that's been marked as -- I don't have  
9 it handy. But there is a Committee exhibit.  
10 Actually, it's Committee Exhibit 2. And you  
11 indicated that the smaller area chosen by  
12 LandVest at that time for that study,  
13 because it was deemed a reasonable supply  
14 radius, given trucking distances, cost to  
15 bring the biomass to market. And if you  
16 recall, the representative from LandVest  
17 disagreed with you. He said that this was a  
18 hypothetical plant, without any specifics,  
19 and that's why they used the radius that  
20 they used.

21 Do you have any reason to disagree with  
22 his statement of why he used that particular  
23 radius?

24 A. I think he used that particular radius

1           because, in the largest boiler situations,  
2           75 miles is what they have to look at.  
3           That's what Schiller looks at. But you  
4           know --

5       Q.    I understand you believe that. I guess I'm  
6           asking you why. Is there anything that you  
7           base that belief on?

8       A.    The distance base is based on the cost and  
9           the trucking thing. As you go out further,  
10          there's poor utilization of trucking, and  
11          you're exposing yourself to a lot of extra  
12          diesel fuel, and you're exposing your  
13          delivered fuel price to spikes in diesel  
14          fuel, okay. And these are the kind of  
15          things, if you're a merchant power producer  
16          and you don't have the ability to get  
17          compensated for extra cost of operations,  
18          these are a big deal. So you would keep  
19          your line -- keep your distance down to  
20          where you would not be so heavily impacted  
21          with spikes in diesel fuel. The last time  
22          it went to a high was \$4-something a gallon,  
23          okay. A new high might be \$5 or \$6 a  
24          gallon, and that's going to drastically

1 impact the price of fuel coming in from  
2 greater distances.

3 As I mentioned before, the utilization  
4 on the trucks, that's a cost. That's a  
5 cost, because the further you are away, the  
6 fewer trips that truck and that driver can  
7 make in a day. And that's how they are  
8 compensated. If they deliver four loads a  
9 day, and it is 120 tons of biomass for a  
10 given truck versus two loads a day, now  
11 that's a big difference. They got to make  
12 all their profit on those two loads versus  
13 making it on four loads. So those things,  
14 as a merchant power producer, can come back  
15 and bite you. But if you have an  
16 arrangement that's outside of the market,  
17 that is not a merchant power situation,  
18 where -- in other words, you have some of  
19 the elements passed to you that would  
20 normally only be available to a utility,  
21 then, you know, that's a totally different  
22 situation.

23 Q. And by saying that, you're talking about the  
24 purchase power agreement; right?

1 A. Yes.

2 Q. And is it your belief that none of the  
3 biomass producers up there presently have  
4 any kind of purchase power agreement?

5 A. Oh, no, they do. But they just -- they  
6 don't have those types of deals, and they  
7 don't have the long-term relationships.  
8 Some of them, you know, they're more closer  
9 to selling power related to the cost of  
10 energy today and that sort of thing.

11 Q. But to the extent they have purchase power  
12 agreements, those purchase power agreements  
13 are going to have to be complied with by  
14 their counter-parties; correct?

15 A. Correct.

16 Q. On Line 16 of Page 7, where you reference  
17 the Ellicottville facility and the 50 miles  
18 for that facility, the response when I read  
19 that portion of your testimony to Mr.  
20 Bravakis was that Ellicottville is a very  
21 small facility. I believe six or seven  
22 megawatts. Do you disagree with that?

23 A. No.

24 Q. And do you disagree with his complaint that



1 a smaller facility like that would, in fact,  
2 draw from a much narrower range?

3 A. I would think that a small facility like  
4 that would have been able to get all the  
5 wood, if it's a forested area, and any  
6 reasonable amount of stuff, probably within  
7 30 miles or 25, something like that. They  
8 should have been able to get the wood they  
9 needed for that little plant really close.

10 Q. Okay. So do you agree that getting wood  
11 within 50 miles would not be something that  
12 would be unusual for a plant of that size?

13 A. That's correct.

14 Q. Let me draw your attention to the bottom of  
15 Page 9, and this is the Bloomfield letter  
16 that you put in.

17 A. What page?

18 Q. Page 9. And you cut and pasted Peter  
19 Bloomfield's letter of May 6, 2010 into your  
20 testimony. And do you recall I asked Mr.  
21 Bravakis, and I believe Mr. Frecker  
22 responded as well, that the calculations  
23 used by -- their response to this portion of  
24 your testimony was that the calculations

1 used by Mr. Bloomfield conflated the maximum  
2 firing rate for the plant, when it should  
3 have been using an average firing rate. Do  
4 you agree with that?

5 A. Yes. I don't know if he should be using  
6 an average firing rate. But the maximum  
7 firing rate probably wouldn't have been the  
8 right one.

9 Q. And then there was a lot of discussion on  
10 Page 12 of your -- well, not a lot  
11 discussion on Page 12. But a lot of Page 12  
12 of your testimony generated lot of  
13 discussion about rules of thumb. Do you  
14 recall that?

15 A. Yes.

16 Q. And you relied upon this portion of, I  
17 believe it was provided to you as a data  
18 request. But the second portion of this  
19 Table 3 on Page 12 has a rule of thumb of  
20 1.7 green tons of wood, 45-percent moisture  
21 content, to make one megawatt hour of  
22 electricity, using most existing  
23 technologies. And if you recall, Mr.  
24 Bravakis and the representative from

1 LandVest, whose name I can't remember --

2 MR. JANELLE: Mongan.

3 CMSR. IGNATIUS: Mongan.

4 BY MR. IACOPINO:

5 Q. Yeah, Mr. Mongan -- both indicated they  
6 didn't agree with that rule of thumb. I'm  
7 going to ask you, do you agree with that  
8 rule of thumb?

9 A. My whole purpose with all these calculations  
10 is to show that it's a range, that depending  
11 upon whatever your goal is, you can come up  
12 with a high number or a low number. But it  
13 is absolutely dependent upon the assumptions  
14 that you make. If the assumptions that you  
15 make are all aggressive, you are going to  
16 come up with a lower amount of wood.

17 Q. And ultimately with respect to this  
18 particular sub-issue, the Committee has to  
19 determine what that range -- what the range  
20 is that they're going to consider. And I  
21 guess the question is, do you believe that,  
22 as a rule of thumb, it takes 1.7 green tons  
23 of wood at 45-percent moisture content to  
24 make 1 megawatt hour of electricity?

1 A. I think that's probably what Eric Kingsley,  
2 who provided that, has experienced in the  
3 power plants that he's been associated with,  
4 when he looked at how much wood they need.

5 Q. What about in your experience?

6 A. I think it's probably on the high end of the  
7 range. I think I gave a span here of a  
8 range of low and high, and my conclusion was  
9 that basically that's what it is. It's a  
10 span. The real number is based on the  
11 assumptions you make, okay. The assumptions  
12 you make are going to give you a projection.  
13 If you're aggressive with all those numbers,  
14 you're going to get a low number. If you're  
15 conservative, you're going to get a higher  
16 number.

17 Q. So, in essence, you're really telling us the  
18 same thing that the Laidlaw witness told us.

19 A. Except that they have taken the aggressive  
20 numbers to make their determination.

21 Q. And so your dispute is where along that  
22 range one should rest.

23 A. Yes.

24 Q. Okay. And finally, with respect to

1           calculations of the usage for the Laidlaw  
2           plant, at Line 9 on Page 12, there is a  
3           calculation based on a fuel flow rate of  
4           124.9 tons per hour. And I guess the  
5           response -- and you came up with an excess  
6           of 900,000 tons of biomass using that fuel  
7           flow rate. And Mr. Frecker explained that  
8           what that is. It was taken from the air  
9           permit. But that's just a short-term,  
10          maximum type of fuel flow rate that would  
11          only occur under certain circumstances. Do  
12          you agree with him about that?

13        A.    Yes.

14        Q.    So, do you agree that that might not be a  
15              reasonable estimate of what the actual  
16              biomass that may be used by this plant is?

17        A.    That's showing the higher end of the scale.

18        Q.    Mr. Liston, I've got two other areas I want  
19              to ask you about from your testimony and the  
20              responses that we heard from the Laidlaw  
21              witnesses.

22                      And the next area is on Page 14, the  
23              math errors that you identified in  
24              criticizing the estimates of existing

1 biomass use from Laidlaw. And basically,  
2 you pointed out what is clearly -- the table  
3 had a column called "Wood Assigned" to each  
4 facility, and if you multiplied those  
5 numbers across they did not apply.

6 But we heard testimony from  
7 Mr. Cousineau and Mr. Bravakis that that  
8 column was not meant to be the product of  
9 the other columns, but that it was, in  
10 fact -- that that "wood assigned" number was  
11 created as a result of not just the  
12 quantitative analysis, but also interviews  
13 and the knowledge of Mr. Cousineau on what  
14 various plants actually drew from the wood  
15 basket. Do you recall that?

16 A. Yes.

17 Q. And do you have any reason to disagree with  
18 those numbers, with that caveat that this  
19 was -- that these weren't supposed to be  
20 multiplied across?

21 A. I couldn't disagree more. At the tech  
22 session in Berlin, I asked specifically  
23 Mr. Mongan, "Do I subtract this number  
24 and" --

1 (Court Reporter interjects.)

2 BY MR. IACOPINO:

3 Q. Slow down.

4 A. In other words, I looked at the chart and  
5 said here's a number, what's the formula.  
6 He confirmed the formula. And their numbers  
7 are wrong. And that's where it was when, I  
8 believe, produced this document. Or maybe I  
9 did this before. No, we did this after  
10 that. I forget which order they came in.

11 But, you know, the Applicant put in all  
12 kinds of information. I mean, their numbers  
13 are all over the place, okay. I mean, they  
14 got different numbers quoted for fuel here.  
15 They got different numbers for BTUs. And at  
16 this late stage, they're changing the  
17 numbers. This is a serious shell game here,  
18 if I'm supposed to look at their information  
19 and come up with something that's realistic.  
20 So now what they're saying is that what Mr.  
21 Mongan told me up in Berlin -- and you were  
22 there -- is incorrect. They're also telling  
23 me that Mr. Mongan's LandVest company -- he  
24 sat here and said, we, after talking to this

1 Cousineau fellow, decided that he's more  
2 knowledgeable than we are, and therefore,  
3 we're going to throw out our calculations  
4 and use his assumptions, okay. To me,  
5 that's an end result that's purely  
6 contrived. They found out they had  
7 problems. Here's how they covered it up.  
8 They can't cover up the fact that they had  
9 the wrong number for the Schiller plant.  
10 That's documented. And that one, they  
11 just -- nothing we can do about that.

12 But I contend that these are math  
13 errors. And I believe that's correctly what  
14 they were. And the only way they could  
15 explain them away was to have Mr. Cousineau  
16 come in, who I don't think is really  
17 qualified to just take those numbers and  
18 skew them. And that's what they did.

19 Q. The last area I want to get into is the  
20 whole utilization area. And you referenced  
21 just recently, towards the end of your  
22 testimony before the Committee began  
23 questioning, I believe Committee Exhibit 9,  
24 which is the Forest Guild report from May



1           2010. And if I understand what you're  
2           saying correctly, it's not as simple as just  
3           expanding the use of the tops and branches  
4           that are left on the forest floor. You have  
5           to consider how many acres you're logging  
6           and what the soils are and that type of  
7           thing; is that correct?

8        A. And any type of land-use covenants or wishes  
9           of the landowner that wishes you to leave  
10          certain trees because they are some type of  
11          wildlife habitat. But the piece that deals  
12          with the soil, okay, and the humus in the  
13          soil, which is really what it comes down to,  
14          because we're talking about down-wooding  
15          material -- if you were on a steep hill, you  
16          probably shouldn't be taking too much of it  
17          because you need it to prevent erosion. If  
18          you're on the top of that mountain where  
19          there's open, bald mountains with rocks and  
20          thin, thin soil, and you take your trees  
21          from that scenario, zero is the right amount  
22          to take. You need to leave it all in there.  
23          There's only some places in any given wood  
24          lot where that increased utilization would

1 be appropriate.

2 Q. Well, wouldn't you agree, I mean, there's  
3 certain places where you can't log and there  
4 are place where logging is very prolific and  
5 very suitable? Do you agree with that?

6 A. That's correct.

7 Q. And so somewhere there's an average; isn't  
8 that correct?

9 A. The average they referred to is the average  
10 utilization of what they drag out of the  
11 woods and chip.

12 Q. Right. And what they're saying is that the  
13 average right now appears to be 50 percent.  
14 But on average, the forest could probably  
15 support 70-percent utilization.

16 A. That's what they were contending. And  
17 that's absolutely wrong, okay. Because  
18 they're saying that they're going to be able  
19 to get this higher utilization which  
20 involves that the land be in a 15- to  
21 20-year cutting cycle, with no more than one  
22 third of the basal area removed. And in  
23 that scenario, you need to leave behind one  
24 quarter to one third, which would be 33

1           percent. So you're talking about 67  
2           percent --

3   Q.   Well, 66- to 75-percent utilization.

4   A.   Yeah, only if you have those conditions and  
5       you don't have a soil problem in addition.

6   Q.   But would you say that, on average, the  
7       hundred-mile radius doesn't have those  
8       conditions?

9   A.   I'm saying it's never been studied and  
10       nobody knows.

11   Q.   I don't have any further questions.

12                   CHAIRMAN BURACK: Okay. Thank  
13   you.

14                   MR. LISTON: Done?

15                   CHAIRMAN BURACK: Attorney  
16   Rodier, do you have any redirect that you would  
17   like to do with this witness?

18                   MR. RODIER: I do. But what I  
19   really want to say, Mr. Chairman -- and I'm,  
20   probably going to test your patience with me, and  
21   I apologize in advance -- we've had very  
22   important people come down here to give public  
23   comment today under the representation that they  
24   would be fit in. One person, who's the owner of

1 North Country Wood Supply, has left in  
2 exasperation. We feel that prejudices us. It's  
3 after 5:00. I don't think people who drove down  
4 should have to wait any longer. I hope you  
5 understand how we feel.

6 CHAIRMAN BURACK: I  
7 understand. This has been a time-consuming  
8 process for all of us. And if somebody had to  
9 leave today, it's not to say they could not come  
10 back at the close of these proceedings. Or they  
11 could provide written testimony to us, which we  
12 will certainly all look at. Or they can come  
13 back when we do, in fact, close this proceeding.

14 What I would like to do at  
15 this time is ask how many members of the public  
16 that are here who would like to provide brief  
17 public statements to the Committee. One, two,  
18 three, four, five, six. And before -- let's do  
19 this. We're going to take, say about a  
20 five-minute break here, until 5:15. And I'm  
21 going to ask during that break, I'm going to ask  
22 the members of the public if they would come up  
23 and speak with Mr. Iacopino to give him their  
24 names.

1                   I would ask you each to please  
2 plan to speak for not more than three minutes or  
3 so. There will not be questions from the  
4 Subcommittee for you. This is simply an  
5 opportunity for you to provide public comment.  
6 If you care to submit a written statement, you  
7 are most welcome to do so. And again, until this  
8 proceeding actually closes, and it appears to me  
9 we will not close this proceeding today -- that  
10 is, the evidentiary portion of this -- until this  
11 is closed, we will welcome written comment from  
12 any parties who wish to submit written comment.  
13 I'm informed by counsel that we can actually  
14 receive written comment until the time we  
15 actually issue a decision in a proceeding. So  
16 there will be ample opportunity for members of  
17 the public to submit written comment.

18                   So let's take a five-minute  
19 break now and ask members of the public who would  
20 like to address us briefly to see Mr. Iacopino.  
21 When we return, we will hear those public  
22 comments.

23                   (Whereupon a recess was taken at 5:10  
24 p.m. and the hearing resumed at 5:25

1 p.m.)

2 CHAIRMAN BURACK: Thank you  
3 all. We appreciate your patience with us. We've  
4 been trying to work out some future scheduling in  
5 this proceeding, and I will discuss that further,  
6 once we have taken public comment.

7 I understand there are six  
8 individuals who would like to address us, and one  
9 of these individuals has asked to present a  
10 letter from another entity that was not here at  
11 this hour. So I'm just going to take these more  
12 or less in the order in which they appear here.

13 On my list, first, Mr. Jasen  
14 Stock. Ask you to please come forward and stand  
15 just fairly close to the stenographer so that she  
16 can hear you readily. And if you can, stand a  
17 little bit over to this side so that she can also  
18 read your lips and make it easier for her.

19 PUBLIC COMMENT BY JASEN STOCK

20 MR. STOCK: For the record, my  
21 name's Jason Stock. I'm the executive director  
22 of the New Hampshire Timberland Owners  
23 Association. I first want to thank the Council  
24 for taking public testimony. I know it's been a

1 long and tedious process, and I will be brief.

2 Our association represents  
3 timber owners in the forest products industry.  
4 And our members represent about a million acres  
5 of timberland across the state of New Hampshire,  
6 and the companies and individuals who harvest  
7 that timber and process it. We have wood energy  
8 plants as members of ours. And it's not common  
9 for us to really insert ourselves in projects --  
10 proceedings such as this, in that clearly there  
11 are competing interests here and competing  
12 private businesses. And we're an industry trade  
13 association, so this is a little bit of an  
14 awkward spot for us. But based on some of the  
15 comments I heard today and some of the  
16 discussion, particularly around wood supply and  
17 sustainability, I thought it may be helpful for  
18 me to try and shed some light on this for the  
19 Commission, and would offer that, in the future,  
20 we are available to answer questions. If I say  
21 something that you have a question about, we  
22 certainly -- I'd like you to look to us as a  
23 resource.

24 We have an interest certainly

1 in wood supply and the forest industry market.  
2 Some of our -- it was actually nice to see some  
3 of our literature being used as a reference here.  
4 This is something we track. We do it as a trade  
5 association.

6 This question about wood  
7 availability is much more complex than drawings  
8 with circles and dots on the White Board. And I  
9 wanted to point that out. Factors that go into  
10 whether -- there's critical differences in wood  
11 availability versus wood supply. We have studied  
12 the issue. We did a study in 2007, in  
13 conjunction with the Society for the Protection  
14 of New Hampshire Forests, looking at wood supply.  
15 And what I can say is, based on that study, from  
16 a biological context, there's wood on the  
17 landscape. In fact, based on those results, New  
18 Hampshire continues to grow more wood than we're  
19 harvesting. But the question comes about whether  
20 it's available. And factors such as logging  
21 capacity, competing uses, diesel fuel pricing,  
22 land ownership patterns and attitudes, and  
23 ultimately the price that's paid for those wood  
24 chips, really factor into that. So when you



1 wrangle with the question, is there wood on the  
2 landscape, is there wood out there, we certainly  
3 would contend, yes, there is. How much of it is  
4 available really becomes a business question. It  
5 really comes down to what the pro forma says,  
6 what the investors are willing to stomach in  
7 terms of risk, and all these other factors that  
8 come into play.

9                   One other factor that I think  
10 was mentioned earlier that really lays into this  
11 is the health of the sawmill industry. Loggers  
12 do not get into the business of producing  
13 biomass. Loggers log. They produce logs. They  
14 send them to a sawmill. If they're really lucky,  
15 they produce nice, clean, clear logs that go to a  
16 veneer mill and get used in furniture and tables  
17 such as we're sitting behind. Biomass is almost  
18 always a byproduct. It's the tops. It's the  
19 limbs, as is pulpwood. That's the byproduct. So  
20 when you look at logging capacity, loggers --  
21 that's directly correlated or directly tied to  
22 sawmill health, sawmill viability.

23                   So, as you deliberate and as  
24 you look at this and scratch your head and say,

1 are there going to be adequate loggers out there,  
2 is there going to be an infrastructure to supply  
3 wood to whether it's a 70- or 30-megawatt  
4 facility, a question you need to be asking  
5 yourself or contemplating is, what's the sawmill  
6 industry look like, how is that fairing, because  
7 that has a direct correlation. If sawmills are  
8 healthy, you're going to have loggers, and you're  
9 going to have biomass, which is a byproduct of  
10 those operations.

11 The other piece that we look  
12 at is landowner attitudes. The U.S. Forest  
13 Service has done -- they do periodic studies  
14 looking at landowner attitudes. I'm talking  
15 about private, non-industrial landowners. Almost  
16 always when you look at these studies, most  
17 landowners do not own land for economic purposes.  
18 They own it for a host of reasons: Recreation,  
19 seclusion, aesthetics. To cut -- to grow and cut  
20 wood is not -- almost always is not a top three,  
21 or even fifth option as to why they own it.

22 So, again, the question about  
23 is this project, or any project going to result  
24 in the wholesale liquidation of timber across the

1 state of New Hampshire, or within the region, you  
2 need to think that that region is owned by  
3 independent landowners and, as is the Yankee  
4 tradition, with very independent thoughts and  
5 ideas about how their land should be managed. So  
6 to say we're going to put a 70-megawatt facility  
7 in, and all that land is going to get mowed  
8 because everyone's going to say, you know, time  
9 to cash in, that's just not going to happen. The  
10 same concern was voiced when the current biomass  
11 plants were put in, and history has shown us  
12 that's not what's going to happen.

13 The other -- I'm wrapping up  
14 here. The concern in terms of sustainability is  
15 one that -- sustainability is -- there's many  
16 metrics and many definitions of sustainability.  
17 You've heard mention of a forest stewards guild.  
18 Sometimes you'll hear the term, "if growth  
19 exceeds harvest or removals." That's one metric.  
20 And you can get three foresters in a room, and  
21 you can have -- you'll have what results in four  
22 definitions of what is sustainability.

23 So, just looking at simple  
24 math and saying, well, growth exceeds harvest,

1 therefore, we're sustainable, that's not always a  
2 good metric, in that, as forests age and zeniths,  
3 growth slows down. When that happens, is that,  
4 in fact, sustainable? You start moving towards  
5 an older forest. You lack the biological  
6 diversity, and you start having biological and  
7 even start having some wildlife management  
8 concerns. So it's a complex issue. And to get  
9 at this issue of sustainability, you really need  
10 to be careful. It's not just a simple  
11 mathematical equation looking at growth versus  
12 harvest.

13                   The other piece is that  
14 whatever restriction you apply to wood supply,  
15 it's certainly going to result in increased cost,  
16 one way or the other. And recall that one of the  
17 factors that affects wood availability to the  
18 plant is a competitive marketplace. These power  
19 plants are competing against paper mills.  
20 They're competing against pellet mills. They're  
21 also competing against some low-grade sawmills,  
22 sawmills that make pallets and posts and piers.  
23 Sustainability standards that are placed on this  
24 particular segment of the industry can ultimately

1 put them at a disadvantage, and in the long run  
2 they would not be competitive.

3 So, again, when you look at  
4 those standards, something that needs to be  
5 contemplated is you're in a competitive  
6 marketplace. We're talking about utilities. But  
7 these utility-type consumers are competing in a  
8 very competitive marketplace. And, again, you  
9 start layering on standards or requirements, and  
10 we may lose it altogether. May issue a license  
11 that will never come to fruition.

12 So, on that note I'll conclude  
13 my comments. And, again, I'd like to thank you  
14 for the opportunity to speak at this late hour.  
15 And I know questions are not -- the intent was  
16 not to ask questions. But we are available, and  
17 we'd be happy to answer questions or come in at a  
18 later date. Thank you.

19 CHAIRMAN BURACK: Thank you  
20 very much, Mr. Stock.

21 Before I call the next  
22 witness, Mr. Liston, I apologize. I meant to  
23 excuse you, at least for the moment. So if you  
24 wish to go --

1 MR. LISTON: I can't sit here  
2 and get this view? All right.

3 (Witness excused.)

4 CHAIRMAN BURACK: All right.  
5 Our next witness will be, I believe it's Tim  
6 Chase --

7 MR. CHASE: Yeah.

8 CHAIRMAN BURACK: -- of  
9 Bristol?

10 PUBLIC COMMENT BY TIM CHASE

11 MR. CHASE: Yeah. I'm  
12 speaking on behalf of myself and Indeck Energy.  
13 We appreciate the chance for you to --

14 MR. HARRINGTON: I didn't get  
15 that. What energy?

16 MR. CHASE: Indeck,  
17 I-N-D-E-C-K, Energy.

18 I'm currently the plant  
19 manager at the Indeck-Alexandria Energy facility.  
20 It's a 15-megawatt, wood-fired generating  
21 facility in Alexandria, New Hampshire. The  
22 project buys its wood from local suppliers and  
23 sellers, and the power generated from the  
24 facility is sold into the ISO New England

1 electric grid.

2                   Indeck questions whether the  
3 power purchase agreement between PSNH and Laidlaw  
4 meets the energy needs of the New Hampshire  
5 ratepayers. The 70-megawatt Laidlaw development  
6 was not competitively bid to ensure the lowest  
7 reasonable cost, and the facility's draw of wood  
8 supply from a 100-mile procurement radius may  
9 have a significant adverse effect on the wood  
10 supply market in New Hampshire.

11                   Indeck's ability to compete as  
12 a merchant generating facility in New Hampshire  
13 is directly impacted by the development of the  
14 Laidlaw project and the power purchase agreement  
15 with Public Service. Please find attached the  
16 testimony, including rebuttal statements, on the  
17 Laidlaw project and PPA with PSNH.

18                   Given the interest of Indeck  
19 and the testimony provided, Indeck requests to  
20 inform the Commission that we are a party that is  
21 directly affected by the Laidlaw project, and  
22 that no other party can adequately represent  
23 Indeck in this proceeding. And I just have some  
24 bullet points I'd like to touch on and I'll be

1 finished.

2 CHAIRMAN BURACK: Please do  
3 so.

4 MR. CHASE: Curt Richmond of  
5 Cousineau, testifying on behalf of Laidlaw,  
6 fabricated a quote from myself, the plant manager  
7 at Indeck-Alexandria. Neither myself nor  
8 Indeck-Alexandria ever stated support for the  
9 Laidlaw Berlin project.

10 Curt Richmond of Cousineau,  
11 testifying on behalf of Laidlaw, misrepresented  
12 as 100 percent of wood that Cousineau supplied to  
13 the Indeck-Alexandria plant. Since May of 2010,  
14 Cousineau's has only supplied 60 percent of  
15 Indeck-Alexandria's wood. And for 2010 as a  
16 whole, it has only supplied 76 percent.

17 The 100-mile biomass  
18 procurement radius encompasses much of New  
19 Hampshire, including the wood basket for all of  
20 the other New Hampshire biomass projects,  
21 including PSNH's Schiller station. Half of the  
22 area's inside of New Hampshire, the other half is  
23 in Vermont and Maine. Unlike the majority of New  
24 Hampshire biomass projects, Berlin is less than



1 20 miles by road from Maine and less than  
2 30 miles by road from Vermont. The cited  
3 economic development will necessarily benefit  
4 Maine and Vermont as much or even more than New  
5 Hampshire.

6                   The Laidlaw Berlin power  
7 purchase agreement with PSNH was not  
8 competitively bid to ensure the lowest reasonable  
9 cost and contains terms and conditions that are  
10 unlikely to protect the interest of the  
11 ratepayers.

12                   Another term of the power  
13 purchase agreement, the cumulative reduction,  
14 saddles New Hampshire ratepayers with  
15 above-market costs, with only a possibility of  
16 relief through a purchase option at the end of  
17 the 20-year power purchase agreement.

18                   Based on the biomass budget,  
19 the plant intends to purchase wood chips at an  
20 above-market price, seriously impairing the  
21 profitability of other biomass plants within the  
22 100-mile radius wood procurement zone, yet  
23 recovers its cost as indexed to the biomass cost  
24 at PSNH's Schiller station, which is in the same

1 wood procurement zone.

2                   The PPA also compensates  
3 Laidlaw Berlin for RECs, renewable energy  
4 certificates, at a price which is a percentage of  
5 the alternative compliance payment level over the  
6 life of the PPA, which saddles ratepayers with  
7 likely above-market prices that justify the  
8 financing for the project.

9                   As mentioned earlier, if the  
10 PPA is allowed, it could adversely impact the  
11 budgeted wood price for small merchant,  
12 electric-generating facilities, to the point of  
13 potential shutdown. Approximately 20 jobs and 40  
14 indirect, loggers and truckers, jobs for each  
15 facility could be affected.

16                   Those in favor have touted  
17 that this PPA is directly in line with the  
18 renewable portfolio standard. However, it  
19 appears that this power purchase agreement will  
20 far exceed the need. The approval of this power  
21 purchase agreement can have a significant impact  
22 on the future of the New Hampshire REC market  
23 well past 2014. Thank you.

24                   MR. HARRINGTON: Excuse me,

1 Mr. Chairman. Just one correction.

2 I think on Page 4 -- on Page  
3 2, Section 4, where you say in your testimony,  
4 Gary A. Long, CEO of Laidlaw Berlin, I assume you  
5 mean CEO of PSNH?

6 MR. CHASE: Yes. In the  
7 footnotes, sir?

8 MR. HARRINGTON: Yeah.

9 MR. CHASE: Yeah.

10 CHAIRMAN BURACK: Thank you  
11 very much.

12 MR. CHASE: Thank you for your  
13 time.

14 CHAIRMAN BURACK: Okay. Next  
15 going to call upon Thomas McCue of Berlin.

16 PUBLIC COMMENT BY THOMAS McCUE

17 MR. McCUE: Thank you, Mr.

18 Chairman. My name is Tom McCue. I live at  
19 27 Cambridge Street in Berlin, New Hampshire.

20 On that site plan, when you're  
21 looking at it, up along the top, along the  
22 left-hand side is where Cambridge Street is. I'm  
23 a resident. I base my law practice there. I'm a  
24 taxpayer in Berlin, and I'm a PSNH customer. I

1 serve on the Berlin City Council, representing,  
2 Ward 2. I'm the city council's rep to the  
3 planning board. I served on the citizens  
4 advisory committee, where the stipulations that  
5 the City of Berlin submitted were -- began. I'm  
6 Berlin's representative to AVRRDD, the  
7 Androscoggin Valley Refuse Recovery and Disposal  
8 District, which owns the Mount Carberry landfill,  
9 where you heard the ash from this proposed  
10 facility will be going. AVRRDD also owns the  
11 former Burgess Wastewater Treatment plant. And  
12 I'm Berlin's representative to the North Country  
13 Council.

14 My biggest connection to this  
15 project, though, is every day when I go out my  
16 back door and I turn to go down my back steps, I  
17 see that boiler. And I'm worried. This project,  
18 I've said to people, it reminds me of the  
19 television commercial for a hotel reservation  
20 company, where the fellow is out working in his  
21 yard and the guy shows up with the helmet and the  
22 flight suit and hands him a check for his refund,  
23 and the guy says, Why didn't you just mail the  
24 check?" The reply is, "We have a Hovercraft."

1 This project seems to have all been driven by,  
2 "We have a boiler." I call it the "ugly beige  
3 boiler building." It's horrible to look at, at  
4 this point. And I'm worried because, as I  
5 understand it, this will be the third time this  
6 boiler has been reconditioned or retrofit. It  
7 was a used boiler when it came to Berlin, and now  
8 they're trying to turn it into yet another use.

9                   When it comes to this project,  
10 our city council very often breaks down 5-4.  
11 We're a nine-member body, and it's pretty much  
12 5-4. And at this point, there are five that seem  
13 to support and there are four of us that  
14 certainly do not support the project. And  
15 frankly, I find that to be a very reasonable  
16 representation of our community. The community  
17 is heavily divided on this issue. It's been a  
18 very divisive issue. I have had lifelong  
19 residents tell me that they have never seen such  
20 a divide in opinion, and so strong opinions.

21                   I worry about property taxes.  
22 Earlier this afternoon, Attorney Needleman  
23 corrected or qualified some of the earlier  
24 testimony about pollution control devices. I can

1 tell you that the city council budgeted this year  
2 extra monies so that our utility assessor could,  
3 in fact, be negotiating with the Laidlaw project  
4 and with Clean Power Development about payments  
5 in lieu of taxes.

6 I'm certainly worried about a  
7 company that filed a \$10 million civil rights  
8 lawsuit against the Town of Ellicottville. And  
9 what you didn't hear on that one, too, because it  
10 wasn't asked, but one year after that suit was  
11 filed, the attorneys for Laidlaw petitioned to  
12 withdraw because they had not been paid. And in  
13 March of 2009, substitute counsel filed an  
14 appearance. And when I checked this morning,  
15 that case is still languishing on the docket.  
16 That's in the Western District of New York, in  
17 Buffalo, U.S. District Court.

18 I'm worried about the case  
19 that's here in our court, the U.S. District Court  
20 for the District of New Hampshire, where Waldron  
21 Engineering, whose work is in that application,  
22 filed suit against the Applicant for breach of  
23 contract and not getting paid.

24 I worry that PSNH is using

1 this project as yet another end-run around  
2 de-regulation.

3 And I was worried about the  
4 statute under which this Subcommittee operates.  
5 I facetiously used to say it was 162-H, the H for  
6 highjack. It was highjacking local control.

7 And as this Committee may  
8 recall with the Clean Power Development project,  
9 our local planning and zoning boards and city  
10 council handled that matter. I will admit, after  
11 sitting for the five days of this hearing so far,  
12 I'm glad it's your job and not our job to sort  
13 this thing out. This is an amazing project.  
14 This is a lot of work. And I can understand why  
15 the legislature set up this system that it did.

16 And I want to thank Attorney  
17 Needleman and all of the McLane team, the Office  
18 of Public Counsel, certainly our attorneys, the  
19 City of Berlin's attorneys, Attorney Rodier. I  
20 want to thank all the witnesses. People have  
21 done an awful lot of work. And I've learned a  
22 lot, but I'm still worried about this thing.

23 Our attorneys, the City's  
24 attorneys, when this matter got started, even

1    though many of us wanted to fight this project --  
2    many of us still oppose it, many in the community  
3    still oppose it -- came to realize that perhaps  
4    the better course of action would be to get what  
5    we could out of it if it were to go through, and  
6    to get this Committee to impose conditions and  
7    basically take over the control that we would  
8    have had at the local level to impose the types  
9    of conditions that we would have saw fit.  And  
10   that's what the stipulations were all about.  As  
11   I said, there was a citizen advisory committee  
12   where it all started.  And I believe the  
13   Committee actually got that set of stipulations  
14   submitted at one point.  I served on that  
15   committee.  It then came to the planning board,  
16   where again I was involved with it.  And  
17   ultimately it went for approval to the city  
18   council.  So I've been so many times through  
19   those stipulations.  I have a file that thick on  
20   those.  But I'm glad that we got them in.  
21   They're not perfect.  For example:  I was one of  
22   the people that I didn't want trucks delivering  
23   before 6:00 in the morning.  What we ended up  
24   with, though, is reasonable.  We had a



1     compromise: They can start at five. But if  
2     between five and six there are enough complaints,  
3     there's going to be some testing and see.

4                     I was also one who was very  
5     much -- felt very strongly about decommissioning,  
6     that the residents of Berlin not get stuck with a  
7     project half-done or, even if it got done,  
8     started running and ended up shutting down.  
9     Granted, some of the materials, some of the  
10    construction would be able to be sold for value.  
11    But what would be left? We had some bad  
12    experiences with wind farms, and that's where a  
13    lot of this became. And the decommissioning fell  
14    out. In the business of politics, or the  
15    politics of business, however you want to look at  
16    it, that got negotiated away. But it's a  
17    reasonable set of stipulations. It's certainly  
18    better than not having anything in there.

19                    If, and I know it's a big if,  
20    but if this Committee should decide to issue a  
21    certificate, as you decide the conditions -- and  
22    I'm sure there will be many -- bear in mind that  
23    it's your agencies, it's your departments who  
24    will be responsible for ultimately enforcing

1 them. I was very pleased to hear from a few of  
2 you questions about who would ultimately be  
3 responsible in that chart they had of the  
4 organization. It's like, as I believe it was  
5 Attorney Iacopino said, we don't want to get to a  
6 point where we're going back to somebody and  
7 they're saying, oh, well, that's not us, you've  
8 got to go see this one. Very glad to see that,  
9 because this is troublesome. This is worrying.  
10 But you are our recourse. As the public, as the  
11 citizens, when constituents are calling me if  
12 there are complaints, if there are problems, you  
13 are the ones we are going to be turning to.  
14 Please keep that in mind as you draft your  
15 conditions.

16                   And, too, you know, it's  
17 interesting. As I was thinking about this, I  
18 realized how -- it's not lost on me -- that I was  
19 before this Committee, the Subcommittee, last  
20 winter. And at that time I was advocating that  
21 you not take jurisdiction of the Clean Power  
22 Development project, that you deny that petition.  
23 I said at that time we didn't need to be  
24 protected from ourselves. And now I'm back

1 asking you to protect us. It's not lost on me.

2                   So I would ask that you  
3 certainly incorporate the City of Berlin's  
4 stipulations in your conditions. And I would  
5 hope you will find a way to bind all the entities  
6 that were on that chart. They should all be  
7 bound by these conditions and stipulations. This  
8 project, the management, ownership, it's been  
9 something of a moving target. For many years now  
10 we've been involved with Lou Bravakis and Ray  
11 Kusche. Mr. Bartoszek has been behind all of it.  
12 Now things are going to change. So, again, I  
13 hope you will find a way to be sure to bind all  
14 of them, because it's you that we, the public,  
15 are looking to. The Office of Public Counsel  
16 certainly did what they could representing us.

17                   But it was like Attorney Roth,  
18 earlier, when he and I were talking, as he  
19 pointed out to me -- I said, "Those of us who  
20 have a problem with this project are looking to  
21 you to represent us," and he said, "Yes, but the  
22 public includes the county commissioners. It  
23 includes your mayor and all those who do support  
24 the project."

1                   But ultimately, we're -- you  
2 are who we are relying on. You have the  
3 expertise. And again, I want to thank all of you  
4 for your efforts. It's been a lot of work.  
5 You've got a lot of work ahead of you. Like I  
6 said, I realize now, I'm quite glad it's you that  
7 have to deal with this and not us at the local  
8 level. Thank you very much.

9                   CHAIRMAN BURACK: Thank you,  
10 Mr. McCue.

11                   Now I'd like to call on  
12 Mr. Carl Belanger from Gorham for a brief public  
13 statement.

14                   PUBLIC COMMENT BY CARL BELANGER

15                   MR. BELANGER: Chairman Burack  
16 and Commissioners, thank you for allowing me to  
17 address the Committee. My name is Carl Belanger.  
18 I'm presently employed by Laidlaw in Berlin as  
19 site manager. I met and toured most of you  
20 around the site a few months back. In the past,  
21 I was superintendent of the recovery boiler and  
22 the cogen for Fraser Paper. Before that, I was  
23 assistant superintendent of utilities for Fraser  
24 Paper. And I still work closely with Fraser

1 Paper, since a lot of my co-workers are still  
2 working with them. And we deal closely every  
3 day. I can say that from conversations with  
4 Fraser Paper, they're willing to do business with  
5 either Clean Powers or Laidlaw and do not want to  
6 get involved with any dispute or get in the  
7 middle.

8 To correct Tom, the recovery  
9 boiler was built in 1993 as a new boiler. It was  
10 built partially inside of an old structure from  
11 1966.

12 When the pulp mill shut down,  
13 it wasn't an issue of not enough wood. There was  
14 plenty of wood. There were other issues, other  
15 reasons for the pulp mill going down that I am  
16 not allowed to talk about.

17 I have here in my hand 231  
18 pages of petitions that were signed, petitions  
19 that were collected by Scott Coulomb, who was a  
20 former businessman in Berlin. Scott has since  
21 moved out of Berlin, and he left these petitions  
22 in my office. There are 2061 signatures from  
23 Berlin residents -- from Berlin and surrounding  
24 communities; 1585 of these signatures are from

1 Berlin; 476 are from the surrounding communities.  
2 I'd like to leave this with the Committee.

3 CHAIRMAN BURACK: Just place  
4 them there. And these are signatures on?

5 MR. BELANGER: In support of  
6 Laidlaw.

7 CHAIRMAN BURACK: Thank you.

8 MR. BELANGER: One of the  
9 ladies who collected these signatures, who  
10 canvassed for these signatures, was a former lab  
11 tech at the pulp mill, who had worked there 35  
12 years. She's been unemployed for the last four  
13 years, so she had plenty of time on her hands.  
14 She went out and collected 400 or 500 signatures.  
15 She came back to see me and she said she  
16 canvassed 103 people to get 100 signatures. So  
17 that's a good turnout, I mean, a good rate. And  
18 she felt that there were very few people, less  
19 than five percent of the people from Berlin, from  
20 what she saw, who were against it.

21 One thing I want to say is  
22 that wood suppliers and wood users will not strip  
23 their resource and shut their businesses down.  
24 It's in their best interest to conserve their

1 resources to continue operating.

2 That's all I have to say.

3 Thank you.

4 CHAIRMAN BURACK: Thank you.

5 Next like to call upon Mr. Barry Kelly of Berlin.

6 PUBLIC COMMENT BY BARRY KELLY

7 MR. KELLY: Hi, I'm Barry  
8 Kelly from Berlin, New Hampshire. I run a  
9 sawmill. I've been running that sawmill since  
10 1975, when my father died. It was a mill he  
11 bought with a partner in 1945. I was born there,  
12 my father was. My great-grandfather came there  
13 from St. John, New Brunswick, to work in the  
14 emerging paper industry in 1882. So we've been  
15 there a long time and seen a lot of things  
16 happen. Some good, some bad.

17 There were five paper mills,  
18 pulp and paper mills, in 2001. That's where the  
19 1.3 million tons was used. The first to close  
20 was the Gilman Paper. They used a hundred  
21 thousand for energy. The next one was in 2005.  
22 Groveton Paper Companies stopped using wood in  
23 their boiler. That was another hundred thousand  
24 tons. Then, the following year, 2006, Groveton

1 Paperboard announced their shutdown. They were  
2 using about 125,000 tons for paper. And three  
3 months later, that's when Fraser announced its  
4 permanent closing. And they were using  
5 200,000 tons for fuel and 800,000 tons for paper.  
6 That's over 1.3 million. And that was the usage  
7 then. Three or four years before that, there was  
8 even a little more usage because things were  
9 better. Things had been cutting back.

10 If you had asked me 10 years  
11 ago, would I think that -- in the future, what  
12 would be worth more: Wood for energy or wood for  
13 paper? I'd say paper, the highest and best use,  
14 no question. My thinking has changed  
15 tremendously. Those mills closed not because  
16 they couldn't get wood. They closed because they  
17 couldn't get customers. Places like Chile,  
18 Brazil, Indonesia are making paper so much  
19 cheaper than we can in the United States, that  
20 it's killing the paper industry.

21 What I fear more about is not  
22 running out of wood. What I fear is one of those  
23 three paper mills in Maine closing. Fifty miles  
24 from us is NewPage. NewPage has that satellite



1 plant in Shelburn. They chip there for that mill  
2 in Maine. NewPage is owned by investors,  
3 Cerberus Capital. I don't know if you know the  
4 name. Cerberus Capital is written up often in  
5 the Wall Street Journal. They're the biggest  
6 owner of Chrysler, got bailed out by the  
7 government. They've had a terrible track record  
8 with investments, gotten into trouble with many  
9 of their funds. And they are the primary owner  
10 of Rumford. So, for the last year to two, people  
11 have been worried about what's going to happen in  
12 Groveton -- what's going to happen in Rumford.  
13 It continues, but it's tenuous, because paper  
14 made in the United States is expensive. So I  
15 worry about the future.

16 Energy. Look what's happened  
17 to energy in the last 10 years and look what's  
18 happened to paper. We're using less paper.  
19 We're all using Internet. We're not faxing,  
20 we're e-mailing. But we're using more energy.  
21 And the energy we're using is coming from places  
22 like Venezuela or the Gulf, places that we want  
23 to stop using the energy from there and be  
24 self-sufficient. We've got a great story to tell

1 with energy.

2                   The biggest thing I see for  
3 Berlin -- I don't think this is a good project  
4 for Berlin. I think is this is a great project  
5 for Berlin. You people were there at the hearing  
6 in Berlin earlier this year. There was an easy  
7 two-thirds in support of it there. It has grown.  
8 There are way more than two thirds of the people  
9 in Berlin supporting it now. And people outside  
10 the area support it because it impacts more than  
11 just Berlin. It impacts the whole North Country.  
12 That wood will come from easily within 50, most  
13 likely 100 miles, because of back-hauls and  
14 agreements you make and jobbers who come from  
15 here, buy cut wood over there and bring the load  
16 home at night. I don't worry about that. I  
17 worry about keeping the people going in Berlin.

18                   If you had an industrialist  
19 show up in Berlin and you said, "What would be  
20 the best thing for that plant?" Tom McCue  
21 worries about us being left with Laidlaw. I  
22 worry what we're left with now. We've got a  
23 continuously used industrial site that's a  
24 hundred years old. It's covered with rubble.

1 It's undeveloped right now. It's adjacent to one  
2 of two superfund sites in the state, that  
3 chlor-alkali plant that we talked about earlier.  
4 It's across the street from the second largest  
5 landfill in the state. It's on the border of the  
6 Androscoggin River. It's beautiful. But it's  
7 got two dams there making hydropower, so you  
8 can't use the river. We've got water frontage.  
9 But believe me, that site is no Rye, New  
10 Hampshire. It needs -- something needs to be  
11 done with it.

12                   It's the perfect recycling  
13 project. You're going to bring in -- you're  
14 going to say, what could we put on there? We're  
15 going to use it for what it is. We're going to  
16 take a product that's grown locally. You all see  
17 those signs on the roadside stands, "buy  
18 locally." That's what we're doing. We're taking  
19 a product that's grown right close to home.  
20 We're converting it in town, and we're sending it  
21 outside the area to bring dollars back into the  
22 North Country. And we don't even need to use  
23 roads to send that out because we can send it  
24 over power lines. We've got the trained

1 workforce there in the woods to produce the wood.  
2 We've got the trained people in the paper mills  
3 who can run boilers and can run equipment. We've  
4 got what we need in place. It is an excellent  
5 project for the city of Berlin.

6                   And the nicest thing is it's  
7 tied not to a world market for wood that's up and  
8 down, that's so cyclical that you can't get  
9 contracts that mean anything. If you've got --  
10 if you're working with a company that's got a  
11 20-year contract for power, you can get a  
12 contract from them that you can bring to the bank  
13 and borrow money to buy equipment that's going to  
14 take you five years to pay off. I worry about  
15 the paper industry, that the contracts are worth  
16 nothing. People today can't borrow money to keep  
17 equipment current. Worry about bringing the  
18 price up a few dollars? You know what that tells  
19 me? That means loggers will be able to afford  
20 health insurance. They'll be able to replace  
21 their equipment and keep their crews going.

22                   I ask you to -- and no pun  
23 intended to -- to permit us to be able to grow  
24 this green energy industry in New Hampshire.

1 We've got a great story to tell up here. Wood  
2 for the power, wind, the 99-megawatt that you  
3 were all involved in up just north of us, which  
4 you can see from the hills in Berlin. We've got  
5 water. We produce over 30 megawatts of water  
6 power on 6 miles of river from Berlin and  
7 slightly below. We've got methane gas coming out  
8 of the landfill. We're burning off about two  
9 megawatts right now, and we're hoping to tie that  
10 in to keep the paper mill going in Gorham. But  
11 we've got green energy everywhere. It's what  
12 Obama got elected on, the promise of green jobs.  
13 He hasn't done too well yet. But here's a chance  
14 to see those green jobs come to fruition.

15 Concord's known as the Capitol  
16 City, Manchester's the Queen City. Berlin has  
17 always been known as the "City That Trees Built."  
18 I ask you to allow us to continue to be the "City  
19 That Trees Built" and the city that is sustained  
20 by trees well into the 21st Century. Thank you.

21 CHAIRMAN BURACK: Thank you  
22 very much, Mr. Kelly.

23 Now call upon Mr. Jon Edwards.  
24 And Mr. Edwards, I understand you wish to make a

1 brief statement of a personal nature. And I know  
2 that we did hear from you at the commencement of  
3 this proceeding. So I understand that we may --  
4 I hope we will hear not a repeat of what we heard  
5 from you before, but additional information. I  
6 understand you also have a letter from D.G.  
7 Whitefield, LLC that you wish to present to the  
8 Committee as well; is that correct?

9 PUBLIC COMMENT BY JONATHAN EDWARDS

10 MR. EDWARDS: Yes. And in  
11 addition, I'd like to say that Barry Kelly is a  
12 very difficult act to follow, by the way.

13 I guess I'm going to begin by  
14 just some personal comments. My name's Jon  
15 Edwards. I'm an owner of a real estate company  
16 up in Berlin. I purchased that company from a  
17 fellow that was in the business for 37 years.  
18 And he always told me to take the advice of  
19 people that have been in the business for the  
20 longest time, in whatever you're doing. And I  
21 guess what I would like to do is to suggest that  
22 we're hearing from Indeck today, we've heard from  
23 Gestamp, and a little later I'm going to be  
24 reading something from Marubeni, all sharing

1 concerns, and all in the field, all very well  
2 respected in biomass, telling us that they have  
3 some concerns over sustainability. And on the  
4 other hand, we have a company by the name of  
5 LandVest, who owns a lot of land, manages a lot  
6 of land, and has demonstrated that they'll change  
7 their story to confirm that there is enough wood.  
8 We're hearing from Mr. Kelly. He's been in the  
9 woods business for decades. His family's been in  
10 the woods business for decades. His family's  
11 also been a heavy landowner for decades. And I  
12 guess the question sometimes begins -- or becomes  
13 whether or not there's any biases that show up.

14                   This has been a very  
15 interesting week. I found out that we need to  
16 have approximately 2,000 trucks' worth of chips  
17 on this land in the middle of our city at any  
18 given time to provide 30 days' worth of fuel.  
19 And so I looked at this room and I said, ah, we  
20 can fit about four trucks in here. So if we  
21 piled them 500 high, that's what we need for  
22 chips in the middle of our town. And if the wind  
23 blew in the town, where arsons have been  
24 prevalent, that 1920's vintage house, or, for

1 that matter, blocks of houses in close proximity  
2 to any wind blowing, I wonder what kind of effect  
3 that would have, being that the city just decided  
4 to allow for that to happen without it being  
5 enclosed.

6 I really think the question  
7 has moved from sustainability to economic  
8 development and orderly development in northern  
9 New Hampshire during this week. We were told we  
10 could put it in the middle of Boston if we pay  
11 enough for the chips. The issue is, economic  
12 development's already in place with biomass  
13 facilities. We're being told by Marubeni today,  
14 and Indeck, very successful biomass companies,  
15 with operations in Alexandria, Whitefield,  
16 RyeGate, et cetera, they're concerned. Wood  
17 price increase and over-harvesting can impact 178  
18 megawatts of biomass facilities. I have a list  
19 with me that suggests, if we were able to say  
20 that we derived three jobs from every megawatt,  
21 that that could potentially affect 534 jobs that  
22 are already in New Hampshire.

23 I'd like to suggest that  
24 Mr. Kelly points out that 1.3 million tons of



1 wood no longer being used by the mills is missing  
2 in the area due to liquidated harvesting.  
3 There's a company -- and I've provided some  
4 information from this company, by the name of  
5 Dillon, that's been pulling \$40- to \$50,000 per  
6 week of wood out of Berlin. I urge the Committee  
7 members to review the timber tax records I view  
8 on a regular basis as the Chairman of the Berlin  
9 Board of Assessors. We're selling away our  
10 northern forest in a much different manner than  
11 before.

12                   As mayor, Mayor Grenier stated  
13 on Monday, one of the Dillon's tracts was  
14 liquidated harvested as part of the federal  
15 prison project. I'd impress upon you that it  
16 could have been harvested properly with a great  
17 deal of money obtained and still be a working  
18 forest. Now that forest has lost four years of  
19 growth and ruined the playground for fish and  
20 game for people in the area.

21                   These same practices in Anson,  
22 Maine led to devastation of forestry within a  
23 hundred-mile radius, which, coincidentally, is  
24 the same maximum rule of thumb we've been told is

1 Laidlaw's wood target area. I've also included  
2 some documents that show this devastation led to  
3 sweeping legislative changes in Maine.

4           In Ellicottville, I spoke to a  
5 fellow by the name of Mr. Northrup, who Laidlaw  
6 purchased the mill from in that town. And this  
7 gentleman told me that he had looked into the  
8 possibility of switching that plant over to  
9 biomass and said that he had found out it was not  
10 sustainable to do so in that area at a reasonable  
11 price. That same person also told me that  
12 Laidlaw went into receivership and that he was  
13 owed over a million dollars in owner financing at  
14 that time.

15           I also received a call from  
16 one of the vendors in Ellicottville that said  
17 when the same company went into receivership, he  
18 was owed in excess of a hundred thousand dollars.

19           I would encourage you to  
20 research just how many power purchase agreements  
21 PSNH actively is negotiating right now. On  
22 computer searches, I'm not finding out too much  
23 about PSNH --

24           (Court Reporter interjects.)

1                   MR. EDWARDS: I'm not finding  
2 that Laidlaw is currently negotiating power  
3 purchase agreements with too many people at this  
4 point in time.

5                   Coincidentally, PSNH has also  
6 said they want their own power plants and has  
7 established a provision of right of first refusal  
8 in the Laidlaw power purchase agreement. That  
9 defies current law. I think we need to question  
10 whether this company is under the definition of  
11 orderly development or monopoly development.

12                   Also, this leads to a question  
13 of whether or not logging infrastructure,  
14 otherwise known as equipment, is necessary to  
15 provide loans in close proximity to Berlin. I'm  
16 referring back to Dillon's liquidation of  
17 harvesting at this point. If we go west,  
18 liquidation harvesting has been clearing the  
19 forest from Berlin to Groveton. Also, we have  
20 land trusts that are formed in the  
21 Randolph-Shelburn are greatly diminishing in  
22 supply. Going north, we have the liquidation  
23 harvesting known as Success, where Dillon  
24 purchased over 45,000 acres that have been

1 stripped. Going east, we have NewPage already  
2 taking priority for their Rumford plant. And  
3 where Mr. Kelly is concerned for NewPage, NewPage  
4 is concerned for Laidlaw -- is concerned about  
5 Laidlaw.

6 I'd like to submit that I've  
7 provided some information here where this Laidlaw  
8 project can substantially affect 97 direct  
9 employees in the area, 62 direct employees  
10 outside of the immediate area, which I'll hand to  
11 you afterwards. And again, I also have some  
12 articles on T.R. Dillon coming out of Maine and  
13 the damage that he's done so far in New  
14 Hampshire.

15 As I mentioned earlier, I have  
16 a statement from D.G. Whitefield. This has been  
17 prepared by their president and CEO, Marubeni  
18 Sustainable Energy, Terry Williams. This is  
19 dated August 25th, 2010. And they have empowered  
20 me to read this statement for them.

21 It says, "To Whom It May  
22 Concern: D.G. Whitefield, LLC is a 19-megawatt,  
23 clean biomass electricity generating facility  
24 located in the industrial park in Whitefield, New

1 Hampshire. The facility entered commercial  
2 operations in March 1988. D.G. Whitefield  
3 employs 20 full-time personnel on site, and  
4 through its daily operations directly supports  
5 the employment of many additional personnel by  
6 the more than two dozen logging companies in its  
7 annual combustion of more than 225,000 tons of  
8 poultry chips. D.G. Whitefield is a green energy  
9 facility, qualified as a renewable energy credit,  
10 REC, generator in the Connecticut Renewable  
11 Portfolio Standard. D.G. Whitefield is also  
12 contemplating certification as a New Hampshire  
13 REC generator.

14 In recent years, D.G.  
15 Whitefield has invested millions of dollars in  
16 pollution control systems and other equipment to  
17 become one of the lowest emission biomass  
18 facilities in North America. The combination of  
19 the environmental benefits of the green energy  
20 and RECs produced by D.G. Whitefield" --

21 MR. RODIER: Can you keep your  
22 voice up?

23 MR. EDWARDS: -- "together  
24 with the consistent and substantial local

1 economic benefits that the facility provides to  
2 its community make D.G. Whitefield a critical  
3 local beneficial resource.

4 D.G. Whitefield competes  
5 directly with a number of biomass facilities in  
6 the northern region of New Hampshire and Vermont  
7 for its wood supply. Additionally, the facility  
8 competes with several large paper mills in the  
9 western region of Maine. Currently, wood fuel  
10 supplies are balanced and adequate to meet the  
11 needs of all competing markets; as a result,  
12 market prices remain stable. However, it is  
13 clear that additional demands placed on a limited  
14 biomass market supply will drive operational  
15 costs higher. These resulting market conditions  
16 will be exacerbated, considering the demand that  
17 a proposed 70-megawatt project will create on the  
18 available wood basket.

19 D.G. Whitefield and other  
20 biomass facilities are wholesale providers of  
21 competitive electricity and REC products. As  
22 such, D.G. Whitefield exercises no pricing power  
23 over its end-product buyers and is essentially a  
24 price taker, in quotations.

1                   D.G. Whitefield has elected to  
2 minimize future energy market risks and secure  
3 its future revenue stream by selling its  
4 electricity and RECs on a medium to long-term  
5 pricing basis to large, non-regulated energy  
6 trading entities. However, D.G. Whitefield is  
7 similarly a price taker when it comes to securing  
8 its biomass fuel materials from the various  
9 regional logging operations or chipping  
10 contractors with whom it does business. No  
11 matching long-term pricing prediction is  
12 reasonably available on this cost side of D.G.  
13 Whitefield's ledger, as the logging and chipping  
14 companies are not able to control or commit to  
15 creditworthy, long-term contracts. Although  
16 various wood market studies conducted in recent  
17 years have shown adequate standing wood fiber  
18 supplies in the Coos region to meet proposed  
19 demands, and testimony to that extent was  
20 presented earlier this week in the Laidlaw  
21 hearings, the fact remains that adequate  
22 infrastructure is currently not in place to get  
23 this material to the market. Development of the  
24 infrastructure will be slow and expensive, the

1 cost of which will be incorporated into fuel  
2 prices and passed along to consumers, including  
3 D.G. Whitefield.

4                   As with other biomass  
5 facilities operating in the ISO New England power  
6 market, D.G. Whitefield revenues are hampered by  
7 depressed and sharply competitive energy rates.  
8 In addition, wood prices have dropped  
9 dramatically in recent years. Wood fuel costs,  
10 while currently stable, constitute approximately  
11 70 percent of the total operating costs of a  
12 facility such as D.G. Whitefield.

13                   Laidlaw is brazenly assuming  
14 it will control and utilize the remaining  
15 available supply of wood and likely gain control  
16 of wood now going to other sources. In order to  
17 economically accomplish this task, they will have  
18 to be able to pay more for business [sic] fuel  
19 than any of their competition. Although blocked  
20 by confidentiality pricing protection, the  
21 PSNH-Laidlaw partnership, and resulting power  
22 purchase agreement, apparently has a generous,  
23 open-ended pass-through on fuel cost.

24                   The Commission, along with the



1 New Hampshire PUC, should consider such fuel  
2 pass-through an unfair advantage for Laidlaw and  
3 anti-competitive to every other free-market  
4 competitor in the region. This behavior is  
5 monopolistic and certainly not in the best  
6 interest of the ratepayer or of the continued  
7 health of a competitive regional power or REC  
8 market.

9                   If provided with an unfair  
10 advantage of a fuel price pass-through mechanism,  
11 D.G. Whitefield and other neighboring facilities  
12 would be forced to increase the price offered for  
13 the limited biomass fuel supply to maintain fuel  
14 sources. The resulting financial losses would  
15 initially trigger capacity reductions to minimize  
16 cash operating losses and ultimately result in  
17 the facility's closure, loss of local jobs, and a  
18 reduction in green energy production throughout  
19 the state. D.G. Whitefield will be at a  
20 competitive disadvantage with this proposed  
21 large-scale biomass facility, particularly if the  
22 Laidlaw facility benefits from an above-market  
23 rate order that includes fuel cost recovery  
24 mechanisms. This would effectively allow Laidlaw

1 to pass through regulator-approved fuel costs to  
2 captive electricity customers. This presents an  
3 unfair competitive advantage that threatens the  
4 continued viability of D.G. Whitefield." That's  
5 signed, "Sincerely, Terry Williams, President and  
6 CEO of Marubeni Sustainable Energy." And that's  
7 all I have.

8 CHAIRMAN BURACK: Thank you  
9 very much, Mr. Edwards. And that, I believe,  
10 concludes public comment from any members who are  
11 here in the public today who wish to share their  
12 thoughts with the Committee. And I thank all of  
13 you for your patience and for taking the time to  
14 be with us here today.

15 Going to talk briefly here  
16 before we recess about our future schedule here.

17 Having conferred with members  
18 of the Committee on their availability, what I am  
19 going to propose -- and I just want to make sure  
20 this isn't going to cause any serious issues from  
21 a scheduling standpoint for counsel or the  
22 parties here -- I propose to reconvene here -- I  
23 believe we have a room available here; is that  
24 correct?

1 CMSR. IGNATIUS: Yes.

2 CHAIRMAN BURACK: We do have a  
3 room available here on Friday, September 10th, at  
4 9:00 in the morning, at which time we would  
5 complete the examination of Mr. Liston and then  
6 have the testimony of Mr. Gabler and his  
7 examination. We would then provide time for  
8 closing arguments any additional oral public  
9 comment that people would like to provide. I  
10 would ask the parties then to file their  
11 post-hearing briefs not later than  
12 September 17th. And I will note that the  
13 Committee members are looking likely to  
14 deliberate between September -- give me just a  
15 moment here, please -- between September 20th and  
16 22nd. I cannot at this point tell you exact  
17 times on one or all of those days when we would  
18 meet to deliberate, but I would anticipate that  
19 would likely occur here in this room as well.  
20 Whether that would enable us to actually issue a  
21 final decision in this matter by the 23rd of  
22 September is obviously far less certain. I think  
23 it may be reasonable to expect that we can  
24 determine what our final decision will be by the

1 22nd, but that we may not be able to -- in fact,  
2 I think it's probably unlikely at this point that  
3 we would be able to issue a written decision by  
4 the 23rd of September. But we will have to see  
5 if we have to extend our timeline at that point.  
6 But that's what we're looking at. And I just  
7 want to hear from the parties if this schedule,  
8 from just a scheduling standpoint, causes any  
9 serious issues or concerns.

10 Mr. Needleman?

11 MR. NEEDLEMAN: No, not for  
12 me. That's fine.

13 CHAIRMAN BURACK: Thank you.

14 Mr. Rodier?

15 MR. RODIER: Well, certainly  
16 not for us, because I had to write a brief by  
17 September 8th, and now I've got a longer time.  
18 So, you know, we're perfectly happy.

19 CHAIRMAN BURACK: Very good.  
20 Thank you.

21 Mr. Roth?

22 MR. ROTH: That's fine with  
23 us.

24 CHAIRMAN BURACK: Okay. Very

1 good.

2                   Again, I want to thank  
3 everybody who has been with us to provide  
4 testimony and thank all of the parties for their  
5 participation. We will reconvene on  
6 September 10th, and we will issue a scheduling  
7 order here shortly.

8                   Again, thank you all. We will  
9 stand adjourned until September 10th.

10                   (Whereupon the Day 5 Afternoon Public  
11 Session was adjourned at 6:30 p.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed  
Shorthand Court Reporter and Notary Public  
of the State of New Hampshire, do hereby  
certify that the foregoing is a true and  
accurate transcript of my stenographic  
notes of these proceedings taken at the  
place and on the date hereinbefore set  
forth, to the best of my skill and ability  
under the conditions present at the time.

I further certify that I am neither  
attorney or counsel for, nor related to or  
employed by any of the parties to the  
action; and further, that I am not a  
relative or employee of any attorney or  
counsel employed in this case, nor am I  
financially interested in this action.

---

Susan J. Robidas, LCR/RPR  
Licensed Shorthand Court Reporter  
Registered Professional Reporter  
N.H. LCR No. 44 (RSA 310-A:173)

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