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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

November 5, 2010 - 9:13 a.m.
Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, New Hampshire

DAY 5
MORNING SESSION ONLY

RE: SEC DOCKET NO. 2010-01
Application of Groton Wind, LLC,
for a Certificate of Site and
Facility for a 48 Megawatt Wind
Energy Facility in Groton,
Grafton County, New Hampshire.
(Hearing on the merits)

PRESENT:	SITE EVALUATION SUBCOMMITTEE:
Chairman Thomas B. Getz (Presiding)	N.H. Public Utilities Comm.
Robert Scott, Director	Air Resources Division - DES
Brook Dupee, Bureau Chief	Dept. of Health & Human Serv.
Richard Boisvert	N.H. Div. of Historical Res.
Stephen Perry, Chief	Inland Fisheries - N.H. F&G
Charles Hood, Administrator	Dept. of Transportation
Donald Kent, Administrator	Dept. of Resources & Econ. Dev.
Eric Steltzer	Office of Energy & Planning

* * *

Counsel for the Committee: Michael Iacopino, Esq.
Iryna Dore

COURT REPORTER: STEVEN E. PATNAUDE, LCR No. 52

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ALSO PRESENT:

Counsel for the Applicant: (Groton Wind, LLC)	Susan S. Geiger, Esq. Douglas L. Patch, Esq. (Orr & Reno)
Counsel for the Public:	Peter Roth, Esq. (Sr. Asst. Atty. General) Evan Mulholland, Esq. (Asst. Atty. General) Michelle Thibodeau
Reptg. the Buttolph Group:	James Buttolph, Intervenor Cheryl Lewis, Intervenor Carl Spring, Intervenor
Reptg. the Town of Groton:	Miles Sinclair, Selectman

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1 P R O C E E D I N G

2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We'll reopen the hearings in Site Evaluation
4 Committee Docket 2010-01. And, I'll note for the record
5 that eight members of the Subcommittee are present this
6 morning. We have a quorum. And, Mr. Harrington will not
7 be joining us today, but he will review the transcript
8 when it's available.

9 So, let's take appearances.

10 MS. GEIGER: Yes. Good morning, Mr.
11 Chairman, members of the Subcommittee. Susan Geiger, from
12 the law firm of Orr & Reno, and I, along with my
13 colleague, Doug Patch, represent the Applicant, Groton
14 Wind, LLC.

15 CHAIRMAN GETZ: Well, let's continue
16 with appearances. Mr. Buttolph.

17 MR. BUTTOLPH: My name is Jim Buttolph.
18 I'm an intervenor from Rumney. Good morning.

19 CHAIRMAN GETZ: Good morning.

20 MR. SINCLAIR: Miles Sinclair,
21 Selectman, Town of Groton.

22 CHAIRMAN GETZ: Good morning.

23 MS. LEWIS: Cheryl Lewis, intervenor
24 from Rumney.

1 CHAIRMAN GETZ: Good morning.

2 MR. SPRING: Carl Spring, intervenor of
3 Rumney.

4 CHAIRMAN GETZ: Good morning.

5 MR. ROTH: Peter Roth and Evan
6 Mulholland and Michelle Thibodeau, Counsel for the Public.

7 CHAIRMAN GETZ: Good morning. Our
8 intention, first of order of business today, is to hear
9 the testimony and cross-examination of Mr. McCann. Is
10 there anything we need to address before we move to that?

11 (No verbal response)

12 CHAIRMAN GETZ: Okay. Mr. Buttolph, are
13 we ready?

14 MR. BUTTOLPH: I believe so.
15 Mr. McCann, if you would be ready to be introduced.

16 MR. McCANN: Ready.

17 MR. BUTTOLPH: Okay. You'll be sworn in
18 first.

19 MR. McCANN: Before we start though, I'm
20 picking up the audio from Jim pretty well, but not from
21 the rest of the room. I'm not sure if the microphone
22 connections are good. Would someone, whoever is going to
23 be asking me questions, please speak into the microphone.

24 CHAIRMAN GETZ: Off the record.

1 (Brief off-the-record discussion
2 ensued.)

3 MR. PATNAUDE: I'll swear him in.

4 CHAIRMAN GETZ: Please.

5 (Whereupon Michael S. McCann was duly
6 sworn and cautioned by the Court
7 Reporter.)

8 MICHAEL S. McCANN, SWORN

9 DIRECT EXAMINATION

10 BY MR. BUTTOLPH:

11 Q. I'll ask you to state your name please.

12 A. My name is Michael S. McCann, spelled M-c-C-a-n-n.

13 Q. Would you please state your place of employment.

14 A. My place of employment is at my own appraisal
15 consulting firm, McCann Appraisal, LLC, which is
16 located at 500 North Michigan Avenue, in Chicago.

17 Q. Are you the same Mike McCann who filed prefiled
18 testimony on August 31st, 2010 of this docket, Groton
19 Wind?

20 A. Yes, I am.

21 Q. Would you please articulate your background for the
22 Committee here.

23 A. Certainly. As I mentioned, I'm a real estate appraiser
24 and consultant. I've been exclusively engaged in that

1 area of real estate for 30 years now. I'm primarily a
2 commercial/industrial appraiser, but a good portion of
3 my consulting practice has to do with land-use issues,
4 including zoning evaluations, and other types of
5 evaluations that often seek to determine whether or not
6 there is any impact from one proposed land use upon
7 other land uses in the area. Usually, residential land
8 uses are considered to be the most sensitive to
9 externalities or external forces. Some examples of
10 this include working for both property owners and state
11 agencies and other governmental agencies in
12 condemnation matters, many other types of lawsuit
13 situations, where there is damages at question, from
14 any number of uses, ranging from contamination to
15 pipelines to construction defects and the like.

16 Several years back I was appointed by
17 the Federal Court-Northern District as a Condemnation
18 Commissioner, for the purpose of sitting on a panel of
19 Condemnation Commissioners to advise the Court as to
20 the appropriate just compensation to be paid for
21 high-pressure natural gas pipelines being routed
22 through a number of private properties in Will County,
23 Illinois.

24 When it comes to these types of

1 evaluations, I've qualified and testified as an expert
2 witness on property value matters, and in state courts,
3 federal court, and various types of commissions,
4 planning hearings, zoning boards, and so forth, in 20
5 states in the last count.

6 CHAIRMAN GETZ: One question --

7 WITNESS McCANN: That's a pretty fair
8 summary of my experience as it's relative and relevant to
9 this matter.

10 MR. BUTTOLPH: Thank you. The Chairman
11 has a question for you.

12 WITNESS McCANN: Yes, sir.

13 CHAIRMAN GETZ: My understanding is that
14 this information, I didn't see that in the prefiled direct
15 testimony, this description of the background. But, I
16 guess more important is did -- Ms. Geiger, did you have
17 the opportunity, the Applicant, to pursue this background
18 information through discovery?

19 WITNESS McCANN: Well, yes. It was all
20 summarized in my curriculum vitae, which was contained in
21 several documents, including the Adams County, testimony
22 I've given in Adams County, along -- it's contained in the
23 appendix to that document. I believe it was provided,
24 also attached to a review, my initial review of the Ben

1 Hoen study. I'm not sure it was submitted as a separate
2 document, but it's definitely attached to at least two
3 different documents that have been submitted to the
4 Applicant.

5 CHAIRMAN GETZ: And, I do see a
6 professional biography midway through the testimony filed
7 on August 31.

8 MS. GEIGER: Mr. Chairman, I don't have
9 any objection to this line of questioning.

10 CHAIRMAN GETZ: Okay. Let's proceed.

11 WITNESS McCANN: Sorry.

12 CHAIRMAN GETZ: Mr. Buttolph.

13 MR. BUTTOLPH: I would like to make a
14 motion to accept Mr. Michael McCann as an expert witness.

15 CHAIRMAN GETZ: Is there any objection?

16 MS. GEIGER: Yes, Mr. Chairman. I would
17 object to that. I think that we did ask Mr. McCann
18 whether he was licensed in the State of New Hampshire, and
19 I think he answered in discovery that he is not. So, I
20 would object to the motion.

21 MR. BUTTOLPH: Mr. Chairman, I believe
22 that as a part of the motion that was filed by the
23 Applicant, and in our response we indicated a very
24 detailed response on Mr. McCann's part to that particular

1 concern. And, as I had understood it, and as Mr. McCann
2 has articulated in his discovery responses, he is fully
3 licensed in the State of Illinois, and also has parallel
4 federal requirements, which would be redundant were they
5 to be applied for separately in New Hampshire. And, I
6 believe that's a matter that was passed around as a
7 response to that motion by our party.

8 CHAIRMAN GETZ: Mr. Roth.

9 MR. ROTH: Mr. Chairman, I guess I don't
10 agree with Ms. Geiger's motion. I'm not, and, obviously,
11 the rules of evidence don't apply here, and, even if they
12 did, I'm not aware of any requirement that he be licensed
13 in the jurisdiction in order to qualify as an expert.

14 CHAIRMAN GETZ: Yes. I think, again, as
15 you point out, Mr. Roth, the rules of evidence don't
16 apply. But I would say this. I think that the witness
17 has demonstrated a general level of expertise to qualify
18 him to testify here. But I think the Applicant does raise
19 issues more related to the issue of weight of the
20 testimony. And, I think there have been, in some of the
21 papers that have been filed, indication that he has not
22 been to New Hampshire, has not seen the site, and is not
23 admitted into practice, as it were, in the State of New
24 Hampshire.

1 So, we'll recognize him generally as an
2 expert in the matter of real estate appraisal, and it
3 appears that he has some experience with wind turbine
4 issues. But we're going to, in assessing his testimony,
5 give the due weight, recognizing his general expertise,
6 but that he has no particular expertise -- experience with
7 this site or with New Hampshire law.

8 MR. BUTTOLPH: Okay.

9 CHAIRMAN GETZ: So, we'll permit him to
10 proceed.

11 BY MR. BUTTOLPH:

12 Q. Mr. McCann, are there any changes to your testimony
13 from August 31st? And, just to be clear, our
14 understanding of what that testimony consisted of were
15 three items, three things: A letter written to the SEC
16 dated August 31st, 2010; a copy of a letter written to
17 Mr. Ben Hoen dated December 14th, 2009; and also a copy
18 of a report dated June 8th, 2010, to the Adams County
19 Board.

20 A. I would add nothing to my direct testimony, other than
21 my complete responses to the Applicant and their
22 questions, as well as Counsel for the Public, as that
23 further illustrates the basis for my opinions and the
24 testimony that was prefiled.

1 Q. So, your prefiled testimony is not changing?

2 A. Yes.

3 Q. He's just referring to data requests?

4 A. Yes.

5 MR. BUTTOLPH: I guess at this point I
6 would turn this over to cross-examination.

7 CHAIRMAN GETZ: Mr. Roth.

8 MR. ROTH: Attorney Mulholland will be
9 conducting this cross-examination.

10 MR. MULHOLLAND: Mr. McCann, my name is
11 Evan Mulholland. I'm an Assistant Attorney General, here
12 working as Public Counsel with Peter Roth.

13 WITNESS McCANN: I'm sorry to interrupt.
14 You're a little choppy. Could you -- I'm not sure if
15 you're close enough to the microphone.

16 CROSS-EXAMINATION

17 BY MR. MULHOLLAND:

18 Q. Do you have Exhibit PC 10, your responses to your
19 Public Counsel's questions?

20 A. I don't believe I have it by that name. Was it a
21 document I prepared? I have -- my exhibits are marked
22 "Buttolph 1" through what have you. Which document are
23 you asking about specifically?

24 Q. Mr. McCann, do you have this binder, that's rings, that

1 Public Counsel submitted?

2 MR. BUTTOLPH: It has rings on it. I'm
3 sorry, if I may interject?

4 MR. ROTH: Spiral rings.

5 MR. BUTTOLPH: It has a spiral, it's a
6 spiral ring-bound booklet that I believe was sent down to
7 you, Michael.

8 WITNESS McCANN: Okay. It's not in a
9 three-ring binder. There were documents that presumably
10 are contained in that binder. So, could you please just
11 give a little assistance of identifying the document,
12 other than by exhibit number.

13 MR. MULHOLLAND: Sure.

14 MR. ROTH: His October 1st letter.

15 BY MR. MULHOLLAND:

16 Q. It's your October 1st response to Public Counsel's data
17 requests.

18 A. Yes, I have that in front of me.

19 Q. Okay. Can you go to Number 18?

20 A. Yes.

21 Q. In your answer, you refer to something missing, "failed
22 marketing attempts"?

23 A. I'm sorry, I did not hear your question. "Something
24 missing" what?

1 Q. "Failed marketing attempts".

2 A. I'm sorry, I didn't -- there, my phone is turned off
3 now. Please say it again, sir.

4 Q. Okay. You referred to "failed marketing attempts"?

5 A. I am only getting partial words. I'm terribly sorry,
6 I'm just not hearing your full question.

7 CHAIRMAN GETZ: I think, Mr. Mulholland,
8 I think you just need to get closer to the microphone and
9 speak more loudly and see if that works.

10 BY MR. MULHOLLAND:

11 Q. You referred to "failed marketing attempts"?

12 A. Yes.

13 Q. What are those? What do you mean?

14 A. "Failed marketing attempts", that's, as I'm using it
15 and referring to it in there, there are numerous
16 examples of properties put on the market, at reasonable
17 list prices, consistent with the rest of the market at
18 the point in time they were put on the market, that sat
19 on the market for extended periods of time and failed
20 to sell. And, more specifically, refers to interviews
21 I've made of realtors that have tried to sell these
22 homes, in some cases up to 100 showings, that once the
23 homeowner -- or, the prospective buyers saw the
24 location surrounded by turbines or adjacent to

1 turbines, in close proximity, they elected to not even
2 make an offer. Those are the "failed marketing
3 attempts" that I referred to.

4 Q. Are those "failed marketing attempts" considered in the
5 Hoen report?

6 A. In the what report?

7 Q. The Hoen report.

8 A. The Hoen report? No, sir. They make a recommendation
9 in the report that that is a worthy area of further
10 inquiry, but do no such reporting of any research and
11 indicate they have done no such research. But I would
12 add that, prior to the publication of the Hoen report,
13 I had personally communicated with Mr. Hoen and had
14 indicated to him of these types of issues that are just
15 simply not addressed in his report. They elected to go
16 ahead and publish it without any further remark, other
17 than "it's a good area for further study."

18 Q. In the Adams County report, I think that you --

19 A. Yes.

20 Q. -- referred to cutoffs of one mile and then two miles
21 from the wind turbine, as sort of --

22 A. Yes.

23 Q. -- differences. Would you recommend the same here?

24 And, how come?

1 A. Well, the distance from that study was home sales
2 within two miles of the perimeter of any turbines, of
3 the footprint of the turbine project, versus sales at
4 least two miles or more removed, but otherwise in the
5 same community. And, what it showed was a 25 percent
6 lower prima facie price per square foot. I mean,
7 without doing any other calculations, the sale price
8 per square foot came at 25 percent lower within the
9 two-mile zone. That is much flatter topography.

10 I have read and reviewed quite a bit of
11 other information as to how sound carries. And, it's
12 quite obvious, how, at greater elevation, the visual
13 aspects carry further. There are indications of sound
14 being audible as far as I read nine and a half miles
15 away from a study in New Zealand, when turbines are
16 located on mountain ridges and overlook other areas,
17 apparently the sound travels better, or at least
18 according to that study.

19 So, in that regard, I would say that
20 two miles is really just a good -- in the case of
21 Groton, it would be a minimum distance for the Groton
22 [inaudible], sound studies should be done to determine
23 -- an independent sound study should be done to
24 determine if that sound, from that type of setting,

1 could travel even further than two miles. There's many
2 chances of sound from turbines being audible at
3 distances of two miles. That's not uncommon at all.

4 Q. One of the difficulties I'm having in understanding
5 your reports -- or, your recommendations' applicability
6 here to Groton is that the -- the vegetation cover.
7 There are a lot of houses nearby that may have a sound
8 impact, but they won't be able to see the Project.
9 And, then, there are some other houses where -- or,
10 some locations where you will be able to see the
11 Project, but you won't be able to hear it. What would
12 you recommend that the Commission think about that
13 issue?

14 A. Well, I guess the first thing I'd point out is that,
15 even if one can't see the turbines, because of
16 vegetation and trees and so forth, my personal
17 experience in interviewing a family that had purchased
18 a home in such a location adjacent to that same study
19 area in Illinois, it was an acreage site with heavily
20 wooded. And, they bought it for a 25 percent discount
21 from the list price, but apparently thought that the
22 trees would be adequate buffering and so forth, but
23 found they could still hear the thumping and so forth
24 in their home, at a distance of I believe it was about

1 a mile and a half from the nearest turbine. And, that
2 was upwind from the turbine, not downwind. The wife
3 expressed serious regret that they made that purchase,
4 that their expectations just were not met, and the
5 promises that were made were not met, and they just had
6 to live with it.

7 And, certainly, sound is an issue for
8 some people. The aesthetics from the viewshed being
9 impacted are an issue for many others. And, for
10 others, it's a combination of both factors. So, how
11 can this be mitigated? The only -- there's only two
12 answers I have for that. And, one is to place these so
13 far from any occupied residential dwelling that there
14 is no chance for impact or so minimal that it wouldn't
15 be any more disturbing than, you know, the few times a
16 year that a loud noise would occur in those type of
17 locations. Or, alternatively, if the Project were to
18 be approved as proposed, to condition that approval
19 with the requirement for a property value guarantee,
20 very similar in content to the Property Value Guarantee
21 that I drafted that is contained in Appendix A of my
22 Adams County testimony that has been submitted in the
23 record.

24 Q. I want to ask you about that "Property Value

1 Guarantee". How does it work? How does it work? And,
2 specifically, how do you determine a house's value
3 until it's sold?

4 A. Well, many Property Value Guarantees try to set a value
5 at the current date. I recognize, however, that the
6 market has been changing, it's been declining, pretty
7 much everywhere. So, at the point in time that the
8 guarantee that a property owner was either seeking to
9 sell the house to the wind energy company or have the
10 coverage instituted by virtue of putting it on the
11 market, that's the point in time that the base value
12 should be set. And, that could be set through a number
13 of mechanisms, including the brokerage community, if
14 they're using appropriate values, without, you know,
15 really but for the wind project, or having an appraisal
16 to set that value, or a combination of appraisals
17 selected by the wind energy company and the property
18 owner. And, then, if a typical marketing period or
19 even an extended marketing period does not result in a
20 successful sale, that the homeowner should have the
21 option of selling to the wind energy company at the
22 appraised value. And, I would add that, if what
23 they're -- what Iberdrola is claiming the Hoen study
24 says is true, meaning that there is no impact on value,

1 then they really have no downside in such a condition,
2 other than a little bit of administrative expense, and
3 then time for, you know, perhaps one of their lawyers.
4 But the downside to the property owners is that they
5 could have a lifetime of equity just erased if they are
6 unable to access that equity, because they can't sell
7 their home because of the project.

8 So, from a real estate rights and
9 valuation perspective, it's really appropriate to put
10 the burden of the project, the financial burden, on the
11 developer, and not on the community that has been
12 selected by them to host it.

13 Q. But what about any advantage to the homeowners that may
14 accrue because of the wind turbine project? Either
15 because people want to live near them or because
16 potentially the real estate tax burden would drop once
17 you build a big project like this?

18 A. Well, I don't know that there is any such benefits. My
19 research has disclosed nothing of that kind. So,
20 that's very speculative. That what I have read and
21 seen is that property values for taxation purposes can
22 and sometimes are reduced. There's, in fact, a fairly
23 large movement afoot in that regard. I've been
24 contacted by at least a dozen different property owners

1 that are seeking to do just that. What that does,
2 however, assuming success for the -- for the closest
3 neighbors that are actually having their value
4 impacted, is it shifts the property tax burden then to
5 other homeowners in the community that are not impacted
6 by the turbines. So, it's really just another example
7 of, you know, robbing from Peter to pay Paul.

8 The benefit to the neighboring property
9 owners for a Property Value Guarantee would really just
10 be in the form of peace of mind, as far as their use
11 and enjoyment of the property, they would at least know
12 that, if they cannot stand living there because of
13 sleep disturbances and other well-documented issues
14 that rise above nuisance in some cases, to the point of
15 home abandonment, that they will be protected, and that
16 the authority that was in charge of protecting their
17 health, safety, and welfare did a good job of making
18 sure that they would be left whole, in the event that
19 the project caused damages that the developer was not
20 willing to mitigate voluntarily.

21 Q. Here's a question. If the Committee instituted a
22 condition with the Property Value Guarantee for, say,
23 houses within one mile of the turbine base, the nearest
24 turbine, I guess, have you made an estimate of how much

1 that may cost the developer?

2 A. Well, I did include, in my Adams County testimony, an
3 analysis that is applicable to Illinois. I have not
4 run those same calculations for Groton. But I think
5 what it basically amounts to, in a larger scale project
6 of 100 turbines versus 24 in Groton, is about a two to
7 three percent contingency item or line item, additional
8 expense that I'm, you know, actually pretty sure could
9 be saved somewhere else along the line, and really have
10 no effect on the economic feasibility of developing the
11 project. It really just would tap into the bottom line
12 a little bit, to a de minimus level.

13 Q. I read your Property Value Guarantee draft, and it's
14 pretty complex. Would it be --

15 A. I'm sorry?

16 Q. Complicated. It's detailed.

17 A. Yes, it is.

18 Q. My question is, would it be appropriate in your view
19 just to have a 5 percent of value payout at the time of
20 construction?

21 A. No, I don't think that begins to cover the level of
22 damages to many of the properties that are likely to
23 experience it. That sounds more like one of the good
24 neighbor payments or that [inaudible], and also

1 includes a gag order that, "if we give you this money,
2 then you must not ever speak out against the turbine
3 project in public." That maybe goes into a First
4 Amendment area that I'm not an expert on. But, when
5 you start stifling free speech, in the protection of
6 real estate rights, I don't, you know, from a real
7 estate perspective, I don't think that's appropriate.

8 Q. Mr. McCann, that wasn't really my question. I was just
9 asking you about the Property Value Guarantee, and
10 whether it makes sense to just set an arbitrary number,
11 as opposed to trying to figure out the assessed value
12 versus the sale value?

13 A. Well, if you want to use a set number, I don't think
14 5 percent of the value is adequate. I believe it needs
15 to be at least 25 percent as a set payment for anything
16 within two miles, for any properties within two miles.
17 That, you know, leaving the First Amendment issue
18 aside, that would at least partially mitigate, might
19 even over-mitigate some of the property losses. But,
20 on average, that would be, at least in my professional
21 opinion, a good strike point or a threshold percentage
22 to apply for payments to property owners, such that it
23 would make the issue go away.

24 Q. Mr. McCann, have you read any studies of diminution of

1 value near nuclear facilities?

2 A. I have not read any such studies that I can recall. I
3 did have occasion to study property values adjacent to
4 a nuclear facility in Illinois.

5 Q. And, what was the result of that study?

6 A. Well, that study involved some contamination of leaks
7 from the Braidwood Nuclear Plant in the form of an
8 estimated million gallons of tritiated or
9 tritium-contaminated water that had saturated the
10 groundwater and migrated to the nearest homes to the
11 northeast that were surrounding a little lake. And,
12 those homes were all on private well and septic, which,
13 obviously, is not a good condition to have drinking
14 water wells contaminated by radioactive water. And,
15 the result of that study was that those properties were
16 virtually unmarketable, and at best would sell for
17 about 5 percent of their pre-existing market value.

18 Q. Mr. McCann, that's not strictly comparable, though. I
19 mean, I was speaking of nuclear facilities without
20 leaks, you know, just general industrial facilities?

21 A. I am not aware of -- I don't recall having read such a
22 study.

23 Q. Mr. McCann, isn't it true that, for facilities like
24 this wind turbine or other energy facilities, that the

1 facilities provide tax payments or payments in lieu of
2 taxes to the municipality or county where they're
3 located?

4 A. I think that's typically true. It's also true that
5 some developers then seek to have the state laws on
6 taxation changed or otherwise minimize their exposure
7 to taxation after the fact.

8 Q. And, isn't it also true that the Town receives some
9 benefit from the workers and the whole development, in
10 terms of secondary economic benefits?

11 A. I didn't hear your full question, there were some
12 garbles in there, I'm sorry.

13 Q. Isn't it true that, in your experience, that when these
14 facilities, energy facilities, wind facilities are
15 built, that the locality receives secondary economic
16 benefits, from payroll, from purchasing, from things
17 like that?

18 A. Well, there's typically some temporary construction
19 jobs and things of that nature. The benefits that can
20 be anticipated are pretty well described in the Cape
21 Vincent, New York Economic Development Committee
22 Report, and also weighed against the potential risks,
23 downsides, and costs. That's the most thorough
24 analysis of the cost versus benefits scenario that I've

1 read to date.

2 Q. Can you turn to your answer to Public Counsel Request
3 Number 22. And, this is PC 10, Exhibit PC 10.

4 A. Okay. And, I have it marked as "Buttolph 1-C", but
5 it's the October 1 response to Peter Roth. And, you're
6 asking --

7 Q. Yes. Can you review the second to last sentence of
8 your answer, about "lease-holders"?

9 A. And, I'm sorry, would you please repeat that?

10 Q. Can you just read the second to last sentence of your
11 answer referring to "leases"?

12 A. "I also note that lease-holders typically must sign
13 agreements to not speak negatively about wind
14 turbines."

15 Q. Have you read any leases personally that have that
16 condition?

17 A. I have read good neighbor agreements. I've read
18 leases. I've also interviewed parties that were
19 offered leases and reported those very conditions to
20 me, yes.

21 Q. Any from this company, Iberdrola?

22 A. I just yesterday received a copy of an Iberdrola lease
23 for their Deer Run Project, in Illinois. And,
24 honestly, I have not read it yet, so I don't know if it

1 has that particular caveat in it.

2 Q. Okay. Mr. McCann, have you seen Public Counsel 12 and
3 Public Counsel 13? They're colored pictures. Viewshed
4 analysis.

5 A. The viewshed analysis? I'm not sure. Could you -- I
6 don't know that I have it by -- I don't have a full set
7 of exhibits, I have a --

8 WITNESS McCANN: Jim, is that part of
9 the binder that I was sent?

10 MR. BUTTOLPH: Mike, if you take a look
11 at the screen. I'm sorry. If you take a look at the
12 screen, that's what it looks like.

13 WITNESS McCANN: That looks familiar,
14 but I don't know that I have it in this packet of
15 documents. It might have been in a PDF that I either
16 downloaded or was e-mailed.

17 BY MR. MULHOLLAND:

18 Q. Well, what they are, and maybe I can just explain what
19 they are, they are viewshed analyses of Loon Lake,
20 which is the lake just north of the Project. And, what
21 they show is that, from the surface of the lake,
22 between 19 to 24, the turbines will be visible on the
23 ridge from the lake.

24 A. Okay.

1 Q. What are the effect, in your expert opinion, of sort of
2 a panoramic view of all the turbines, from, for
3 instance, your house on Loon Lake, if you had one? How
4 would that affect the value?

5 A. Well, the viewshed definitely is linked to the
6 aesthetic quality of an area. And, even the Hoen study
7 clearly finds something on the order of a 20 percent
8 premium that can be attributed for premium viewsheds,
9 premium views. That's contained in one of his tables
10 or figures that rates the contribution to value of
11 various qualities of view from a poor to a premium.
12 And, the premium views often enhance value or
13 typically, I guess, statistical analysis enhance values
14 something on the order of 20 percent.

15 So, with any diminution or detracting or
16 destruction of the quality of that viewshed, any
17 decrease in how the market rates, that I believe there
18 would be a significant decrease.

19 Q. Do you have -- I'm sorry.

20 A. The distance isn't quite as important as the quality of
21 the viewshed. And, I think that, if homes by the lake
22 have their viewshed impacted, regardless of the
23 distance, then -- or, the audible -- whether or not the
24 turbines are audible there, it is still going to have

1 some detraction on their property values.

2 MR. MULHOLLAND: Thank you, Mr. McCann.

3 I think those are my questions.

4 CHAIRMAN GETZ: Okay. Thank you. Ms.
5 Geiger.

6 MS. GEIGER: Yes. Thank you, Mr.
7 Chairman. And, I'm going to apologize to the Committee
8 for having my back turned, but I think this is the best
9 way for me to examine this witness. So, thank you. Good
10 morning, Mr. McCann. Can you hear me?

11 WITNESS McCANN: Yes.

12 BY MS. GEIGER:

13 Q. Now, could you please tell us what city and town you're
14 talking to us from?

15 A. I'm sorry, I did not hear you with that little paper
16 shuffling.

17 Q. Where are you located right now? Where are you
18 speaking to us from?

19 A. From Florida, southwest Florida.

20 Q. Okay. And, is there anyone else there in the room with
21 you?

22 A. No.

23 Q. Okay. Now, Mr. McCann, I believe you stated in your
24 letter of August 31st to the Site Evaluation Committee

1 that you "have formed the professional opinion that the
2 Groton Wind Project application does not comply with
3 the applicable aesthetic standard for a Siting
4 Certificate, from a real estate valuation and land use
5 perspective." Is that your statement?

6 A. Yes.

7 Q. Okay. Could you please tell us what your understanding
8 of the "applicable aesthetic standard" is in this
9 docket?

10 A. Well, it's my understanding that it's pretty well
11 described in the third full paragraph of the cover
12 letter of my August 31 prefiled testimony. And, it
13 references Title XII of the Public Safety and Welfare
14 Chapter 162-H Energy Facility Evaluation, Siting,
15 Construction and Operation. And, it requires that "a
16 Certificate Issuance condition requires a finding that
17 the facility "Will not have an unreasonable adverse
18 effect on aesthetics", and it goes on "historic sites,
19 air and water quality, the natural environment, and
20 public health and safety"."

21 Q. Okay. So, it's your testimony that the aesthetic
22 standard that you believe applies in this docket is set
23 forth in your letter in the third paragraph?

24 A. That's the language of the code.

1 Q. Okay. Thank you.

2 A. And, as I submitted, yes.

3 Q. Now, are you an expert in aesthetics?

4 A. As far as real estate aesthetics, yes. Yes, I am.

5 Q. Okay. Have you ever done a visual impact assessment?

6 A. Every property that I appraise involves some type of
7 visual assessment that can be described as a "visual
8 impact assessment", but not as your Application
9 includes one.

10 Q. Okay. Have you reviewed the visual impact assessment
11 that has been done by the Project's expert, John
12 Hecklau, in this case?

13 A. I believe I did see that at some point.

14 Q. Okay. Does that, the visual impact assessment results,
15 would you agree with me that that demonstrates the
16 visibility of the turbines from various locations
17 around the Project area?

18 A. I don't have an independent basis of saying that. I
19 didn't do a formal review of that study. So, no, I
20 can't say I will agree with you on that.

21 Q. Okay. Okay. Now, in arriving at your opinion about
22 the Groton Wind Project's effects on local property
23 values, did you take into account any information or
24 data about the Lempster, New Hampshire Wind Project?

1 A. I'm sorry, the what?

2 Q. Did you take into effect or into account any data about
3 the Lempster, New Hampshire Wind Project in making your
4 opinions in this docket about the potential effects of
5 the Groton Wind Project on property values in the local
6 community?

7 A. When was that project built? I don't believe I did
8 have any data from Lempster.

9 Q. Okay. Now, is it also fair to say that your opinion
10 about the Groton Wind Project's potential effects on
11 local property values is based solely on information
12 concerning wind projects in states other than New
13 Hampshire?

14 A. No. My opinions are based on data, case studies,
15 personal accounts, and research, really, on a worldwide
16 basis, but not specific, narrowly focused to a wind
17 project in New Hampshire.

18 Q. Okay. So, in other words, I think I heard you say, if
19 I understand correctly, and correct me if I'm wrong,
20 that you looked at other information, but you did not
21 examine New Hampshire-specific information, is that
22 correct?

23 A. I did not examine what specific information? That was
24 not clear.

1 Q. You did not look at New Hampshire-specific information
2 in arriving at your opinions in this case?

3 A. Well, I did not look at specific sale information. I
4 did look at specific information about the location,
5 the setting, the proximity to homes, the proximity to,
6 you know, communities that might be impacted. So, it's
7 a "yes" and "no" answer.

8 Q. Okay. But, in terms of your analysis of wind projects
9 and their effects on property values, would you agree
10 with me that you did not examine the effect of any New
11 Hampshire wind projects on property values in the State
12 of New Hampshire?

13 A. I would agree with you that I did not look at historic
14 information from locally. I would disagree with you,
15 because I did look at going forward the likely impact
16 on the local communities.

17 Q. And, what communities were those?

18 A. Rumney, Plymouth, to some extent Groton, --

19 Q. Mr. McCann, have you ever --

20 A. -- the areas of the turbines.

21 Q. Have you ever been to Groton or Rumney or Plymouth, New
22 Hampshire?

23 A. No.

24 Q. Okay. Now, have you ever -- have you ever appraised

1 any property in New Hampshire?

2 A. I consulted with an appraisal firm in New Hampshire
3 years ago, --

4 Q. And, when was that?

5 A. -- as I answered previously.

6 Q. When was that?

7 A. I believe that was around 1988, and it had to do with
8 the appropriate way to value a quarry or mine. Given
9 that I had developed a fair amount of expertise on
10 that, I was sought out for that guidance by the local
11 appraisers.

12 Q. Other than appraising a stone quarry in New Hampshire
13 in 1988, have you ever appraised any other real estate
14 in New Hampshire?

15 A. No, I have not.

16 Q. Okay. Are you an acoustical engineer?

17 A. No, I'm not.

18 Q. Do you have a medical degree?

19 A. I do not.

20 Q. Now, Mr. McCann, if you could turn to the last page of
21 your August 31st letter to the Committee. Do you have
22 that?

23 A. The last page, yes. But which page are you referring
24 to? The last page of the document or the last page of

1 the letter actually addressed to the Committee, which
2 is Page 2?

3 Q. Right. It's the last page of -- it is the last page of
4 the letter that's addressed to the Committee. It's
5 dated August 31st.

6 A. I'm sorry, I did not hear you very clearly. Page 2 or
7 the last sheet of the document?

8 Q. I believe it's Page 2.

9 A. Okay.

10 Q. And, there it says that "a 25 percent or greater value
11 reduction can be reasonably expected for many of the
12 approximate 200 homes and structures located in close
13 proximity to the proposed turbines." Do you see that?

14 A. Yes, I do.

15 Q. Where exactly are these 200 homes located?

16 A. Well, where exactly, I can probably best show you on
17 one of your own exhibits. The sound -- Epsilon sound
18 map that's I believe titled "Figure 7-1". And, within
19 one mile on that sheet, Figure 7-1, it shows the
20 majority of the homes to the northwest, north,
21 northeast, and east of the three basic clusters or rows
22 of turbines. There are several homes that are located
23 kind of in the valley along Groton Hollow Road and
24 leading up to Rumney.

1 Q. Do you know how far -- do you know how far away those
2 homes are from the Project?

3 A. If I understand that legend correctly, that shows
4 within one mile of any turbine.

5 Q. Do you know how many of those homes or structures would
6 actually have views of the Project?

7 A. Not specifically, no.

8 Q. Okay. Do you have -- have you looked at the sound
9 modeling results for those homes?

10 A. I believe I did read some data on that, yes.

11 Q. Could you please tell us whether you believe the
12 topography in Adams County, Illinois is the same as in
13 the Groton/Rumney/Plymouth, New Hampshire area?

14 A. Would you please say that again, it was a little tinny.

15 Q. Do you believe that the topography or could you explain
16 what the topography is in Adams County, Illinois, as
17 compared with your understanding of the topography or
18 physical characteristics of the Groton, New Hampshire
19 area?

20 A. Well, Adams County is a relatively level and flat
21 terrain. But my opinions for Adams County were based
22 on property sales, as far as the sale data support,
23 from Lee County, Illinois, also being relatively flat.
24 However, the location of the Mendota Hills Project,

1 where the data is derived from, is a more aesthetically
2 pleasing sub-area within Lee County and west of Route
3 39, in Carroll County, in that it has more rolling
4 hills and stands of woods that is more rural
5 residential in nature than heavily agricultural with
6 everything planted in corn. How this compares to the
7 New Hampshire location for the Groton Project is that
8 the turbines in Groton are proposed to be mounted on a
9 ridge, which will elevate their height that much more
10 than the surrounding parcels of land. And, certainly,
11 from some vantage points, make them more visible from
12 even greater distances.

13 Q. So, please help me understand what your position is.
14 Is it your position that the impacts, the aesthetic
15 impacts or the impacts of wind farms on a flat terrain
16 in Illinois and the impacts the wind farms have on
17 property values in those locations is going to be
18 different than your opinion about the impacts of wind
19 turbines on ridgelines and their effects on property
20 values?

21 A. Well, it is my opinion that, by elevating the
22 structures, increases the visibility from greater
23 distances than on just flat land for some properties in
24 some locations. The actual effect on property values

1 is a case-by-case basis. And, I presented some good
2 average figures. But I would have suggest the more the
3 aesthetic viewshed, which is how some just try to cast
4 this as a view issue, but it's also, obviously, a noise
5 issue. And, whatever the combination of the aesthetics
6 and the sound impacts are is going to dictate more than
7 anything else what the actual impacts are on a
8 property-by-property basis. My opinions are more of a
9 guideline or threshold that I believe are very relevant
10 and applicable pretty much anywhere in the United
11 States.

12 Q. If I understand you correctly, you're saying that you
13 need to look at a combination of the visual impacts and
14 the sound impacts on a particular property before you
15 can determine whether or not that property --
16 property's value will be impacted, is that correct?

17 A. No, that's not correct. What I was trying to say,
18 trying to make clear is that the reality of the view,
19 the reality of the noise impacts for any given property
20 is going to be what dictates the actual level of
21 impact, whether that be 10 percent, 20 percent,
22 50 percent, or 90 percent. And, the greater the
23 impact, the greater the impact on value.

24 Q. So, are you -- excuse me, Mr. McCann. Is it your

1 testimony that a Property Value Guarantee should be
2 given out across the board to all properties within a
3 particular radius of this Project, without knowing
4 exactly what the impacts of the visuals and the sound
5 -- sound projections from the Project will be?

6 A. Yes, because they're, you said it exactly right,
7 projections, not the reality. The reality after the
8 turbines are built is really what's going to dictate
9 the market reaction, not your projections.

10 Q. Well, I used "projections" incorrectly, and let me say
11 that a little bit differently. Is it your position
12 that the Committee should impose a Property Value
13 Guarantee condition notwithstanding the fact that you
14 haven't determined, for each property within a two-mile
15 radius, the impact that the Project is estimated or
16 anticipated to have on those particular properties?

17 A. Well, it's anticipated to have a 25 percent impact on
18 properties within a two-mile radius. So, --

19 Q. And, that's your opinion, correct?

20 A. Yes, that is my position, that the Committee should
21 impose a Property Value Guarantee for at least two
22 miles, and then use their own independent judgment or
23 independent studies to determine if that impact area is
24 likely to be increased beyond two miles, in light of

1 how high these turbines would be located on a ridge --
2 on ridges, excuse me.

3 Q. Mr. McCann, are there other factors than proximity to a
4 wind turbine that can affect the sales price of a home?

5 A. I didn't hear the first part of your question.

6 Q. Are there any factors, other than proximity to a wind
7 turbine, that can affect the sales price of a home?

8 A. I would say -- suggest probably the quality of the
9 turbine. Certainly, some of the earlier models were
10 much smaller. And, the --

11 Q. Excuse me, Mr. McCann. Excuse me. I apologize for the
12 interruption, but I don't think you're understanding my
13 question. I asked you "if there are any factors, other
14 than the proximity to a wind turbine, that can affect
15 the sales price of a home?"

16 A. Oh, certainly. Many factors can affect the sales price
17 of a home. The quality, condition of the home, the
18 other, the local economy, the state of the market,
19 whether or not it has a premium view, in a nice,
20 secluded site to begin with and that gets impacted
21 after the fact. There's a whole host of things that
22 can be factored into an appraisal that sets a baseline
23 value on a property-specific basis for any properties
24 within that two-mile or greater radius.

1 Q. And, Mr. McCann, I think that one of the first things
2 you mentioned in your response to my question was the
3 quality of a home could have an effect on its sales
4 price, correct?

5 A. Yes.

6 Q. Did you examine the quality of the homes that you have
7 listed in your Mendota Hills report that's been
8 submitted to the Committee?

9 A. I examined every one of them from multiple list sheets,
10 from physical inspection, and from any records from the
11 County that depicted the age and so forth. What I can
12 tell you is that they were all pretty typical, of a
13 range of ages, mostly older farm homes, some in the
14 more newer construction, the 1960s, ranches on slabs,
15 for example.

16 Q. But did you factor -- I guess the question I have is,
17 did you factor in, for each of those homes, their
18 quality in connection with the sales price that you
19 have listed on your one-page summary?

20 A. Yes. To the extent that I compared each of the homes
21 within the two-mile zone to the homes outside the
22 two-mile zone, I found them to be very consistent and
23 compatible or even functionable, as far as the quality
24 of those homes.

1 Q. Did you include that information in your study?

2 A. I included a summary of the sales. I'm answering your
3 questions the best I can, counsel.

4 Q. But is it true that the Mendota Hills Property Value
5 Study that you referred to in Appendix C of your letter
6 to the Adams County Board in Illinois is merely just a
7 one-page listing of sales and property information, in
8 terms of grantor/grantee, date of sale, etcetera?

9 A. That particular component in my study is summarized on
10 one page, yes.

11 Q. Okay. Now, do you know the distance of each of those
12 53 properties listed on that one-page summary from the
13 wind turbines that you were looking at?

14 A. I know that the first grouping is located less than two
15 miles from the nearest turbine. And, the second
16 grouping is located two miles or more from the nearest
17 turbines.

18 Q. And, how much more? Do you know how much beyond two
19 miles that second grouping is? Mr. McCann, can you
20 hear me? Hello?

21 A. Is there an airplane going overhead?

22 Q. Not here.

23 A. Then, I don't know.

24 Q. Okay. The question I have is, do you know how much

1 further out than two miles from a wind turbine the
2 properties in the second grouping, now by "second
3 grouping", I think we're talking about homes numbered
4 17 through 53, is that correct?

5 A. Yes. Actually, on my chart, it's listed as "16 through
6 53". But I believe that might be a typo on the bottom,
7 where I listed "1 through 16", and then "17 through
8 53".

9 Q. And, I'm asking you, well, whether it's 16 or 17, let's
10 say that the majority of the homes in your one-page
11 summary that you have indicated are two miles or more
12 away from the wind farm, correct?

13 A. Yes.

14 Q. How much further away than two miles are each of those
15 homes?

16 A. From memory, if you would like me to try to answer from
17 memory, I will, I believe the furthest home was on the
18 order of six miles.

19 Q. Okay. Now, is it correct that you only looked at the
20 sales prices of 53 homes for purposes of your study and
21 conclusions in the Adams County report?

22 A. No, there's many other things I cited in the Adams
23 County report, and many things I didn't cite. I'm
24 really drawing on something in excess of 1,500 hours of

1 experience in studying, evaluating, researching the
2 impacts on the use and enjoyment, the impacts on
3 occupancy, the common and often repeated experiences of
4 neighbors to wind turbines, as well as sales, such as
5 this Appendix C, that bear out how the market reacts to
6 those things.

7 Q. And, I guess the question that I have really is that
8 you're making a recommendation or it's your opinion
9 that homes within two miles of a wind turbine will
10 decrease in value by 25 percent. And, I'm asking you
11 is the factual data on which you are relying in making
12 that -- that opinion consists of your examination of
13 the sales prices of just 53 properties in Illinois?

14 A. No. I've also based it on my review of the Hoen study
15 that included something on the order of 7,500 sales,
16 including approximately 120 that were located within a
17 mile. On example after example of single case studies
18 of single homes that sat on the market and sold, if
19 they sold, at some great discount, for example,
20 40 percent. I've also based my opinion on information
21 that the Hoen study had access to, but elected to not
22 mention, including homes in Pennsylvania near a turbine
23 project that were purchased by the developer at the
24 appraised market value, and then resold at discounts of

1 40 percent to 80 percent from that appraised value in
2 order to accomplish a reasonably quick sale. There's
3 lots of what industry tends to call "anecdotal
4 information", but the appraisal profession tends to
5 call "case studies" that I also draw on. This Appendix
6 C, summary of sales at Mendota Hills, in Lee County,
7 Illinois, just provides a more homogenous, because it's
8 all from one location, a more homogenous indication,
9 that is very consistent with, in many cases even lower
10 than, value impacts that occur on a case study basis.
11 The Internet is chock full of examples like that, if
12 anyone cares to do the research of which I have done.

13 Q. And, finally, Mr. McCann, again, the data that you've
14 examined does not include any New Hampshire-specific
15 data, does it?

16 A. Could you say that again please.

17 Q. The data that you've just referred to does not include
18 New Hampshire-specific sales prices, does it?

19 A. It still is a little bit mixed up. I'm terribly sorry.
20 I'm not trying to be evasive, I just want to make sure
21 I hear your question.

22 Q. The data that you've examined in arriving at your
23 conclusions does not consist of New Hampshire sales
24 prices, does it?

1 A. Well, I did review the background values and sale
2 prices through several different real estate websites
3 actively reporting asking prices and sales prices in
4 that area. So, while these sale prices do not yet
5 reflect any impact from turbines, I did consider sale
6 information from New Hampshire.

7 Q. Mr. McCann, you didn't --

8 A. The basis for the opinion, however, is drawn from
9 existing turbine locations.

10 Q. But, Mr. McCann, you didn't provide any of that
11 information in writing to the Applicant or other
12 parties in this docket. Or, let me speak for the
13 Applicant. You didn't provide that information to the
14 Applicant, did you, in writing?

15 A. All the information that -- that my Adams County report
16 pretty fairly summarizes the level of research I've
17 done, the type of information I've looked at. And, I
18 was available to answer any questions they had of me,
19 including any other sales, down to the last one that I
20 ever reviewed; they didn't ask that question. I'm
21 trying to be responsive to your questions now.

22 MS. GEIGER: I have no further
23 questions. Thank you for your testimony, Mr. McCann.

24 WITNESS McCANN: Thank you.

1 CHAIRMAN GETZ: Okay. Questions from
2 the Subcommittee?

3 MR. SINCLAIR: Mr. Chairman, may I ask
4 him a couple brief questions please?

5 CHAIRMAN GETZ: Certainly.

6 MR. SINCLAIR: Mr. McCann, can you hear
7 me?

8 WITNESS McCANN: Yes, I can.

9 MR. SINCLAIR: My name is Miles
10 Sinclair. I'm on the Board of Selectmen for the Town of
11 Groton, which is where the Project is supposed to be
12 located.

13 BY MR. SINCLAIR:

14 Q. I was just curious, sir. Have you had an occasion to
15 become involved in assessing potential property value
16 impacts with any other energy producers, i.e. nuclear
17 plants, coal-fired power plants, biomass plants?

18 A. I have had occasion to study property values adjacent
19 to combined cycle natural gas-fired plants, as well as
20 peaker plants. But not nuclear, other than what I
21 previously testified to, the nuclear plant, but never a
22 biomass or solar or other energy projects.

23 Q. And, have you made any similar recommendations about a
24 Property Value Guarantee with respect to those types of

1 producers?

2 A. I have made recommendations of Property Value
3 Guarantees to various clients, where it was not clear
4 that the location of the proposed use was appropriate,
5 meaning an industrial location -- okay. I'm getting a
6 message there's a problem with the internet connection,
7 but maybe that's cured now.

8 CHAIRMAN GETZ: Mr. McCann -- Mr.
9 McCann, I think we lost part of your previous answer. So,
10 if you could restate your answer to Mr. Sinclair.

11 BY THE WITNESS:

12 A. Yes. I have had many occasions to make recommendations
13 to my own client, when they're developing land uses or
14 proposing to develop land uses, that create the
15 potential for conflict with neighboring residential
16 uses. And, when the particular project locations are
17 seeking to be introduced into a non-industrial area, in
18 other words, appropriate location for a power plant,
19 from a land use and real estate perspective, is an
20 industrial location. Whether that be a combined cycle
21 plant, a peaker plant, or a wind energy plant. And,
22 for that matter, I have made recommendations to quarry
23 clients and landfill clients that they do just that.
24 And, I would also suggest, Mr. Selectman, that one

1 client in particular, even though he had to litigate in
2 court to get the court ordered approval for a limestone
3 quarry, followed my recommendation on offering and
4 instituting a Property Value Guarantee Program for the
5 neighbors within a mile, even though the court did not
6 order it.

7 Q. And, in terms of percentages of the Property Value
8 Guarantee, with these other types of producers or
9 circumstances that you've been involved in, where
10 you've given a 25 percent figure here, what were your
11 recommendations in those other areas?

12 A. Well, there's no one-size-fits-all answer. For
13 example, a landfill client that I had done a study for
14 and extract property values that were nearest the
15 landfill, that, from as close as half a mile from the
16 site to -- out to, if I remember correctly, two miles
17 from the site that was studied, which was an active
18 landfill, didn't show any change in the property values
19 on an average per square foot basis or on the rate of
20 change of value. I mean, they all appreciated, in both
21 study groups, near and far from the landfill, at very
22 similar rates of appreciation. But, notwithstanding
23 that data support for saying there's no impact, there
24 was still the opportunity for there to be some impact

1 on the neighboring residential property valves. And, I
2 didn't put a limit on it, like limit it out to
3 25 percent. I suggested that they offer that to every
4 property owner within a one mile radius of their site.
5 I've made recommendations of this kind to other zoning
6 boards and so forth in Illinois, a few of which have
7 actually adopted it, despite the strong objection from
8 the wind developers.

9 Q. And, one last question, Mr. McCann. Do you consider
10 yourself a proponent of wind energy or an opponent?

11 A. I consider myself neutral. I think, you know,
12 conceptually, wind energy is a good idea. I like the
13 idea of wind being used to generate electricity. I
14 have read enough of it that I understand there is
15 considerable levels of issues and problems with it.
16 But what I'm a proponent for is my objective studies,
17 and I ratify them and stand behind them in my
18 professional opinions.

19 So, I am officially neutral, although I
20 will declare, and not just admit, that most of the
21 people that are interested in my opinions on this
22 matter, as it relates to wind turbines, are concerned
23 neighbors, and, in some cases, town boards,
24 municipalities, and counties that are actually trying

1 to find out what's really likely to happen.

2 MR. SINCLAIR: Thank you, Mr. McCann.

3 WITNESS McCANN: Thank you.

4 CHAIRMAN GETZ: Questions from the
5 Subcommittee? Dr. Kent.

6 DR. KENT: I guess we should do a sound
7 check first. Can you hear me?

8 WITNESS McCANN: I can hear you, yes.

9 DR. KENT: Thank you.

10 BY DR. KENT:

11 Q. Are you trained as a statistician?

12 A. Can you speak a little slower please?

13 Q. Are you trained as a statistician?

14 A. I am not. Other than I've done some limited training
15 through Appraisal Institute --

16 (Court reporter interruption.)

17 BY THE WITNESS:

18 A. Certainly. I'm not a formally trained statistician. I
19 have received a limited level -- I would describe it as
20 a limited level of statistical training through
21 Appraisal Institute, appraisal courses that make use of
22 statistical analysis.

23 BY DR. KENT:

24 Q. Have you used hedonic pricing models in your analyses

1 of real estate values?

2 A. I'm sorry, I hate to ask you to repeat it.

3 Q. Have you used hedonic pricing models in your analyses
4 of real estate values and impacts?

5 A. I have not initiated hedonic regression analyses.

6 Hedonic, I believe, just means "on its face". And, in
7 that regard, my Appendix C is a hedonic analysis, it's
8 just not -- doesn't take the statistical analysis
9 beyond the average price per square foot and the
10 percentage difference in that average price.

11 Q. Could you tell me again how you isolated the effect of
12 other factors in your -- what was that, the Mendota
13 study? How did you isolate the impact of turbines on
14 house prices?

15 A. By distance.

16 Q. What about those other factors, like house color, house
17 size, acreage, number of rooms? How do you isolate
18 turbines from all the other factors that go into house
19 purchases?

20 A. Well, first of all, I excluded acreage sales, even if
21 they had a house on it, because clearly the land value
22 for a 160-acre tract, for example, could, obviously,
23 distort the value on a price per square foot for the
24 house. Beyond that, by physically inspecting them and

1 finding them all to be consistent and compatible with
2 the market area, and seeing very similar levels of
3 upkeep, maintenance, curb appeal, as the market looks
4 at it, the home buying market, that is the first and
5 foremost issue is curb appeal. And, that's what gets
6 them in the door and has the most impact initially on
7 the decision to buy or not to buy. What I did not do
8 is attempt to isolate the difference between a shower
9 stall and a claw leg bathtub contribution to price,
10 because that starts making a series of assumptions that
11 frankly allows an analyst to paint a target around a
12 bullet hole.

13 Q. Were houses within two miles selling for the same price
14 as houses beyond two miles, before the wind project was
15 announced?

16 A. The sale prices as I've tracked them were pretty
17 compatible throughout Lee County, at least eastern Lee
18 County; western Lee County was not as desirable.
19 Eastern Lee County was also extracting buyers from the
20 more urban and suburban market areas around Chicago,
21 and Lee County is due west of Chicago. So, the values
22 in eastern Lee County, as I had tracked for a prior
23 wind farm application in Oklahoma [sic?] County had
24 shown to be pretty consistent and compatible throughout

1 eastern Lee County, prior to the establishment of the
2 Mendota Hills Wind Farm.

3 Q. That answer was a little complicated for somebody who's
4 not living out there. Could you give me a "yes" or
5 "no". Did you look at the -- before the wind park was
6 announced, did you look at the prices of houses within
7 two miles and the prices beyond two miles and find them
8 to be the same?

9 A. Yes. As part of a different study, I did exactly that.

10 Q. Can you provide that information to the Committee?

11 A. From memory, because I don't have those documents, this
12 dates back to a study I did in 2005, where I was
13 tracking all the property sale transactions for several
14 years in eastern Lee County. And, what I found was
15 that, leading up to the date of the Mendota Hills
16 Project being established, that the property sales
17 tracked pretty homogeneously. There were certainly
18 some differences. Newer, larger homes were selling for
19 higher prices, and the older, smaller homes were
20 selling at lower prices. But, all in all, the prices
21 were what you would expect in that market area at that
22 time.

23 CHAIRMAN GETZ: Mr. Buttolph, I guess
24 what we'd like to see as an exhibit is that document. So,

1 if you could get that, Mr. McCann, if you have that
2 document, we'd like it provided as an additional
3 intervenor exhibit in this case. And, the next number --
4 do you have the next number? It would be "Buttolph 36".

5 (Buttolph Exhibit 36 reserved)

6 WITNESS McCANN: I was not hearing what
7 everybody was saying, a little cross-talk. But I think
8 what I'm understanding, I'm being asked by someone to go
9 ahead and provide a document that reflects that prior
10 study for eastern Lee County?

11 CHAIRMAN GETZ: That's correct.

12 WITNESS McCANN: And, who's requesting
13 this, if I may ask?

14 CHAIRMAN GETZ: The Committee.

15 WITNESS McCANN: Okay.

16 BY DR. KENT:

17 Q. Mr. McCann, do you know people who like the view of
18 wind turbines?

19 A. Do I know people from where?

20 Q. Do you know -- have you met people who like the view of
21 wind turbines?

22 A. I have heard people describe that they're, you know,
23 beautiful or fascinating or interesting. But I've also
24 noted that, for the most part, if it isn't a

1 stakeholder in a project, it tends to be somebody that
2 has just driven by one or stopped and looked it for a
3 few minutes. But I have never once heard a person who
4 lives amongst them make that claim or make that
5 statement.

6 Q. So, you've never met a buyer -- let me put it this way.
7 Every experience with a prospective real estate
8 customer has deemed wind turbines a negative factor?

9 A. I'm not quite sure I heard your whole question. But,
10 if I understand it correctly, you're asking me if every
11 single buyer of a parcel of real estate that is
12 adjacent to wind turbines has a negative impression,
13 and I would have to say "no". The impressions vary.
14 Some find it extremely negative and walk away, a large
15 number of them do. Obviously, for someone to buy a
16 home adjacent to an existing turbine project, they must
17 find it less objectionable than other people that under
18 no circumstances would live by such facilities.

19 Q. If living within view of a wind turbine is a personal
20 preference, doesn't that not make it like any other
21 factor in purchasing? The color of a house?

22 A. No. No, it doesn't. Most of the factors about buying
23 a house have to do with the community as it exists, the
24 school district, the quality of the neighborhood, the

1 quality of the house. These are things that can be
2 pretty clearly ascertained, and certainly with fair
3 disclosure from the seller, and a little bit of
4 research by the buyer, in every case that I'm aware of.
5 A wind turbine project being introduced after that
6 fact, after that incredible large investment for most
7 people, largest investment most people make in their
8 life, even Mr. Hoen and others that are pro wind in
9 their writings acknowledge that. That is introducing a
10 use that is completely incompatible with residential,
11 whether you talk about the quality of the structure,
12 the height of the structure, the noise that's emanated
13 from it, the blinking lights that the FAA requires,
14 just the whole character of the project is heavy
15 industrial, in regard to residential. That's -- I know
16 this isn't a zoning case, but that's exactly the intent
17 and purpose of zoning is to separate incompatible uses.
18 These projects located next to homes fail to meet that.

19 Q. We're talking about "incompatible uses", are we talking
20 about your opinion or the opinion of every potential
21 real estate client?

22 A. Well, I guess I'll start with my opinion. It's
23 definitely my opinion that they're incompatible uses.
24 But the market is speaking loudly and clearly on this

1 issue as well, both in anticipation of, and in
2 hindsight, when they go to sell their homes, or, in
3 some cases buy them, at steep discounts from what the
4 values had been or would have been. So, --

5 Q. What we're saying -- really, what you're saying is --

6 A. -- it's a clear measure of incompatibility is the loss
7 of value.

8 Q. What I'm hearing is, in your experience, it is a
9 negative factor and is an incompatible use?

10 A. It is not only my experience, it is the experience of
11 thousands of people that have reported it. And, the
12 most recent example I can think of is, in Ontario,
13 where a relatively small project, of only I think two
14 turbines, has resulted in a reported 12 homes being
15 abandoned. This is not my opinion, this is the market
16 speaking, saying "we can't deal with the sound
17 impacts", the wind developer won't mitigate, the
18 Province of Ontario is leaving them flapping in the
19 breeze. There's people walking away from their
20 lifelong investments as a result of being overshadowed
21 by turbines. I interpret that to mean that there's a
22 loss of use and enjoyment. There's a definite impact
23 on value. And, one woman property owner that has a
24 lakefront home, completed it a few years ago, at a cost

1 of half a million dollars, hasn't even been able to get
2 a single person to come look at her home because of the
3 turbines. This is what her realtor tells her, this is
4 what she reports to me.

5 Q. If I could refer you back to your package to the
6 Committee and your letter, top of Page 2.

7 A. Yes.

8 Q. Do you have that? Did I lose him? Can you hear me,
9 Mr. McCann?

10 A. I can now. My screen was choppy for a minute.

11 Q. I'm looking at Page 2 of your letter to the Committee.

12 A. Okay.

13 Q. It says "the LBNL study clearly demonstrates that
14 impaired or less desirable views reflect measurably
15 lower sale prices than homes with average or premium
16 views." Can you point me to where that LBNL study says
17 that?

18 A. Well, let's go to the Hoen updated Webinar exhibit.
19 And, bear with me a second, I'll give you the Buttolph
20 exhibit number. Buttolph 1-4 [1-A?].

21 Q. I have the study.

22 A. Okay. And, I will direct you to the correct page in a
23 moment when I find it. All right. On Page 20 of that,
24 that exhibit, there's a chart that shows base hedonic

1 model results in the quality of the scenic vista effect
2 on sale prices. And, as you can see in the chart, the
3 average --

4 Q. Hold on a minute. Hold on. I'm looking at,
5 unfortunately, I'm looking at page numbers in the
6 document, not as you might be looking at it. So, --

7 A. It's Page 20 of 33, as I see it on the PDF. And, --

8 CHAIRMAN GETZ: Mr. McCann?

9 WITNESS McCANN: Yes.

10 CHAIRMAN GETZ: Mr. McCann, I think we
11 may have a confusion about documents. I think you are
12 looking at the Webinar, which I guess actually is
13 "Buttolph 1-A", not "1-4".

14 WITNESS McCANN: Oh, okay. Right.

15 CHAIRMAN GETZ: But I think what --
16 Dr. Kent would like to inquire about the study itself.

17 WITNESS McCANN: Okay. This is the same
18 page -- exhibit out of the same page. If you prefer, I'll
19 go to the -- I have to open up the original Hoen study.
20 Bear with me a second.

21 DR. KENT: I see -- hold on. I'm
22 looking at the figure and I'll find it in my document.

23 WITNESS McCANN: So, you don't need me
24 to open up the original Hoen study?

1 DR. KENT: No. No. If you're referring
2 to the figure, then we can work across here.

3 BY DR. KENT:

4 Q. Okay. Explain to me how that figure backs up your
5 statement that the study "clearly demonstrates impaired
6 or less desirable views."

7 A. Yes. And, on Page 20 of that Webinar document, which
8 is Hoen's update in May of this year, from his December
9 2009 study, it is the same chart as contained in the
10 original study. And, what you can clearly see is that,
11 based on his statistical analysis, the premium views,
12 over at the right side of that chart, can reflect a
13 13 percent premium above the reference category, and by
14 the time a turbine project, and this isn't how he would
15 phrase it, this is how I'm phrasing it, a poor vista
16 created by a turbine project, or even a below average
17 vista, can show 8 percent to 21 percent lower than the
18 baseline average vista. I'm sure the vistas in Groton,
19 Rumney, and Plymouth vary from property to property.
20 But a mountain view or a view of mountains is one of
21 the examples of the Hoen study that is classified as a
22 "premium vista", or, in some cases, an "above average
23 vista", if they're at a distance, or a greater
24 distance.

1 Q. Okay. Can I stop you there? Because you're answering
2 a different question for me now. This chart shows
3 "Poor Vista", "Below Average Vista", and so forth, up
4 to "Premium Vistas". Do the authors of this study
5 equate poor vistas with views of turbines?

6 A. No. They used other industrial structures and power
7 lines and things that were not that natural.

8 Q. Okay. Thank you. Thank you. Thank you. And, do, in
9 fact, the study's authors conclude that turbines are
10 decreasing the value of houses?

11 A. Would you please say it again.

12 Q. Do the authors of this study, in fact, conclude that
13 turbines are decreasing the value of properties?

14 A. They made a conclusion that it is not uniformly
15 impacting values -- that it's not uniformly,
16 consistently, and statistically significantly impacting
17 values. Their own data, however, shows, even after
18 excluding some clearly impacted sales, a 5 percent loss
19 within a mile. They're virtually silent in closer
20 proximity.

21 Q. Could you show me where they -- excuse me, I need you
22 to stick with me. Can you show me where there's a 5
23 percent decrease in sales in this document?

24 A. Yes. On Page 22. And, it's actually "5.3 percent" by

1 their statistical calculations "within 3,000 feet" and
2 "5.5 percent" of value loss within "between 3,000 feet
3 and a mile". So, both those being over 5 percent and
4 within a mile is what their statistics show. However,
5 by using a very large background database, it can't
6 help but have the finding of "lack of statistical
7 significance". But --

8 Q. Why is that?

9 A. But it's clearly showing a 5 percent loss in average
10 value from a nuisance stigma, as opposed to under their
11 viewshed analysis.

12 Q. So, your opinion is that, even though the statistics
13 said there's no significant difference, there is, in
14 fact, a significant difference?

15 A. Please say that again.

16 Q. Your opinion is that, even though the model showed no
17 statistical difference, you maintain there is a
18 statistical difference?

19 A. I think 5 percent is a measurable value loss. So, from
20 that standpoint, yes. How they constructed their
21 model, there has been much criticism of that. And, it
22 does not apply any accepted standards for this type of
23 regression analysis. There's also a document submitted
24 that had -- titled "Wind Farms and Rubber Rulers",

1 A. I have not been asked to evaluate one from that
2 perspective. No, it hasn't come up.

3 CHAIRMAN GETZ: Mr. Scott.

4 DIR. SCOTT: Can you hear me,
5 Mr. McCann?

6 WITNESS McCANN: Yes.

7 BY DIR. SCOTT:

8 Q. Would you -- was it your position that any industrial
9 activity within sight or sound of a property could
10 impact its -- negatively impact its value?

11 A. Well, every use has some impact upon neighboring uses.
12 That use -- that impact can be significant,
13 insignificant, extreme, or so small that it's
14 immeasurable or not measurable at all. Against that
15 background, industrial uses do tend to be separated
16 from other residential uses. And, when they're not,
17 there often is some minor impact. And, I say "minor
18 impact" in regard to typical industrial developments,
19 because most industrial uses are completely enclosed
20 and contained within buildings that protect neighboring
21 properties from the sight, sounds and smells and so
22 forth going on in the industrial operation. Very few
23 industrial uses rise to the level of glaring -- being
24 glaringly obvious as wind turbines. They're pretty

1 singularly unique in every -- compared to any other
2 industrial developments that I can think of that I've
3 evaluated in 30 years, by virtue of their height,
4 their activity, they're always moving, the noise that
5 emanates from them. And, --

6 Q. Thank you.

7 A. And, the fact that they're completely in the open,
8 quite visible.

9 Q. You testified earlier that you had never been to the
10 area in question?

11 A. I'm sorry, I didn't understand anything you said.

12 Q. You had testified earlier that you had never been to
13 the area in question, correct?

14 A. To Groton? I have not been to Groton physically.

15 Q. Are you aware that the area in question, where the wind
16 farm of the Applicant, has been and -- historically had
17 been and is currently in active logging, are you aware
18 of those activities?

19 A. Aware of it being active in what regard?

20 Q. Logging.

21 A. Rocking?

22 Q. Logging, tree-cutting.

23 A. Logging? Logging. Okay, I'm sorry. I do recall
24 reading about logging roads and that there was some

1 historic logging activity, yes.

2 Q. And, the Committee yesterday received testimony to the
3 effect that logging was going on, that actually people
4 can hear the sounds and it woke them up. We have some
5 maps showing clear-cuts in testimony. Did you take
6 that into account when you looked at the
7 before-and-after values of housing in your analysis in
8 this area?

9 A. Well, I'm aware that there was historic logging in the
10 area. So, yes, I did take it into account. And,
11 having viewed logging operations and being aware of
12 them generally in the past, whether that be out in
13 Colorado, Idaho or Oklahoma, where I have seen active
14 logging operations. I would point out that they can be
15 quite disturbing on a more or less temporary basis,
16 compared to wind turbines being disturbing for 30
17 years, 20 years, or however long the projects are
18 active.

19 Q. But --

20 A. Quite a big difference in the longevity of the impacts.

21 Q. But do you think the logging itself would have a
22 negative impact on property value and did you take that
23 into account?

24 A. I think it could. And, it might be a valid background

1 type of data to find, you know, homes, if a Property
2 Value Guarantee is instituted, used, if there's any
3 homes in question that are subject to influence from an
4 active logging operation by the comparables used to set
5 the value of those homes should also have a similar
6 setting and potential issues.

7 DIR. SCOTT: Thank you.

8 CHAIRMAN GETZ: Mr. Steltzer.

9 MR. STELTZER: Hi, Mr. McCann. Can you
10 hear me?

11 WITNESS McCANN: Yes, I can.

12 BY MR. STELTZER:

13 Q. Could you describe your familiarity to non-market
14 valuation techniques?

15 A. My familiarity to non-market valuation techniques?

16 Q. Correct. Such as hedonic modeling.

17 A. Well, I can tell you that, through the class and book
18 taught by and offered -- authored by the Appraisal
19 Institute or published by the Appraisal Institute on
20 appraising the detrimental conditions, there's several
21 techniques that are offered up as possible techniques
22 to use. The preferred and most empirically sound
23 method is Pyrrhic [sic?] sales, much like comparison of
24 before and after or close and far sales in my Appendix

1 C, followed by case studies, individual examples of
2 "here's a house", or whatever the instant question is,
3 and "here's the issue of contamination" or other
4 adverse influence. And, case studies are cited in that
5 course work and the text that goes with it as a
6 reliable method. Absent any of that data, as the
7 course goes, hedonic regression modeling can be, and I
8 emphasize "can be", a technique that can result in a
9 credible opinion. But it is fraught with all kinds of
10 objective influence from the -- while it purports to be
11 the most scientific method, it, in the setup of the
12 regression analysis, is most susceptible to input and
13 assumptions on the part of the analyst.

14 Q. Thank you.

15 A. In reading -- okay.

16 Q. Thank you. Would you agree that there are other
17 non-market valuation techniques that could be used to
18 assess both a positive or a negative impact?

19 A. Surveys, I believe, can be telling. But, mostly what
20 the appraisal profession relies on is either inferred
21 or fundamental market studies. And, an "inferred
22 market study" is, simply put, "looking backward, here's
23 what happened in a very similar situation." Every
24 appraisal of every house that a bank orders has an

1 inferred market study, in the form of three or four or
2 so comparable sales, "here's what homes in the
3 community sold for." That's an "inferred market
4 study".

5 A "fundamental market study" attaches
6 more to the issues of what drives the demand. Meaning,
7 "Is there an increase in employment? Is a new factory
8 coming to the area or office complex or shopping mall
9 that's going to create employment, that's going to
10 create demand for housing, and drive up the value of
11 existing stock?" These types of fundamental market
12 studies are -- can be good predictors, but are not
13 necessarily the evidence that is typically accepted in
14 court, which is almost always the inferred or
15 comparable sales evidence, that, at least in my
16 experience in many dozens of trials, that the courts
17 have found the comparable sales evidence to be the most
18 indicative of value and least subject to any
19 free-wheeling or subjective input on the part of the
20 appraiser or, in some cases, other type of value
21 experts or witnesses.

22 Q. Would you believe that there is widespread disagreement
23 amongst academia about contingent valuation, which is
24 one of the survey methodologies you mentioned there for

1 non-market valuation hedonic modeling and non-market
2 valuation in general on the accuracy that you can get
3 from that?

4 A. There is a lot of disagreement. Most of the people
5 that do their own regression analyses seem to be
6 confident of them. And, notwithstanding, you know,
7 large fees to prepare such analyses, that might explain
8 part of why they have such confidence in them. There
9 are many others that, with no axe to grind or money to
10 be made or lost, just truly objective analysts, that
11 find some of these regression studies to be, what's the
12 polite words, just unsupported or not following, for
13 example, the accepted Standards by Mass Appraisal
14 organizations, such as appraisers belong to the IAAO,
15 the International Association of Assessment Officials,
16 who have adopted standards for mass appraisal, meaning
17 appraising many properties in a community or county or
18 state, and the type of regression model that should be
19 used because of its accuracy. That really ties very
20 much in with the Hoen study, which did not use such an
21 accepted model for the regression analysis. They
22 developed their own.

23 Q. Thank you. My next line of questioning will be in
24 regards to Buttolph Exhibit 33. This is the Property

1 Value Guarantee Agreement that you had provided.

2 A. Yes.

3 Q. Do you have that in front of you?

4 A. I will in a second. Yes, I have it in front of me.

5 Q. Is it your recommendation that this Committee should
6 consider utilizing this Property Value Guarantee
7 Agreement as a condition on the Project that's before
8 us?

9 A. If the Committee decides to approve the Project, given
10 the level of evidence of inadequate setbacks --

11 MS. GEIGER: Excuse me, Mr. Chairman.

12 I'm going to object to this answer. I don't think there's
13 been anything in the record that has indicated that
14 there's an inadequate setback here. So, I'm going to ask
15 that that comment be stricken from the record.

16 CHAIRMAN GETZ: Mr. Steltzer, can you
17 start your question again with respect to Exhibit 33? I
18 want to make sure I have this in context.

19 MR. STELTZER: What I'm trying to do is
20 to understand, if a Property Value Guarantee were to be
21 considered by the Committee, some of the provisions that
22 are in this agreement I have concerns with, and I'm trying
23 to understand what those impacts may be.

24 CHAIRMAN GETZ: Then, please restate

1 your question then for Mr. McCann.

2 BY MR. STELTZER:

3 Q. Maybe I'll jump just specifically to the questions
4 then. Is it true that between 2003 and, say, 2005
5 several properties were -- that were being offered on
6 the market were being -- having an asking listing price
7 that was above the appraised value?

8 A. I heard most of your question, "between 2003 and 2005,
9 is it true that some of the properties" what in
10 relation to the list price?

11 Q. Were above the -- were above the appraised value.

12 A. Well, the appraised value versus the listing price I
13 think can be two different things. But, yes, during
14 that period of time, oh, I don't know the exact
15 percentage, but it was not infrequent that properties
16 would sell at or above list price, that's true.

17 Q. Would it be accurate to say that, and recognizing you
18 may be unfamiliar with New Hampshire real estate
19 values, that it is possible that a homeowner may choose
20 to have an asking price that is greater than 5 percent
21 above the appraised value?

22 A. Well, that's possible. And, depending on the quality
23 of the appraisal, I'm going to assume that it is a
24 carefully analyzed and well-constructed appraisal.

1 And, under that assumption, I would not recommend
2 significantly more than that, because they could price
3 themselves out of the market is essentially what can
4 happen there. But, if your question is, "should a
5 property owner be restricted from asking above
6 appraised value?" And, I think the answer is "no",
7 except maybe in the context of a Property Value
8 Guarantee that would start the time frame from which
9 the developer would have to buy the house and unfairly
10 treat the developer. Because let's say, for example,
11 somebody has the house appraised at 120,000, and
12 somebody says "yes, but I want 250,000. So, that's
13 what I'm going to put it on the market at." And, then,
14 after six months, there hasn't been anybody that showed
15 up to buy it, or even make an offer, because it's
16 overpriced, then, under those circumstances, it might
17 not be treating the developer uniformly and fairly, if
18 they are required to buy the house after that time
19 frame, it being listed way over market.

20 Q. I'm glad you mentioned that, because that leads into my
21 next concern about the document and just the ideas of a
22 Property Value Guarantee. Isn't it true that there
23 could be a negative impact to the homeowner for a home
24 being on the market for a prolonged period of time?

1 A. Well, the longer a property sits on the market, then
2 the more it gets stale and the less interest the market
3 has in it. So, yes, it's important to price a property
4 consistent with the market in that local market area,
5 in order for it to be successfully marketed and then
6 sold.

7 Q. And, now, referring to Page 35 on Buttolph Exhibit 33.
8 And, as I interpret Page 35, where it talks about
9 "Agreed to asking price", "determination of asking
10 price by appraisal", it seems like there's a very open
11 process here for the guarantor, as well as the person
12 who is selling the property, to derive what is going to
13 be the asking price?

14 A. Yes.

15 Q. Couldn't that process take a while?

16 A. Well, it is not without time expenditure, but it's, you
17 know, relatively nominal in the context of what's --
18 what an agreement or [inaudible] would accomplish is a
19 much less significant problem or time issue than the
20 worst case scenario, where nobody could sell their
21 home, but that would be the worst case scenario.

22 MR. STELTZER: Great. Thank you.

23 CHAIRMAN GETZ: Other questions?

24 (No verbal response)

1 CHAIRMAN GETZ: Mr. McCann, I have a
2 couple of questions about your testimony from August 31.

3 BY CHAIRMAN GETZ:

4 Q. And, I'm going to be referring just to the letter, and
5 looking at the top of Page 2. And, what I'm trying to
6 understand is basically your line of reasoning. And,
7 if I look at the top paragraph, the second sentence, it
8 says "Thus, the applicant's documentary evidence
9 actually demonstrates a probable significant impact to
10 the aesthetics, views and market value of the most
11 impacted views and homes." When you speak to
12 "documentary evidence of the applicant", which evidence
13 -- which "documentary evidence" are you speaking about?

14 A. Well, what I was specifically referring to there was
15 the LBNL, or Hoen study. And, the figure, I believe it
16 was ES-2, Page 22 of the Hoen Webinar, as well as the
17 other one on Page 20. And, regardless of how they
18 constructed or articulated their study, what that
19 figure on Page 20 actually shows is that, when the
20 quality of a scenic vista is at a premium level,
21 there's a higher value. And, when that scenic vista is
22 lower, then there is a lower demonstrable value. And,
23 in my opinion, this data shows that, with the vista
24 impacted by the turbines, that the impact to the

1 aesthetics is fairly represented by this data, it's
2 very consistent with what other case study data shows,
3 what other empirical prima facie evidence shows of sale
4 prices near and far from turbine facilities. It also
5 very closely mirrors the admittedly more negative
6 comments of turbine neighbors or other people in
7 communities that maybe are not so much neighbors, but
8 find the aesthetics very objectionable. And, I agree
9 absolutely that not everybody agrees with them, but
10 there is a significant, big enough part of the market
11 that does see it that way, that there is an aversion to
12 buying homes in turbine project locations. The base,
13 that sentence on Page 2 of my August 31 prefiled
14 testimony recognizes the general view of -- from people
15 in closest proximity that the vista or aesthetic
16 quality of their views are negatively impacted, and
17 marries [sic?] that with the data shown on Page 20 of
18 the Hoen report that is only solving for scenic vista.

19 Q. So, when you speak here about a "probable significant
20 impact", you are equating that to an unreasonable
21 adverse effect on aesthetics?

22 A. Well, I believe I've been trying to be very clear on
23 it. Yes, it is not a reasonable -- it is an
24 unreasonable impact on the aesthetics, when it's going

1 to have that much impact on all the ways that I, as an
2 appraiser, and that mirrors the market, can measure
3 these impacts. And, that's from views, that's from
4 noise, that's from property sales, that's from issues
5 of fear. As counsel noted, I am not a medical doctor,
6 while I have read several clinical studies that are
7 finding that there is a correlation between turbines
8 and health issues. It's more from a real estate
9 perspective that I look at these studies that -- and
10 I've read these reports, because the people in the
11 market that are thinking of buying or selling near
12 turbines have access to this information, and it
13 includes many firsthand accounts of -- [interrupted
14 audio] conspiracy [interrupted audio] -- true. But,
15 from a real estate perspective, --

16 Q. Mr. McCann --

17 A. -- there's a fear of these projects --

18 Q. Mr. McCann, we lost --

19 A. -- from firsthand experience.

20 Q. We lost the tail end of your answer there.

21 A. What I was really closing with was that there is enough
22 concern in the public about health issues, about noise
23 issues, about aesthetic issues, that it is translating
24 into properties either being abandoned, selling at

1 extremely low prices relative to what they should have
2 been sold at, and, in some cases, being bought out by
3 developers and just bulldozed to get rid of the
4 problems.

5 Q. And, it's your testimony that, based on your opinion,
6 gathered from your experience in these other areas,
7 that a 25 percent or greater value reduction can be
8 reasonably expected for many of the approximate 200
9 homes?

10 A. Yes, sir. Whatever the impact number is, within a
11 couple miles, yes, I believe that is a good expect --
12 good characterization, good expectation, a probable
13 expectation of the average impact. And, that is not a
14 reasonable impact on the aesthetics. It's very
15 unreasonable.

16 Q. And, for this Subcommittee, going forward, I guess it's
17 your opinion that every proposed facility will have an
18 unreasonable adverse effect, per se?

19 A. Are you -- when you say "every proposed facility", are
20 you saying every turbine in the Groton Application or
21 every wind energy project, regardless of where it's
22 located?

23 Q. It seems to follow from your position that every
24 proposed wind project would have an unreasonable

1 adverse effect?

2 A. Well, it has the potential to. There are some that are
3 actually sited so far from any residential structures,
4 other than perhaps the lessors or stakeholders, that
5 those did not need to buy out properties or make
6 Property Value Guarantees. And, if there's any impact
7 on the closest homes, it probably is the stakeholder or
8 lessors, who are going to have a little trouble, you
9 know, perhaps selling their home, especially if they
10 try to sell it separate from the rental income from the
11 turbine leases.

12 But, no, it's not a one-size-fits-all
13 solution. What it is is a probable result in any
14 occupied or populated area. But I would not say that
15 that same finding is true out in the west Texas desert
16 areas. But I would note, just anecdotally, T. Boone
17 Pickens, when he was planning the world's biggest wind
18 farm, was asked about putting turbines on his 60,000
19 acre ranch in Texas, and he was quoted in the paper as
20 saying "No, he's not going to put them on his property.
21 Those things are ugly." I found that a little amusing,
22 actually, that a big proponent would be that honest
23 about his own project.

24 Q. Then, let me direct you to the bottom of Page 1 of your

1 letter.

2 A. Okay.

3 Q. And, the last sentence says "However, as the LBNL study
4 did not focus on the home sales nearest turbine areas,
5 within distances comparable to the nearest homes in the
6 Groton project, the LBNL study is considered to be
7 unreliable for the purpose of the Iberdrola Siting
8 application."

9 A. Yes.

10 Q. And, "considered", you're talking about "considered by
11 you" or is "considered" as a general proposition?

12 A. Well, I think, as a general proposition, if you take
13 this in the context of my communications with Mr. Hoen,
14 where I was discussing with him the proportional
15 relevance of data. And that, in my opinion, the areas
16 that are most heavily impacted is where the focus
17 should be, yet he, in his decision to create a huge
18 database, extended out to as far as 10 miles away.
19 And, as I discussed with him that, by having data
20 measured against that large background, doesn't that
21 pretty much just, you know, force the conclusion that
22 there is no statistical significance in the close-in
23 proximity? And, you know, he designed his study the
24 way he designed it, you know, following his thesis for

1 his Masters in New York, you know, the Department of
2 Energy had hired him and Lawrence Livermore to
3 basically replicate that study under a new heading.

4 But what I do point out is that, to him
5 and my review of the LBNL study, and I'm alluding to
6 here and elsewhere in this letter, that there is a
7 measured 5 percent loss in his study in the closest
8 proximate area, a mile to 3,000 feet and 3,000 feet,
9 those approximate distances. And, that is where the
10 focus really should have been in the area closest.
11 And, I know that the Groton Project, the nearest home,
12 at least as I understand it, is about 2,700 feet from
13 the nearest turbine. And, then, there's, you know,
14 many others within the one mile radius. So, this is
15 where the focus should really be, because this is the
16 area of greatest likelihood of impact. Hoen and the
17 LBNL study kind of "puts the wrong shoe on the wrong
18 foot", is another way of putting it.

19 BY DR. KENT:

20 Q. I'd like to follow up on that, on that same statement
21 about "LBNL not focusing on home sales near the turbine
22 areas." Do you know how many homes were studied within
23 one mile of turbines?

24 A. Bear with me, make sure that I'm -- I'm trying to find

1 the correct table. But, from memory, it's something on
2 the order of 125, but bear with me. (Short pause)
3 Yes, I believe it was 125. On Page 22 of the Hoen
4 Webinar, under the "Nuisance Stigma", two columns.
5 Both of those 5 percent figures are showing that,
6 within 3,000 feet, for example, there are a number of
7 "67", and, between 3,000 feet and one mile, there's
8 "58".

9 Q. Correct.

10 A. So, 125 sales, yes.

11 MS. GEIGER: Excuse me. I apologize,
12 Dr. Kent, for interrupting. But I want to make sure that
13 we're all looking at the same document. The Applicant
14 submitted with its application the LBNL study, I believe
15 that that is in Appendix 37 to our volumes. I believe
16 what the witness is talking about is a document that
17 Mr. Buttolph has marked as an exhibit, a Webinar, or some
18 pages of what looks like a PowerPoint or some other
19 presentation. So, I want to make sure that we're talking
20 about the same thing. And, I thought I heard you ask a
21 question about the report, the LBNL report that the
22 Applicant had provided in support of the Application. I
23 believe what the witness has been responding with is
24 information from the Webinar information that Mr. Buttolph

1 has put in. I just want the record to be clear, and I
2 want to make sure that I understand.

3 DR. KENT: Yes. I am talking about the
4 report, not the Webinar, which Mr. McCann has acknowledged
5 reading on several occasions during his testimony this
6 morning. So, when I speak, I'm not talking about the
7 Webinar. Although, there's some duplicate information in
8 the Webinar.

9 BY DR. KENT:

10 Q. So, we were at 125 homes. From your reading of the
11 report, did you find any method -- any mention that the
12 report excluded additional homes within one mile of
13 turbines?

14 A. Yes. There was a footnote. And, if you'll bear with
15 me a second, I can tell you exactly where that footnote
16 is located. Okay. On Page 14 of the Hoen study, the
17 original study, there are -- it reports that there are
18 four instances in the study areas where homes were sold
19 to wind developers. In two cases, the developers did
20 not resell the home, and in the other two the developer
21 resold the home at a lower price. And, goes on to
22 claim that these sales were to a related party, but,
23 frankly, that just clearly shows a lack of
24 understanding what constitutes a "related party" for a

1 property sales selection and assessment bodies as where
2 he was deriving his data from.

3 Q. But you understand that the study was trying to look at
4 unbiased sales figures of houses, and the exclusions
5 you mentioned, would they have been unbiased?

6 A. No. What they would have shown is an impact from the
7 turbines. The original sale, I would presume, was
8 based on agreement between the developer and the
9 seller, as they, as I had understood it, had noise and
10 health complaints, and the developer agreed to buy them
11 out.

12 Q. Excuse me. Let me stop you there, because we don't
13 need to go down this path. So, your opinion is that
14 these houses would have sold for less if they had gone
15 to the open market. But we did not go to open market,
16 so we cannot actually objectively determine whether
17 those houses would have sold for less.

18 A. Well, the developer paid what's an agreed price, and
19 that's part of a typical negotiated transaction, and
20 they sold them at huge discounts. This is what the
21 market will bear, when, frankly, maybe the developer
22 had some extraordinary motivation to buy, like to keep
23 bad press from coming out about the effects on those
24 homeowners. But this is not data that was excluded for

1 the reasons that Hoen claims it was excluded. He
2 excluded it on the basis of "related party sales", and,
3 again, that is not accurate as far as -- "related party
4 sale" is from a father to a son, an uncle to a cousin
5 or that kind of thing, a family sale. That's what a
6 "related party" transaction is, that every state I've
7 ever worked in, the equalization boards exclude those
8 sales, because they would tend to distort the true
9 value for purposes of setting equalization factors and
10 tax rates. They only use market sales. Granted, these
11 four sales that are referenced in the Hoen study were
12 bought -- were triggered by the development of the
13 turbines, and then the impact on those neighbors. And,
14 I don't have all the documentation that shows exactly
15 how they got to that original price, but I know how it
16 works in general, 30 years later in the business. And,
17 they wouldn't have paid more than they had to, and they
18 wouldn't have sold for less than they had to. But Hoen
19 excluded those sales, claiming they were related party
20 sales, when that, in fact, was not true. And, one
21 analyst I read, who is an expert in statistics, showed
22 that, if those sales were included, that 5 percent
23 within 1 mile would be changed to 9 percent, which then
24 rises beyond "statistical significance", in Hoen's

1 framing of it.

2 CHAIRMAN GETZ: Okay. Other questions
3 from the Subcommittee?

4 (No verbal response)

5 CHAIRMAN GETZ: Mr. Buttolph, do you
6 have redirect for Mr. McCann?

7 MR. BUTTOLPH: I do not. Thank you.

8 MS. LEWIS: I'm sorry, I did have a few
9 redirects, if I could do that? It's been difficult,
10 because he's over there, so we can't communicate, just
11 trying to keep the --

12 CHAIRMAN GETZ: Okay. So, you have
13 redirect?

14 MS. LEWIS: I do.

15 REDIRECT EXAMINATION

16 BY MS. LEWIS:

17 Q. Mr. McCann, I just wanted to clarify one thing. If
18 there was a Property Value Guarantee put through for
19 this Project, as has been thoroughly discussed this
20 morning, if, in fact, Iberdrola is correct, and there's
21 absolutely no impact on homes, will they have to pay a
22 penny in that whole Property Value Guarantee to
23 anybody?

24 A. I only heard part of your question. So, maybe it's a

1 distance to the microphone?

2 Q. Okay. I'll try again.

3 A. Okay. Thank you.

4 Q. As far as the Property Value Guarantee as it's been
5 discussed, if that was to be put as a condition during
6 this Project, and if Iberdrola was correct in that
7 there's absolutely no property value impact throughout
8 any of the residences in that area, would Iberdrola
9 have to pay any homeowners any money whatsoever, if
10 there was no impact?

11 A. There is an inter-reaction between whether or not a
12 property owner finds that they can continue to live
13 with peaceful use and enjoyment of their home and the
14 values. So, if Iberdrola is correct, absolutely
15 correct, that there is no impact on values, and one of
16 the neighbors found that "the noise alone is why I want
17 to relocate, I want to move and sell", that Iberdrola
18 would pay them for the market value of their property.
19 And, then, if they were correct, absolutely correct,
20 they would turn around and resell that property at the
21 same market value, without any impairment to the value,
22 if they're correct.

23 Q. So, if I understand you, just to clarify, there would
24 be no cost whatsoever to the Applicant if, based on

1 what they had said, there will be no impact to property
2 values, then this will cost them nothing. Is that
3 correct?

4 A. They might even make money on it. If they sell at --
5 if they buy it at the appraised value, and sell homes
6 at, you know, rent them out for a couple years, and
7 sell them at the increased market, when the market
8 rebounds, better than where it's at currently, they
9 could actually make money on it. But, frankly, I think
10 that there is a correlation between the sound impacts,
11 the aesthetics, and the market value. And, frankly, I
12 wouldn't be testifying here today with my opinions if I
13 didn't truly believe that there was going to be some
14 impact. So, I think Iberdrola, if they do have to buy
15 out homes, will probably lose some money, a de minimis
16 level, compared to the dollars involved in the Project.

17 Q. Thank you. My second question is just to follow up on
18 the Webinar again, which is Exhibit 1-A that we've
19 spoken quite a bit about this morning. If you look at
20 Page 31, --

21 A. I'm sorry, what? 1-K?

22 Q. Page 31 of the Webinar of Ben Hoen.

23 A. Okay. Page 20?

24 Q. Thirty-one. Three one.

1 A. Thirty-one. Yes.

2 Q. I'm sorry, it's actually Page 32.

3 A. All right.

4 Q. Okay. It seems that there's a little confusion with
5 Ben Hoen and his opinions or they have changed. Could
6 you read for the Committee please the second bullet
7 down, regarding Ben Hoen's suggestions on how to manage
8 property value risks.

9 A. The second bullet point?

10 Q. Yes. Where it starts with "offer".

11 A. He suggests "conducting follow-up studies (for example,
12 surveys and appraisals)."

13 Q. I'm sorry, the first bullet.

14 A. The first bullet. He recommends, to manage risks,
15 "Offer some combination of neighbor
16 agreements/incentives and/or property value guarantees
17 (for example, Dekalb County)", which has been offered a
18 Property Value Guarantee like I recommended, "to nearby
19 homeowners as are economically tenable and legally
20 workable."

21 Q. Is this a little bit different from what Ben Hoen had
22 stated previously, as far as his overall opinions on
23 property values?

24 A. Well, this is an addition, and this follows, quite

1 frankly, some of the fallout and comment and so forth
2 from his original study, including my review of that
3 study. Why he did not incorporate that recommendation
4 into his original report, you would have to ask him.
5 But I know he has now updated the recommendation I made
6 to him essentially into this, although he has watered
7 it down a little bit.

8 MS. LEWIS: Thank you. No further
9 questions.

10 WITNESS McCANN: Thank you.

11 CHAIRMAN GETZ: Anything further from
12 the Subcommittee?

13 (No verbal response)

14 CHAIRMAN GETZ: Ms. Geiger, did you --

15 MS. GEIGER: Yes, I have a question for
16 recross that will be limited to questions that were asked
17 on redirect. So, I won't go beyond that.

18 CHAIRMAN GETZ: Please proceed.

19 MS. GEIGER: Thank you.

20 REXCROSS-EXAMINATION

21 BY MS. GEIGER:

22 Q. Yes. Mr. McCann, I believe, in response to questions
23 from Ms. Lewis, you indicated or described your
24 Property Value Guarantee proposal as something that

1 "would require a wind farm developer to pay a property
2 owner who has that Property Value Guarantee a
3 predetermined amount of money upon the property owner's
4 complaint." Is that your testimony?

5 A. No, I might have paraphrased and shortened up, and,
6 obviously, it's a longer document than that statement,
7 maybe the implied -- what I was trying to imply there
8 is that the complaint ends up resulting in basically
9 reflecting a loss of use -- a frequent loss of use and
10 enjoyment of the property as a result of the turbines
11 that results in complaints. And, under those
12 circumstances, I would expect that many homeowners that
13 don't have absolute roots to the community would be
14 willing to relocate to get away from that kind of
15 noise, if not being relocated, then payment for the
16 loss of value is another option.

17 Q. I guess I'm not understanding how your Property Value
18 Guarantee would work. Would you just describe what
19 would trigger an obligation on the part of an Applicant
20 or a project owner to actually have to pay a property
21 owner some amount of money?

22 MR. ROTH: Mr. Chairman, this question
23 is beyond the cross-examination.

24 CHAIRMAN GETZ: I'm going to permit it,

1 because I believe the redirect asked "is there going to be
2 any impact from the Property Value Guarantee?" And, it
3 goes to that issue. Ms. Geiger.

4 BY MS. GEIGER:

5 Q. Yes. I just -- I apologize if the question is not
6 stated exactly as I indicated just now. But,
7 basically, I want to understand exactly what it is that
8 will trigger a wind farm owner's obligation to pay a
9 property owner under your Property Value Guarantee?

10 A. Well, basically, under two different ways. One,
11 assuming that the property owner chooses to sell and
12 relocate, that the lack of marketability, because of
13 the turbines, after an appropriate period of time to
14 market it, would trigger their obligation to buy the
15 property, which, of course, they can turn around and
16 try to resell it then. The other would be, if the
17 nuisance is such that the appraised value reflects the
18 before and after conditions, and let me just say this,
19 that I would -- I would not be the appraiser to perform
20 that appraisal, it should probably be somebody from
21 within New Hampshire on a
22 case-by-case/property-by-property basis, that is
23 intimately familiar with those specific markets, that
24 that type of event could trigger a payment for the

1 difference in market value.

2 MS. GEIGER: Okay. Thank you. I don't
3 have anything further.

4 CHAIRMAN GETZ: Okay. Anything from the
5 Subcommittee?

6 (No verbal response)

7 CHAIRMAN GETZ: Hearing nothing, then
8 the witness is excused. Thank you, sir.

9 WITNESS McCANN: Thank you. Have a good
10 day.

11 CHAIRMAN GETZ: Well, at this juncture,
12 I think at least Mr. Patnaude would be prepared to make a
13 motion for a recess. But, before we do that, who would be
14 the next witness, Mr. Buttolph?

15 MR. BUTTOLPH: I think I am.

16 CHAIRMAN GETZ: Okay. Let's take 15
17 minutes, come back, and we'll have the direct and cross of
18 Mr. Buttolph. And, then, my plan after that would be to
19 try and take the lunch recess around 1:00. So, let's
20 recess for 15 minutes.

21 (Whereupon a recess was taken at 11:30
22 a.m. and the hearing reconvened at 11:55
23 a.m.)

24 CHAIRMAN GETZ: Okay. Mr. Buttolph,

1 we're back on the record and proceeding to your testimony.

2 MR. BUTTOLPH: Mr. Chairman, after
3 consultation with my intervenor group here, and also I
4 believe we have an agreement with the parties, we are
5 going to do a panel instead, if it's all right with you,
6 two of us on the panel, and then Cheryl will be by herself
7 later.

8 CHAIRMAN GETZ: Okay.

9 MR. BUTTOLPH: Is that okay?

10 CHAIRMAN GETZ: That's fine.

11 MR. BUTTOLPH: Okay.

12 (Whereupon James Buttolph and Carl S.
13 Spring were duly sworn and cautioned by
14 the Court Reporter.)

15 CHAIRMAN GETZ: Ms. Lewis, will you
16 qualify the witnesses.

17 MS. LEWIS: Hello. I'm not sure if I'll
18 get this right --

19 CHAIRMAN GETZ: You can sit down.

20 MS. LEWIS: Okay.

21 JAMES BUTTOLPH, SWORN

22 CARL S. SPRING, SWORN

23 DIRECT EXAMINATION

24 BY MS. LEWIS:

1 Q. I'd like to introduce Mr. Buttolph and Mr. Spring, both
2 intervenors from Rumney. And, I would like to verify
3 that Mr. Buttolph is the same Mr. Buttolph that entered
4 prefiled testimony into this docket, 2010-01?

5 A. (Buttolph) I am.

6 Q. And, Mr. Spring, are you the same Mr. Spring that
7 entered your prefiled testimony into this docket for
8 Groton Wind also?

9 A. (Spring) Yes, I am.

10 Q. And, Mr. Buttolph, do you have any further supplemental
11 testimony to add, any changes that have taken place?

12 A. (Buttolph) I only have a couple of small housekeeping
13 changes to my prefiled testimony, if I may. On Page 5
14 of my prefiled testimony, there is -- I'll get that out
15 here. In approximately the middle of the page, it says
16 "On the PJM grid, the record hourly demand so far has
17 been 144,644 megawatts on August 26, 2006." That
18 should have said "August 2nd, 2006". That was a
19 typographical error. And, also, on Page 11, oh, about
20 two-thirds of the way down the page, there is a
21 sentence which says "According to the United States
22 Government's Energy Information Administration, net
23 generation in 2007 for wind power amounted to
24 31,000,000,000 billion kilowatt-hours." There's one

1 too many billions in that. It should simply say "31",
2 scratch the zeros, "billion". Those are just the two
3 changes that I have. Other than that, I have no
4 changes.

5 Q. Mr. Spring, do you have any additions that would need
6 to be added from your original prefiled testimony?

7 A. (Spring) No, I don't.

8 MS. LEWIS: Thank you. The witnesses
9 are available for cross-examination.

10 CHAIRMAN GETZ: Okay. Thank you.

11 Mr. Roth.

12 MR. ROTH: Thank you. Good morning, Mr.
13 Buttolph.

14 WITNESS BUTTOLPH: Good morning.

15 MR. ROTH: Mr. Spring.

16 WITNESS SPRING: Good morning.

17 MR. ROTH: Thank you for being here and
18 enduring this process with us, and capably and smoothly
19 participating with us.

20 CROSS-EXAMINATION

21 BY MR. ROTH:

22 Q. In your testimony, Mr. Buttolph, you spoke of wind
23 energy "not being cost-effective". And, in an answer
24 to a data request about it, you responded by suggesting

1 that "biomass was more cost-effective." And, I just
2 wanted to ask you a couple of questions about that.
3 And, first is, in balancing costs, aren't the
4 environmental impacts of biomass also pretty
5 significant?

6 A. (Buttolph) Well, I think that they are. I'm not an
7 expert, however, in the environmental impacts on
8 biomass. The reason that I was using biomass as a
9 comparison is biomass has been defined as one of the
10 key sources that's important for the accomplishment of
11 the legislation which is in front of us, that the State
12 of New Hampshire needs to accomplish 25 percent of
13 renewable energy by the year 2025. Biomass is one of
14 those things.

15 Q. So, given that it's of greater efficiency, and perhaps
16 in your view more cost-effectiveness, what if the
17 Applicant were proposing to build a biomass plant up on
18 the land that it's using, and plan to log the leased
19 land and the surrounding territory for biomass fuel.
20 Would that be acceptable to you?

21 A. (Buttolph) I think that it would be more acceptable
22 than this Project. And, the reason I think that is
23 because it would take much less space. It also would
24 not necessarily need to be perched, in fact, it

1 wouldn't make sense to have it perched on the very top
2 of the ridgelines. Certainly wouldn't be in the
3 corridor, damage to the avian populations and that sort
4 of thing. So, I think nobody wants to have power in
5 their backyard necessarily, but that would be less
6 obtrusive, certainly, than the wind farm is looking
7 that we're going to have.

8 Q. Okay. What do you -- there was some question about the
9 capacity factor, and you had your own views on what the
10 capacity factor of this plant is. What do you think
11 that this power plant's capacity factor is actually
12 going to be?

13 A. (Buttolph) That is a great question. I don't have a
14 crisp answer. And, the reason that I don't have an
15 answer is because I think that the most effective
16 comparison base would be perhaps through another plant
17 that is similar in nature, and that there's no better
18 comparison than the Lempster plant. When you look at
19 the Lempster plant, it has the same turbines, it's in
20 an area that has similar wind quality from what I've
21 been able to read. One of the things that I found on
22 trying to understand specific project's capacity
23 factors is that, while there is a lot of available
24 information out in the websites and so forth, you can

1 search and find all kinds of general information.
2 What's held very close to the vest is specific project
3 information to do comparisons against. There are some
4 questions that I had with regard to getting information
5 about Lempster, and I understand earlier this week
6 there was some information perhaps that's going to be
7 coming forward as a result of some questions from the
8 Committee. But 33 to 36 percent, what we've seen and
9 what I've seen on my searches of some of this more
10 general information, is that typically these capacity
11 factors are overstated.

12 Q. Okay. Bear with me for one moment please. There was a
13 question I was going to ask you, but I'm not able to,
14 because I didn't bring the paper that I thought I had.
15 So, I'll move onto my next line. What's the capacity
16 factor of a coal plant?

17 A. (Buttolph) I don't know.

18 Q. Or a biomass plant?

19 A. (Buttolph) Biomass plant, according to University of
20 Massachusetts-Amherst, I believe it is, typically in
21 the 80 percent range.

22 Q. Okay. Now, you also I think asserted in your testimony
23 that "operating a wind plant requires additional fossil
24 fuel plants to run." What did -- you referred to them

1 as "spinning resources".

2 A. (Buttolph) Right.

3 Q. What did you mean by that?

4 A. (Buttolph) Due to the intermittent nature of wind
5 farms, recognizing that they're unpredictable, that
6 they can surge power onto the grid or shut down when
7 the wind stops, we have to be ready at all times to
8 bring on line additional power sources to make up for
9 the fact that the wind may die down at any moment in
10 time. So, I think you'll see that more significantly
11 in some of the areas out in the Midwest and out in the
12 West, where perhaps there's higher percentages of wind,
13 where you can have a gust of -- a storm come through,
14 and these wind farms will be cranking a lot more power
15 out onto the grid, and then the variability can be more
16 significant, and you'll have to have these generators
17 ready to come on line. But that's what's meant by
18 "spinning reserves". They're ready to go.

19 Q. Okay. But here don't we have those resources already
20 running? We have the Seabrook Nuclear Power Plant, we
21 have the coal-burning and gas-burning plants in New
22 Hampshire that are pretty much on all the time, right?

23 A. (Buttolph) Well, yes, they're on all the time. But, if
24 the whole idea is they're going to be able to throttle

1 them down to some degree, in order to replace that with
2 wind and therefore save the CO2 emissions, the notion
3 -- what I'm suggesting is that you can't -- it isn't a
4 one-for-one switch. You can't just, for every
5 megawatt-hour you lose on your carbon burning, because
6 you can't replace it with one megawatt-hour of wind,
7 you have to have a little bit -- you have to have a
8 little bit of carbon to offset the fact that wind is
9 liable to slow down and speed up from time to time.
10 So, you're not -- you aren't replacing it one-for-one.
11 And, in Mr. Cherian's testimony, he was suggesting some
12 one-for-one replacement was my understanding in some of
13 his prefiled testimony.

14 Q. So, it's less than "one-for-one"?

15 A. (Buttolph) Yes.

16 Q. And, do you know how much less than one-for-one?

17 A. (Buttolph) Well, I've been seeing a number of things.
18 I've seen some numbers as high as 80 percent. But I
19 think, generally, it's much smaller than that. It's
20 probably in the 2 to 3 percent range from some of the
21 things that I've been reading.

22 Q. I guess I didn't understand that answer. "80 percent"
23 of one-for-one --

24 A. (Buttolph) Yes, let me try to explain it this way. We

1 have one megawatt-hour of coal, we'd like to replace
2 that with wind. So, we would bring on one
3 megawatt-hour of wind, but you wouldn't be able to
4 eliminate that entire megawatt-hour of coal. You would
5 have to bring it down to some small fraction. So, 2 or
6 3 percent of what it was. So, 2 or 3 percent of
7 one megawatt-hour.

8 Q. Okay.

9 A. (Buttolph) So, that's what I'm saying.

10 Q. All right. So, the reduction -- so, the loss, if you
11 will, is relatively small, off of one-for-one?

12 A. (Buttolph) Yes. I think that's probably fair, yes.

13 Q. Okay. I took from your testimony sort of a complaint
14 that "it's kind of a waste of money to spend all this
15 money to develop this little amount of power." And, I
16 guess I ask you this: If the developer is willing to
17 take the risk that, after investing 120 million in a
18 facility like that, and then getting some money back
19 from the government, there's still a lot -- there's a
20 lot of money out the door, right? And, let's say,
21 under a conservative estimate, they get 16 megawatts
22 out of it. Under what criteria would the Site
23 Evaluation Committee say that that's a bad idea? I
24 mean, isn't it their money to throw away, if they want?

1 A. (Buttolph) Well, that's a good question. But there are
2 other things to keep in mind. For example, for every
3 -- my understanding is every kilowatt-hour that they're
4 producing, there's an additional 2.1 cents of a tax
5 credit, which is taxpayer money, so we should be
6 concerned about that. I also understand that the way
7 the pricing system works is, depending upon which
8 contracts that they have in their buy-ahead market,
9 they could be paying, we, as ratepayers, could end up
10 paying perhaps higher rates than what we're paying
11 today, even though wind is free. So, there's impacts
12 like that.

13 Q. But I guess the question is the same. What criteria
14 put in front of the Site Evaluation Committee would
15 worry about those things and prohibit that from
16 happening?

17 A. (Buttolph) Well, I should think what they would do,
18 first of all, they need to balance -- balance the
19 perceived need for this power against the impacts to
20 the entire community, and to some of the downsides
21 which are out there. And, that's been one of our big
22 concerns. So, they would have to look at that balance,
23 and decide, even if Iberdrola were to want to donate
24 these windmills for free, we have a lot of things we

1 got to be concerned about. We have to be concerned
2 about the impacts to wildlife and historical impacts.
3 We have to be concerned certainly about real estate
4 impacts, which we've heard earlier. And, as I
5 mentioned, of course, we've got to look at those rates
6 and really understand whether that's going to be an
7 affordable contribution, in terms of what ratepayers
8 are going to be paying. But, even if they donated the
9 whole thing, we certainly have those environmental
10 impacts and the impacts to property owners. So, I
11 should think that would be a concern. And, they have
12 to try to balance that. And, then, that's what I think
13 the legislation suggests is their responsibility is to
14 do.

15 Q. Okay. Do you remember, were you here a few days ago
16 when I asked "how much in Stimulus money Iberdrola had
17 received as a whole?"

18 A. (Buttolph) I wasn't here when you asked that, but I had
19 read, I believe it was actually an ABC News article.

20 Q. Okay.

21 A. (Buttolph) That I had understood that they had received
22 \$577 billion, according to ABC News.

23 Q. "577 billion"?

24 A. (Buttolph) Oh, I'm sorry. Million dollars. They

1 received \$577 million. I believe the wind industry, in
2 total, was about \$2 billion.

3 Q. Okay. And, is that -- was that the news article that
4 you attached to your data responses, which are at
5 Public Counsel Number 8, a ABC News article dated
6 February 9th, 2010?

7 A. (Buttolph) Yes, I'm sure that's it. Yes.

8 Q. And, then, my last question for you, Mr. Buttolph, is
9 how much did you spend to bring Mr. McCann's testimony
10 and cross-examination to the Committee?

11 A. (Buttolph) Can I speak for the group?

12 Q. Yes.

13 A. (Buttolph) Yes. We were trying to calculate that
14 earlier. Our estimate right now is it's going to be
15 about \$6,000, in total, approximately.

16 Q. Thank you. Now, Mr. Spring, I noted from your
17 testimony that you have, appears to be, at least to my
18 untrained eye, a considerable amount of fire fighting
19 experience and training?

20 A. (Spring) Yes. That's correct.

21 Q. Are you a volunteer with the Rumney Fire Department?

22 A. (Spring) No, I'm not.

23 Q. Okay. Why not?

24 A. (Spring) I work out of town. The company I'm employed

1 by, most of our work is in Boston, and the job that I'm
2 presently on now is in Albany, New York, the State
3 Capitol. I'll be there for five years.

4 Q. That's kind of a long way to respond to an alarm, isn't
5 it?

6 A. (Spring) That's correct. I'm home a day and a half a
7 week, roughly.

8 Q. Okay.

9 A. (Spring) At present.

10 Q. Good explanation. I didn't know that. Have you had an
11 opportunity to review Chief Clogston's testimony?

12 A. (Spring) Yes. I've reviewed his prefiled testimony
13 there.

14 Q. Okay. And, do you agree with his conclusions and
15 recommendations?

16 A. (Spring) As far as the equipment and training and such?

17 Q. That's correct.

18 A. (Spring) Yes. That's a reasonable request.

19 Q. Okay. And, you have probably heard on several
20 occasions Mr. Cherian repeatedly asserting that "the
21 project construction equipment and trailers carrying
22 project components will fit up Groton Hollow Road,
23 without clearing, regrading and straightening",
24 correct?

1 A. (Spring) I've heard that statement made, yes.

2 Q. Okay. And, do you agree with that?

3 A. (Spring) No, I do not agree with that statement.

4 Q. And, why not?

5 A. (Spring) As a resident, I live on Groton Hollow. And,
6 I'm sure the Site Committee has been up it. If you
7 recall, there was a number of sharp turns and bends, a
8 lot of those are along the brook. Where, if you bring
9 a long tractor-trailer in, you're going to have to cut
10 way to one side or the other, so the back end of the
11 trailer is not in the brook. There's trees in the way
12 in several spots.

13 As you go up, I don't know whether you
14 recall, there was a real sharp hump, just above the one
15 little culvert there. If you have a low-boy, and
16 low-boy semis obviously run, what, 8-10 inches off the
17 ground, when you go through there, you're going to have
18 a really tough time not grounding out and
19 high-centering that trailer.

20 Further up the road, you're going to
21 encounter a well on your left, a septic system on your
22 right, and the width of that opening is, jeez, 25,
23 30 feet at best. And, by doing that, you're also going
24 to be in the guy's front yard. So, the road

1 right-of-way is not 34 feet there. It's a very -- it's
2 a bottleneck.

3 Q. Have you -- are you aware that there is an agreement
4 with I believe the -- one of the towns to repair the
5 road and restore it to its original condition after it
6 is used by the Project?

7 A. (Spring) Yes, I am.

8 Q. Would you think that it might be nice not to have the
9 road restored to its original condition, and, in fact,
10 have it be improved a little bit?

11 A. (Spring) No. We like living on a dirt road with a few
12 potholes. It slows people down. It's a dead-end road.
13 We live there for a reason. We picked that site. You
14 know, it's -- we don't want a blacktop road. Blacktop
15 roads are also higher maintenance than a good, solid
16 base gravel road.

17 Q. I'm not suggesting necessarily a blacktop road, but
18 perhaps a little better gravel road, with some proper
19 drainage and culverts and that kind of stuff. If they
20 were to do that, wouldn't that make things better in
21 Groton Hollow?

22 A. (Spring) A smoother road would be nicer. But, there
23 again, our Road Department takes excellent care of the
24 Hollow Road. It's graded. Drainage is of minimal

1 issue. We haven't had any washouts since the logging
2 operation washed out the road, and that was, oh, eight,
3 nine years ago.

4 Q. What was that about?

5 A. (Spring) There were temporary bridges across Clark
6 Brook and its upper tributaries. And, we had a large
7 rainstorm. And, those temporary bridges backed up with
8 water, and then they just kind of dominoed down, and
9 just like a dam bursting, come down and took out half
10 of Groton Hollow Road, took out some property along the
11 road, residential property, so it had to be rebuilt.

12 Q. Okay. Now, do you know how many trucks will pass on
13 Groton Hollow Road during the construction of the
14 Project?

15 A. (Spring) Actual trucks, no. Ed had stated about 150
16 workers will be working up there. So, at best, say 100
17 cars per day. With the amount of concrete going in,
18 you're going to look at 10 or 15 trucks of concrete
19 just for a pad. So, it's going to be a substantial
20 number. And, that would vary day to day. And, therein
21 lies another problem with the width of the road. In
22 many areas, two cars cannot pass unless you pull over,
23 pretty close to being in what would normally be the
24 ditch. And, there are areas, particularly in front of

1 my land, there's no pulling over, you're in the brook.
2 There it is.

3 Q. But you must have had to deal with encounters with an
4 outbound logging truck and an inbound resident in an
5 automobile?

6 A. (Spring) Oh, yes. Yes.

7 Q. So, you're able to do that, right?

8 A. (Spring) Yes. You look ahead, and at the twist of the
9 road, if you see lights coming in the evening, you, if
10 you're at a spot where you know you can pull over, you
11 wait and let the other car or truck come through. You
12 just -- it's not a game of chicken.

13 Q. It's basically a one-lane, one-way road?

14 A. (Spring) I would say "lane and a half".

15 Q. Lane and a half, okay. Do you know how much logging
16 truck traffic there is in any given year?

17 A. (Spring) The actual number of trucks? It varies, in
18 the winter, in the summer, sometimes you'll see four or
19 five a day, just in the time that I'm home, when I am
20 home on weekends, prior to work.

21 Q. Are there other ways into the land for loggers?

22 A. (Spring) No. This is the only access, Groton Hollow
23 Road.

24 MR. ROTH: Okay. Thank you. That's all

1 the questions I have.

2 CHAIRMAN GETZ: Thank you.

3 Mr. Sinclair, did you have any questions?

4 MR. SINCLAIR: None. Thank you.

5 CHAIRMAN GETZ: Ms. Geiger or Mr. Patch.

6 MR. PATCH: Actually, I'm going to start
7 with Mr. Spring, and then Ms. Geiger is going to
8 cross-examine Mr. Buttolph. Good morning.

9 WITNESS SPRING: Good morning. How are
10 you? Oh, it's afternoon now.

11 MR. PATCH: Yes, it is. Thank you.

12 BY MR. PATCH:

13 Q. Mr. Roth alluded to this before, but it appears from
14 your prefiled testimony that you have a fair amount of
15 fire-related experience, is that fair to say?

16 A. (Spring) That's correct.

17 Q. I think you even referred to being a volunteer fireman
18 at some point?

19 A. (Spring) Correct.

20 Q. An Assistance Chief on the Fire Brigade, a Certified
21 Public Safety Instructor. You've taken or taught
22 fire [first?] aid, CPR, and advanced first aid classes?

23 A. (Spring) Correct.

24 Q. And, there's a data request that Public Counsel asked

1 you that I want to show to you. It's part of Public
2 Counsel 11, PC 11. And, I don't know if you have a
3 copy there with you. It would be your response to
4 Question Number 4. And, if you don't, I've got a copy
5 here I can show you.

6 MR. ROTH: I can show him that.

7 BY THE WITNESS:

8 A. (Spring) Oh, the training for the Rumney Fire
9 Department?

10 BY MR. PATCH:

11 Q. That's right. I mean, the question was "Please
12 describe any trainings or equipment that you think
13 would be appropriate for the Rumney Fire Department and
14 EMS squad to have as mentioned on Page 2 of the
15 Prefiled Direct Testimony of Carl Spring." And, could
16 you read your answer into the record.

17 A. (Spring) Sure. "I would defer this to the Rumney Fire
18 Department [and] Fire Commissioners, as they know the
19 present training of [the] firemen and emergency medical
20 support personnel. As for training and equipment, this
21 again would go to the Rumney Fire Department, along
22 with all others in the mutual aid call list. Those
23 departments will set up a preplan on what they need for
24 equipment and training, for any call that may come from

1 the wind farm. This could be first aid, fire, spill,
2 high tower rescue, helicopter evacuation, etcetera."

3 Q. Are you familiar with the agreement that the Town of
4 Rumney has signed with the Applicant?

5 A. (Spring) Yes, I just received a copy of it earlier.

6 Q. And, you're familiar with the emergency response
7 provisions contained in that agreement, including the
8 provisions about training of the Rumney Fire
9 Department, EMS, and Police personnel, and about
10 reimbursement for extraordinary emergency response
11 events?

12 A. (Spring) What part in particular? There are several
13 items here. As far as the number of hours of training?

14 Q. Well, there are provisions that relate to emergency
15 response, I think it's on Page 3 of 6, "Emergency
16 Response", and there are five subsections, I guess I'd
17 call them, under 6, 6.1 through 6.5. And, they all
18 relate to training, they relate to reimbursement for
19 extraordinary emergency response events. And,
20 apparently, the Town of Rumney is satisfied with that,
21 including the Fire Department. Is that correct?

22 A. (Spring) No, I cannot agree with that. The Selectboard
23 has agreed to this. I didn't see any signatures here
24 from the Fire Commissioners.

1 Q. Well, then I'm going to direct your attention to
2 Applicant's Exhibit 16. I don't know if you have a
3 copy of that?

4 A. (Spring) No, I don't.

5 Q. I'd be happy to --

6 (Atty. Patch handing document to Witness
7 Spring.)

8 WITNESS SPRING: Thank you.

9 BY MR. PATCH:

10 Q. And, this is a copy of the meeting minutes from the
11 Town of Rumney, when they basically adopted the
12 agreement.

13 A. (Spring) You're referring to where it says "Rumney's
14 fire chief, Ken Ward, has told the Selectmen that the
15 Rumney Fire Department does not need any additional
16 equipment"?

17 Q. That's correct.

18 A. (Spring) That's in disagreement with what the Fire
19 Commissioners and others have stated in the Mutual Aid
20 Program, is my understanding.

21 Q. But that's the Fire Chief speaking to the Selectmen in
22 the Town of Rumney, correct?

23 A. (Spring) That's correct.

24 Q. And, you have an agreement in front of you --

1 MR. ROTH: Mr. Chairman, I'm going to
2 object to this line of questioning. It's not clear what
3 the Fire Chief of Rumney said to the Board of Selectmen.
4 I don't think that the minutes are all that unambiguous.
5 And, we have apparently fairly clear testimony from Chief
6 Clogston the other day, which I thought very unambiguously
7 said that, in his recent conversations with the Fire
8 Chief, that was not his view at all. And, that the Fire
9 Chief stood by the requests that were being made.

10 MR. PATCH: Mr. Chairman, I think we
11 have conflicting reports about what the Fire Chief from
12 Rumney has or hasn't said, admittedly. But I think the
13 agreement between the Town of Rumney, obviously, speaks to
14 emergency response issues, and the minutes I think pretty
15 accurately represent what is there. And, I don't need
16 many more questions in this area. I think, perhaps, the
17 point's already been made, but --

18 MR. ROTH: I don't have any objection to
19 him asking any questions about the agreement with the Town
20 of Rumney Selectmen. But I think it's clear, from Mr.
21 Spring's testimony and Chief Clogston's testimony, that
22 going beyond that to suggest agreement by the Fire
23 Commissioners or the Fire Chief of Rumney is not
24 appropriate.

1 CHAIRMAN GETZ: Well, I think we have
2 two different issues here. I think we certainly need to
3 get into the record the minutes, and they're already in
4 there. But I think what you're saying, Mr. Roth, is we
5 should give more weight to what Chief Clogston said about
6 what Chief Ward said than what the minutes say about what
7 Chief Ward said. And, I think the weight, the appropriate
8 weight to be given is an issue for the Subcommittee to
9 take into account what the Chief testified to and what
10 this document says. So, I will permit the further
11 inquiry.

12 MR. PATCH: And, Mr. Chairman, if I
13 could just point out, I understand that the Committee is
14 not bound by the rules of evidence, but clearly what Chief
15 Clogston was saying is hearsay.

16 MR. ROTH: As is the minutes from the
17 Town of Rumney.

18 CHAIRMAN GETZ: And, that's why we get
19 back to it's a question of what weight we should give to
20 what appears to be conflicting testimony. But I will
21 allow further inquiry about this, because we seem to have
22 new actors who are introduced in here, the "Fire
23 Commissioners", I think today is the first I've heard of
24 them.

1 WITNESS SPRING: Right. The Fire
2 Commissioners are elected by the public. We, the people,
3 elect those. The fire chief is appointed by the
4 Selectmen.

5 CHAIRMAN GETZ: And, now, you're
6 testifying about what you heard what the Fire
7 Commissioners may have said?

8 WITNESS SPRING: Right. Talking of the
9 Fire Commissioners.

10 CHAIRMAN GETZ: All right. So, more
11 issues of weight that we need to give to testimony and
12 documents in this proceeding.

13 MR. PATCH: I have no further questions.
14 Thank you.

15 CHAIRMAN GETZ: Thank you. Ms. Geiger.

16 MS. GEIGER: Yes. Thank you, Mr.
17 Chairman. My questions are for Mr. Buttolph. Good
18 afternoon, Mr. Buttolph.

19 WITNESS BUTTOLPH: Good afternoon.

20 BY MS. GEIGER:

21 Q. Have you ever been to a wind farm?

22 A. (Buttolph) No.

23 Q. You haven't. So, you've never seen a wind farm that's
24 owned by Iberdrola?

1 A. (Buttolph) I have never seen one. That's right.

2 Q. Okay.

3 A. (Buttolph) Not in person. I've seen them, obviously,
4 in pictures.

5 Q. Okay. Were you aware of the bus tour that the
6 Applicant provided for any Rumney resident to the
7 Lempster Wind Farm?

8 A. (Buttolph) Yes.

9 Q. Okay. I'm assuming that you did not attend that bus
10 tour, since you've said you've never been to a wind
11 farm, is that correct?

12 A. (Buttolph) That's right. I had a Boy Scout conflict.

13 Q. Okay. Have you ever been up onto the Groton Wind
14 Project site?

15 A. (Buttolph) Yes.

16 Q. And, when did you go there?

17 A. (Buttolph) I've been there -- it's been a number of
18 years ago. It's quite sometime ago. And, when you say
19 the "site", I guess I should be clear on that. I've
20 skied at Tenney Mountain a number of times, and I guess
21 that's not actually on the site. So, perhaps -- I've
22 been in the general vicinity of the site. But, as far
23 as right over the property line, perhaps I should
24 change that, say "no", perhaps not.

1 Q. Okay.

2 A. (Buttolph) So, I'm not sure, totally sure.

3 Q. So, you didn't attend the publicly noticed site tour
4 that the Committee and others went on in June of this
5 year, is that correct?

6 A. (Buttolph) That is correct.

7 Q. Okay. And, why not?

8 A. (Buttolph) I didn't recall -- I don't recall seeing it.
9 I'm sure it was noticed and so forth, but I just plain
10 missed it. I didn't see it.

11 Q. You just didn't know about it?

12 A. (Buttolph) Right.

13 Q. Okay. But you had filed -- when did you file to
14 intervene in this docket?

15 A. (Buttolph) Well, that's a matter of record.

16 Q. Do you recall offhand if it was before June?

17 A. (Buttolph) I believe, I don't recall exactly.

18 Q. Okay.

19 A. (Buttolph) I'm sure it's in the record.

20 Q. Okay. Now, turning to your prefiled testimony, you say
21 that "Approval of a wind farm like Groton Wind will
22 necessarily consume the availability of limited
23 transmission equipment." Is that your testimony?

24 A. (Buttolph) That sounds familiar, yes.

1 Q. Could you please identify the "limited transmission
2 equipment" that you're referring to?

3 A. (Buttolph) My understanding would be that, depending
4 upon where other facilities would need to go, that you
5 would be perhaps putting some additional strain with
6 some other proposed transmission into, for example,
7 Beebe.

8 Q. Okay. Is it your position that an energy facility that
9 necessitates the upgrade of transmission equipment or
10 the installation of new facilities should not be built?

11 A. (Buttolph) No.

12 Q. Okay. Do you have a degree in wildlife management?

13 A. (Buttolph) I do not.

14 Q. Are you a wildlife biologist?

15 A. (Buttolph) I am not.

16 Q. Have you ever conducted an avian study?

17 A. (Buttolph) No.

18 Q. Is it your testimony or position that the Applicant
19 didn't survey enough days during its spring and fall
20 migration surveys?

21 A. (Buttolph) I don't have a position personally on that,
22 other than my having communicated what I understand
23 HMANA's position is.

24 Q. Okay. But I believe you prefiled testimony on this

1 point, did you not?

2 A. (Buttolph) I did.

3 Q. Okay. And, do you remember what your opinion was in
4 your prefiled testimony?

5 A. (Buttolph) Yes.

6 Q. What was that?

7 A. (Buttolph) It was that you surveyed an insufficient
8 amount of time.

9 Q. And, in your opinion, how days should have been
10 surveyed by the Applicant?

11 A. (Buttolph) Should have been consistent with HMANA's
12 guidelines.

13 Q. And, what are those?

14 A. (Buttolph) Throughout the entire migration period.

15 Q. Every day?

16 A. (Buttolph) Yes, I believe so.

17 Q. Okay. Are you aware that the Applicant coordinated
18 with the New Hampshire Fish & Game Department and the
19 U.S. Fish & Wildlife Service on its proposed migration
20 study protocols?

21 A. (Buttolph) Yes.

22 Q. Okay. And, did you know that neither of those two
23 agencies ever voiced any objection to the manner in
24 which the Applicant was conducting its surveys?

1 A. (Buttolph) I don't recall reading any of their -- any
2 concerns that they may have voiced to that. Right.

3 Q. Okay. And, on Page 9 of your prefiled testimony, you
4 say "regarding migrating songbirds". And, I'll let you
5 take a minute to find that, so you can see what I'm
6 talking about.

7 A. (Buttolph) Yes. Got it.

8 Q. Okay?

9 A. (Buttolph) Uh-huh.

10 Q. I believe you say that, "Regarding migrating songbirds,
11 radar studies did not indicate duration or times of
12 nightly surveys." Is that what you're saying there?

13 A. (Buttolph) That's what those words say, yes.

14 Q. And, I think you go onto say that "the results given
15 are highly suspect in that their radar studies were
16 only conducted in the hours around midnight when birds
17 are known to be migrating at higher elevations." Is
18 that your testimony?

19 A. (Buttolph) That's what it says, yes.

20 Q. Okay. Now, I'd like to show you a couple of documents
21 that are contained in -- in what I believe has been
22 marked as "Applicant's Exhibit Number 4", which is
23 Volume IV of the Application. And, in Volume IV of the
24 Application, under Appendix 30, we have a table, it's

1 called "Appendix A: Table 2." And, it's the "Summary
2 of passage rates by hour, night, and for entire
3 season." Do you see that? I'll let you take a minute
4 to look at that.

5 (Atty. Geiger handing document to
6 Witness Buttolph.)

7 BY MS. GEIGER:

8 Q. Mr. Buttolph, my question is, isn't it true that on
9 that table, the information is recorded by night and by
10 hour after sunset, is that correct?

11 A. (Buttolph) Yes. I see some missing dates here. But,
12 for example, we go from April 23rd to April 27th and to
13 April 29th. So -- but I see, yes, it's by night, and
14 as you've described the passage rates.

15 Q. Okay. And, isn't it also by hour as well? More
16 specifically, "passage rate by hour after sunset"?

17 A. Yes, it does say that as well.

18 Q. Okay. So, at least, and I will represent to you that
19 there is a similar table, Appendix A, Table 2, under
20 Appendix 31, in that same volume. And, if you want to
21 take a look at it, you may. But Table 1 -- Table 2,
22 excuse me, that I just referred to, was the Spring 2008
23 Radar Survey Report and Appendix 31 is the Fall Survey
24 Report.

1 A. (Buttolph) Okay. So, I'm looking here at the spring
2 report, that's Appendix A, Table 1. And, what was the
3 other table, I'm sorry?

4 Q. If you flip to Appendix 31 --

5 A. (Buttolph) Yes, I think I'm there. Oh, I'm sorry.

6 Q. Flip to 31, and just look at this table over here.

7 A. (Buttolph) Okay.

8 Q. And, I guess my question is, isn't it true that both of
9 those tables do in fact show the duration and the time
10 of the nightly surveys, notwithstanding your testimony?

11 A. (Buttolph) Yes, it does appear that way.

12 Q. Okay. Now, turning to Page 10 of your prefiled
13 testimony, you state: "Like humans, a bird's visual
14 acuity is hammered under certain light and weather
15 conditions. Many birds migrate at night and descend to
16 rest and forage in the forested habitats in the hours
17 around dawn and ascend during the hours around dusk to
18 continue their journey. At these times perception is
19 reduced and the likelihood of a bird detecting spinning
20 turbine blades due to motion smear is very low." Is
21 that your testimony?

22 A. (Buttolph) Yes.

23 Q. And, could you tell me the reference upon which you
24 rely in making that statement?

1 A. (Buttolph) That general -- that whole section was from
2 a Kim Van Fleet, who was a biologist in Pennsylvania.
3 And, I believe I disclosed that she had assisted me in
4 that particular portion. There was -- there was one
5 other publication that I believe I disclosed to you
6 during the technical session or perhaps a data request,
7 where I had briefly scanned another text. And, I think
8 that was --

9 Q. Is this -- I think I'm going to show you or I will show
10 you what the Applicant has marked as its "Exhibit 29".
11 Is this the reference that you refer to?

12 A. (Buttolph) That's the one I was just speaking of. But
13 what I wanted to do was ensure I had erred on the side
14 of disclosing everything, because I know you want to
15 make sure we do that. It's very important that, if
16 there's anything that even might have -- I might have
17 gleaned something out of, I wanted to make sure it was
18 included.

19 Q. So, did this inform your judgment about birds' visual
20 acuity?

21 A. (Buttolph) There is a comment in there about the birds
22 not being able to, let's see now, I think I actually --

23 Q. Well, actually, could you read into the record the
24 highlighted sentence that I have on Page 141?

1 A. (Buttolph) That's at 147? That's the page I'm on.

2 Q. I'm sorry. 147, I'm sorry.

3 A. (Buttolph) "Walls suggested that animals traveling at
4 great speed (i.e., falcons) have increased visual
5 acuity to detect movement and avoid collision."

6 Q. So, is that consistent with your testimony?

7 A. (Buttolph) That particular line does not appear to be,
8 no.

9 Q. Is there anything else in there that supports your
10 position?

11 A. (Buttolph) I had read this sometime ago. I got -- I
12 wanted, like I said, I wanted to disclose that I read
13 it. But it doesn't appear that there's anything that
14 was significant that I translated into my testimony.

15 Q. Okay. Now, on Page 10 of your prefiled testimony, you
16 state that "The placement of industrial scale wind
17 turbines on this area that is part of a key migration
18 corridor is a bad idea." Is that your testimony?

19 A. (Buttolph) It sounds familiar. Where are we here?
20 We're on Page 10?

21 Q. I believe so.

22 A. (Buttolph) It sounds like something I would have said,
23 but I'm just trying to find it here. Yes. Okay. Yes,
24 that's my testimony. Right.

1 Q. And, what do you mean by a "key migration corridor"?

2 A. (Buttolph) Well, that's been the subject of some
3 discussion I understand. Areas where birds tend to fly
4 along ridgelines. I know that there's been some
5 discussion about migration corridors being perhaps
6 wider than that. But, certainly, this is an area where
7 birds tend to fly along the ridgelines, and this is
8 information that certainly the folks at HMANA would
9 vouch for as well.

10 Q. And, what's the size of this "key migration corridor"
11 that you're referring to?

12 A. (Buttolph) In this general area, that would be in the
13 -- from one mountain ridge to the next one, which would
14 be to the east.

15 Q. Do you have a medical degree?

16 A. (Buttolph) No.

17 Q. Do you have a degree in acoustical engineering?

18 A. (Buttolph) No.

19 Q. Are you a licensed real estate appraiser?

20 A. (Buttolph) No.

21 Q. Do you have any training or experience in conducting
22 real estate appraisals?

23 A. (Buttolph) No.

24 Q. Do you know the capacity of the Seabrook Nuclear Power

1 Plant? Do you know how many megawatts of electricity
2 it is capable of producing?

3 A. (Buttolph) I have read that in the context of looking
4 at the total amount of power that is produced in New
5 Hampshire and the percentage of that nuclear power that
6 relates to the total power produced. I don't recall it
7 off the top of my head, though.

8 Q. Do you know whether the -- well, if I were to --

9 A. (Buttolph) It's about half. It's about half the state.

10 Q. If I were to suggest to you that roughly the capacity
11 of the Seabrook Station is around 1,200 megawatts,
12 would you have any reason to disagree with that?

13 A. (Buttolph) 1,200 megawatts. Again, I'd have to look at
14 the data.

15 Q. Do you know if the Seabrook Nuclear Power Plant
16 operates at 100 percent of the time?

17 A. (Buttolph) It does not.

18 Q. And, do you know for how long approximately every year
19 it goes off line?

20 A. (Buttolph) I don't know that, no.

21 Q. Okay. Do you know whether it goes off line for things
22 like refueling every year?

23 A. (Buttolph) I'm sure it does.

24 Q. Okay. Do you know that -- do you have any knowledge

1 about whether it is -- it stays off line for any
2 significant period of time, either before or after
3 refueling?

4 A. (Buttolph) I'm sure it could, yes.

5 Q. Okay. So, for example, if I were to suggest to you
6 that, in 2009, from October through December, that the
7 Seabrook plant did not operate, would you have any
8 reason to disagree with that?

9 A. (Buttolph) I would not. But I don't know that.

10 Q. Okay. I guess I have one last question. What is your
11 understanding of the -- of the responsibility of New
12 Hampshire's ratepayers to pay for any of the costs
13 associated with this Project?

14 A. (Buttolph) Well, I guess you have to define
15 "ratepayers". I would also say taxpayers are
16 ratepayers. So, it's more than just "how much does a
17 ratepayer pay in their electric bill?" So, we've got
18 to broaden that a little bit. When we start looking at
19 the types of incentives that some of these programs --
20 some of these projects have been receiving, in terms of
21 the \$577 million we talked about before as an example,
22 clearly every one of us is paying something to help
23 these wind farms look viable, in terms of their
24 economic analysis.

1 MS. GEIGER: Okay. I have no further
2 questions.

3 CHAIRMAN GETZ: Thank you. Members of
4 the Subcommittee? Mr. Steltzer.

5 MR. STELTZER: Yes. Mr. Spring, thanks
6 so much for being here today.

7 WITNESS SPRING: No problem.

8 BY MR. STELTZER:

9 Q. I'm glad you're here, because I'm trying -- I asked this
10 question yesterday, and I'm really looking to get some
11 input from folks that live on Groton Hollow Road.

12 MR. ROTH: He doesn't.

13 BY MR. STELTZER:

14 Q. Excuse me, do you live on Groton Hollow Road?

15 A. (Spring) Yes, I do.

16 MR. ROTH: Oh, I'm sorry. I thought you
17 were talking to Mr. Buttolph. I apologize.

18 MR. STELTZER: No problem.

19 BY MR. STELTZER:

20 Q. And, I've heard from the Applicant that -- some of the
21 reasons, really, two of the reasons that they have
22 proposed this alternative distribution line to connect
23 the operation and maintenance facility to Route 25.
24 And, why it was shifted was due to two reasons, really.

1 The fact of some folks on Groton Hollow Road being
2 opposed to utilizing the existing poles that are there,
3 as well as some uncertainty as far as the ownership or
4 the easement, where the easement actually is for those
5 poles.

6 I'm trying to understand, it's my
7 understanding that these poles are 34.5 kV lines.
8 They're the kind of lines I have outside my house right
9 now. And, there are thousands of them across the
10 state. So, I'm trying to understand what the objection
11 is towards having, not transmission lines, but just
12 normal distribution lines going down that road?

13 A. (Spring) It's my understanding, when the
14 representatives from New Hampshire Electric attended
15 the Selectmen's meeting where the public was invited,
16 they stated that there's a number of easements that go
17 back who knows how many years, and I guess some of
18 those were very strict in the use of that easement for
19 the electric lines to have a right-of-way. And, also,
20 the location, they said that's not a good location to
21 bring them down Groton Hollow, it's just not a good
22 idea. Personally, I have one pole on my land that sits
23 completely on my land, and the poles zig-zag from both
24 sides of the road. So, you're going to be looking at,

1 what, potentially 20 -- 15, 20 different landowners,
2 depending on how you ricochet them. And, a lot of
3 landowners do not want electric poles on their land,
4 whether it would be from this or anything.

5 Q. It's my --

6 A. (Spring) They're protective of their land and their
7 rights.

8 Q. It's my understanding, though, that they, for the
9 majority of it, they could just use the existing poles
10 that are there though?

11 A. (Spring) I don't know, some of them poles are pretty
12 old and scrawny. You start hanging new wires on there,
13 you're definitely going to have to replace the pole.
14 The wires are definitely going to have to be raised
15 just to get trucks up through. Logging trucks, why
16 they don't catch some of them wires is beyond me. I
17 mean, we're looking at 12, 13 feet, with the bow in the
18 wire on some of those, when they cross over the road
19 from one side to the other.

20 Q. Okay. Thank you.

21 A. (Spring) Uh-huh.

22 Q. Mr. Buttolph, you mentioned a little bit about your
23 concern about taxpayers paying for the incentives to
24 the renewable energy industry, such as the production

1 tax credit and the investment tax credit. Are you
2 familiar at all with the subsidies that are available
3 to the fossil fuel industry at all?

4 A. (Buttolph) Not in as much detail, no.

5 Q. Would you believe that some folks may characterize them
6 as "substantial"?

7 A. (Buttolph) Yes, I'm sure they do. Yes.

8 Q. And, would you believe that there are some analysts who
9 suggest that, if those subsidies were not available to
10 the fossil fuel industry, that renewable energy might
11 be more cost-effective for an energy source?

12 A. (Buttolph) I believe I had recalled reading some
13 comparison about various sources. And, I had
14 understood that wind power to be perhaps the most --
15 one of the most heavily subsidized of any of those
16 choices. But I'm sure that there are some people who
17 agree with your characterization that the more
18 traditional forms of power do have high amounts of
19 subsidy.

20 MR. STELTZER: Thank you.

21 CHAIRMAN GETZ: Other questions?

22 Dr. Kent.

23 DR. KENT: I have two questions for Mr.
24 Spring.

1 WITNESS SPRING: Sure.

2 BY DR. KENT:

3 Q. If the Project were to donate some equipment, some
4 fire-fighting equipment, where do you think the best
5 place to store that equipment would be?

6 A. (Spring) Oh, it would definitely be Rumney. That has
7 the closest response time. And, the equipment that
8 Rumney presently has, it would be like taking a VW to
9 the Daytona 500; you don't do it. The trucks we have
10 now are not designed to go off-road. They're lead
11 attack pumpers. They stay on hard surfaces. You know,
12 you don't take them out into the middle of the ball
13 field, per se. So, yes, the equipment would stay in
14 Rumney. That's going to give your best response time,
15 and that's the object of the Fire Service.

16 Q. Thank you. And, reluctantly, I'm going to delve into
17 the hearsay, just in case you can enlighten us. The
18 Fire Commissioners, do you have any idea why they
19 wouldn't communicate with us, if they had a differing
20 opinion than was being expressed by the Town
21 Selectmens? That, I have no idea. In talking with
22 them, I know they were trying to get together to have a
23 meeting. Evidently, that didn't transpire, if you have
24 not received any correspondence from them.

1 DR. KENT: Okay. Thank you.

2 WITNESS SPRING: Uh-huh.

3 CHAIRMAN GETZ: Other questions?

4 (No verbal response)

5 CHAIRMAN GETZ: Okay. Hearing nothing,
6 then opportunity for redirect?

7 MS. LEWIS: I'm all set. Thank you.

8 CHAIRMAN GETZ: Okay. Then, the
9 witnesses are excused. Thank you, gentlemen.

10 WITNESS SPRING: Thank you.

11 CHAIRMAN GETZ: Okay. It's a quarter of
12 one. I think it's a good time for the lunch recess. And,
13 I would say that we'd resume at 2:00. And, at that time
14 we would hear Ms. Lewis's testimony and cross-examination.
15 And, then, after that, we will need to address the status
16 of the Exhibit 44, and how to address other issues with
17 respect to Historical Resources, Fish & Game, items that
18 we've talked about before, and, if there's anything about
19 recalling Mr. Cherian as well, if that's been discussed.

20 So, is there anything else we need to
21 talk about now or that -- well, let me leave it, is there
22 anything else we need to discuss before lunch?

23 MS. GEIGER: I don't think so.

24 CHAIRMAN GETZ: Okay. Then, we're

1 recessed until 2:00.

2 (Whereupon the Day 5 Morning Session
3 recessed for lunch at 12:47 p.m. The
4 Day 5 Afternoon Session to resume
5 under separate cover so designated.)
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