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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

December 17, 2010 - 10:08 a.m.
21 South Fruit Street, Suite 10
Concord, New Hampshire

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.
(Prehearing conference)

PRESENT:

SITE EVALUATION COMMITTEE:

Michael J. Iacopino, Esq.
(Presiding as Hearings Examiner)

Counsel for the Committee

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

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APPEARANCES:

Counsel for the Applicant: Douglas L. Patch, Esq.
Susan S. Geiger, Esq.

Counsel for the Public: Peter C.L. Roth, Esq.
(Sr. Asst. Atty. General)
Evan Mulholland, Esq.
(Asst. Atty. General)
Department of Justice

Reptg. the Town of Groton: Miles Sinclair, Selectman

Reptg. the Buttolph Group: Cheryl Lewis, *pro se*
Brian Lewis

ALSO PRESENT:

Nadine Peterson, Division of Historic Resources

P R O C E E D I N G

1
2 MR. IACOPINO: All right. We are here
3 at the Public Utilities Commission for a prehearing
4 conference and technical session in docket Site Evaluation
5 Committee Docket Number 2010-01, Application of Groton
6 Wind for Certificate of Site and Facility for a Renewable
7 Energy Facility in Groton, New Hampshire. The main
8 purpose of our meeting here today is to see if we can
9 agree upon a schedule for both discovery and hearings for
10 the balance of the proceedings in this docket. We
11 recently had a prehearing conference with the Chairman of
12 the Subcommittee on December 3, I believe it was, 2010.
13 He has since then issued a procedural order and order on
14 motions that had been outstanding. And, our purpose today
15 is to sort of go forward from there and establish a
16 schedule for the balance of this docket. What I'd like to
17 do before we begin to do that, though, is have everybody
18 introduce themselves. For the record, my name is Michael
19 Iacopino. I am Counsel to the Committee. To my right is
20 Irena Dore, an associate in my office, who is here to
21 observe.

22 And, if we just go around the table
23 counterclockwise and just identify yourselves.

24 MS. PETERSON: My name is Nadine

1 Peterson. I work with the Division of Historical
2 Resources, and I'm just listening in this morning.

3 MR. SINCLAIR: Miles Sinclair, Select
4 Board, Town of Groton.

5 MR. CHERIAN: Ed Cherian, Project
6 Manager, Groton Wind.

7 MR. PATCH: Doug Patch, from Orr & Reno,
8 counsel for Groton Wind.

9 MR. ROTH: Peter Roth, Office of the
10 Attorney General, Counsel for the Public.

11 MR. MULHOLLAND: Evan Mulholland, from
12 the Office of the Attorney General, also with Peter.

13 MS. LEWIS: Cheryl Lewis, and my son
14 Brian, intervenors, Town of Rumney.

15 MR. IACOPINO: Okay. I note that there
16 are several other parties in this docket that have not
17 appeared here today. That being there's no representative
18 from the Mazur Group of intervenors and the Town of
19 Plymouth has not appeared, nor has Rumney, Town of Rumney,
20 represented by Mr. Waugh.

21 So, we're going to begin despite their
22 absence. What I did was I prepared an agenda for us.
23 And, the purpose of this agenda is just sort of to try to
24 organize the issues as best as I can tell. There's no --

1 there's nothing about the agenda is meant to be an order
2 or anything like that, it's just meant to try to organize
3 things for our review here today.

4 As I had said before, on December 3,
5 2010, there was a meeting of the whole Subcommittee. As a
6 result of that Committee meeting, the date by which a
7 final decision in this docket has to be rendered by the
8 Subcommittee was extended to April 26, 2011. As a result
9 of a filing by the Applicant, we have the procedural order
10 that was issued by the Chairman. And, I just wanted to
11 note that in that he talked about that discovery may have
12 to go on multiple paths from this point forward, because
13 of sort of the different issues that are involved. I've
14 tried to identify six issues that I think are involved.
15 And, if we understand what the issues are, that will
16 perhaps help us in terms of trying to schedule things.

17 The first one is the alternate
18 transmission line, going from the project site down to the
19 New Hampshire Electric Co-op system on Route 25. And, I
20 note that there's been some substantial prefiled testimony
21 since our last adjudicative hearings filed by the
22 Applicant with regard to that particular issue.

23 The next issue I don't see as large of
24 an issue, but I know it's been mentioned by the parties,

1 so I put it on there. And, that's the effect of -- effect
2 of the transmission line on the Electric Co-op system. By
3 that I don't mean necessarily the effect on their
4 electrical system, I mean the fact that transmission lines
5 or distribution lines will go from where the alternate
6 transmission line leaves the project area, so to speak,
7 and then travels along the Electric -- New Hampshire
8 Electric Co-op system, before it gets to what the third
9 issue is, a step-up transformer station that's yet to be
10 sited and constructed. So, those two issues, they may go
11 hand-in-hand, I've broken them out.

12 The fourth issue that I've identified is
13 the progress with regard to the Division of Historic
14 Resources and the Historic Resource issue. And, I note
15 that there was, in fact, some prefiled testimony, Second
16 Supplemental Prefiled Testimony of Hope Luhman filed in
17 that regard with respect to that issue.

18 The fifth issue that I identified is the
19 letter that we got on the last day of the adjudicatory
20 hearings from the Fish & Game Department. And, I don't
21 know if the parties consider that to be resolved or not.
22 I do know that there were some recommendations for some
23 additional study to be done by Fish & Game. So, I put
24 that on there as an open issue as well. Which may --

1 which you all may or may not want to address as part of
2 the discovery that needs to go on here.

3 And the sixth issue is this recent
4 letter from the Town of Plymouth. Up until this point,
5 the Town of Plymouth seemed to have really intervened for
6 the sole purpose of one issue, that being the public
7 safety issue, and the issue of, well, as presented by
8 their fire chief, essentially, they claim they need to be
9 appropriately outfitted by the Applicant if they're going
10 to have to respond to any emergency situations up in the
11 project area. However, the recent letter that we received
12 from the Town of Plymouth's Board of Selectmen appears to
13 raise issues that are beyond the scope of any issues that
14 they have raised so far. And, out of fairness to the
15 Applicant, I wanted that to be on our agenda of things to
16 address here today and provide the opportunity for
17 discovery with respect to those issues, as the letter, as
18 I read it, is actually asking the Committee to essentially
19 move some of the proposed turbines, so that they're not
20 visible, which would be a pretty new request in this
21 docket.

22 So, that's what I've identified the
23 outstanding issues as. I've made a list of the most
24 recent documents that we received, most of which are the

1 supplemental prefiled testimonies that have been filed by
2 the Applicant sometime ago. So, that's where we're at.

3 I'd like to start off with starting at
4 the back end first. The Committee has to issue a decision
5 at this point in time by April 26. In order to properly
6 do that, from my view, is the Committee has to be done
7 with all of its adjudicative proceedings and its
8 deliberations by April 1st in order to reach that date.
9 So, from my perspective, April 1 is sort of a deadline
10 date, sort of the back-end of where things need to --
11 where things in this docket, at least at this point, need
12 to stop. In other words, I would be uncomfortable
13 scheduling any further deliberative or adjudicatory
14 hearings after that date. And, obviously, any discovery
15 or technical sessions, things like that, are going to have
16 to be scheduled well in advance of that.

17 So, that's just an overall -- that's my
18 overall sort of view, from 25,000 feet up, of where we are
19 at. What I would like to do is turn first to Public
20 Counsel, and then to Ms. Lewis, because I think we have a
21 substantial amount of information that has been filed
22 since the last adjudicative proceeding, in the form of
23 second supplemental prefiled testimonies, and to see what
24 discovery you all anticipate those filings have generated

1 for you, what you believe that you need for discovery
2 based upon those filings, and what kind of timeframes you
3 believe are appropriate to conduct that discovery.

4 And, I'll start with you, Peter, so that
5 --

6 MR. PATCH: Mike, could I just suggest,
7 --

8 MR. IACOPINO: Sure.

9 MR. PATCH: -- if it's okay with the
10 other parties, maybe we give you a brief update on one or
11 two issues that I think might fit into that, and then you
12 can --

13 MR. IACOPINO: That's fine. Okay.

14 MR. PATCH: There was some discussion I
15 think at that December 3rd prehearing conference about
16 alternative locations for I guess I'll call it the
17 "substation", I think is what we basically refer it to. I
18 think you had referred to the "siting and construction of
19 the step-up transformer station", I think we're talking
20 about the same thing, basically.

21 MR. IACOPINO: Yes. Uh-huh.

22 MR. PATCH: And, we, after some hard
23 work by Mr. Cherian, have reached resolution on one
24 location.

1 MR. IACOPINO: Okay.

2 MR. PATCH: So, it would be our hope
3 that we would be filing some testimony with regard to that
4 by the end of the year, basically, I think is what we're
5 saying. And, then, what we would propose after that would
6 be that there be a technical session, say, the second week
7 of January, where we could address that issue. We could
8 address the other issues that were addressed in the
9 supplemental testimony that was filed, you know, back I
10 think in November, actually, on some of the other issues.
11 And, then, what we would suggest, based on that, would be
12 that there be a hearing sort of early in February.

13 I think there had been a discussion
14 before about the need for discovery. And, I thought what
15 I heard was that there would not be a need for -- that we
16 were going to try to do it through a technical session,
17 basically. And, so, I think, you know, we'd obviously be
18 happy to make our witnesses available at that technical
19 session by phone or whatever is, you know, appropriate in
20 order to do that.

21 MR. IACOPINO: When you talk about
22 "filing" -- I'm sorry. When you talk about "filing some
23 additional testimony", I take it that would be for
24 Mr. Cherian? Is that plan?

1 MR. PATCH: It would be from
2 Mr. Cherian, from some of our other witnesses as well,
3 with regard to the substation, just to provide an overview
4 of the substation, the location. And, so, that's our
5 plan. Go ahead.

6 MR. CHERIAN: Could I add something?
7 Because we really don't have a decision on how the
8 Committee views the step-up transformer line, we have to
9 go forward, and I think we're just going to provide more
10 information. We really don't know how the Committee is
11 viewing it. So, in the absence of that guidance, we
12 intend to provide some supplemental testimony from each of
13 our experts on that location.

14 MR. IACOPINO: With regard to their
15 individual areas of expertise?

16 MR. CHERIAN: Yes. Yes. I believe each
17 of the people listed on here will all file, we intend to
18 file supplemental information by the end of the year on
19 that step-up transformer location.

20 MR. IACOPINO: So, what you would
21 anticipate filing is basically a third supplemental
22 prefiled from each of your witnesses. And, that should
23 cover, from your perspective, the alternate transmission
24 line and the step-up transformer station. What about that

1 route in between? And, I understand that there may not
2 even be an issue about it. But does it include that, too,
3 some -- at least some technical data on what that may be?

4 MR. CHERIAN: Yes.

5 MR. IACOPINO: Okay.

6 MR. CHERIAN: Yes. And, so, that's kind
7 of what we're working towards, working with the Co-op, as
8 we have over the last few weeks, to kind of finalize the
9 step-up transformer location. And, that was I think
10 discussed at the last informal meeting, after the --

11 MR. IACOPINO: Right.

12 MR. CHERIAN: -- meeting about, you
13 know, two locations. And, I think it was Peter or someone
14 had suggested "Well, maybe you should go with one." And,
15 we weren't sure if we were able to do that. We've been
16 working with the Co-op on some field work and looking at
17 the specific two locations.

18 MR. IACOPINO: Right. And, just so that
19 the record is clear, since we have a record, after the
20 pretrial on December 3rd, there was an informal meeting.
21 And, there was some discussion about the Applicant might
22 submit alternate sites for the step-up
23 substation/transformer station and seek sort of an
24 alternative, either, or approve both, or a Plan B, in the

1 event that Plan A didn't occur. And, that was discussed,
2 obviously, but left to the Applicant to determine what
3 they would intend to do.

4 Mr. Roth, what do you think of the
5 Applicant's suggestion for the filing of additional
6 supplemental prefiled testimony regarding the step-up
7 station by the end of year, and then a tech session second
8 week of January?

9 MR. ROTH: I think it's not sufficient.
10 And, I guess what I would like to see is a deadline by
11 which the Applicant will submit any more supplemental
12 testimony, because this is now like the second or third
13 set of supplemental, supplemental testimony, and I'd like
14 that to come to an end at some point. And, then, once we
15 have that, I think it's necessary for us to have an
16 opportunity to evaluate that and determine whether we need
17 to conduct additional discovery and some data requests,
18 and whether I need to engage experts to evaluate it. And,
19 I'm happy to do that on a fairly short schedule. So that,
20 if they file all their testimony by the end of year, I
21 think we can say that, within two weeks from that date, we
22 will either engage additional experts or not. And, we
23 will produce, and I would even agree to limit a number of
24 data requests with respect to that testimony alone by the

1 end of those two weeks. And, then, I would suggest having
2 a technical session a week later. So, the technical
3 session would show up probably the third week or the
4 beginning of the fourth week in January.

5 MR. PATCH: We understood that, from
6 Mr. Roth last time we met, that there was no need for
7 additional data requests. So, this is a whole new thing.
8 I mean, that was the position you took at that point in
9 time, so we're surprised by that.

10 MR. ROTH: Well, I think I said that
11 before I saw any of the supplemental testimony. And, I'd
12 like to not have data requests, but, given I don't know
13 what's going to be in that testimony, and how thorough
14 it's going to be, what kind of questions it's going to
15 raise, I don't want to waive it at this point.

16 MR. IACOPINO: What about the flip-side
17 of that? What about -- I mean, do you think that, if
18 given enough leeway in the issuance of data requests, we
19 could avoid having a subsequent technical session? Or, do
20 you think that the technical session is something that
21 would absolutely be necessary?

22 MR. ROTH: I don't know what we gain by
23 taking the technical session out. I think, probably where
24 the greater burden on the Applicant is in responding to

1 data requests, and that's why I suggest I'd be willing to
2 limit the number of data requests per witness to something
3 reasonable, 20, 25.

4 MR. IACOPINO: No, I understand. I'm
5 just curious, in terms of just the amount of work that has
6 to be done by everybody between now and April 1st. Is
7 there -- I mean, I'm just trying to get your view on
8 whether you see the technical session as something that's
9 necessary or not?

10 MR. ROTH: Just, in my experience, they
11 have been extremely valuable. So, I -- and given what
12 we're talking about in terms of a time frame, we're still,
13 even by my proposal, we're still done with the discovery
14 process by the end of January, and looking at a hearing
15 possibly in February. So, we're still a month and a half
16 or at least a month ahead of where you need to be, in
17 terms of the schedule. So, I don't see there being sort
18 of a significant drag on the schedule by having some data
19 requests --

20 MR. IACOPINO: Ms. Lewis, do you have
21 any --

22 MR. ROTH: -- and a tech session.

23 MR. IACOPINO: Okay.

24 MS. LEWIS: I guess my concerns are, and

1 just focusing on the one issue, the electrical aspect, and
2 taking each issue separate. For us, the time aspect is
3 huge for us, as private intervenors. We all work
4 full-time jobs. Every part of the process we're having to
5 take time off from work to be here, for every meeting,
6 every aspect of it. So, for us to have a separate meeting
7 or a separate tech session for each individual part as the
8 discovery process unfolds, I don't think is fair. I think
9 I would much rather wait longer, have all the information,
10 all the discovery complete, as far as DHR, as far as Town
11 of Plymouth, as far as the electrical aspect, and then
12 have the opportunity to do the data requests and the tech
13 sessions. Because, I think, for us to have a separate
14 tech session on the alternative route, versus DHR, versus
15 Fish & Game, it's just going to be overly burdensome for
16 us as private intervenors.

17 MR. PATCH: I think it's our position
18 that, by the first of the year, we'll have everything
19 submitted that we need to submit in terms of testimony.
20 You know, we've already addressed the DHR issue through
21 Hope Luhman's supplemental testimony. I don't think
22 there's much more on Fish & Game. They sent a letter in
23 with some recommendations. It's not like that requires
24 full discovery.

1 MR. IACOPINO: No. And, I just put that
2 in because it came on the last day of the adjudicatory
3 proceeding. And, I didn't know --

4 MR. PATCH: Yes.

5 MR. IACOPINO: -- if anybody wanted to
6 address that.

7 MS. LEWIS: But has the form been --

8 MR. PATCH: So, everything that we're --
9 (Multiple parties speaking at the same
10 time.)

11 MR. IACOPINO: One at a time. Go ahead,
12 Doug.

13 MR. PATCH: So, everything will be
14 submitted by the first of the year.

15 MS. LEWIS: Has the DHR form been
16 submitted to them yet?

17 MR. CHERIAN: No, it hasn't.

18 MS. LEWIS: Okay. Then, we're already
19 behind the eight ball on that. So that we may not get a
20 response from DHR for who knows how long. So, then, once
21 that response comes in, then we're starting from scratch
22 again.

23 MR. CHERIAN: I guess I'm not aware that
24 the Project Area Form is part of the, you know, SEC

1 testimony. It's consultation with DHR. And, we are
2 working with DHR, and I think have reached agreement on
3 the scope of that Project Area Form that's being working
4 on. And, I'll defer to Edna to -- I mean, --

5 MR. IACOPINO: All right. Let's address
6 Historic Resources in just a minute though, okay?

7 MR. CHERIAN: I'm sorry. All right.

8 MR. IACOPINO: Because let me find out,
9 does the Town of Groton have any preference with respect
10 to the scheduling that we're talking about right now?

11 MR. SINCLAIR: The Town takes no
12 position on these issues.

13 MR. IACOPINO: Okay.

14 MR. SINCLAIR: Leave it to the other
15 parties.

16 MR. IACOPINO: All right. Okay. The
17 one thing, and I know it doesn't satisfy you, Ms. Lewis,
18 but the one thing that I think is notable is in the
19 Chairman's order, his most recent order, he is sort of
20 resigned to the fact that the discovery may take multiple
21 paths, just because of the nature of where things are.
22 And, you know, I'm not saying that we have to schedule
23 multiple discovery paths here today. If all the parties
24 can agree that everything will be resolved by certain

1 dates, that's fine, too. I'm sure he would love, I'm sure
2 the Chairman would prefer one date he knows the discovery
3 is going to be done, he knows that we're going to be going
4 into the conclusion of the adjudicatory phase of these
5 proceedings. And, at the end of that, they're going to
6 make a decision based upon that record. And, he would
7 love that.

8 But, I think, the way things have been
9 going, he's also being somewhat practical, in that
10 realizing that the federal 106 process and what DHR has
11 been doing is not necessarily going to travel on the same
12 track that, for instance, the step-up station might be.
13 But, if you -- I'm sorry, go ahead, Peter.

14 MR. ROTH: If I can? I share
15 Ms. Lewis's concern about the Project Area Form and when
16 it appears and when it might be accepted by DHR. Given I
17 think the importance of that form for identifying -- well,
18 I should say "that form and its acceptance" as the place
19 where we identify really what the scope of concern is for
20 the Committee, it would be very difficult if that form and
21 the acceptance either didn't occur before the hearing, or
22 only occurred after all of the other avenues for discovery
23 had closed. And, so, I think that that's consistent with
24 the Chair's idea that these be on multiple tracks.

1 But I guess I must disagree with
2 Mr. Cherian that somehow that the area form doesn't
3 matter, and, you know, Hope Luhman's testimony is going to
4 carry the day again. I just -- I think that, you know,
5 that's somewhat shortsighted and could put us back in the
6 same position in March, when we're at a hearing, and we
7 get another letter from DHR saying "this is all bollixed
8 up again." So, I guess I would like to talk about that as
9 a separate track or, if there's some sense that we're
10 going to have a completed Project Area Form and an
11 acceptance of it by DHR by the time of the discovery
12 calendar we're talking about now, which I guess is
13 probably not realistic, otherwise we would have heard
14 about, or we simply hold open a place for having
15 additional -- another session like this, like this one,
16 sometime in the future, to work out a discovery calendar
17 over the DHR information.

18 MR. IACOPINO: Let me ask the Applicant,
19 in terms of do you know where -- where or when you would
20 expect that a -- I understand there's an agreement on the
21 scope of what the Project Area Form may be. But is there
22 any deadline or time frame that we can rely on on when
23 it's going to be at least presented to DHR and Army Corps?

24 MR. CHERIAN: I think we expect to

1 resubmit it sometime next month.

2 MR. IACOPINO: Sometime in January?

3 MR. CHERIAN: Yes.

4 MR. IACOPINO: I know, Ms. Lewis, you
5 don't have any experience with this, but Mr. Roth does.
6 Assuming that the Project Area Form, like others that are
7 filed, and how much time do you think you would need in
8 order to review it, make a determination as to whether or
9 not it raises any additional issues for you that may
10 require expert witness testimony, and doing any discovery
11 that you think might be required? Understanding you
12 haven't seen it, you don't know, --

13 MR. ROTH: Uh-huh.

14 MR. IACOPINO: -- but, if it's a typical
15 type of thing, do you have an average on what you believe
16 the time frame you will need with that information would
17 be?

18 MR. ROTH: I would say, again, two weeks
19 to review and make determinations about whether I needed
20 to conduct additional discovery or retain experts. And,
21 then I would need, you know, realistically, unfortunately,
22 probably a month, if I determine that I did need an
23 expert, I want him to conduct some discovery about it.

24 I mean, I've never hired an expert in a

1 case to review Historic, you know, DHR stuff. And, so, I
2 don't expect to do so in this case. But, you know,
3 there's been some serious issues raised about it, in
4 particular, you know, the Historic District of Rumney.
5 And, I don't know what's going to be in that form. So,
6 it's difficult to -- I don't want to waive the rights
7 right now, but I'm just giving you some of the information
8 that you asked for.

9 MR. CHERIAN: Can I suggest that maybe
10 we clarify what a PAF is and what it includes? And, I
11 don't want to put Nadine on the spot, but you know far
12 better than I do. It's not an effects analysis, it's not
13 an analysis of impacts. It's a documentation of
14 properties, it's a documentation of the context, historic
15 context of a region. It's essentially a background
16 document on the area of potential effects, which would be
17 the area within a three mile radius of any turbine that
18 are where they're visible. Is that relatively correct?

19 MS. PETERSON: It's a phased approach.
20 And, again, as you noted, we are following the Section 106
21 process, which is a federal process. But these are DHR
22 guidelines. And, the Project Area Form is a larger
23 document that provides that historic background. And, it
24 guides the next phase, which is intensive survey of

1 historic resources. So, it may not identify every
2 historic resource within this 3-mile area or within the
3 visible area, but it lays out a framework for that
4 intensive survey that would be the next step in the
5 process.

6 MR. IACOPINO: And, I know that the
7 problem that is always presented to the Site Evaluation
8 Committee is that usually the historic review process is
9 something that exceeds the time frame in which an
10 application is considered and ruled upon. And, there's
11 actually a portion of RSA 162-H which permits delegation
12 to, for instance, the Division of Historic Resources, in
13 those instances where an agency's process exceeds the
14 scope of time allowed for the Site Evaluation Committee to
15 issue an order.

16 But, in the past, in other cases, we've
17 also been -- I shouldn't say "we", I think the Committee
18 has been fairly comfortable about where the applicant was
19 in that process. And, usually, we've been at a place
20 where there's been -- the reports that we have received is
21 that a Project Area Form has been accepted by the Division
22 of Historic Resources and is under review by them. And,
23 there may be mitigation that's necessary in the future,
24 but it's something that can be delegated out to the

1 Division of Historic Resources to resolve, if and when it
2 occurs.

3 In this case, I think that part of the
4 issue is that it's a -- where the project -- the original
5 Project Area Form was returned by DHR, I mean, I can't
6 speak for the Committee members, but it seems that this
7 particular docket -- this particular project is in a
8 different place than most of the other projects that the
9 Site Evaluation Committee has ever considered. And,
10 that's why there's a suggestion that this may need to be
11 done on a separate track, understanding that it's a longer
12 process.

13 So, that's, I mean, I just want to put
14 it sort of in context. I will point out that, you know,
15 the Applicant is going -- I mean, you say you're "not sure
16 that the PAF is a required part of the Site Evaluation
17 Committee process", it's not. We don't have a rule that
18 says "you have to have a Project Area Form filed" at all.
19 And, I suppose you could go forward at your own risk, in
20 terms of whether or not you believe that what you have
21 provided, you know, satisfies the statutory standard with
22 respect to historic sites. You know, and that's sort of
23 the flip-side of this whole issue. If, for whatever
24 reason, whether another Project Area Form is not accepted

1 by DHR or some, you know, the Applicant just wants to go
2 forward on the basis of what they have -- have done, I
3 assume that that's a certain amount of risk that the
4 Applicant is willing to accept with respect to a
5 particular issue.

6 MR. CHERIAN: I think we intend to
7 submit the Project Area Form to the Committee.

8 MR. IACOPINO: Okay. All right.

9 MR. ROTH: Well, that's something --

10 MR. IACOPINO: Well, then, and that
11 raises the exact issue that Peter is quite concerned
12 about.

13 MR. ROTH: Yes. I'd like, if that's
14 going to be the case, then it should be by a date certain.
15 And, we should have an opportunity to have a session like
16 this afterwards, to discuss whether there are discovery
17 issues that come out from that.

18 MR. IACOPINO: But, so far, you believe
19 it will be in January.

20 MR. CHERIAN: Yes.

21 MR. IACOPINO: Do you know early? Late?
22 End of month? Beginning of month? I mean, --

23 MR. CHERIAN: I'll say "mid January".

24 MR. IACOPINO: Are you comfortable -- I

1 don't want to put words in your mouth either. Are you
2 comfortable with that, mid January?

3 MR. CHERIAN: Yes.

4 MR. IACOPINO: All right.

5 MR. CHERIAN: Not, you know, in stone.
6 There's additional field work and research that they're
7 working on now, and that is in coordination with DHR, is
8 going forward. So, it's an iterative process --

9 MR. IACOPINO: Right.

10 MR. CHERIAN: -- a little bit of, we've
11 looked at some additional information, is this, you know,
12 making sure we're on the same page, I think.

13 MR. IACOPINO: Well, to accommodate
14 Counsel for the Public, that would put us -- that would
15 mean we'd have two weeks in January and the month of
16 February for you to resolve whatever needs --

17 MR. CHERIAN: Well --

18 MR. IACOPINO: Let me finish please.
19 Whatever needs to be resolved, if I understand what you've
20 said correctly.

21 MR. ROTH: Uh-huh.

22 MR. IACOPINO: That, at the most, it's
23 six weeks, it's two weeks for a review. And, if you're
24 going to hire an expert, you're going to need at least a

1 month. So, my understanding is, worst case, you're
2 talking about end of February for the completion of review
3 of the historic issues.

4 MR. ROTH: As long as the form is
5 actually done and provided to the parties by mid January.

6 MR. IACOPINO: And, I would note that
7 you're not without -- you're not totally without some idea
8 of what's going to be in there, because you have what they
9 had originally filed as part of Ms. Luhman's testimony,
10 which albeit was not acceptable to DHR. But I think we
11 can assume that's going to be included within whatever
12 else gets submitted.

13 MR. CHERIAN: Well, my --

14 MR. ROTH: I'm not sure I would make
15 that assumption.

16 MR. CHERIAN: Well, my point in
17 suggesting that we would submit the Project Area Form is
18 it seems like there was a lot of interest in it. You
19 know, alternatively, my understanding of what I would say
20 the normal procedure is, we would submit this to DHR.
21 And, at some point, there would be a letter in the record
22 that says "This has been accepted and is complete and
23 we're moving forward." I mean, doesn't that accomplish
24 the same thing?

1 MR. IACOPINO: Sometimes, sometimes it
2 doesn't. Usually, when that has occurred, lots of times
3 the actual Project Area Form isn't put into the record.
4 But the parties have had it and they have had access to
5 it, and they have been satisfied, usually is what's
6 happened is they have been satisfied.

7 MR. PATCH: Is that true in the Lempster
8 case? I don't remember that it was even in the record in
9 the Lempster case. I think it was -- Lempster was --

10 MR. IACOPINO: I don't --

11 MR. PATCH: It occurred much later, much
12 after the Committee's review.

13 MR. ROTH: I don't remember. That was
14 too long ago. That was a lifetime ago for me. But I
15 think it's fair to say that, given the controversy that's
16 existed over it, I will want to see it. If there's a
17 letter from -- if, instead of the form, there's a letter
18 submitted indicating DHR satisfaction with it.

19 MR. IACOPINO: Well, I guess, but my
20 point is, so, at the outset, though, what we're talking
21 about is, end of February, under Counsel for the Public's
22 estimation of what you would need to complete this
23 process.

24 MR. PATCH: So, that's six weeks after

1 we submit it?

2 MR. IACOPINO: Well, that's what he has
3 said.

4 MR. ROTH: That's at the most. And,
5 that assumes that, after a two-week review period, I
6 determine that I want to hire an expert and conduct
7 discovery on it. I may very well look at it and determine
8 that I don't really need to do any of that stuff. And,
9 then, I'll just, you know, I don't know what that does for
10 the rest of the month of February, but that certainly
11 takes that issue off the table.

12 MR. PATCH: But isn't it basically a
13 federal process?

14 MR. ROTH: I may be satisfied with the
15 filing.

16 MR. IACOPINO: No, we're talking about
17 the state process, okay? Where we recognize that there
18 is, in fact, a Project Area Form is going to have to be
19 completed. And, in essence, for whatever reason, whether
20 it's because of the controversy that's already arisen
21 about the Project Area Form or because other parties, such
22 as Counsel for the Public, believe they need to review
23 that in order to properly address the effect on historic
24 resources. As I understand where we're at is they're

1 requesting that they be given a copy of it, and that they
2 have that six week period at the outset, in a worst case
3 scenario, to do discovery, hire experts, if they deem it
4 to be necessary.

5 Now, from my point of view, and I think
6 from the Committee's point of view, that means that,
7 assuming that would be the last piece of discovery and
8 pretrial stuff to go on, that would be the end of
9 February, and that would fit with having however many days
10 of adjudicative hearings that we're going to need,
11 hopefully sometime in March, and get deliberations over in
12 March as well, so that the Committee can meet its
13 deadline, if -- assuming that deadline remains fast.

14 MR. CHERIAN: Can I ask a question? Is
15 there a -- is there a reason why acceptance of the Project
16 Area Form by DHR and the Army Corps of Engineers would not
17 be acceptable to the parties? If the agencies have deemed
18 it complete and acceptable, would that not be sufficient?

19 MS. LEWIS: It may not, as far as we're
20 concerned, because we would like to see it, and we may
21 want Mike McCann back to testify.

22 MR. ROTH: And, we just heard that it
23 doesn't say anything about the impacts or the mitigation.
24 All it does is identify the scope of the resource that

1 might be impacted, doesn't say what those impacts would
2 be. So, that's the operative question, not -- I mean, or
3 I should say that's half of the operative question. The
4 first half is "what is the historic resource?" And, then,
5 the second is "what are the impacts?" So, I think that
6 that's where the further inquiry really lies, and
7 ultimately what are the impacts. And, really, that's
8 where Professor Luhman's testimony ought to be focused as
9 well.

10 MR. PATCH: Can I just --

11 MR. CHERIAN: Well, that's really
12 something that's done as much by the agencies as by the
13 applicant, in terms of effects analysis.

14 MR. ROTH: But the SEC has a duty, an
15 independent duty to make a determination whether the
16 impacts are unreasonable or not.

17 MR. PATCH: No, that's right. But
18 that's been here since day one. And, so, why do we need
19 additional time to do that? That's been there since day
20 one. If anybody wished to comment, there was a schedule,
21 there were deadlines, testimony could have been submitted
22 to address those issues. All of a sudden there's this,
23 you know, should we extend all those deadlines, if, you
24 know, the Project -- the location of the Project has not

1 changed. I mean, it's the same place that it was when we
2 filed the Application.

3 MS. LEWIS: But we had asked about --
4 questions regarding, in Hope Luhman's report, where she
5 specifically stated that she felt their needed to be more
6 follow-up due to the historical district potential in the
7 Town of Rumney. And, when we've asked about that,
8 everything's been pushed to, you know, the PAF report and
9 the fact that things were being worked on. So, --

10 MR. IACOPINO: I think that, though, for
11 the purposes of procedurally, whatever your beliefs about
12 the substance and whether you have enough evidence or you
13 believe they have enough evidence or don't have enough
14 evidence to meet their standard, the substance is still
15 something that is before the Committee. It's one of the
16 issues that is one of the reasons why we're here today.
17 So, I think that we need to schedule discovery on it. We
18 obviously know there's going to be something else filed.
19 It will be most convenient and practical if we do it with
20 that Project Area -- and whether you believe the Project
21 Area Form is relevant or not, it's most practical if we do
22 our scheduling with that as being the date that starts
23 things. Because, as a practical matter, if we just, Hope
24 Luhman has filed supplemental testimony on November 19th,

1 if all we do is discovery on that, and then you do come in
2 with the Project Area Form, and it is accepted by DHR, I
3 can guarantee you we are going to be hearing that other
4 parties want to review that and do their own analysis of
5 it. Or, vice versa, if it comes in, and there's some
6 problem with DHR with it, the same thing. So, I think
7 that, as a practical matter, it's best to -- let's get
8 this scheduled. I think we have to do it on a separate
9 track. And, you know, because it's a -- it appears that
10 everything is lined up to do discovery on the transmission
11 line and the transformer station issues now. But that the
12 Historic Resources issue is not so lined up, and probably
13 won't be until the middle of January, when you do, in
14 fact, file that. And, obviously, people are going to have
15 to have time to review it. So, --

16 MS. PETERSON: Excuse me. May I clarify
17 the schedule of DHR's review?

18 MR. IACOPINO: Sure. Uh-huh.

19 MS. PETERSON: Because we had indicated
20 to the Applicant that we meet twice monthly, the second
21 and the fourth Wednesdays of the month, to review these
22 types of documents. And, we expect those forms to be in
23 one week prior to those meetings, to be able to have an
24 opportunity to look at it. And, then, after we have our

1 meeting, we will, on this case, try to provide comment
2 within a week after that. So, they're aware of the
3 schedule of the submission and when our review would take
4 place.

5 MR. IACOPINO: So, in January, what are
6 your meeting dates in January for the --

7 MS. PETERSON: I think the 19th.

8 MR. CHERIAN: I didn't bring a calendar.

9 MS. PETERSON: I don't have a calendar
10 with me, but it would be the second and the fourth
11 Wednesdays of the month.

12 MR. IACOPINO: So, when you say "mid
13 January", you mean you're trying to make they're 19th
14 meeting?

15 MR. ROTH: The twelfth and the
16 twenty-sixth.

17 MR. CHERIAN: Well, because, if there
18 was a submission, or we submit it, and then it has to have
19 a certain amount of time for DHR to review it before it
20 goes on the agenda for the Evaluation Committee.

21 MS. PETERSON: So, it would need to be
22 submitted on January 5th --

23 MR. CHERIAN: So, I don't know when --

24 MS. PETERSON: -- or the 19th.

1 MR. CHERIAN: Yes. So, I don't know
2 that it's going to have gone through their evaluation by
3 mid January.

4 MR. IACOPINO: Right. But --

5 MR. CHERIAN: If we submit it in mid
6 January, it's going to be later than that.

7 MR. IACOPINO: But that will occur
8 during this outside process of six weeks. I mean, we will
9 know what DHR's response to it, if any, is within a week
10 or so after they have reviewed it. So, I mean, I think
11 that fits within that time frame, too. And, we should
12 keep that in mind when we schedule tech sessions or
13 discovery. So, --

14 MR. ROTH: Well, I just want to keep
15 sort of a keen eye on the final dates, because the second
16 Wednesday is the 12th, and then the fourth Wednesday is
17 the 26th. So, in order to have it --

18 MR. IACOPINO: The 5th and 19th are the
19 two dates it would have to be filed.

20 MR. ROTH: Right. It would have to be
21 in by the 5th or in by the 19th. So, the idea that it's
22 going to be -- I suppose it can still be submitted on the
23 12th, and be seen on the 26th. Okay. That's fine.

24 MR. IACOPINO: So, I mean, if we use the

1 19th as the date that they submit for review on the 26th,
2 if you're provided with a copy, that shouldn't change your
3 original --

4 MR. ROTH: No.

5 MR. IACOPINO: -- thing. I mean, the
6 only addition we have to sort of that formula is that,
7 within a week or so after the 26th you'll also know what
8 DHR's review turned up. So, you'll have added information
9 from what you were expecting. Okay.

10 So, what I'm going to suggest that we
11 do, and I'd like to have everybody's agreement, if we can,
12 is that, with respect to -- we'll get back to the
13 transmission line in a minute, but, with respect to
14 Historical Resources, that we -- the Applicant will
15 provide a copy of the Project Area Form to all parties by
16 the 19th, which we expect would be the last date that it
17 is filed, that's 01/19/11, I can't -- have to start
18 writing "11" correctly.

19 MR. ROTH: Mike, can I ask you to
20 consider a different -- a slightly different wording?
21 And, that is --

22 MR. IACOPINO: I'm not wed to the
23 wording. I just want to get the calendar down first.

24 MR. ROTH: Yes. That "the Applicant

1 will provide it to the parties when it's filed, but no
2 later than the 19th."

3 MR. IACOPINO: That's fine. That's
4 fine. I just want to get -- right now, I'm just trying to
5 get the broad schedule down, and we can dicker about the
6 actual wording in a minute, okay?

7 That, assuming you get it on the 19th,
8 you have two weeks to review, and then when -- all right.
9 Can you issue data requests in two weeks? Or, do you have
10 a date when you would, assume if --

11 MR. ROTH: Issue data requests by
12 February 4th.

13 MR. IACOPINO: 02/04/11.

14 MR. PATCH: Could we change that, too,
15 and say "by two weeks from whenever it's filed"?

16 MR. ROTH: Yes.

17 MR. IACOPINO: Okay.

18 MR. ROTH: Two weeks from whenever I get
19 it.

20 MR. IACOPINO: Okay. Time to answer
21 data requests, just go by days?

22 MR. CHERIAN: Depends on if we're
23 getting 500 data requests or 10, makes a difference.

24 MR. ROTH: I don't -- I'm not even sure

1 I'm going to do any data requests, but I doubt I'm going
2 to do 500. So, I'm even, as I said earlier, I'm willing
3 to put a cap on the data requests.

4 MR. IACOPINO: Say "25 data requests"?

5 MR. ROTH: Twenty-five data requests.

6 MR. IACOPINO: Okay.

7 MS. LEWIS: To me, it's going to depend
8 on what's in the PAF.

9 MR. IACOPINO: Well, let's --

10 MS. LEWIS: I mean, it depends on how
11 many houses, you know, we think might be impacted and --

12 MR. IACOPINO: Let's do this. Let's
13 limit each party to 25 data requests. If it turns out
14 that you need more, request that relief at the time with a
15 motion. All right. And, I mean, it's similar to what is
16 -- some of the limits are in federal court discovery and
17 things like that. So, and plus you're going to have the
18 benefit of a technical session that will be held, I'm
19 sorry, you didn't -- we didn't get a time period you need
20 to answer.

21 MR. PATCH: Turnaround.

22 MR. IACOPINO: Assume it's 25, 25 data
23 requests from each party.

24 MR. CHERIAN: One week.

1 MR. IACOPINO: One week. So, seven days
2 to answer. Okay. So, where does that bring us? The
3 19th, the 4th, so that brings us to the 11th of February.

4 MR. PATCH: Maximum. I mean, if we can
5 get it in earlier, then it would all --

6 MR. IACOPINO: Right.

7 MR. PATCH: -- be backed up.

8 MR. ROTH: Is there going to be
9 additional testimony filed by Hope Luhman? Should that be
10 --

11 MR. CHERIAN: Along with the Project
12 Area Form?

13 MR. MULHOLLAND: Or at all?

14 MR. ROTH: At all? I mean, I guess --

15 MR. CHERIAN: I think, as we discussed
16 earlier, as part of the supplemental we will be filing on
17 the transformer site, there will be supplemental from all
18 of our experts.

19 MR. IACOPINO: How about on the -- but,
20 with respect to the historic issues that are addressed in
21 the PAF, are you anticipating any further beyond that that
22 you're going to file with regard to the transmission line,
23 --

24 MR. CHERIAN: No.

1 MR. IACOPINO: -- are you anticipating
2 anything further from Hope?

3 MR. CHERIAN: No.

4 MR. IACOPINO: Okay.

5 MR. ROTH: So, there will be no
6 testimony with respect to the PAF or anything else after
7 the 31st of December?

8 MR. CHERIAN: I think that the PAF and
9 the agencies' response or letters to them should be
10 sufficient.

11 MR. IACOPINO: Okay. So, we would be
12 looking then at, well, either the week of the 14th of
13 February for the tech session on historic issues on the
14 Applicant's -- because, by that calendar, you would have
15 your data request answers by the 11th, assuming that we
16 went out to the furthest dates we've talked about, the
17 14th is the next Monday. The week after that is the week
18 of February 21st. My only concern is, is that, if the
19 parties are going to have experts, you know, we need to
20 have discovery going in the opposite direction as well.

21 MR. ROTH: And, I'm willing to commit
22 that I will identify whether I'm going to do that by the
23 date that I do data requests, which would be two weeks
24 from the date I receive the form.

1 MR. IACOPINO: So, at the latest, that's
2 going to be the 11th.

3 MR. ROTH: That would be for me. I
4 can't speak for Ms. Lewis or anybody else, but --

5 MS. LEWIS: Yes. We wouldn't be able to
6 commit until we see what unfolds.

7 MR. IACOPINO: So, two weeks from the
8 11th -- let me just take one party at a time now. So,
9 you're saying "two weeks from the 11th", which would be
10 the 25th.

11 MR. ROTH: "Two weeks from the 11th",
12 what's the 11th?

13 MR. IACOPINO: Well, the data requests
14 would come in on the 11th.

15 MR. PATCH: No. I think he said "two
16 weeks from the time that the PAF is submitted."

17 MR. IACOPINO: Oh. Oh, I'm sorry. Oh,
18 okay.

19 MR. ROTH: Yes. My data requests will
20 be in two weeks from the time that the PAF is provided to
21 me. And, then, I will, at that same time, use that as a
22 limit for the date by which I would seek to retain an
23 expert.

24 MR. IACOPINO: I'm sorry.

1 MR. ROTH: But I hear Ms. Lewis saying
2 that she can't commit to that.

3 MR. IACOPINO: Much time do you think
4 you would need, Ms. Lewis?

5 MS. LEWIS: I think we would need till
6 the tech session to gather all the information, to whether
7 we need to have an expert.

8 MR. IACOPINO: The only thing I'd ask,
9 though, if -- the only thing I would ask is, if you're
10 going to have an expert, I would imagine you would want
11 that expert to participate with you with regard to any
12 data requests that you might issue or at the tech session
13 with you for the purposes of guiding you in the types of
14 information that you would want to be asking of the
15 Applicant's witnesses. So, that it would seem to me that
16 you would want to have your expert before any technical
17 session, for the assistance that he or she can bring to
18 you.

19 MS. LEWIS: I agree with you
20 100 percent, but it boils down to money.

21 MR. CHERIAN: Is there a reason that we
22 must have both data requests and a technical session
23 solely on the Project Area Form that will be submitted to
24 the agencies?

1 MR. IACOPINO: I'm considering this as,
2 this discovery schedule that we're talking about right
3 now, you keep bringing it back to Project Area Form, but
4 I'm just looking at it as this is the discovery on all
5 Historic Resources issues that stem out of this.

6 MR. CHERIAN: Well, we've already done
7 discovery and a tech session on Historic issues.

8 MR. IACOPINO: And, you have. But
9 you've also filed supplemental testimony, and now you've
10 got the PAF coming in.

11 MR. CHERIAN: Right.

12 MR. IACOPINO: So, I think there's
13 substantial additional information, which I think the
14 parties have a right and, in the case of Counsel for the
15 Public, an obligation to review and make sure that their
16 interests are protected with respect for historic sites.

17 MR. CHERIAN: And, I agree. I'm just --
18 I'm questioning whether there's a need -- we could not do
19 either data requests or a tech session?

20 MR. IACOPINO: Well, I think we went
21 through that at the beginning of this conversation, and
22 they're unwilling to forgo either at this point.

23 MR. ROTH: I'm unwilling to waive the
24 data requests, though I may actually waive the data

1 requests. I may not do any. But I think the tech session
2 is something that I've always found to be a useful
3 experience in preparing for the hearing. And, actually,
4 --

5 MR. PATCH: So, you're willing to waive
6 the data requests?

7 MR. ROTH: No, no. I'm saying, "I'm not
8 willing to waive the right to make data requests", I'm
9 just saying "I may not do any." But my experience is that
10 the tech sessions help the Applicant, as well as the
11 parties, because it helps us to understand what you're
12 saying, and to -- gives you an opportunity to explain to
13 us what's going on.

14 MR. CHERIAN: But a tech session is to
15 ask follow-up on data requests. So, if --

16 MR. ROTH: Or a follow-up on the
17 testimony.

18 MR. CHERIAN: If you were not -- if you
19 did not submit data requests, I mean, isn't that -- isn't
20 that the purpose of the tech session?

21 MR. MULHOLLAND: No.

22 MR. ROTH: No.

23 MR. MULHOLLAND: It's not.

24 MR. ROTH: I could do my own

1 investigation, we have testimony that's being filed. So,
2 I don't need to ask data requests to do follow-up at a
3 tech session.

4 MR. IACOPINO: I think the correct
5 answer is it's a subset of the types of questions that
6 would be asked at a technical session. I mean, obviously,
7 you have prefiled testimony that could be asked about,
8 you're going to have a Project Area Form, which I assume
9 will be considered as an exhibit at some point, that there
10 may be questions of your expert about. So, there are
11 other sort of subsets that, if he chose not to ask data
12 requests, he might justify continuing on to a tech session
13 to ask questions about.

14 But I want to get back to the other
15 intervenors, in terms of their position with regard to
16 what you -- what you're telling us is that you won't even
17 be able to be in a position to make a decision as to
18 whether or not you are going to retain an expert until
19 after the technical session?

20 MS. LEWIS: Correct.

21 MR. PATCH: I think that's unreasonable.
22 I think, you know, I mean, if we're just talking again
23 about the PAF being submitted no later than the 19th, you
24 know, Public Counsel has already said "within two weeks".

1 I don't know why, within two weeks, any intervenor
2 couldn't make a decision.

3 MR. ROTH: Can I make a suggestion at
4 this moment, that we take a short break and I confer with
5 Ms. Lewis on this?

6 MR. IACOPINO: Sure.

7 MR. ROTH: Do you mind?

8 MR. IACOPINO: I think that might be a
9 good idea.

10 MR. ROTH: Okay.

11 MR. IACOPINO: Does anybody got any
12 objection on that?

13 (No verbal response)

14 (Whereupon a recess was taken at 11:01
15 a.m. and the prehearing conference
16 reconvened at 11:11 a.m.)

17 MR. IACOPINO: Okay. Why don't we go
18 back on the record. Did that caucus help at all, Mr. --

19 MR. ROTH: I don't know.

20 MR. IACOPINO: Ms. Lewis.

21 MR. ROTH: I'll let Ms. Lewis speak to
22 that.

23 MS. LEWIS: Yes.

24 MR. IACOPINO: Okay. If you could fill

1 us in on what your position is now then.

2 MS. LEWIS: I will adjust my thoughts a
3 bit, to February 4th, when we would be able to commit to
4 possibility of hiring a witness -- I mean, an expert.

5 MR. PATCH: Can we just be clear,
6 though, that, I mean, February 4th, as I see it, is two
7 weeks from the 19th, right?

8 MS. LEWIS: Correct.

9 MR. PATCH: And, I think what we've been
10 saying all along is "two weeks from the time when the PAF
11 is submitted." If, by some chance, it gets submitted
12 earlier, then we're still talking two weeks from the time
13 the PAF is submitted. Can we just be clear about that?

14 MS. LEWIS: I would still prefer
15 February 4th, only because originally we thought that it
16 was going to be one month from December 3rd that it was
17 going to be submitted. And, now, it's, instead of
18 January 3rd, it's later.

19 MR. ROTH: Well, I'll just propose, what
20 I think, for me, to do it within two weeks of the date
21 that I receive it is, you know, reasonable. And, I would
22 support her request to do the 4th, even if it is in
23 earlier, to give her an extra week or so.

24 MR. IACOPINO: Well, with both of you,

1 then we have to determine when you're, assuming that you
2 hired an expert, when that expert's testimony --

3 MR. ROTH: Testimony.

4 MR. IACOPINO: -- would be required.

5 And, actually, I think one thing that we can consider is,
6 when we look at this tech session, is if we have both
7 experts, both side's experts' testimony filed, perhaps we
8 can have one tech session with both side's experts there.

9 MR. ROTH: Uh-huh.

10 MR. IACOPINO: I think that might be a
11 more efficient way to deal with the issue. So, let's talk
12 with Counsel for the Public, you're talking about an
13 expert within two weeks of at the latest the 19th. And,
14 so, when do you anticipate you could have expert
15 testimony?

16 MR. ROTH: It would be -- it -- eh, I'm
17 sorry. I know that's very inarticulate. I'm thinking two
18 weeks from the time that I make that determination. I'm
19 trying to keep this tight, and yet be fair to myself.
20 That two weeks is, let's say, three weeks, I'll do three
21 weeks. So that, if I have -- let's say that I have the
22 PAF by the 12th, and then by the 26th I identify the
23 expert, and 2, 9 -- the 16th would be my date for filing
24 testimony.

1 MR. IACOPINO: What's the date?

2 February 16th?

3 MR. ROTH: February 16th would be three
4 weeks from the 26th.

5 MR. IACOPINO: That would also give your
6 expert three weeks, Ms. Lewis.

7 MS. LEWIS: The 25th? Which would bring
8 mine to the 25th?

9 MR. IACOPINO: Right. So that we would
10 have all expert testimony in by the 25th. Would the
11 Applicant -- the Applicant will obviously want to issue
12 some data requests. Do you have a suggested date,
13 Mr. Patch?

14 MR. PATCH: I mean, obviously, we're
15 doing everything we can to try to keep the schedule short.

16 MR. IACOPINO: If you want to forgo
17 them, that's fine, too.

18 MR. PATCH: This is lengthening it out
19 much further than we anticipated. So, we didn't see why
20 there was any need for experts on the DHR issue.

21 MR. IACOPINO: It's also stepping into
22 the area where I think we need to be having adjudicative
23 proceedings, too. So, --

24 MR. PATCH: Right.

1 MR. IACOPINO: But, you know, --

2 MR. PATCH: Is there any way to cut it
3 back from the 25th? That just seems like that's really
4 pushing it way out.

5 MR. CHERIAN: That's very late.

6 MR. PATCH: Yes. I mean, we're trying
7 to be reasonable, but --

8 MR. IACOPINO: Well, let's address it
9 this way. How long do you think you would need to get
10 data requests out?

11 MR. PATCH: We could turn them around in
12 less than a week, I would think, if we had to. But --

13 MR. CHERIAN: It depends on what we're
14 looking at.

15 MR. PATCH: But we don't know what's
16 going to be submitted.

17 MR. IACOPINO: So, one week from receipt
18 of the testimony. And, I know this is bad on -- it's
19 strenuous for the experts, but we have been basically
20 getting answers to data requests back in a week.

21 MR. ROTH: Uh-huh.

22 MR. IACOPINO: So that, I mean, if we
23 did that, the answers in one week, that has us having a
24 tech session two weeks after the 25th at the latest, which

1 is mid March.

2 MR. ROTH: March 11th.

3 MR. PATCH: That's way too late. I
4 mean, that's just --

5 MR. IACOPINO: And, I agree from the
6 scheduling standpoint of the adjudicatory. So, we're
7 going to see if we can't -- if there is anything we can't
8 cut out in the middle there, if my calendar will work
9 here.

10 MR. PATCH: I mean, the way you started
11 I thought made sense, which was to back up from April and
12 you backed up, and you had had late February/early March
13 for the adjudicatory proceedings. If we started that way,
14 and then sort of backed up into some deadlines from that
15 perspective, I think it would make more sense.

16 MR. ROTH: I don't remember --

17 MR. PATCH: This way we're sort of just
18 looking to extend it as far as we can.

19 MR. ROTH: I don't recall him ever
20 saying "late February/early March for the adjudicatory".

21 MR. PATCH: I --

22 MR. ROTH: He said "any time in March
23 would be" --

24 MR. IACOPINO: Well, look. Let's not

1 argue about what I said. My point of view is that I need,
2 from the Committee's perspective, I need the entire
3 adjudicatory and deliberative process done by
4 approximately April 1st.

5 MR. ROTH: Right.

6 MS. LEWIS: Uh-huh.

7 MR. IACOPINO: So, obviously, everybody
8 can take what that would mean for when those hearings
9 would be. But, you know, --

10 MR. ROTH: Oddly, there are almost five
11 business weeks in March this year.

12 MR. MULHOLLAND: That's true.

13 MR. IACOPINO: Extra paycheck that week
14 -- that month.

15 MR. ROTH: I understand that that
16 actually -- there's like the 2011 is a particularly budget
17 year for the state, because there's an additional payroll
18 in the year to balance out.

19 MR. PATCH: Fifty-seven?

20 MR. ROTH: Yes.

21 MR. PATCH: I mean, twenty-seven?

22 MR. ROTH: Twenty-seven payrolls. It's
23 a huge -- it's a fairly significant additional budget
24 item.

1 MR. PATCH: And, here it is.

2 MR. IACOPINO: Well, I think, can we
3 talk about these dates and set as a goal having the tech
4 session, let's talk about on February 28th, just for a
5 date, okay? I'm not saying that will be the date. But
6 having the tech session for Historic Resources be
7 February 28th. All right. How does that affect, what
8 would we have to move in order to make that work? Any
9 suggestions? Mr. Roth.

10 MR. ROTH: I would suggest moving the
11 deadline for intervenors' expert on Historic Resources to
12 the 18th.

13 MR. IACOPINO: Okay. Mr. Patch, between
14 the 18th and February 28th, is that -- I'll get to you in
15 just a minute, Ms. Lewis, is that something that you could
16 resolve any --

17 (Multiple parties speaking at the same
18 time.)

19 MR. CHERIAN: Then, we would need time
20 to review that testimony, submit data requests, get
21 responses to data requests, and then the tech session, in
22 one week or so?

23 MR. IACOPINO: Ten days.

24 MR. CHERIAN: I guess I don't understand

1 why, DHR is going to review and provide comments within a
2 week or so, but the other parties need two, three or four
3 weeks?

4 MR. IACOPINO: Well, it's only the
5 intervenors who don't have the benefit of a State budget,
6 which is as I understand their position. Is they don't,
7 you know, they don't have the ability to, either the time,
8 because they have day jobs, or the money to get it done.
9 And, I mean, that's where we're trying to accommodate
10 them, as we should, to the best of our ability. And, I
11 guess the question is is, if it can't be done, it can't be
12 done. If it can, we should.

13 MR. ROTH: Well, to echo Mr. Cherian's
14 own argument, maybe he doesn't need both the tech session
15 and data requests for the intervenors or the Counsel for
16 the Public's --

17 MR. IACOPINO: But there's no reason to
18 ask them to waive what the other parties --

19 MR. CHERIAN: So, you would like it, but
20 not me. That's very -- that's very Christmassy of you.

21 MR. ROTH: That argument works for you,
22 it might as well work for me, too.

23 MR. IACOPINO: Okay. Well, look, we're
24 not going to do that. We're going to try to set some data

1 requests and, you know, so, let's just keep focused here.

2 MR. CHERIAN: I can't see how we could
3 submit data requests -- review the testimony, submit data
4 requests, and get responses, in ten days.

5 MR. IACOPINO: All right. If you had an
6 expert report on the 8th -- 18th, I'm sorry, could you
7 have data requests --

8 MR. ROTH: What if you moved the tech
9 session to the end of that week?

10 MR. IACOPINO: Well, that's what I was
11 looking at.

12 MR. ROTH: March 4th.

13 MR. IACOPINO: Yes. Do you think you
14 could get your data requests in by Tuesday, the 22nd?

15 MR. CHERIAN: On the testimony we got on
16 the 18th?

17 MR. IACOPINO: Yes. Gives you a weekend
18 and Monday and Tuesday.

19 MR. CHERIAN: Okay. And, I think
20 there's quite a disconnect between the time that we're
21 allowed and the time that the --

22 MR. IACOPINO: It's four days, instead
23 of seven. I'm just looking to -- I mean, it's four days
24 instead of the seven, which went the other way.

1 MS. LEWIS: The difference is a hired
2 staff.

3 MR. CHERIAN: I thought we had two weeks
4 in the schedule for -- from the time the PAF was provided
5 to the parties and the time the data requests are
6 submitted to us?

7 MR. IACOPINO: That's what you had.

8 MR. CHERIAN: So, two weeks compared to
9 three days?

10 MR. IACOPINO: I'm just asking if it can
11 be done.

12 MR. CHERIAN: I think there's got to be
13 more compromise. I mean, I think --

14 MR. PATCH: I mean, can we cut back --

15 MR. CHERIAN: I mean, we can do --

16 MR. ROTH: Well, the other --

17 (Multiple parties speaking at the same
18 time.)

19 MR. IACOPINO: One at a time please.

20 MR. CHERIAN: I think we should have
21 some compromise where we get roughly, you know, something
22 a little more fair in terms of the amount of time that's
23 allowed. Because, you know, two weeks to three days I
24 think is really not very equitable.

1 MR. PATCH: Can we cut back on the two
2 weeks for everybody else to make it ten days, and then
3 maybe expand ours to seven days or something that makes it
4 more equitable?

5 MR. IACOPINO: How does that work for
6 you, Peter?

7 MR. ROTH: I don't even understand it.
8 But what if we move it --

9 MR. IACOPINO: Well, I think what the
10 Applicant is saying is, if we took -- if the PAF is filed,
11 instead of having two weeks to retain an expert and issue
12 data requests, --

13 MR. ROTH: No.

14 MR. IACOPINO: -- that you do it in ten
15 days?

16 MR. ROTH: No. I mean, that's, for me,
17 to find an expert and get them to think about this, and to
18 think about what the testimony -- what the documentation
19 says in two weeks is already at a very bare bones minimum.
20 I mean, you know, I, too, have another job. And, I guess
21 what I would, you know, we're still -- we've got five
22 weeks in March with nothing in it yet. And, I'm
23 thinking --

24 MR. IACOPINO: There's going to be

1 something in those weeks, though.

2 MR. ROTH: Right. I'm thinking --

3 MR. IACOPINO: And, it's likely going to
4 be some adjudicative proceedings and some deliberative
5 proceedings.

6 MR. ROTH: Right. But I'm thinking, you
7 know, maybe the answer -- we should start thinking about
8 how much adjudicative we're going to need, and I'm
9 thinking like two days at the most, and probably less.
10 Because, you know, I'm trying to not waive anything and
11 reserve my rights, but I want to be practical and
12 realistic, I do not really expect to be hiring an expert
13 on Historic Resources issues. But I just can't let go of
14 that at this point. So, I'm thinking that we have two
15 days for hearings at the most, probably only one, and, you
16 know, put it right together with the deliberation the next
17 day.

18 MR. IACOPINO: I'm thinking I have to
19 reserve at least four days, and I would like to do them
20 four in a row; two days for adjudicative, two days for
21 deliberative, to give the Committee the time that they
22 need.

23 MR. ROTH: But, if you were to take the
24 week of the 21st and the week of the 28th and tell your

1 Committee "give me four days in there", that should be
2 adequate, and that gives us another three weeks in March
3 to move around with tech sessions and data requests and --

4 MR. IACOPINO: Also what you're giving
5 up in doing that, though, is any time to file post hearing
6 memoranda and to get a transcript, you know. So --
7 although, we do have the transcripts from the first
8 portions --

9 MR. ROTH: We have most of the
10 transcripts already.

11 MR. IACOPINO: From November 1st through
12 5th.

13 MR. PATNAUDE: You have all of them.

14 MR. IACOPINO: I think we have them all
15 now, yes. I think we've got them all. So, it's just the
16 two days we won't have the transcript to use for
17 deliberation, which, if it's -- the deliberation is
18 scheduled close enough in time, that's probably okay by
19 the Committee. But, if we do that, there will not be any
20 post hearing memoranda, unless you guys want to file it
21 before the upcoming testimony.

22 MR. ROTH: Well, I would say that, on
23 the post hearing memoranda, most of the evidence is
24 already in, and there's -- we could all start writing the

1 post hearing memoranda on everything but these two days
2 right now, in theory. Whether I actually do that is
3 another question, but that's the idea. So, we don't need
4 a lot of time to work on post hearing memoranda after the
5 close of the evidence.

6 MR. IACOPINO: Let's see. Well, let me
7 just throw out some dates here to sort of end this, and
8 it's going to be longer than I want to see this. But the
9 intervenors designate an expert by the 18th, and provide
10 expert testimony by a week later, which is the 25th.

11 MR. ROTH: I thought you -- you mean, is
12 that February?

13 MR. IACOPINO: February 18th.

14 MR. ROTH: The intervenor already agreed
15 to identify an expert by the 4th.

16 MR. IACOPINO: Oh. I'm sorry. Okay.
17 And, so that we would need, okay, answers to the data
18 requests are due not later than the 11th. So that we
19 would then be looking at expert testimony from the
20 intervenor by the 18th. So, it gives them two weeks to
21 prepare, including one week with the answers to data
22 requests. Am I correct on that?

23 MR. PATCH: So, just so we're clear, you
24 said they "commit to hiring a witness by February 4th".

1 MR. IACOPINO: Right.

2 MR. PATCH: And, data requests again?

3 MR. IACOPINO: Well, see, your answers
4 to their data requests are due not later than February
5 11th on our present schedule. So that -- and, that's a
6 Friday. So that we're, in effect, giving them a week to
7 have their experts' testimony. Because the next step
8 after that is your data requests and answers to those, and
9 then scheduling of a tech session for all of the Historic
10 Resources experts. Which I'm looking at, if we can do
11 that by March 4th, I don't know if it's possible, but, if
12 we can, that's reasonable. It's still longer than I would
13 like, but -- so that, if you had their expert testimony on
14 the 18th, if you had data requests out to them by the
15 25th, and, actually, it would be answers by the 4th, and a
16 tech session on the 7th, would be the way that I would be
17 looking at that. Understanding that adjudicative
18 proceedings are likely to begin as early as later that
19 same week.

20 MR. PATCH: So, like the 10th and 11th?

21 MR. IACOPINO: Maybe. I don't know.

22 MR. PATCH: I think --

23 MR. IACOPINO: Between the 10th and the
24 1st I've got to round up 15 -- well, not 15, I've got to

1 round up the Subcommittee, and can probably do that.

2 MS. LEWIS: I'm sorry, what date did you
3 say the tech session again?

4 MR. IACOPINO: March 7th, is a Monday.

5 MS. LEWIS: Okay.

6 MR. IACOPINO: And, of course, I haven't
7 checked any of this for holidays or anything like that,
8 because Martin Luther King Day is in there somewhere.

9 MR. MULHOLLAND: In January.

10 MR. IACOPINO: That's in January? Okay.
11 So, that's not really affected by this schedule. There
12 is, obviously, doesn't affect me as much anymore, but
13 there's a week off from school in February, depending upon
14 where you live in the state determines which week it is.

15 MR. ROTH: Probably the week of the
16 21st?

17 MR. IACOPINO: Probably, but I'm not
18 sure. That works for the Applicant?

19 MR. CHERIAN: If I understand the dates,
20 because we had a lot of cross-talking, but I think I --

21 MR. IACOPINO: Okay. All right. Let me
22 just go over the complete schedule that we've now
23 discussed regarding the Historic Resource issue. A
24 Project Area Form is intended to be filed by mid January,

1 and by the date that we've figured, when Ms. Peterson was
2 here, that the latest that that would actually be filed is
3 January 19th at the latest. Okay? At the time that's
4 filed with the Division of Historic Resources, it would
5 also be copied to the parties in this case. Okay? The
6 parties will have two weeks to review that and file data
7 requests, and the Applicant will also identify its expert
8 at that time. So that two weeks would be by February 2nd,
9 I guess. Because, if the 19th is the latest that it's
10 filed, the latest that you would be identifying people
11 would be February 2nd. And, that's also the latest date
12 that you would file your data requests. Okay?

13 I know we said the "4th" before, because
14 we were working off of Fridays, but the 19th is actually a
15 Wednesday. So, --

16 MR. ROTH: Uh-huh.

17 MR. IACOPINO: Okay? The answers to the
18 data requests would be due within seven days, which would
19 mean not later than February 9th. Okay. The intervenors
20 would designate their expert, if any, by February 4th.
21 You know what, Peter, we never put in an expert testimony
22 from you guys, but we have expert testimony from
23 intervenors' expert by February 18th -- or, the 16th.

24 MR. CHERIAN: Sixteenth.

1 MR. ROTH: I had proposed --

2 MR. CHERIAN: The 16th.

3 MR. ROTH: -- the 16th.

4 MR. IACOPINO: The 16th? Okay. So, the
5 16th for Public Counsel, and the 18th for the other
6 intervenors.

7 MR. PATCH: Is there any reason why they
8 can't be on the same day?

9 MR. IACOPINO: I think it was just what
10 they were looking for --

11 MR. ROTH: Sure. I'll do mine on the
12 18th.

13 MR. IACOPINO: Well, they're actually --
14 I mean, I don't think it makes much --

15 MR. PATCH: You're so accommodating
16 today, Peter.

17 MR. IACOPINO: It doesn't make much
18 difference, does it?

19 MR. ROTH: I was just teasing you.
20 That's not up to me.

21 MR. IACOPINO: The thing is, is what
22 happened is the only thing that changed is we were -- I
23 think we thought everything was getting filed on Fridays,
24 when, in fact, it was on Wednesday, because the first day

1 we thought it was a Friday that it was getting filed. But
2 so that that week, by the 18th, you'll have the testimony
3 of both experts, assuming they have that, assuming they
4 have experts. Your data requests will go to them by
5 February 25th; answers by March 4th; tech session, March
6 7th.

7 Are you available March 7th, Mr.
8 Patnaude?

9 (Court reporter indicating that he is
10 available, if necessary.)

11 MR. IACOPINO: I'm not sure we'll need
12 you. But do we have agreement on that schedule?

13 MR. ROTH: Sounds okay to me.

14 MR. IACOPINO: Ms. Lewis?

15 MS. LEWIS: Yes. Reluctantly, but, yes.

16 MR. IACOPINO: Town of Groton?

17 MR. SINCLAIR: We're good.

18 MR. IACOPINO: Okay. Applicant?

19 MR. PATCH: Well, just to be clear, this
20 is just on the DHR issue, right?

21 MR. IACOPINO: Yes. I think the other
22 issues are going to be completed before this, based upon
23 what we discussed earlier, which we'll get back to. But
24 this, obviously, has turned out to be the more sort of

1 "influx" issue, because the dates aren't exactly set.

2 MR. PATCH: Right. And, then, we were
3 talking about adjudicatory hearings like the 9th, the 10th
4 maybe?

5 MR. IACOPINO: Yes. But I can't commit
6 to any particular dates. Like I said, I am going to ask
7 the Committee for four dates; two to complete the
8 adjudicative process, and, if we can -- and two to
9 complete the deliberative process. If we can, given the
10 schedule, if we can work in time for filing of a
11 memorandum, we'll do that. But I can not imagine you'll
12 have the final day or two days of adjudicatory transcripts
13 in time for the filing of that memorandum, given of how
14 we're compressed into March. And, it may just be that
15 it's only the Historic Resource issue that's not
16 addressed, and maybe you can get oral argument on that
17 particular issue.

18 MR. PATCH: No, that's right. I mean,
19 Peter's suggestion before that most of the issues have
20 already been addressed. So, if there was some earlier
21 point in time to do a memorandum, and then just whatever
22 needed to be done to supplement that, because of the
23 issues that were going to come up at those adjudicatory
24 proceedings would seem to make sense.

1 MR. IACOPINO: For the benefit of all
2 the parties and for the convenience of the Committee,
3 because I think memorandums do help them, you know, I
4 would like to give you the time between the final day of
5 adjudicatory and when they start their deliberations, if
6 we can, okay? So, right now, if that last tech session is
7 on the 7th, that's the last thing that has to be done
8 beforehand, it is possible that we might have two days of
9 adjudicatory hearings one week and then two days of
10 deliberations next week, and have you file something in
11 the interim, or perhaps even two weeks in between,
12 depending upon where we wind up with dates.

13 MR. PATCH: Yes. But what about the
14 bifurcation issue, which is I think what Peter was saying,
15 if I understood you correctly? Bifurcate, sort of a memo
16 on all the issues that have already been addressed
17 sometime before then?

18 MR. IACOPINO: That's fine. But I would
19 like to give you the opportunity to address all of the
20 issues, if need be. Or, we could do it that way, by
21 having a memorandum due, you know, at the end of the
22 adjudicatory proceedings for everything that's occurred
23 before, and then a follow-up memorandum. Although, --

24 MR. ROTH: Uh-huh.

1 MS. LEWIS: That's hard for us.

2 MR. IACOPINO: Yes. Just in terms of
3 ease, I think it would be probably easier even for you all
4 to just have one memo done, you know.

5 MS. GEIGER: I agree.

6 MS. LEWIS: Uh-huh.

7 MR. IACOPINO: I mean, I don't know.
8 Let's -- the biggest problem that I have at that point is
9 the schedules of the Committee.

10 MR. PATCH: Yes.

11 MR. IACOPINO: And, that's going to be
12 pretty much the defining factor on whether there's going
13 to be an opportunity. If there's not going to be an
14 opportunity, and it turns out that, because of the
15 schedules of the Committee members, we have to go from
16 adjudicatory, directly into deliberations, I will
17 recommend that the Chairman issue a date before the
18 adjudicatories for --

19 MR. PATCH: Okay.

20 MR. IACOPINO: -- final memoranda on
21 whatever it is that you can address and that you can brief
22 --

23 MR. PATCH: At that point.

24 MR. IACOPINO: -- at that point in time.

1 And, obviously, we'll ask him and recommend that he
2 provide you time to sum up on the issues that are not
3 adequately presented at that point.

4 MR. PATCH: Okay.

5 MR. ROTH: That's fine.

6 MR. IACOPINO: Okay. Now, we have to go
7 back to the transmission line issues. And, when I say
8 "transmission line", I mean -- I mean the alternate line
9 on-site or leaving the site, the Route 25 issue, the
10 step-up transformer issue. Okay? Before we had sort of
11 switched over to the Historic Resources --

12 MR. PATCH: Mike, can I just say one
13 more quick thing, I mean, and Susan is here now, but that
14 week beginning the 14th of March, if there is any way not
15 to schedule the adjudicatory proceedings that week --

16 MS. GEIGER: I will not be available
17 that week, so I don't --

18 MR. PATCH: I mean, we talked about the
19 week before trying to schedule them, and I know it's
20 subject to the schedules of the Committee members.

21 MR. IACOPINO: I was wondering why you
22 were -- kept focusing on the 9th. I will see what I can
23 do, you know.

24 MR. PATCH: Okay. Thank you.

1 MR. IACOPINO: And, it's that whole week
2 that you're gone, Ms. Geiger?

3 MS. GEIGER: Yes. Yes.

4 MR. PATCH: And, for the record, Susan
5 Geiger has appeared.

6 MS. GEIGER: And, I apologize for being
7 late. But, as we all discussed at the last time we were
8 all together, folks knew that I would not be able to make
9 it at 10:00.

10 MR. IACOPINO: Yes. I'll tell you, my
11 -- 22nd through the 25th I have pretty clear, but that's
12 just me, and my schedule really doesn't mean much. I'm
13 usually having to move it around anyway.

14 Let's get back to the transmission line
15 issues, though. Before we had agreed that or we had been
16 informed that the Applicant intended to have additional
17 testimony and identification, including the identification
18 of the location of the substation or step-up transformer
19 station, whatever phrase you all want to use, by the end
20 of year, which would be January 31st.

21 MS. GEIGER: No.

22 MR. CHERIAN: December 31st.

23 MR. IACOPINO: I'm sorry, December 31st.
24 Jeez. If I'm not getting ahead of myself, I'm getting

1 behind. We also talked that the parties could have data
2 requests based upon that testimony by January 14th, and
3 the identification of experts, if any, on those issues.
4 We had gotten to the point where the answers to the data
5 requests would be required by January 21. Okay. So that
6 the next step would be the expert testimony from counsel
7 for the public and intervenors' experts, if any. And, so,
8 I'll look to you, Peter. What is your estimate of a date
9 that would best fit for that? You will have answers to
10 your data requests on January 21.

11 And, by the way, just backing up for a
12 minute, the tech session on March 7th on Historic
13 Resources, all parties that have experts will be expected
14 to have their expert present for that hearing. If you're
15 going to need to do it telephonically, you've got to let
16 me know well in advance. I would prefer, if we can, to
17 have those experts here. I think it works better when
18 they're actually in the room. But, obviously, we'll work
19 around whatever we have to.

20 Okay. Back to transmission lines, sorry
21 about that. Any idea, Susan, because I don't think you
22 were here when we talked about it, is that the tech
23 sessions -- one tech session for each issue, with all of
24 the experts there, and that way we can go back and forth

1 and --

2 MS. GEIGER: I guess I, you know, and I
3 again apologize for walking in late, and I don't want to
4 disrupt any agreements that have been reached thus far and
5 will honor them. But my understanding, in talking to
6 Peter earlier in this process, is that we were going to
7 forgo data requests and just do technical sessions.

8 MR. IACOPINO: That's changed.

9 MS. GEIGER: Okay.

10 MR. ROTH: That's changed.

11 MR. IACOPINO: All right. So, back to
12 the transmission line. So, --

13 MR. ROTH: But, just for Susan's
14 comfort, it doesn't mean that I'm absolutely going to do
15 them. I'm inclined not to. But, having not seen
16 everything that's going to come in, I just wanted to
17 reserve the ability to do so.

18 MS. GEIGER: Okay.

19 MR. ROTH: And, we've also set a limit
20 at -- on the number of data requests at 25.

21 MS. GEIGER: Thank you.

22 MR. IACOPINO: So, if you have answers
23 to data requests from their witnesses by the 21st of
24 January, when can you reasonably have your expert

1 testimony disclosed?

2 MR. ROTH: I would like the 31st.

3 MR. IACOPINO: How about the
4 intervenors?

5 MR. PATCH: Wait a minute. Can we just
6 stop here? We're talking now about expert testimony on
7 the substation issue, is that what we're talking about?

8 MR. IACOPINO: Yes. He indicated that
9 he may seek to retain an expert with respect to that. I
10 don't know if he's going to or not, but --

11 MR. ROTH: I don't know either. I just
12 haven't had a chance to evaluate it.

13 MS. GEIGER: And, if we're talking about
14 the dates by which we would need to disclose experts,
15 Peter, I know that you will need to ask for permission
16 from the Committee to hire. And, so, we need to save
17 enough time between that, you know, in that process, to
18 make sure that --

19 MR. ROTH: Yes. I didn't even -- we
20 didn't even go there with this.

21 MR. IACOPINO: Well, that gives you a
22 whole month.

23 MR. ROTH: What I have, in both cases,
24 you know, basically within two weeks of an operative date,

1 I would identify, and at that point that identification
2 would be in the form of a motion. But I can't, you know,
3 if we said "my testimony isn't due until the SEC approves
4 it", and you don't object, you know, we could be doing
5 this in July, you know? I mean, no slight on the SEC, but
6 it takes them a while to make those decisions, unless we
7 come up with an agreed upon order, which, given our
8 experience last fall, wasn't necessarily that easy, and so
9 -- or, last summer. I mean, I'm --

10 MS. GEIGER: That's why I'm raising it.

11 MR. ROTH: -- trying to be flexible
12 here, in terms of getting all this done in the right
13 amount of time, and hoping that I can, if I do hire
14 experts, which is by no means a certainty, I can get them
15 to start work, you know, on the idea that they will be
16 paid without having assurance of that until we get an
17 order. So, --

18 MR. IACOPINO: Does that change your
19 date?

20 MR. ROTH: No. I'm still going to go
21 with the 31st. But, you know, if I run into a jam on it,
22 everybody will be hearing from me. But that's, you know,
23 the 14th, that would be when I file the motion. And, you
24 know, what I would try to do is, you know, seek assent to

1 that motion from you.

2 MR. IACOPINO: Thirty-first?

3 MS. LEWIS: Yes.

4 MR. IACOPINO: Okay. Okay. So that the
5 expert testimony from Public Counsel and the Intervenors
6 would be due January 31st. How much time would you need
7 to issue data requests to these witnesses, Mr. Patch?

8 MR. PATCH: Seven days.

9 MR. IACOPINO: Okay. So, that's --

10 MR. PATCH: February 7th.

11 MR. IACOPINO: Should be, but let me
12 just double-check. Yes, it's February 7th. And, the 14th
13 for answers to those? And, that would leave us between
14 the 14th and -- and, I guess I'll ask, you don't know,
15 Peter, the Concord school vacation?

16 MR. ROTH: No.

17 MR. IACOPINO: Susan, do you know?

18 MS. GEIGER: It's usually the last week
19 in February.

20 MR. ROTH: But would it start on the
21 28th or would it start on the 21st?

22 MS. GEIGER: Hard to say. Probably --

23 MR. CHERIAN: I think it's on -- it's
24 usually not the same week as Presidents' Day, but they

1 wouldn't run it into March, and I don't have the school
2 calendar.

3 MS. GEIGER: Sometimes they do.

4 MR. PATCH: Yes.

5 MR. IACOPINO: Ms. Lewis, do you know up
6 your way what their school vacation is?

7 MS. LEWIS: I believe ours is the week
8 starting the 28th. So, it does run into March, I believe.

9 MR. ROTH: We should ask the only person
10 in school here. He's counting the days till that comes.

11 MR. PATCH: I've got it starting the
12 28th.

13 MR. IACOPINO: Okay. All right.

14 MR. PATCH: But different school
15 districts sometimes do different weeks.

16 MR. IACOPINO: That's why I'm trying, --

17 MR. CHERIAN: Could be a week off.

18 MR. IACOPINO: -- we've got people from
19 different parts of the state here, so that's why I'm
20 asking. I mean, I don't think it's determinative either.
21 I'm just trying, you know, to the extent people have
22 vacations or something scheduled that week, I would like
23 to accommodate everybody, if we can. But, so, we'll have
24 the answers to data requests due on the 14th. And, we can

1 have a tech session later that week, the following week,
2 which is the week of February 21st. Which is that a
3 holiday?

4 MR. MULHOLLAND: Yes.

5 MS. LEWIS: Yes. Presidents' Day.

6 MR. ROTH: Yes. Presidents' Day.

7 MS. LEWIS: Uh-huh.

8 MR. IACOPINO: Okay. So, the 22nd to
9 the 25th is another opportunity somewhere in there to have
10 a tech session. So, what is Applicant's pleasure?

11 MR. PATCH: And, this would be tech
12 session for our witnesses and any other witnesses, right?

13 MR. IACOPINO: Yes. All witnesses on
14 the alternate transmission line and step-up station.

15 MR. PATCH: I would think the sooner the
16 better, probably.

17 MR. CHERIAN: It's a little harder to
18 do, because we've got five or six experts on that, as
19 opposed to just Ms. Luhman.

20 MR. IACOPINO: Well, let's pick a couple
21 of dates. How is the 18th? That's a Friday. All right?

22 MR. ROTH: Speaking for the intervenors,
23 which they're free to do themselves, but that's the day
24 their testimony would be due.

1 MS. LEWIS: Yes.

2 MR. IACOPINO: All right. Why don't we
3 say the --

4 MR. ROTH: And, I would expect they
5 would have a hard time being in two places at one time.

6 MR. IACOPINO: How about if we said the
7 25th, which is the last Friday in February, and --

8 MR. CHERIAN: And the day that our data
9 requests are due.

10 MR. IACOPINO: Well, --

11 MR. ROTH: How about we just --

12 MR. IACOPINO: -- you can bring them
13 with you and turn them over.

14 MR. MULHOLLAND: Perfect.

15 MR. CHERIAN: We were okay with the
16 18th.

17 MS. LEWIS: That's tough for us. How
18 about the 23rd or something in that --

19 MR. IACOPINO: All right, the 23rd.
20 That's fine. I mean, what I'm trying to do is just try to
21 set a date. And, maybe, if it's possible that --

22 MR. MULHOLLAND: I can't do that day.

23 MR. ROTH: You can't do that day?

24 MR. MULHOLLAND: Can you do it?

1 MR. ROTH: As far as I know.

2 MR. IACOPINO: How about the 24th?

3 MR. ROTH: Or the 22nd, because they
4 want to do it earlier?

5 MR. MULHOLLAND: I can't do that.

6 MR. ROTH: Well, then, you're out of
7 luck. So, then, the 24th -- the 23rd works okay.

8 MR. CHERIAN: Yes, on the 23rd?

9 MR. IACOPINO: Is that okay with you
10 all?

11 MR. CHERIAN: We will check with our
12 witnesses for the 23rd.

13 MR. IACOPINO: All right. Let's try to
14 get it set for the 23rd. If there's any problems, let me
15 know.

16 MS. LEWIS: Could we have any of the
17 tech sessions in Plymouth?

18 MR. IACOPINO: Do you have any objection
19 to that?

20 MR. ROTH: None whatsoever.

21 MR. IACOPINO: Do you guys have any
22 objection? I got to find a place, but --

23 MR. CHERIAN: I have no problem with it.

24 MR. IACOPINO: All right.

1 MR. ROTH: Town Hall?

2 MR. MULHOLLAND: Tenney Mountain
3 cafeteria?

4 MR. PATCH: It will be very cold.

5 MR. ROTH: During if that's their
6 vacation week.

7 MR. MULHOLLAND: That is closed?

8 MR. PATCH: It's closed, so it will be
9 very cold.

10 MR. ROTH: Oh, it's closed? Wow.

11 MR. SINCLAIR: If you guys need a place,
12 I could probably arrange for the Groton Town Hall, if you
13 want to.

14 MR. CHERIAN: How's the heat? Does the
15 heat work?

16 MR. SINCLAIR: We can turn it on.

17 MR. IACOPINO: Do you have like a
18 conference table or something? Do you have Internet
19 connection?

20 MR. SINCLAIR: Yes. Yes.

21 MR. IACOPINO: I don't have any
22 particular problem with it. Let me work on getting a
23 place, and we'll try to do it up there.

24 MR. CHERIAN: I would suggest that, of

1 the two, we do the Historic one up there, just because
2 it's a fewer number of people.

3 MR. IACOPINO: Is that okay?

4 MS. LEWIS: That's fine.

5 MR. CHERIAN: So, that would be the 7th
6 of March is the date we have for that now?

7 MR. IACOPINO: Yes.

8 MR. CHERIAN: And, we do the other one
9 down here?

10 MR. IACOPINO: Yes.

11 MR. SINCLAIR: And, Mike, if you decide
12 you want to pursue the Groton option, you will contact our
13 office?

14 MR. IACOPINO: Yes, I'll call you. And,
15 in fact, it will probably be my first choice.

16 MR. SINCLAIR: Okay.

17 MR. IACOPINO: All right. I think that
18 resolves most of the scheduling issues. I have a
19 question, because I don't know what the parties'
20 intentions are, with respect to the Fish & Game letter
21 that came in on November 5. I recognize that there's some
22 recommendations in there. I haven't heard too much about
23 it from anybody. I assume the Applicant believes there's
24 nothing else that needs to be done with respect to that.

1 MR. ROTH: When we were here a couple of
2 weeks ago there was a discussion about that, and I thought
3 that the Applicant was continuing to work with Fish & Game
4 to come up with something different. And, I haven't heard
5 anything else about that. Maybe you guys could give us
6 some illumination.

7 MR. CHERIAN: We have been working with
8 Fish & Game to clarify, because we were unclear about some
9 of the recommendations in there.

10 MR. ROTH: Okay.

11 MR. CHERIAN: And, my understanding is
12 that there will be a -- I believe Fish & Game will be
13 providing a clarifying letter on their recommended
14 conditions for post construction.

15 MR. ROTH: Do you know when?

16 MR. CHERIAN: I don't know.

17 MR. IACOPINO: So, in essence, basically
18 not recommending anything different, but clarifying what
19 they mean? Is that --

20 MR. CHERIAN: You know, until they write
21 the letter, I don't think I could talk on their behalf
22 exactly what's in it.

23 MR. IACOPINO: Okay.

24 MR. ROTH: My only issue on it is, I

1 wanted Mr. Lloyd-Evans an opportunity -- to have an
2 opportunity to comment on that, if he thought it
3 appropriate.

4 MR. IACOPINO: Right. And, in our
5 informal meeting, I remember there was some discussion
6 about maybe having him --

7 MR. ROTH: Included.

8 MR. IACOPINO: -- participating in some
9 meeting between --

10 MR. ROTH: Right.

11 MR. IACOPINO: -- the Applicant and Fish
12 & Game. Did that meeting occur?

13 MR. CHERIAN: We had already met with
14 Fish & Game at that point. I think we said that at that
15 meeting.

16 MR. ROTH: Yes. But I thought there was
17 still some willingness on your part to include him in the
18 process or the discussion, because I thought there was
19 still an opportunity for that to occur?

20 MR. CHERIAN: No. I think we had
21 already had the meeting with Fish & Game.

22 MS. GEIGER: I think they had that
23 meeting that morning that we were --

24 MR. ROTH: Uh-huh.

1 MR. IACOPINO: When -- do you have sort
2 of any kind of an estimate of a date from Fish & Game when
3 the clarifying letter is going to be?

4 MR. CHERIAN: I will guess within, you
5 know, a week or two.

6 MR. IACOPINO: No, no. I'm not asking
7 you to guess, Mr. Cherian. What I'm asking is, did they
8 give you any idea when they would give you the letter by?

9 MR. CHERIAN: No. I don't know.

10 MR. ROTH: And, I'll just leave it that,
11 assuming that that letter goes on the docket, you know,
12 I'll ask Mr. Lloyd-Evans, within two weeks, to provide any
13 supplemental comments that he may want.

14 MR. IACOPINO: I mean, I may be getting
15 ahead of everybody with the whole issue. It may be that
16 he's -- that, you know, there's no issue.

17 MR. ROTH: Right.

18 MR. IACOPINO: But I just want to air it
19 right now. And, so, I guess whether it will be incumbent
20 upon the parties that, if there are issues that are raised
21 by any subsequent correspondence from Fish & Game, I
22 assume he's seen this one.

23 MR. ROTH: Uh-huh.

24 MR. IACOPINO: That, you know, and

1 there's going to be issues, bring it up, call me first,
2 talk informally, and I'll bring everybody in, if need be.

3 The other issue is this letter from the
4 Plymouth Selectmen. I really wish Mr. McGowan would have
5 come here, but they have really -- I mean, they have sort
6 of, their issue, as I expressed at the beginning of this
7 meeting, their issue has always been fire safety, and now
8 they have written a letter basically arguing about
9 viewshed and things of that nature. And, I understand
10 that the Applicant may have an objection to that, given
11 the fact that they're a party and they sort of changed --
12 changed the issues that they have been involved in --

13 MR. PATCH: And didn't follow the
14 deadline.

15 MR. IACOPINO: -- since the beginning.
16 Yes.

17 MR. MULHOLLAND: Couldn't the Committee
18 consider that letter as like a brief? I mean, anyone
19 could comment on anything they want, as long as they're a
20 party, right?

21 MR. IACOPINO: They could. But, since
22 they have presented something, I guess I'm inclined to ask
23 the Applicant, is there anything, discovery or anything
24 that you want to do with the Town of Plymouth, based upon

1 having received that? And, I want to give them the
2 opportunity to address it, because it is an entirely
3 different issue. And, correct me if I'm wrong,
4 Mr. Cherian, but, as I see what's in that letter, if what
5 they're talking about is they don't want turbines to be
6 visible from anyplace within their town, that may be a
7 real big issue.

8 MR. CHERIAN: Well, I don't --

9 MR. IACOPINO: Because I think that
10 there's probably several turbines that are going to be
11 plainly visible from Plymouth.

12 MR. CHERIAN: I don't know how to
13 interpret their letter, but I guess I'd start with a
14 question, as to I wanted a clarification on rules,
15 particularly e-mailing members of the Committee directly,
16 and there was something else that came in today, people
17 were e-mailing the Committee directly. And, I wanted to
18 clarify what the rules are for that. And, then, I guess
19 what the -- you know, I view the letter from Plymouth as
20 public comment, since the opportunity to provide
21 testimony, you know, has come and passed on that. So, --

22 MR. IACOPINO: Is that the legal
23 position that you're taking?

24 MR. PATCH: Well, I mean --

1 MR. IACOPINO: Because, if it's public
2 comment, we don't have to do anything more about it. If
3 everybody agrees, it will go in the public comment file --

4 MS. GEIGER: No.

5 MR. PATCH: Except that --

6 MS. GEIGER: I don't think they can file
7 a public comment. That's the point. I think that there's
8 --

9 MR. PATCH: Yes, there's a rule.

10 MS. GEIGER: Go ahead.

11 MR. PATCH: There's a rule, Site 202.25
12 that says "Members of the public who do not have
13 intervenor status in a proceeding" can submit comments,
14 basically. And, they do have intervenor status. They
15 have already submitted testimony. And, now, all of a
16 sudden they submit a letter that looks like testimony, it
17 wasn't done in accordance with the deadlines.

18 MS. GEIGER: We don't know who --

19 MR. PATCH: And, so, I just think it
20 raises a number of due process issues.

21 MS. GEIGER: Right. We don't know who
22 the witnesses are, even if we wanted to do discovery on
23 it. I mean, I thought Mr. Clogston was the only witness
24 from the Town of Plymouth, and now we have the Selectmen

1 --

2 MR. IACOPINO: I don't believe they
3 intend to call any witnesses.

4 MR. ROTH: Could I just, I mean, we
5 don't have the town represented here, and I'm not trying
6 to speak on their behalf, but it seems to me that, if
7 there's an issue over that letter, it probably ought to be
8 with them present and in a hearing specifically convened
9 for that purpose.

10 MR. IACOPINO: It should be, but one of
11 the things that --

12 MR. ROTH: We can't really make a
13 decision about it right here and now.

14 MR. IACOPINO: One thing that I can do
15 here is schedule any kind of discovery, anything that the
16 Applicant may want to do on it.

17 MS. GEIGER: Well, we may not want to do
18 discovery, Mike, I mean, in light of the rule that -- what
19 we might want to do is file a motion to strike it, because
20 it really is improper at this juncture. And, so, we want
21 to reserve our procedural right to do that.

22 MR. IACOPINO: What I -- I'd ask that
23 you make that decision, though, if you're going to file a
24 motion to strike, get it in as soon as possible. Only

1 because, I don't want this issue to be laying out until
2 the end of the case, and then we're going around on it and
3 --

4 MS. GEIGER: Now, if the motion to
5 strike is denied, then it seems to me we should have the
6 right to do discovery on it --

7 MR. IACOPINO: I would think you would
8 address that in your motion, okay? Because --

9 MR. CHERIAN: Can we also ask for a
10 clarification on the direct e-mails to the Committee
11 members, because it's kind of gone on for a while, and I
12 just don't understand what the rules are.

13 MR. IACOPINO: I have not seen any
14 e-mails directly to the Committee, except for one
15 intervenor has a tendency to do that. We've gotten
16 several letters from local residents lately that have gone
17 through Jane Murray, the Secretary, and then she has
18 distributed them to all the parties. Those, as far as I
19 know, have come in properly, and they're treated by the
20 Committee as public comment, which will require, say, even
21 those that are sent directly to members of the Committee,
22 from somebody from the public, not from an intervenor
23 right now I'm talking about, generally, they just -- they
24 forward it to Jane and say "I got this", and then Jane

1 distributes it to everybody and it's treated as public
2 comment. It's not treated any differently, because
3 somebody chose to send an e-mail to a Committee member.
4 We've tried to, when it does happen, we try to contact
5 those people and say "if you want to send in public
6 comment, send it to Jane, not to the Committee."

7 MS. GEIGER: But, Mike, I think the
8 thing that's most troubling here is that Attorney McGowan
9 I think, correct me if I'm wrong, --

10 MR. IACOPINO: He filed it, yes.

11 MS. GEIGER: -- he sent the e-mail, he
12 filed it, and he did send it directly to the Committee
13 members, as well as the service list, so it wasn't truly
14 *ex parte*. He did send it to everyone. But, I mean, I
15 just think that it's somewhat troubling that, you know,
16 the Town is represented by counsel, and counsel is not
17 following the rules.

18 MR. IACOPINO: I agree. I assume you
19 would address that in your motion. I'm sorry.

20 MS. LEWIS: I'm sorry. I just have a
21 comment on that. Then, why did Town of Groton and Town of
22 Rumney also do that? They sent their own letters to the
23 SEC.

24 MR. IACOPINO: That's a good question, I

1 suppose. Although, I don't think they were sent directly
2 to the SEC. Are there letters --

3 MR. CHERIAN: They were submitted to
4 Jane Murray, I believe.

5 MS. LEWIS: They were. They were
6 submitted to the SEC. It's no different.

7 MS. GEIGER: Oh, they were submitted to
8 the Committee members? This is what we're talking about.

9 MR. ROTH: By Jane.

10 MS. GEIGER: Filing with Jane Murray is
11 different from sending an e-mail to Commissioner Getz or
12 to the other persons who sit on the Committee. We're
13 supposed to file things with Jane Murray, in that she is
14 the vehicle for getting things to the Commission -- the
15 Committee members.

16 MR. IACOPINO: Yeah, but I think she's
17 speaking more about the rule. If it was okay for Town of
18 Rumney Selectmen to write letters to the Committee, where
19 they are intervenors, why isn't it okay for the Town of
20 Plymouth? I think that's what Ms. Lewis is getting at.

21 MS. LEWIS: Yes.

22 MR. IACOPINO: The issue of who the
23 e-mails go to is a separate issue, I believe, in terms of
24 the treatment. What you're talking about is "what's the

1 treatment to be given to these letters?" And, I guess she
2 raises a point, if there was letters from Groton and from
3 Rumney, and they're both intervenors, you know, I suppose,
4 what's good for the goose is good for the gander, is --

5 MR. PATCH: Depends to some degree on
6 what's in the letter.

7 MR. CHERIAN: I think the content
8 matters, the difference between a clarification and
9 essentially testimony.

10 MR. PATCH: Yes. Right.

11 MR. IACOPINO: I think some of the
12 Rumney -- I think some of the Rumney letters were, "Hey,
13 wait. When this witness has said what we want, we speak
14 for the Town of Rumney, not" --

15 MR. PATCH: To me, that's a
16 clarification. That's not raising a bunch of new issues
17 like Plymouth does.

18 MR. ROTH: This is -- can we not have
19 this discussion? We have somewhere else to be. And, I
20 think this can more appropriately be hashed out in
21 pleadings. If you guys want to challenge the Plymouth
22 letter, you should do it. But I think she makes -- and
23 she can raise that point, but we're not going to get
24 anywhere with it here.

1 MR. IACOPINO: Oh, I agree. But I
2 wanted everybody to know where they're going with it. So,
3 what I would suggest is, if you're going to file
4 something, let's try to make it so that it can be ruled on
5 on the pleadings as best as possible. If it can't, it
6 can't. So, include in whatever you file whatever relief
7 you want, as well as what other alternate relief you think
8 might be appropriate. And, the same in any objections.
9 So that, if there is a -- you know, if you're looking for
10 something for the Committee to grant something, you can
11 also request relief in the alternative, without waiving
12 any rights, by saying, you know, "if the Committee is not
13 willing to kick the letter out, allow the following
14 relief", whatever that may be. Okay?

15 MR. CHERIAN: Can I ask a question?

16 MR. IACOPINO: Sure. Actually, I think
17 Mr. Buttolph has requested alternative relief in a couple
18 of his other pleadings. He seems to do a pretty good job
19 with it. So, --

20 MR. CHERIAN: Can I infer, from your
21 suggestion of a motion, that the Committee has not taken a
22 position on whether the letter is testimony or public
23 comment?

24 MR. IACOPINO: The Committee has -- no,

1 the Committee has not. And, that's something that,
2 unfortunately, I can't resolve for them. They will
3 resolve what weight they're going to give to anything,
4 whether it's public comment or evidence in the
5 adjudicatory proceeding. You know, they have to do that.
6 I do believe that in the past when this has occurred,
7 these things have generally been considered to be public
8 comment. And, because it's not been subject to
9 cross-examination and whatnot, I think that the Committee
10 has generally given public comment less weight than things
11 that have been tested through the crucible of
12 cross-examination. But I can't tell you what they're
13 going to do with any particular piece of evidence. It's
14 not been ruled on. I don't have the authority to say what
15 it is. But --

16 MR. CHERIAN: Okay. I was just curious.

17 MR. ROTH: It's been my experience that
18 applicants, well, maybe it's not the applicants doing
19 this, but there is usually a boatload of supportive
20 testimony from municipalities and county commissioners and
21 executive councilors and state senators written in on
22 behalf of applicants that are submitted as public comment,
23 and they go in the record, and they're given whatever
24 weight is -- they're given. But that's part of the

1 processes. Because I think the Committee has the job to
2 consider the opinions and views of municipal and county
3 and state level officials --

4 MR. IACOPINO: They do.

5 MR. ROTH: -- in doing this.

6 MR. CHERIAN: Well, it's different when
7 it's an intervenor --

8 MR. PATCH: That's already filed
9 testimony.

10 MR. CHERIAN: -- submitting testimony by
11 a letter directed to the Committee. That's, I think, what
12 seems quite unique.

13 MR. IACOPINO: I understand the concern.
14 I think the concern is a little bit heightened with regard
15 to this particular letter, because this town has been
16 involved on a single issue, and now all of a sudden
17 they're raising something entirely different, and it's not
18 in compliance with the schedule.

19 So, I will leave it to you all to file
20 whatever you think appropriate. I would ask that you do
21 it in such a fashion, if possible, so that it can be ruled
22 on on the pleadings, so we don't have to schedule more
23 Committee time.

24 And, like I said, I'm going to be trying

1 to look, in those last three weeks of March, for Committee
2 time. I'm going to ask them for two days and two days,
3 hopefully with some time in between, if it can be
4 accomplished, so that you do have a little bit of time to
5 prepare as complete a final memoranda as possible.

6 Does anybody have any other issue that
7 they want to raise?

8 MR. ROTH: When do you expect you'll
9 have your procedural order out?

10 MR. IACOPINO: It will be out by like
11 Wednesday of next week, but Mr. Getz has to review it
12 first. So, and he may change things. But I am going to
13 recommend that this be the schedule that he sign off on to
14 him.

15 MR. ROTH: Okay.

16 MR. IACOPINO: And that, you know, --

17 MR. ROTH: I mean, you do realize that
18 Brookfield is going to be looking for time in that, within
19 the same time period. They want -- I think they were
20 looking to be resolved by the end of February.

21 MR. PATCH: Actually, they said "the end
22 of December."

23 MR. IACOPINO: Yes. I think they filed
24 that -- I think they filed their application after the

1 date that they were asking for the relief by, so --

2 MR. ROTH: Dream on.

3 MR. IACOPINO: But, anyway, I guess
4 we're done here then. Anything, Ms. Lewis, any other
5 issues?

6 MS. LEWIS: No.

7 MR. IACOPINO: All right. Thank you all
8 very much.

9 MS. GEIGER: Thank you.

10 MR. ROTH: Merry Christmas to everyone.

11 MR. IACOPINO: Merry Christmas.

12 MS. GEIGER: Yes. Same to you. Thank
13 you.

14 **(Whereupon the prehearing conference**
15 **regarding SEC 2010-01 ended at 12:06**
16 **p.m.)**

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