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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

April 7, 2011 - 9:14 a.m.
Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, New Hampshire

DAY 1

DELIBERATIONS
MORNING SESSION ONLY

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

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

* * *

Counsel for the Committee: Michael Iacopino, Esq.

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

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P R O C E E D I N G

CHAIRMAN GETZ: Okay. Good morning, everyone. We're going to open the public deliberations in Site Evaluation Committee Docket 2010-01, concerning the Application of Groton Wind for a Certificate of Site and Facility for a 48-megawatt facility in Groton, New Hampshire. And, first, I'll talk a little bit about the process that we're going to follow today, which is similar to deliberations we've conducted in both the Lempster proceeding, in Docket 2006-01, and the Granite Reliable Power proceeding, in docket 2008-04.

Our focus is on the requirements of us that are put forth by RSA 162-H:16. And, I'll just read that into the record. I know that everyone has heard this more than once. But Subsection IV requires that "The site evaluation committee, after having considered available alternatives and fully reviewed the environmental impact of the site or route, and other relevant factors bearing on whether the objectives of this chapter would be best served by the issuance of the certificate, must find that the...Applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate. [That it] will not

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1 unduly interfere with the orderly development of the
2 region with due consideration having been given to the
3 views of municipal and regional planning commissions and
4 municipal governing bodies. Will not have an unreasonable
5 adverse effect on aesthetics, historic sites, air and
6 water quality, the natural environment, and public health
7 and safety."

8 And, Subsection VI of that statute also
9 notes that "A certificate of site and facility may contain
10 such reasonable terms and conditions as the committee
11 deems necessary and may provide for such reasonable
12 monitoring procedures as may be necessary."

13 So, those are the requirements on us in
14 terms of the findings we must make. In order to make
15 those findings, the Applicant has submitted an
16 Application, including several rounds of prefiled
17 testimony, there has also been testimony by other parties,
18 there has been cross-examination, and there have been
19 briefs. The standard that the Applicant must meet, it
20 must prove by a preponderance of the evidence that, among
21 other things, that there is no adverse -- unreasonable
22 adverse effects on aesthetics, etcetera, that it will not
23 unduly interfere with the orderly development, and it has
24 adequate financial, technical, and managerial capability.

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1 And, in making our decision, we need to evaluate the
2 credibility of their witnesses, the persuasiveness of
3 their arguments, and also the credibility of other
4 witnesses and the persuasiveness of arguments by other
5 parties in this proceeding. And, so, we must make a
6 decision based on the record before us.

7 And, consistent with the approach we've
8 taken in other proceedings, I think it's best to kind of
9 walk through each of the findings that we must make, and
10 that we've divvied up the responsibilities, so that each
11 one of us will summarize the arguments and essentially
12 lead a discussion about each of the -- each of the
13 elements that must be satisfied under the statute.

14 So, what I propose for an order is to
15 begin with financial, managerial, and technical
16 capability. I'll summarize the issues there. And, then
17 to go, after that, to the review of available
18 alternatives, then to orderly development, then to
19 aesthetics, then to historic sites, air and water quality,
20 natural environment, and public health and safety. And,
21 recognizing, of course, that there are many different
22 subissues under each of those headings. And, sometimes
23 it's very clear what the subheadings are and where they,
24 you know, under which heading they should be; others times

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1 it's not so clear. But I think what we need to do is walk
2 through that, and then to make sure we've covered all of
3 the subissues that have been raised by the parties. We'll
4 also, I think, in each of the sub -- in each of the
5 discussions, address conditions that have been proposed.
6 To the extent there are conditions that don't clearly fall
7 under a particular heading, I think, at the end of the
8 day, we'll need to go back through all of the proposed
9 conditions. "At the end of the day", I don't know if
10 that's literal or figurative, whether that's today or
11 tomorrow. But, then, to make judgments about what
12 conditions should be imposed.

13 And, going through my list here. I
14 think there are some issues as well, and this is the way
15 it's played out in some of the other proceedings. There
16 may be some items where it's clear, after discussion,
17 whether we want to take a vote on that particular issue,
18 and to have a motion and make a finding. Some may be less
19 clear, some may be issues that want to -- folks want to
20 think about a little bit more, maybe, so we would like to
21 defer a vote till later in the deliberations, or we could
22 take a sense of the Committee to see where folks are. But
23 I think we have to play that by ear, depending on the
24 issues. Because, I think, you know, some items may be

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1 clear, some may be less clear, one way or the other, and
2 then some items there may be issues of what conditions to
3 apply.

4 So, I guess two things. One is for
5 counsel. Is there anything that I've forgotten that
6 should be laid out at this point?

7 MR. IACOPINO: No, Mr. Chairman. I
8 would just note that the entire Subcommittee is present,
9 and, therefore, we've met the quorum requirements.

10 CHAIRMAN GETZ: All right. Thank you.
11 Is there any questions from members of the Committee?

12 (No verbal response)

13 CHAIRMAN GETZ: Okay. Then, let me
14 start with financial, managerial, and technical
15 capability, and walk through the arguments. I'll note,
16 first off, turning to the Application, Volume I, that was
17 filed on March 26, 2010. And, on Page 55 of the
18 Application, under Section H.4, notes there's "a
19 description in detail of the Applicant's financial,
20 technical and managerial capability to construct and
21 operate the proposed facility." It describes Groton Wind,
22 LLC as "a limited liability company organized for the
23 development and ownership of the project", "100 percent
24 owned by Iberdrola Renewables". And, "Iberdrola

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1 Renewables' parent company is Iberdrola Renovables", and
2 that is, "in turn, is owned 80 percent by Iberdrola, SA",
3 which is a Spanish utility company.

4 And, with respect to financial
5 capability, the Application notes that "Iberdrola
6 Renewables finances the construction costs of its wind
7 farms through equity investments provided by Iberdrola,
8 SA", which "maintains a corporate bond rating of A- from
9 Standard & Poor's and A3 from Moody's." Notes that
10 "Iberdrola Renewables has the capability to provide
11 adequate assurances, guarantees, financing and insurance
12 for the Project's development, construction and
13 operation." Also sets forth the Applicant's technical and
14 managerial capability. That the ultimate parent,
15 Iberdrola, SA, "operates in more than 40 countries, has
16 over 45,000 megawatts of installed capacity, including the
17 wind [from] Iberdrola Renovables. As of February of 2010,
18 [it] had 10,700 megawatts of installed wind capacity
19 worldwide, with 3,591 megawatts of that capacity in the
20 United States."

21 With its Application, the Applicant
22 filed the Prefiled Direct Testimony of Pablo Canales, who
23 is the Senior Vice President and Chief Financial Officer
24 of Iberdrola, and addressing financial capability and

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1 repeats some of the information set forth in the
2 Application itself. And, again, confirms that IBR
3 finances construction costs of its wind farms through
4 equity investments provided by Iberdrola, and, you know,
5 asserts that the IBR is well capitalized, over 21 billion
6 euros, and that it has a target of achieving 18,000
7 megawatts of renewable energy operation by the end of
8 2012. Points out that the estimated cost to construct the
9 Project is \$117 million, and that will be financed through
10 equity investments and supported by the long-term
11 contracts, and as well as by a cash grant in lieu of
12 Investment Tax Credits from the federal government.

13 I'll note that also on that date, Kevin
14 Devlin, Vice President of Commercial Operations, filed
15 testimony about technical and managerial capabilities, and
16 indicates that it has a full in-house construction
17 management staff, including project managers, site
18 managers, etcetera. The largest wind power company in the
19 world. Notes that each turbine and all electrical
20 equipment will be inspected under rigorous commissioning
21 procedures. And, that they will staff the site with
22 experienced plant manager and several technicians. The
23 Project will be operated and maintained by a team of
24 approximately three IBR staff, including a plant manager,

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1 supplemented by a full-time staff provided by the turbine
2 vendor during the warranty period, and post warranty the
3 site will be staffed by approximately six full-time IBR
4 staffers. And, the operation and management team will
5 staff the Project during normal working hours, with
6 weekend shifts and extended hours as required. And, that
7 there's also a Field -- a Control Center located in
8 Portland, Oregon, that will continuously monitor and
9 control the wind facility remotely through computer
10 controllers installed in each turbine. I think, in
11 addition, Mr. Devlin also spoke to some other related
12 public health and safety issues.

13 The supplemental testimony filed in
14 October of 2010, a Mr. Mihalik, Trevor Mihalik, who is the
15 Senior Vice President of Finance, adopted the testimony of
16 Mr. Canales.

17 And, the hearing on this particular
18 topic was held on the morning of November 2nd. And, at
19 that time, there was the direct examination of
20 Mr. Mihalik, and he was subject to cross-examination. A
21 large part of that cross-examination focused on federal
22 tax credits, whether it would be an Investment Tax Credit,
23 a Production Tax Credit, and also the cross-examination
24 concerned a measure of accelerated depreciation, it's

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1 called the "Modified Accumulated Cost Recovery System".
2 Mr. Mihalik was asked that, "whether, without government
3 subsidies, this Project -- would this Project go forward?"
4 And, he testified that, "without government subsidies, the
5 Project, along with all wind projects, would not be
6 profitable", emphasizing the importance of the -- whether
7 it be the ITC or the PTC or accelerated depreciation to
8 the Project.

9 And, also, Mr. Mihalik testified that,
10 in response to I believe some questions from Director
11 Scott, that the -- "if there's no more federal action, is
12 it the Company's position or Mr. Mihalik's position that
13 the building of the facility would be financially viable,
14 assuming the schedule that was discussed was held to?"
15 And, Mr. Mihalik testified that "the project was in a
16 position to move forward based on the state of the
17 availability of either the ITC or the PTC."

18 Finally, in the post hearing brief of
19 the Applicant, Groton asserts that the Applicant's parent
20 company has an experienced, well financed, proven track
21 record based on its successful construction and operation
22 of New Hampshire's first commercial scale wind energy
23 facility located in Lempster. And, it also summarizes
24 again in asserting that it "possesses adequate financial,

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1 technical and managerial capability", points to the
2 testimony of Mr. Mihalik and Mr. Devlin, and notes that,
3 citing to the other decisions by the Site Evaluation
4 Committee, the precedent exists to permit a limited
5 liability company, such as Groton Wind, to rely on the
6 financial, managerial, and technical expertise of its
7 corporate affiliates and parents to satisfy the above
8 stated statutory criteria. And, it updates some of the
9 statistics with respect to total assets held by the
10 parent. And, it also again reasserts how IBR finances its
11 construction projects. And, points out that IBR has
12 successfully financed, constructed, and operates over 40
13 wind facilities in the United States.

14 Points out again this is with in-house,
15 full in-house construction management. And, also makes
16 the assertion that the -- there's uncontested record
17 evidence supporting a determination that the Applicant has
18 adequate technical and managerial, as well as financial,
19 capability.

20 So, I think that summarizes the
21 Applicant's position. There is really no testimony filed
22 to the contrary. And, there are no specific conditions
23 that appear to me to relate directly to financial,
24 managerial, and technical capability.

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1 So, with that, I just open the floor if
2 there's any discussion, any questions, and anything folks
3 want to say about the issue of financial, managerial, and
4 technical capability? Mr. Scott.

5 DIR. SCOTT: I guess I wanted to observe
6 publicly kind of what was already noted. That we are
7 somewhat fortunate, not that conditions can't change with
8 a company, but, again, this is a company that already has
9 an operating wind farm in New Hampshire, including that's
10 operating to our -- at least to the best of my knowledge,
11 properly, and finances are in place for that, and it was
12 successfully built. So, I just wanted to observe that it
13 gives at least me a little bit extra comfort on the
14 abilities of this Project also.

15 CHAIRMAN GETZ: Thank you.

16 Mr. Harrington.

17 MR. HARRINGTON: I guess the other thing
18 is just to reemphasize the fact that nobody has challenged
19 their statement that they are able to show the financial,
20 managerial, and technical capability to do this is rather
21 important, because most times with something like that, if
22 there is a concern, it will be brought by either any
23 intervenors or the Counsel for the Public will dispute
24 that.

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1 CHAIRMAN GETZ: Mr. Steltzer.

2 MR. STELTZER: Yes. I'd just like to
3 note that some of the -- at some of the hearings, as well
4 as some of the testimony presented by the intervenors, we
5 did hear of some concerns about the Investment Tax Credits
6 that were made -- that are made available to renewable
7 energy companies. But I think it's the position of the
8 Committee not to necessarily determine whether those
9 policies are good or not, but whether they apply to the
10 project itself. And, I think the Applicant did note as
11 well on their brief, in Page 20, that, underneath the Tax
12 Relief and Unemployment Insurance Reauthorization, Job
13 Creation Act of 2010 that was passed in December, that
14 those tax credits were extended into 2011.

15 CHAIRMAN GETZ: Yes. And, I think, in
16 that context, under the statute, what we're required to
17 consider is "have they established that they have adequate
18 financial, technical and managerial capability?" And,
19 that there's no specific direction on how that is to be
20 examined. And, I think, in terms of your point, a
21 financial capability, if it -- where that capability comes
22 from, if it includes access to government programs, such
23 as a Renewable Portfolio Standard or Renewable Energy
24 Credits or Investment Tax Credits or Production Tax

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1 Credits, that that's, if that's what is part of the
2 financing, to include equity financing or debt financing,
3 if they have the capability to acquire that financing,
4 then that's what we're looking at. And, it appears to me
5 that they have the access to the funding and the tax
6 credits and the other things to make them financially
7 capable. And, they have put together other projects
8 through a similar approach and have been successful.

9 Is there any other discussion?

10 Mr. Dupee.

11 MR. DUPEE: Thank you, Mr. Chairman. We
12 know we have a company doing business here in New
13 Hampshire, which ultimately, through a series of
14 intermediate companies, works back to its parent company.
15 And, I was just curious to what extent there are
16 guarantees that, if there are liabilities incurred on the
17 part of the company operating in New Hampshire, that the
18 parent company would have the obligation or duty to
19 provide financial support?

20 CHAIRMAN GETZ: And, I believe that a
21 question similar to that was raised with Mr. Mihalik on
22 cross-examination, which I'm trying to find. I thought it
23 was similar to a question asked by Mr. Roth. Yes. I
24 believe on Page 24 of the transcript from the morning of

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1 November 2nd, Mr. Roth noted "I think everybody is
2 comfortable that Iberdrola or Renovables has plenty of
3 money to do the Project and stand behind what's being
4 done...I think the greater question is, will there be
5 legal protections and instruments to make sure that if,
6 for some reasons, the Project fails, that there's -- that
7 money will actually be around to stand to be accountable."
8 And, he also asks is, "if the Commission" -- "if the
9 Committee were to include a provision that, in its order,
10 saying that "Renewables, U.S., is bound by the terms and
11 conditions of the order", that would be acceptable to
12 you?" And, Mr. Mihalik said he'd "defer to the
13 development team who actually worked on that."

14 So, the -- and, I'm also looking to the
15 conditions that were imposed in the Lempster Wind Project
16 with respect to financial capability. Just give me a
17 second. Because, again, I think that goes more to the
18 issue of not "do they have financial capability?", but to
19 a issue of whether -- how to enforce that capability,
20 correct?

21 MR. DUPEE: Right. Capability has to be
22 at the point of operation; in this case, it would be in
23 New Hampshire. So, whether the parent corporation in
24 Spain is well capitalized is useful information, but what

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1 actually is germane here is whether or not that access to
2 revenues would be available to the Company doing business
3 here in our state.

4 CHAIRMAN GETZ: Correct. Yes. I think
5 that's the point I was trying to make. I'm trying to find
6 the express guarantees.

7 MR. DUPEE: Mr. Chairman, if you believe
8 they exist in the record, then I will certainly review
9 that. And, you needn't spend time now, if you prefer not
10 to.

11 CHAIRMAN GETZ: Well, I'd like to
12 actually try to deal with this, because I want to nail
13 this down, on whether it's -- because I think we're in a
14 position, this may be one of the issues where we're
15 actually in a position to make a motion and take a vote,
16 but I want to make sure we kind of close the loop so that
17 everyone is comfortable with that before we go down that
18 path.

19 MR. HARRINGTON: Yes, Mr. Chairman, just
20 another comment on that. I think one of the other things
21 we can look at is the decommissioning agreement on this,
22 to see if it's actually guaranteeing the funding for that,
23 because I thought that kind of goes along with what you
24 just said. Because one of the main concerns is, if the

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1 Project were built part way and then abandoned or built
2 and abandoned, you would have these towers sitting up
3 there or partially built towers. So, maybe, Mr. Iacopino,
4 do you have a copy of that, the agreement? I think -- I'm
5 not sure which town it's with. I guess --

6 MR. IACOPINO: I believe it's with the
7 Town of Groton. And, --

8 MR. HARRINGTON: Groton? And, the
9 decommissioning --

10 CHAIRMAN GETZ: Applicant Exhibit 32.
11 Section 14.2 is the "Decommissioning Funding Assurance".
12 And, it says -- it notes specifically under 14.2.3 that
13 the "Decommissioning Funding Assurance shall be provided
14 by a parental guarantee from the Owner's parent or
15 affiliates, in a form reasonably acceptable to the Town."
16 So, I think that addresses specifically your concern.
17 That the owner of the parental subsidiaries of the
18 overall, Iberdrola, SA, are in a position to provide a
19 funding assurance or obligated to provide funding
20 assurance.

21 MR. DUPEE: Mr. Chairman, I think it
22 does so in terms of decommissioning, but the broader
23 question about intermediary liabilities. And, so, for
24 example, if something went horribly wrong, and there -- is

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1 there an actual connection between the financial assets of
2 the parent corporation and the entity doing business in
3 our state?

4 CHAIRMAN GETZ: Well, when you're saying
5 -- are you starting from Iberdrola, SA, working all the
6 way down through? Or, starting from -- because I think we
7 have to start at Groton and work our way up. And, I think
8 there was some, actually, examination by Mr. Iacopino in
9 the record about those relationships. And, on Page 46 of
10 the transcript from the morning of November 2nd,
11 Mr. Iacopino asked a series of questions about the
12 corporate structure, and that the -- I think, going from
13 the top down, it's Iberdrola, SA, to Iberdrola Renovables,
14 to Iberdrola Renewables Holdings, which is the U.S.
15 subsidiary. And, then, that I believe is the entity that
16 has the Moody's and S&P ratings as being A- from S&P, and
17 that they provide the -- they provide the parental
18 guarantee. And, I think that that type of a rating
19 suggests that they are capable of standing behind the
20 funding assurance. And, I think it's similar to what the
21 Committee has found acceptable in the Lempster situation.

22 MR. DUPEE: Thank you, Mr. Chairman.

23 CHAIRMAN GETZ: But let me look at one
24 or two more other things. Mr. Iacopino, do you recall any

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22

1 other specific references that would be helpful on this
2 issue? Either in this case or in the Lempster proceeding?

3 MR. IACOPINO: No, I don't. I am not --
4 I know that, and I was going to bring this to your
5 attention, but you've gotten to it, that actually Counsel
6 for the Public had requested a condition, and it could
7 come under decommissioning as well, but dealing with
8 asking this Committee in this case to adopt the same
9 condition that was adopted in the Brookfield Power case,
10 when -- in the transfer of the Granite Reliable to
11 Brookfield Power. Where the Committee specifically
12 identified the parent company and basically tied them in.
13 There is that request on the -- in the brief from Counsel
14 for the Public, which I just lost the page. But I was
15 going to bring that to your attention, that that was a
16 condition that somewhat bears on this issue. But also
17 bears on decommissioning, and that's really where it came
18 up in the -- in the Brookfield Power docket. And, I'll
19 find that page for you.

20 CHAIRMAN GETZ: Okay. Well, again, I
21 guess I would segregate the two issues: Whether they have
22 financial capability and how to enforce a financial
23 obligation, specifically as it applies to decommissioning.
24 I think it would be two different issues.

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1 So, I guess I would propose this. I'm
2 prepared to make a motion on the overall issue of
3 financial, managerial and technical capability, but to set
4 aside whether we want to impose a particular condition
5 with respect to the obligation, and more specifically as
6 it applies to decommissioning. Is that -- do you think
7 that addresses your concerns, Mr. Dupee?

8 MR. DUPEE: It addresses
9 decommissioning, but I think also just liability or
10 concerns during operation. In other words, if an event
11 happened, for example -- well, I suppose it could be
12 listed as decommissioning, if, in fact, the facility was
13 built and abandoned, I guess it would still be
14 decommissioning. So, I think you're probably right, that
15 would address my concern.

16 CHAIRMAN GETZ: All right. Because I'll
17 note again to the statute, the statute says "we must find
18 that the Applicant has adequate financial, technical, and
19 managerial capability to assure construction and operation
20 of the facility in continuing compliance with the terms
21 and conditions of the certificate." And, I think there's
22 an ordering of events that take place, and we've gone
23 through this in other proceedings, but it's to acquire the
24 financing to proceed, and the financing is equity

1 financing from the parent, its access to Investment Tax
2 Credits, etcetera. And that, once it decides to proceed,
3 it has that -- all of that financing in place, and then is
4 in a position to construct, and then operate. The issue
5 that's different here is the decommissioning, which is, at
6 some point, ideally, at the end of the useful life. If
7 something happens before then, then they have made the
8 assurance that they will be in a position to decommission.
9 I think that's something we need to feel comfortable
10 about.

11 But, based on the, you know, the balance
12 sheet of this, of the parent here, seems to me that they
13 have adequate financial capability to assure construction
14 and operation. And, if they make the assurance with
15 respect to decommissioning, then I think that adequately
16 addresses their responsibilities. But, again, I'd like to
17 separate the two issues and deal with the decommissioning
18 separately.

19 MR. HARRINGTON: Mr. Chairman, just
20 another comment on this issue, just maybe to be a help to
21 the Committee with it. There's also a provision in the
22 agreement with Groton that the Applicant maintain a
23 liability insurance policy of at least \$10 million.
24 Having that would address, I think, some of the concerns

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25

1 being raised that, you know, if something were to happen,
2 not as part of decommissioning, but, you know, a major
3 accident or a fire or something like that. So, again,
4 that's -- the insurance policy would be, presumably, that
5 they have to have it to have a certificate, so it would be
6 -- it wouldn't make any difference who paid for it, as
7 long it was, in fact, a fact that's a requirement in the
8 agreement with Groton.

9 CHAIRMAN GETZ: And, that addresses the
10 issue of being capable of assuring operation, --

11 MR. HARRINGTON: Right.

12 CHAIRMAN GETZ: -- ongoing operation of
13 the facility?

14 MR. HARRINGTON: Right.

15 CHAIRMAN GETZ: Thank you.

16 MR. HARRINGTON: So, I would second your
17 motion.

18 CHAIRMAN GETZ: Okay.

19 MR. IACOPINO: Did you make a motion?

20 CHAIRMAN GETZ: Well, I'd be happy to --

21 MR. HARRINGTON: You started to.

22 CHAIRMAN GETZ: Dr. Boisvert.

23 MR. HARRINGTON: A semi-second then.

24 DR. BOISVERT: I don't know if this is

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1 the appropriate time, and it's just, I guess, a
2 reassurance to me. More likely than some sort of
3 catastrophe that would call into question their economic
4 ability to support the facility would be the sale of the
5 facility to another organization. I'm assuming that these
6 conditions carry forward to any purchaser in the future,
7 that sort of thing. That we're not just talking about
8 Iberdrola, but whoever may own it 10, 20 years from now,
9 which could, in my mind, be more likely to be a change of
10 ownership than a catastrophe.

11 CHAIRMAN GETZ: And, that's an issue of
12 transfer of the certificate would be something subject to
13 our approval. But, Mr. Iacopino.

14 MR. IACOPINO: Yes, the statute
15 requires, before the transfer of any certificate, that
16 they must file a petition with the Site Evaluation
17 Committee and have that transfer approved.

18 DR. BOISVERT: Thank you.

19 MR. IACOPINO: In addition, just for the
20 Committee's education, because I know some of you haven't
21 sat before, we've also in the past, as part of individual
22 certificates, included a condition that not only if the
23 certificate is transferred, but if there's a substantial
24 change in the ownership of the actual holder of the

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1 certificate. So, in this case, Groton Wind, LLC, if they
2 hold the certificate, if Iberdrola were to sell them to,
3 say, Noble, just sell the LLC, the Committee has
4 oftentimes included a condition in the certificate that,
5 under circumstances like that, they must petition as well,
6 as opposed to a formal transfer of the certificate,
7 because a certificate under that circumstance would remain
8 in the name of "Groton Wind, LLC".

9 CHAIRMAN GETZ: Mr. Perry.

10 MR. PERRY: Just going back to the
11 evidence, you know, it's just that we haven't had any
12 evidence presented to the Committee that says that they're
13 not capable of meeting their financial and technical and
14 managerial components. So, I feel comfortable moving
15 forward on making a motion or voting on a motion.

16 CHAIRMAN GETZ: Yes. So, let me pose it
17 this way, then. Because I think the evidence is clear in
18 the affirmative by the Applicant, you know, by a
19 preponderance of the evidence that they do have the
20 financial, managerial, and technical capability. And, I
21 think it's clear as well that there has been no
22 substantial debate as to those issues. There may be some
23 -- so, I think I'm prepared to make a motion to that
24 effect. But I think we still can talk about

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1 decommissioning, when we get to that as a subset of one of
2 the other issues. And, at the very end, if we want to
3 impose some conditions in one form or another, then we
4 have that ability. So, I think we need to break them out.

5 And, so, I guess at this point, I would
6 move that we find that the Applicant has adequate
7 financial, technical, and managerial capability to
8 assurance construction and operation of the facility in
9 continuing compliance with the terms and conditions of the
10 certificate.

11 MR. HARRINGTON: Second.

12 CHAIRMAN GETZ: We have a second from
13 Mr. Harrington. Is there any further discussion?

14 (No verbal response)

15 CHAIRMAN GETZ: Okay. Hearing nothing,
16 all in favor of the motion, please signify by raising your
17 hands?

18 (Subcommittee members indicating by show
19 of hands.)

20 CHAIRMAN GETZ: I'll note that the vote
21 is unanimous.

22 So, then, let's move onto a discussion
23 of the available alternatives. And, let me give a little
24 preface on that. Mr. Harrington is going to speak to

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1 these issues. This is not a specific finding that's
2 required under Section IV of the statute. The statute
3 says that "The committee, after having considered
4 available alternatives and fully reviewed the
5 environmental impact...[then] must find" these other
6 things.

7 I think that it's a -- this topic
8 provides a useful context for all of the other decisions
9 that we have to consider. I'll note that in the -- in
10 previous orders, there has been a finding or conclusion
11 about how the applicants have addressed the issue. But I
12 would say, let's just have an explanation or some
13 background on these issues, maybe some discussion, but
14 just use that as a context for other decisions we're going
15 to need to make, and hold off until the end of the
16 proceedings to -- the deliberations to make a specific
17 finding. Does anybody have an objection to that approach?

18 (No verbal response)

19 CHAIRMAN GETZ: Hearing nothing, then,
20 Mr. Harrington.

21 MR. HARRINGTON: Well, the Applicant in
22 this case has followed basically what we've seen in the
23 previous examples specifically on wind. They went through
24 the siting process, where they look at the area, they do

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1 specific studies as to -- I know, slow down -- the
2 availability of wind. They seem to have followed the same
3 pattern with that, where they look at possible
4 alternatives, as far as where the best location was. I
5 think we've also seen that they have done this with
6 regards to the interconnection, where the first one that
7 was proposed had to be changed in order to get to the
8 higher voltage line.

9 I can't see anything in here that
10 deviates really from the standard of what they've -- what
11 we've applied in the past. And, that they feel that this
12 is the best site selection, based on numerous factors, for
13 the location of the turbines, as well as the
14 interconnection of the facility. It's kind of
15 straightforward.

16 The one other issue that I did want to
17 bring up, and like I say, I think, as Chairman Getz said,
18 this is probably best to be left in, because it's sort of
19 associated with this, but it's not really specifically
20 there, a lot of the intervenors have spent a great deal of
21 effort in talking about alternatives, not from the point
22 of view of alternatives to where the turbines or how many
23 turbines could be built, but alternatives in the form of
24 whether this energy is actually needed and is there a

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1 better method to produce the energy, and how much
2 environmental savings or environmental advantage is
3 actually there. And, I think that kind of goes back more
4 to the "declaration of purpose" of the law that we need to
5 look at under one 162-H:1.

6 But, as far as looking to the -- what
7 we've historically looked at as alternatives, considering
8 alternatives, it appears to be, at least in my opinion,
9 that the Applicant has done an adequate job of considering
10 alternatives to the location and number of wind turbines
11 for this project.

12 CHAIRMAN GETZ: Does anyone else want to
13 speak to this? Mr. Scott.

14 DIR. SCOTT: Again, I think, in support
15 of Mr. Harrington's statements, I'll state the obvious
16 again. Clearly, for a wind farm, there's a finite amount
17 of places you can put these. Obviously, you have to have
18 the wind resources, and the capacity factor I believe has
19 been an issue, too, for any wind farm. Am I going slow
20 enough for you?

21 So, I just want again to point out the
22 obvious, that there's not an infinite number of places
23 these could be placed. In that context, I don't see any
24 issues with the -- what was explored for alternative

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1 locations and where the Applicant has settled here.

2 CHAIRMAN GETZ: Anyone else?

3 (No verbal response)

4 CHAIRMAN GETZ: Well, let me point to a
5 couple of things. One is, in the Applicant's post hearing
6 brief, there's a summary that, at the bottom of Page 12,
7 notes that "The Applicant's parent company, Iberdrola
8 Renewables, has developed a comprehensive and practical
9 methodology for selecting wind project sites based on its
10 extensive wind project development experience, and
11 guidelines established by the National Wind Coordinating
12 Committee, the American Wind Energy Association, and the
13 European Wind Energy Association." And, points to the
14 Application, how it identified and discussed "13 major
15 site selection criteria", and how it -- "the Application
16 discusses several different alternatives that were
17 considered, including a larger project, alternative
18 interconnection points, alternative turbine models and
19 locations, alternative road configurations, alignments and
20 locations." And, that subsequent to the filing it
21 "considered additional alternatives, presented to the
22 Subcommittee revisions to the "as filed" Project plans."
23 That it "adjusted the location of the interconnection line
24 within NHEC's, New Hampshire Electric Co-op's,

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1 distribution system to avoid Quincy Road." And, then, it
2 identified that the location of the point of
3 interconnection in the Town of Holderness with the
4 regional power grid. And, it also point to what the
5 Committee determined in the Lempster Wind order from June
6 of 2007, and this is in terms of how it's been -- how
7 these types of issues have been addressed in the past.
8 And, in that case, at the bottom of Page 20, the order
9 notes that "The Committee finds that the Applicant has
10 engaged in a reasonable process in examining alternative
11 sites and that it has made a reasonable determination in
12 its selection of the Lempster site. The Committee also
13 finds that the location of the proposed site, its
14 significant wind resources, the availability of sufficient
15 undeveloped acreage, and the proximity of the site to an
16 efficient interconnection point to the electrical
17 distribution grid render the proposed site a reasonable
18 location among available alternatives for construction of
19 the proposed facility."

20 So, I just note that that's some of the
21 context in which the alternatives analysis plays out.

22 MR. HARRINGTON: Mr. Chairman, just a
23 follow-up comment. I guess I should have also noted that,
24 except with regard to the sort of separate argument, if

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1 you will, on other types of alternatives to wind power,
2 there were no objections raised on the alternative
3 analysis that was performed and provided by the Applicant
4 in this case either by the intervenors or by the Public
5 Counsel. There was, as I said, some -- a lot of debate on
6 whether there was a better way of producing electricity
7 other than wind in this location, but there was no --
8 nothing filed saying that "they should have considered
9 putting the wind turbines here, instead of there", or more
10 of them or less of them or anything to that effect, at
11 least that I can find.

12 CHAIRMAN GETZ: Okay. Any discussion
13 about this issue before we move onto talking about orderly
14 development?

15 (No verbal response)

16 CHAIRMAN GETZ: Okay. Hearing nothing,
17 then the next item under the statute concerns a finding
18 whether the Project "will not unduly interfere with the
19 orderly development of the region with due consideration
20 having been given to the views of municipal and regional
21 planning commissions and municipal governing bodies."
22 And, Mr. Perry will summarize the issues and lead a
23 discussion on this.

24 MR. PERRY: Thank you, Mr. Chairman.

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1 And, if it was all right with the Chairman and the
2 Committee, I'd like to break this out into two general
3 categories. The first will deal with the economics and
4 the views of municipalities, and the second might deal
5 with land use, tourism, and decommissioning?

6 CHAIRMAN GETZ: That's fine.

7 MR. PERRY: All right.

8 CHAIRMAN GETZ: Well, does anybody else,
9 you know, is everybody okay with that?

10 (No verbal response)

11 CHAIRMAN GETZ: All right.

12 MR. PERRY: All right. As been noted,
13 the Subcommittee must find that the site and facility
14 "will not unduly interfere with the orderly development of
15 the region with due consideration having been given to the
16 views of municipal and regional planning commissions and
17 municipal governing bodies." Now, the Applicant has
18 stated it has met its burden on this criterion as
19 evidenced in its Executive Summary in the Applicant's
20 Application in Volume I. The Project engaged economic
21 experts from the University of New Hampshire to evaluate
22 the potential economic effects of the Project. These
23 studies demonstrated that the Project will not have an
24 unreasonable adverse impact on the orderly development of

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1 the region, insofar as local land use, the local economy,
2 and local employment are concerned. Moreover, the study
3 demonstrates that the Project will have substantial
4 positive effects upon the region's development and
5 economic well-being. This statement is supported by the
6 Applicant's position that the Project's impacts on local
7 land use during construction and operation of the Project
8 are expected to be minimal. The Project is estimated to
9 have regional economic benefits of approximately
10 \$81.5 million over 20 years. The UNH study estimates that
11 during construction the Project will provide 24 and a half
12 million in local area benefits.

13 Given the results of the studies
14 conducted at existing wind farms across the country, it is
15 reasonable to assume that the Groton Wind Project will not
16 have an adverse impact on local property values.

17 And, then, lastly, in the Application,
18 the Applicant has stated that the economic impact study
19 estimates a total of 229 total local jobs, including
20 direct employment, indirect jobs, and induced jobs will be
21 created as a result of the Groton Wind Project.

22 This was followed up in some prefiled
23 Direct Testimony of Edward Cherian, where Mr. Cherian
24 states "The Project is consistent with a number of the

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1 goals articulated in the Town of Groton Master Plan. The
2 Plan's vision statements include promotion of new
3 commercial development, and reducing Town reliance on
4 residential property tax revenues." Mr. Cherian goes on
5 to say "The Project is also consistent with and
6 complementary to the North Country Council planning
7 documents, including the Council-supported four-state
8 Sustainable Economy Initiative; and the North Country
9 Comprehensive Economic Development strategy, released in
10 January 2009. Both of these key regional planning
11 documents highlight the opportunities for renewable energy
12 in northern New Hampshire, and promote both new renewable
13 energy developments and economic diversification. In
14 addition, the Project is consistent with and complementary
15 to the goals of the Grafton County Economic Development
16 Council, which seeks to encourage and support new business
17 growth in Grafton County.

18 And, additionally, in Third Supplemental
19 Prefiled Testimony, in response to the question "Please
20 discuss whether the location and operation of the voltage
21 step-up facilities will be consistent with the orderly
22 development of the region." Mr. Cherian states, "The
23 location of the proposed step-up facilities will be
24 consistent with the orderly development of the region, for

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1 several reasons, including, but not limited to, the site
2 is zoned for commercial usage; the site is already in use,
3 and has been for many years, as a right-of-way for the 115
4 kV NU transmission line, [at least] that portion of the
5 parcel has been cleared and maintained for that
6 transmission line; the site is located in an area with
7 other commercial and industrial facilities, including
8 those used for metal-plating, an extensive commercial sand
9 mining operation, timber processing, and heavy equipment
10 storage; (4) the site would reduce the total length of the
11 originally-proposed interconnection line by approximately
12 3.7 miles, by avoiding the portion of the line route that
13 goes all the way to the Beebe River Substation; (5) the
14 site is set back from Route 175 and residential areas; and
15 (6) the region includes other similar facilities along the
16 115 kV transmission line, including the Beebe River
17 Substation, Ashland Substation, and a former 69 kV
18 facility."

19 In the Applicant's final brief, it
20 states, "The Applicant has demonstrated through its
21 exhaustive outreach effort, along with expert testimony
22 and numerous studies that the Project will not unduly
23 interfere with the orderly development of the region with
24 due consideration having been given to municipal and

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1 regional planning commissions and municipal governing
2 bodies." Record evidence establishes that the Project is
3 consistent with orderly physical and economic development
4 of the region and will not adversely impact property
5 values."

6 In response, in their final brief, the
7 Intervenor Group of Buttolph/Lewis/Spring questioned the
8 finding stated in the UNH study. This intervenor group
9 point out that the authors of the study were not made
10 available as witnesses during the hearings. They also
11 question the following component of the UNH report: "To
12 evaluate the local area economic impacts of the project,
13 the research team drew on their previous research
14 performed that focused on economic impacts of wind power
15 in New Hampshire, including the New Hampshire Renewable
16 Portfolio Standard legislation, New Hampshire's
17 participation in the Regional Greenhouse Gas Initiative,
18 green industry employment in New Hampshire, and the local
19 economic impact of the proposed Granite Reliable Power
20 Wind Project in Coos County." The analysis defines the
21 local economy in the following paragraph as including
22 Belknap, Carroll, Coos, Merrimack, and Sullivan Counties.
23 And, Items 1, 2, and 4 listed by the authors are of
24 immediate concern to the intervenors.

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1 First of all, regarding the authors'
2 reliance on the Granite Reliable Power Wind Project in
3 Coos County, these numbers are apparently nothing more
4 than projections from an earlier study by the authors,
5 specifically Matt Magnusson. Obviously, as of the date of
6 this report, the Coos project has not been built. This
7 project's support of New Hampshire's RPS legislation, RSA
8 362-F, is in doubt if all the power generated is sold
9 outside of New Hampshire.

10 Regarding the RGGI legislation's impact,
11 which is RSA 125-O:19, the Manchester Union Leader
12 reported on March 30, 2011 that "The House today sent to
13 the State Senate a bill that would end the state's
14 participation in the Regional Greenhouse Gas Initiative."

15 The Buttolph/Lewis/Spring Intervenor
16 Group go on to point out that on Page 9 of the Economic
17 Report, Paragraph 1, states that "The benefits provided by
18 individual wind power projects from energy diversification
19 and the reduction of pollution are very difficult to
20 quantify for individual states or local areas." And, on
21 Page 12, states that "Determination of indirect and
22 induced economic impacts have a degree of uncertainty as
23 the lead contractor, subcontractors and material supplies
24 have yet to be determined by Iberdrola. Therefore, it is

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1 difficult to know the extent that materials will be
2 obtained from local sources."

3 And, on Page 11, in Paragraph 1, states
4 "In this analysis, a percentage of overall capital
5 expenditures was allocated to labor based on discussions
6 with project management at Groton Wind and default inputs
7 from the JEDI Wind Energy model." There is no mention in
8 this report about the specific economic drivers in the
9 Baker River Valley. So, the intervenors are concerned
10 that boilerplate default inputs used in the model have no
11 relevance and perhaps may not consider negative impacts to
12 local businesses, such as those dependent upon tourism.
13 The intervenors could go on at length regarding concerns
14 with this study, the UNH study, and the lack of
15 opportunity for discovery relating to its contents. More
16 to the point, considering the Committee's requirement to
17 evaluate this Project based on the record, we are
18 compelled to point out that the record is full of holes
19 with respect to assessing the alleged economic benefits of
20 this project, which ties directly to the assessment of
21 whether this project will unduly interfere with the
22 orderly development of the region, as required. So, those
23 are the concerns raised by that intervenor group.

24 The Groton Board of Selectmen and the

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1 Groton Planning Board both express their support for the
2 Application of Groton Wind, LCC [LLC?], for a Certificate
3 for Site and Facility. And, the Grafton County
4 Commissioner, District 3, also articulated his support for
5 the proposed wind farm.

6 The North Country Council provided the
7 following information in a letter dated October 15th, 2010
8 regarding Groton Wind: "To ensure that the criteria
9 listed below regarding the orderly development of the
10 region are met, the North Country Council respectfully
11 requests that the agreement resulting from the
12 negotiations between the Town of Groton and the Applicant
13 is incorporated into the permit as a permit condition.
14 This will ensure the protection of the community's
15 interests should the ownership of the project change hands
16 in the future. Similarly, North Country Council requests
17 the Committee consider conditions as necessary to ensure
18 the impacts of the project do not interfere with the
19 capacity of the region's transportation and emergency
20 response system to provide the orderly development of the
21 region." They go on to say that the criteria against
22 which the proposed facility should be evaluated to
23 determine compatibility with the orderly development of
24 the region include permits local access to low cost heat

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1 and power; co-locates with industry and creates jobs;
2 incorporates community benefits agreements; has positive
3 fiscal impacts; and are consistent with host community and
4 regional development goals; sustainable resource use; and
5 environmental stewardship standards." So, North Country
6 Council offers for the Committee's considerations both
7 comparing the Applicant's claims against those standards,
8 and then also offers a condition for our considerations.

9 We had the New Hampshire Timber Owner --
10 Timberland Owners Association, in a letter dated
11 December 15, 2010, state that "wind energy projects can
12 benefit a timberland owner's ability to retain their
13 working forest and manage it." "As the economic model for
14 timberland ownership becomes increasingly difficult, the
15 ability to capture revenue from the sale of wind rights
16 can make the difference between a landowner being able to
17 retain their timberland property as a working forest or
18 having to subdivide and sell it."

19 "In the case of the referenced project,
20 assuming it meets regulatory permits and statutory
21 requirements, it appears the proposed project would
22 compliment the property's forest management activities and
23 recreational uses. This will help enable the landowner to
24 retain this property as a working forest, something that

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1 will benefit the local economy and environment."

2 The Town of Plymouth, in a letter dated
3 December 6, 2010, stated that "Plymouth's ordinances and
4 regulations are designed to minimize mountain and
5 ridgeline development. When such development occurs, it
6 is required to harmonize with existing uses so as to
7 protect the property rights of others." "The proposed
8 introductions of these manmade structures will have a
9 negative effect on Plymouth's character and scenic
10 beauty." "We encourage the Committee to examine the
11 location of those windmills that will be so prominently
12 visible from Plymouth. We ask the Committee to consider
13 whether relocating those towers that will be most visually
14 offensive strikes a more appropriate balance between the
15 aims of Groton Wind and its investors and the legitimate
16 concerns of the Plymouth property owners and residents who
17 will bear the visual and economic impacts for this
18 project."

19 From Prefiled Testimony of Carl Spring,
20 dated August 2010, under "land values", Mr. Spring states
21 "I find it hard to believe that my land value will go up
22 or even stay the same due to the Groton Wind Farm. What
23 study shows pre and post wind farm construction land
24 values going up? This study should not include landowners

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1 that have been paid for wind farm construction, or paid to
2 remain silent. This being said, Groton Wind should have
3 no objection to signing a property value guarantee,
4 agreeing to pay for any loss in land or business values."

5 We have from the Prefiled Testimony of
6 Cheryl Lewis, also dated August 2010, under "Potential
7 Impacts Property Values", Ms. Lewis states "For the
8 reasons listed above, I believe my property value will
9 decrease if the Groton Wind Farm is built. If the sound
10 from the turbines impacts my business, its value will
11 certainly decrease. If the Baker River is in any way
12 impacted by the Project, the value of my business will
13 decrease. If the aquifer is affected in any way by the
14 Project, the value of my business will decrease.

15 Campground values are generally based on average annual
16 revenue, and, therefore, decreases in revenue due to
17 impacts such as those discussed, will reduce the overall
18 property value of the business. Just the potential risk
19 of these impacts reduces the value of my property. My
20 property falls within the viewshed of this Project and at
21 this time the simulation provided to me since the
22 technical session similar operation provided to me since
23 the technical session has shown a number of turbines will
24 be visible from my property."

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1 Ms. Lewis goes on to say "The Ben Hoen
2 study, which the Applicant has submitted, in my opinion,
3 is faulty in many aspects. Mr. Mike McCann, certified
4 appraiser, has reviewed this study and has found many
5 problems with the analysis."

6 Then, from the Prefiled Testimony of
7 James Buttolph, August 2010, in a question that was asked,
8 "Do you have concerns about the impact of property values
9 in the Baker River Valley and surrounding neighborhoods?"
10 Mr. Buttolph replied "Absolutely. The intervenor group of
11 Buttolph/Lewis/Spring calls the attention of the SEC to
12 written testimony submitted by Michael McCann, McCann
13 Appraisals, LLC. Mr. McCann raises serious concerns about
14 the likely devastating impact to property values in the
15 area. As the SEC will note, Mr. McCann raised specific
16 concerns with the study titled "The Impact of Wind Power
17 Projects on Residential Property Values" by Mr. Ben Hoen."

18 So, based on written and oral testimony
19 provided to the Subcommittee, a principal area of
20 contention within the scope of orderly development of the
21 region appears to be the impacts of property values
22 located in close proximity to the project footprint. In
23 an effort to substantiate that wind power projects do not
24 measurably negative -- do not have measurably negative

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1 impacts on property values, the Applicant submitted a
2 study titled "The impact of Wind Power Projects on
3 Residential Property Values in the United States: A
4 Multi-Site Hedonic Analysis", prepared for the Office of
5 Energy Efficiency and Renewable Energy Wind & Hydropower
6 Technologies Program within the U.S. Department of Energy.
7 The intent of the study was to assess the potential
8 impacts of wind power projects on three property value
9 stigmas: Area Stigma, Scenic Vista Stigma, and Nuisance
10 Stigma, by applying a base hedonic model, as well as seven
11 alternative hedonic models, each designed to investigate
12 the reliability of the results and to explore other
13 aspects of the data.

14 In addition, a repeat sales model was
15 analyzed and an investigation of possible impacts on sales
16 volumes was conducted. Though some limitations to the
17 analysis approach and available data were acknowledged in
18 the study, the authors state the resulting product is the
19 most comprehensive and data-rich analysis to date in the
20 U.S. or abroad on the impacts of wind projects on nearby
21 property values.

22 Findings from the study include: The
23 Base Model found no persuasive evidence of any of the
24 three potential stigmas; neither the view of the wind

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1 facilities nor the distance of the home to those
2 facilities was found to have any consistent, measurable,
3 and statistically significant effect on home sales prices.
4 The results from all other -- from all the models are
5 similar. There is no statistical evidence of a widespread
6 Area Stigma among the homes in this sample. Homes in the
7 study area did not appear to be measurably stigmatized by
8 the arrival of a wind facility, regardless of when those
9 homes sold in the wind project development process and
10 regardless of whether the homes are located one mile or
11 five miles away from the nearest facility.

12 With respect to the Scenic Vista Stigma,
13 the seven alternative hedonic models and the additional
14 analysis contained in the Repeat Sales Model found little
15 consistent evidence of a broadly negative and
16 statistically significant impact. Similarly, the All
17 Sales Model found that homes that sold after wind facility
18 construction and that had a view of the facility
19 transacted for prices that are statistically
20 indistinguishable from those homes that sold at any time
21 prior to the wind facility construction.

22 In the Repeat Sales Model, some limited
23 evidence was found that a Scenic Vista Stigma may exist,
24 but those effects are weak, fairly small, somewhat

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1 counterintuitive, and are at odds with the results of
2 other models. The authors state that this finding is
3 likely driven by the small number of sales pairs that are
4 located within one mile of the wind turbines and that
5 experience a dramatic view of those turbines.

6 Results for the Nuisance Stigma from the
7 seven alternative hedonic models and the additional
8 analysis contained in the Repeat Sales and Sales Volume
9 Models supported the Base Model results. Homes that are
10 within a mile of the nearest wind facility, where various
11 nuisance effects have been -- have not been -- have not
12 been broadly or measurably affected by the presence of
13 those wind facilities. These results imply that Nuisance
14 Stigma effects are either not present, or are too small or
15 infrequent to be statistically distinguished.

16 So, the study concluded that though each
17 of the analysis techniques used have strengths and
18 weaknesses, the results as a whole are strongly consistent
19 in that none of the models uncovered conclusive evidence
20 of the presence of any of the three property value stigmas
21 that might be present in communities surrounding wind
22 power facilities. Therefore, no evidence was found that
23 home pricings -- home prices surrounding wind facilities
24 are consistently, measurably, and significantly affected

1 by either the view of wind facilities or the distance of
2 the home to those facilities.

3 However, the Study also notes the
4 analysis cannot dismiss the possibility that individual
5 homes or small numbers of homes have been or could be
6 negatively impacted, though the authors go on to say that
7 if these impacts do exist, they're either too small and/or
8 too infrequent to result in any widespread, statistically
9 observable impact.

10 At the end of the Study, there are
11 several recommendations made. Two of the recommendations
12 for further research include (1) the primary goal of
13 subsequent research should be to concentrate on those
14 homes located closest to wind facilities, where the data
15 sample herein was most limited; and (2) a more detailed
16 analysis of sales volume impacts may also be fruitful, as
17 would an assessment of the potential impact of wind
18 facilities on the length of time homes are on the market
19 in advance of eventual sale.

20 Now, the testimony of the intervenor
21 group of Buttolph/Lewis/Spring questioned the validity of
22 the findings in the above referenced Study that was
23 submitted by the Applicant. This intervenor group
24 employed the service of Mr. Michael McCann, of McCann

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1 Appraisals, LLC, who submitted written and oral testimony
2 to the Subcommittee, raising concerns about the Study and
3 presents an alternative viewpoint about wind farm-related
4 impacts to property values in the surrounding area of
5 these types of projects. In his written testimony,
6 Mr. McCann contends the Study makes it clear that there
7 are isolated areas, i.e. nearby homes, where impacts are
8 likely to occur and that it clearly demonstrates that
9 impaired or less desirable views reflect measurably lower
10 sales prices than homes with average or premium views.
11 Mr. McCann submitted to the Subcommittee an empirical
12 study he prepared for a pending wind farm setback
13 ordinance in Adams County, Illinois. He indicates that
14 without any manipulation of the raw sales data, the
15 Mendota Hills wind project property value study contained
16 in the appendix to the Adams County report demonstrates
17 that homes nearest turbines tend to sell for 25 percent
18 less than comparable more distant homes.

19 Mr. McCann concludes his written
20 testimony by stating "In the event that the Committee
21 approves the Application, I recommend that a Property
22 Value Guarantee of equal protective value to neighboring
23 homeowners as the example included in the Adams County
24 report appendix be required of the developer, to insure

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1 that the neighbors are not unduly forced to live with
2 diminished use, enjoyment or value of their properties."

3 So, in written testimony that Mr. McCann
4 submitted to the Adams County Board in Illinois during its
5 deliberation on establishing residential setback
6 requirements for wind turbines, he offers the following
7 opinions: Residential and property values are adversely
8 and measurably impacted by close proximity of
9 industrial-scale wind turbine projects to residential
10 properties, with values lost -- with value losses measured
11 up to two miles from the nearest turbine, in some
12 instances. Real estate sales data typically reveals a
13 range of 25 percent to approximately 40 percent of value
14 loss, with some instances of total loss as measured by
15 abandonment and demolished homes, some bought out by wind
16 energy developers and others exhibiting nearly complete
17 loss of marketability.

18 The Applicant contends in their final
19 brief that, "given Mr. McCann's inability to substantiate
20 his oral testimony regarding a report he allegedly
21 conducted in 2005 which supports his opinion about an
22 Illinois wind farm's effects on property values, his
23 opinion in this document [docket?] should be afforded
24 little, if any, weight." The Applicant further states

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1 "...in reaching his, Mr. McCann's, conclusions about the
2 Project's potential effects upon property values, he did
3 not examine any data relating to the Lempster Wind
4 Project, nor any New Hampshire specific property sales
5 information." The Applicant also makes the point that,
6 "even if Mr. McCann's speculative position prevailed, it
7 would not -- it would not bar the Subcommittee from
8 issuing a certificate of site and facility in this case
9 because "adverse impact to property values" is not among
10 RSA 162-H:16 criteria that must be considered by the
11 Subcommittee. Accordingly, there is no reason to impose a
12 Property Value Guarantee condition in this case,
13 especially in light of the fact that neither of the two
14 other wind energy facilities that have been certificated
15 in New Hampshire were subject to such a condition."

16 In the final brief of the intervenor
17 group of Buttolph/Lewis/Spring, they contend that it's the
18 Applicant who did not provide an expert witness to testify
19 in support of its position on real estate values.

20 Therefore, this group recommends the following condition
21 be applied to permit, if issued: "Within a two-mile
22 radius of any turbine, the intervenors believe a property
23 value guarantee as provided by Mr. Mike McCann will be the
24 only form of adequate mitigation. All property owners

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1 within this radius shall be afforded proper notification
2 and a minimum of four months to decide to participate. In
3 addition, any property deemed eligible or already eligible
4 for the National Register which lies within the viewshed
5 of the project, regardless of the distance, shall be
6 eligible for a PVG."

7 The Town of Groton Select Board, in a
8 letter dated March 29, 2011, takes no direct position on
9 the assertion that the Applicant should provide property
10 value guarantees to property owners within a certain
11 area/radius. However, to the extent that the Subcommittee
12 is inclined to require a property value guarantee, the
13 Groton Select Board is of the opinion that it should apply
14 to all properties within a certain radius, regardless of
15 the municipality where it is located.

16 So, that's a -- maybe a too detailed
17 overview of the issues about economic and views of
18 municipalities about orderly development. But the two
19 issues that I saw come out of this was disagreement about
20 the economic impact the Project will have on the region,
21 because they were questioning the facts that were being
22 used in that Study, and they did not have -- the
23 intervenors did not have an opportunity to question
24 anybody about that Economic Impact Study.

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1 CHAIRMAN GETZ: And, that goes to the
2 affirmative assertion made about the economic benefits
3 that would come from the facility based on the UNH Study?

4 MR. PERRY: That's correct. And, then,
5 two, the disagreement about the Project's impact on local
6 property values. And, so, --

7 CHAIRMAN GETZ: Well, Mr. Harrington?

8 MR. HARRINGTON: Just to comment on some
9 of this. I think that it's really -- it's really not
10 specific in the law, if we look at it, where it talks
11 about this. It says "will not unduly interfere with the
12 orderly development of the region", and then it goes on
13 about "considerations...of the municipal and
14 regional...governing bodies." And, what does that really
15 imply? And, I guess maybe one of the first questions you
16 could look at is, does it mean "does it unduly interfere
17 with the orderly development of the region if the Project
18 ends up with a reduction of property values?" I'm not
19 sure of the answer to that question. I don't think that
20 there's -- there's a lot of reasons why property values
21 could go down. They could put in a supermarket down the
22 street or a shopping mall or anything to go with like
23 that. So, I'm not quite sure that you can be specific as
24 to say "well, it has a negative impact on property values,

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1 therefore it interferes with the orderly development of
2 the region." Something that may seem to be very much in
3 tune with the orderly development of the region may have a
4 negative impact on some people's properties' values. And,
5 even if you go the next step and say --

6 CHAIRMAN GETZ: Well, are you saying
7 that -- I'm trying to understand, two ways I guess of
8 looking at it. Are you saying that, even if there were a
9 direct widespread negative economic effect on real estate
10 values, that that may not fall under this heading? Or are
11 you saying that the case hasn't been made that there is
12 actually a widespread negative effect?

13 MR. HARRINGTON: Well, I think you have
14 to look at it from -- it's kind of a tiered approach. I
15 mean, if you look at it from the point of view, I don't
16 think you can make a statement and say "any project that
17 has a reduction in property values of some property is
18 therefore unduly" -- what's the correct term? -- "unduly
19 interferes with the orderly development of the region."
20 Because "orderly development of the region" has the word
21 "development" in it, which imposes -- it implies that
22 there is some orderly development going on. And, when you
23 get down to things as personal as property values,
24 especially when you come to things like views, that is

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1 very, very difficult to look at. Some -- one person may
2 buy a property and say "I'm looking at this, and I see a
3 view, and I see nothing by trees, and that's why I moved
4 here, and that's what makes the property valuable to me."
5 Where somebody else might say "I don't care if I can look
6 out and see a shopping plaza or not." It doesn't
7 necessarily bother them.

8 So, just because something impacts
9 property values doesn't mean it interferes with the
10 orderly development of the region, and that's what the law
11 says. The law doesn't say "has a negative impact on
12 property values." It says "unduly interferes with the
13 orderly development of the region."

14 And, I think we have to establish, at
15 least generally, that if you have negative property value
16 effect that it unduly interferes with the orderly
17 development of the region. Because, if we can't establish
18 that, then we really don't have to look at the second part
19 about the individual property values. I think that,
20 hopefully, you understood my point.

21 CHAIRMAN GETZ: Mr. Scott.

22 DIR. SCOTT: I have similar concerns.
23 When I look at 162-H generally, and, again, it's looking
24 at the environment as much as anything else, but it

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1 continuously talks about a "balance". And, well, I guess
2 I have a question maybe for our counsel. I mean, I'm not
3 aware of us ever issuing a certificate where we made a
4 guarantee of property value. And, that's -- if that's the
5 case, I'd like to hear where we've done that, maybe we
6 could look at that. But that's not my understanding.

7 And, inherently, I think an energy
8 facility is an industrial activity. And, within that, I'm
9 at a loss of, you can call it "zoning" or whatever else
10 going on within the community, but where an industrial
11 activity is, I think that's inherently understood that an
12 industrial activity, whether it's a wind farm or a power
13 plant that is being considered by the Committee, and I
14 would argue there is potentially some local -- localized
15 property value impacts with any industrial facility, and I
16 think that's inherent in the statute and that's been
17 understood.

18 I'm not trying to minimize the concerns
19 of the local people. But I'm just, again, I'm -- I guess
20 I'm agreeing with Mr. Harrington, is does that run counter
21 to orderly development? To me, that's almost a given that
22 the industrial capacity, industrial facility, has
23 potential for some impacts like that.

24 MR. HARRINGTON: And, just in follow up,

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1 because I want to make sure I'm clear on one thing that I
2 should have mentioned before. When I say this, especially
3 when you're dealing with the change in property values to
4 the view, I mean, that's such an individual thing. And,
5 any development of the region could have a negative
6 effect. I mean, as we all saw in Plymouth, there's that
7 big Wal-Mart store down there that you can look out and
8 see a lot of the mountains and stuff. And, I'm sure
9 there's houses somewhere out there that used to see woods,
10 and now sees a rather large Wal-Mart. But I also think
11 probably most people were pretty happy that Wal-Mart came,
12 it gave them some place to shop and they didn't have to
13 drive as far. So, I mean, you've got to balance that.

14 But I wanted to make sure that I'm not
15 talking about an intrusive thing on property, because I
16 think that could definitely interfere with the orderly
17 development. And, by that, I'm talking about the noise
18 factor. Because if you -- and I'm not saying that is a
19 concern here. But, if noise were to become a factor,
20 where people simply, you know, would be -- it would be
21 very difficult for someone to stay living in the area
22 because of the amount of noise coming from the turbines,
23 then I think that would inhibit the orderly development of
24 the region, because it would make certain places basically

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1 uninhabitable.

2 So, I think, just taking -- kind of
3 taking the noise one separate from here, most of what we
4 heard about has been view issues. And, I just don't see
5 how, and going along with what Mr. Scott said, how you can
6 turn around and say "if someone doesn't like the resulting
7 view, that that interferes with the orderly development of
8 the region", because the development of any region is more
9 than likely going to decrease the view. Because I don't
10 know of anybody who owns property and says "Boy, I want to
11 get properties, so I can look out and see a shopping
12 center or a power plant or an industrial facility", as
13 compared to "I like to look out my backyard and just see
14 mountains and trees." So, any development is going to
15 have a negative impact on the value of property views.
16 So, I think it's kind of inherent in the law that, if
17 you're going to have development, you can't say that it
18 "unduly affects the orderly development of the region."

19 CHAIRMAN GETZ: Yes. Well, I think some
20 of that may go to "what's the level of the analysis, in
21 terms of looking at "orderly development of the region"
22 versus some of the specific unreasonable adverse effects?"
23 And, I think you mentioned "noise", and whether the noise
24 of some turbines can interfere with the orderly

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1 development of the region versus where we typically look
2 at noise is as a subset of public health and safety, and
3 that gets very specific down to very specific residences
4 versus the region. And, I think if you look at the way
5 orderly development has been handled, at least in the
6 Noble and in the Granite Ridge cases -- in the Granite
7 Reliable, not "Granite Ridge", excuse me, 2008-04, on
8 Page 38 of the order from July 15, says "As to the
9 contention that the Project will injure property values
10 and tourism in the area, the visual and auditory impacts
11 on the area are attenuated given the distance of the
12 turbines from area residences and businesses." And,
13 "Likewise, because of their location, there is little, if
14 any, public impact or danger." And, "Therefore, it is
15 unlikely that property values or tourism in the area will
16 suffer appreciably." And, it also goes on to talk about
17 "Additionally, there is nothing indicating that the
18 construction or operation of the facility will curtail
19 recreational activities in the area." And, then, it said
20 "Accordingly, we conclude from the perspective of property
21 values and tourism, the Project will not interfere with
22 the orderly development of the region."

23 So, I think that may go to the issue, is
24 it a higher level review that we're doing with respect to

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1 orderly development versus do you then, in the other
2 areas, look at a specific subset and specific properties
3 to see if there's an issue?

4 MR. HARRINGTON: That's why I was trying
5 to separate the noise issue out. I agree with that
6 analysis.

7 CHAIRMAN GETZ: And, then, I guess, even
8 in the Lempster order, on Page 25, it says "The Committee
9 notes that the Applicant has submitted a number of
10 exhibits concerning various viewsheds and depicting the
11 turbines. Although the turbines will be visible from
12 various vantage points, the Committee cannot find that
13 such visibility alone will interfere with the orderly
14 development of the region."

15 So, I think we need to kind of, you
16 know, focus on that higher level review. But I think we
17 have to address the factual contentions specifically on --
18 made by Mr. McCann in his testimony, to get to making a
19 finding whether it will unduly interfere with the orderly
20 development, because he makes some assertions that it
21 will. That a project is going to have impacts based on
22 his testimony about what he saw in Illinois. So, I think
23 we have to talk about whether, you know, the testimony in
24 that area and what weight to accord it, what credibility

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1 to assign it, and, you know, whether it is as pervasive an
2 effect that he contends it is. And, then, move from that
3 factual kind of analysis then, to move our way up to
4 making a larger finding. But, Mr. Perry, did you --

5 MR. PERRY: Well, in that regard, if we
6 were to go back and look at what the North Country Council
7 had recommended, you know, two of the criteria that they
8 recommend that this proposed facility should be evaluated
9 against to determine its compatibility with the orderly
10 development of the region as it relates to this issue, it
11 says "Co-locates with industry and creates jobs", and then
12 "has positive fiscal impacts." So, those do seem to be at
13 a much higher level. Overall, are we looking at this
14 Project having a positive fiscal impact to the region and
15 is it co-locating with current industry or industry? And,
16 we know this is on a working forest, so it's not a
17 pristine area in which it's being located at. And, does
18 it create jobs?

19 CHAIRMAN GETZ: Thank you. Mr. Scott.

20 DIR. SCOTT: Yes. More directly, I
21 think your question on Mr. McCann, I just wanted to
22 comment, and it makes me a little bit uncomfortable. My
23 understanding from the testimony of Mr. McCann, he has
24 never been to the site. And, from what I can tell, maybe

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1 never in New Hampshire, I don't know, but certainly not
2 been to the site in question. That's a concern to me.
3 Can you make a blanket statement from the Midwest or
4 wherever he was at the time for this property? That's not
5 clear to me that that's the case.

6 It's also telling to me, again, and I
7 see Mr. Onnella in the audience here, we are, again, we do
8 have the benefit of an existing wind farm in a similar
9 location in our state. And, I'm not aware of any
10 compelling evidence to show that existing wind farm, which
11 was recently built, had that type of an impact. So, those
12 are important factors to me as we consider those.

13 CHAIRMAN GETZ: Mr. Steltzer.

14 MR. STELTZER: As I've been listening to
15 Mr. Harrington, my understanding of what he's saying is
16 that commercial development is -- that the impact of
17 commercial development are innate or into the definition
18 of "orderly development". And, I don't know if I
19 necessarily agree with that. In that I do think property
20 values do need to be considered somewhere in this. I'll
21 certainly defer to legal guidance on that, but somewhere
22 in there they should be considered. So, that takes me to
23 the evidence then of what's been provided. And, to the
24 Chairman's suggestion, as far as what sort of weight we

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1 should put towards the evidence, for me, I see a greater
2 weight being put towards the work by Lawrence Berkeley
3 National Lab, an organization that had, I believe, five
4 different authors to it, that had been done with thousands
5 of sites across the country, compared to one individual
6 appraiser that has an opinion, though, an expert opinion
7 on appraising industry, but one person's opinion. And,
8 so, I put a little bit more weight into the fact of the
9 Lawrence Berkeley National Lab. I also recognize that the
10 Lawrence Berkeley National Lab has never been here to New
11 Hampshire either. But the fact that it was a
12 comprehensive study, with individuals who are familiar
13 with hedonic methodologies, given some of that non-market
14 valuation does have its own concerns to me as far as how
15 you value these non-marketable goods, such as views. But
16 I guess I just put a greater weight towards what they're
17 suggesting in their report.

18 Likewise, adding to that some of the
19 thoughts that I've had as far as property value
20 guarantees. We haven't had, as has been mentioned, we
21 haven't had any sort of evidence to suggest that property
22 value guarantees have been used, whether it's in New
23 Hampshire, whether it's across the country, there has just
24 been little evidence that I've seen to suggest that. We

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1 have had evidence, and I would need to go back to the
2 record to find where it was noted, but Mr. Cherian did
3 provide evidence to suggest, in his experience as a wind
4 developer, he is not familiar with a property value
5 guarantee being placed on a wind development project.

6 And, then, finally, if even a property
7 value guarantee were to be put in, as I was questioning
8 Mr. McCann, was, really, "how do you determine that
9 value?" And, the property value guarantee that was
10 provided to us is an example of something to use, allowed
11 for an excessive period of time for both parties to go
12 back and forth on how to value that guarantee. And, as a
13 result, it could go on and on and on. And, the individual
14 who owns that property can lose value because they're not
15 selling it. So, that's where my sense of how a property
16 value guarantee should apply to this Project.

17 CHAIRMAN GETZ: Dr. Boisvert.

18 DR. BOISVERT: In looking at it in terms
19 of the standard, it talks about the "orderly development",
20 the "orderly development of the region". And, regarding
21 property values, there are two, two sections that I see as
22 the impacts. The owner who would sell the property,
23 potentially getting a gain. And, then, there's the issue
24 of the property taxes, and the impact on the community

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1 should property taxes decline, because the property values
2 have declined. And, I believe, as I understand the
3 standard, we would have to lean towards the impacts on the
4 community, not on the individuals, in terms of property
5 values. If the Project were to reduce property values
6 such that it would reduce the income to the community by
7 taxes significantly, and it's not offset by property taxes
8 on the wind farm, then it might apply, because that would
9 be to the orderly development of the region. It does not
10 talk about protecting the property values of the
11 individuals --

12 (Court reporter interruption.)

13 DR. BOISVERT: I'm sorry. As I
14 understand it, and I could be completely wrong, it would
15 seem to be more directed towards the community and not to
16 the individual property owners.

17 And, then, as far as the value being
18 affected, there has been considerable debate about "view
19 taxes", and I think realistically so, people will increase
20 or decrease their perception of the value of the property
21 depending upon the view. If you're looking at Mount
22 Washington or a hog farm, it may impact your desire to own
23 the property, whether you're a bed & breakfast owner or a
24 hog farmer, you know, there can be an impact there.

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1 So, I think that the value -- that it
2 could impact the value I think is real. But, I think
3 that, from where I sit, does it impact the region? That's
4 what I'm seeing here. So, that, and the difficulty of
5 applying the property value guarantees, make me lean
6 against that particular solution.

7 CHAIRMAN GETZ: Thank you.

8 Mr. Harrington.

9 MR. HARRINGTON: Yes. Just to follow up
10 on that, I agree, I think you have to look at it on a
11 higher level. Because the region that we're looking at,
12 and I'm willing to concede that there's absolutely some
13 houses that will have a decrease in property value due to
14 this Project, if it goes forward, simply because of the
15 location of the -- it's a very scenic area, it's very
16 hilly, very mountainous, and people usually don't go there
17 and say "hopefully, I'll be able to look out my back door
18 and see a wind turbine." Or, where it's dark at night and
19 they look out and see nothing, they will see lights on the
20 turbines, you know, as required for the -- by the FAA.

21 So, I would say, most undoubtedly, there
22 will be some properties whose value goes down. But,
23 again, I'd say, with any type of development, that's
24 always possible. And, you have -- people put value on

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1 things for different reasons. But, even if it's very
2 much, you know, universally decided that a certain type of
3 thing will decrease some property values, that usually
4 doesn't mean that the property owner then has the right to
5 compensation for that. If someone is putting in, like I
6 said, a supermarket down the street, that's going to --
7 now it results in more traffic going by your house, maybe
8 that means the value of your property is worth less. Does
9 that mean you get to go to the supermarket owner and say
10 "you have to pay me more money, because my property value
11 has gone down because of the additional traffic caused by
12 your store"? That's usually not the way it works. The
13 town may be required to put a set of lights to help with
14 the traffic flow, but the individual property owners don't
15 get payments out of that.

16 So, I think, even if we can see that
17 there will be a decrease in property values here, the
18 question comes on the regional basis, which is what we're
19 supposed to be dealing with here: "Does it have an undue
20 effect on the orderly development of the region?" And, I
21 would say, as long as it's fairly limited, in this case it
22 is, I do believe Mr. McCann is talking about houses within
23 two miles of the turbines, which is a fairly small number
24 of houses, that it doesn't have an undue effect on the

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1 orderly development of the area. And, unless it was,
2 again, significant, again it was just said, if it was
3 something that's so major that it caused the property tax
4 revenues of the town to decrease by 20 or 30 percent, then
5 you could say that it has a regional effect. But I just
6 don't -- I saw no evidence in this case that that would be
7 the case. In fact, there was no evidence I was aware of
8 presented that said it was going to have a specific, you
9 know, decrease in whatever percentage of tax revenues for
10 the Town.

11 CHAIRMAN GETZ: Let me just make sure I
12 understand one thing. Are you saying, with respect to
13 Mr. McCann's testimony, that even accepting for the sake
14 of argument that he was true, that it still wouldn't
15 affect the overall decision on this issue?

16 MR. HARRINGTON: Yes. I think, I'd be
17 happy to look at it, but he's talking about individual
18 houses with a close proximity to, in fact, his
19 recommendation is "within two miles of the facilities".
20 And, I'm willing to concede that there is at least some
21 houses in that area that, because of their location, some
22 may be they have got it blocked by a hill or a bunch of
23 trees or whatever, but there's some that clearly are going
24 to have a view of wind turbines. But does that unduly

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1 affect the orderly development of the area? And, I don't
2 think it does. I don't think it rises to that level. It
3 may affect that one person's view. But, as I said, any
4 time you have any type of development, there's always the
5 possibility that some individual property owner is going
6 to have their value go down because of more traffic, more
7 noise, more whatever the case may be, but you have to look
8 at it on the regional issue.

9 CHAIRMAN GETZ: Okay. I have one
10 question. Mr. Patnaude, how are you doing?

11 MR. PATNAUDE: I need a break soon.

12 CHAIRMAN GETZ: Well, it's almost 11:00.
13 Yes. Let's take ten minutes, and then we'll come back for
14 an hour, hour and a half, and then take the lunch recess.

15 (Whereupon a recess was taken at 10:58
16 a.m. and the deliberations resumed at
17 11:10 a.m.)

18 CHAIRMAN GETZ: Okay. We're back on the
19 record and continuing our deliberations. Anyone have --
20 oh, Mr. Perry.

21 MR. PERRY: Yes. Just go back quickly
22 and just taking a look at what it's talking about. And,
23 it's saying "orderly development of the region with due
24 consideration having been given to the views of municipal

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1 and region planning commissions and municipal governing
2 bodies." And, based on what we have in the record, both
3 in testimony and written from those bodies, we only have
4 one municipality that has raised any issue about the
5 orderly development of the region from the Town of
6 Plymouth. Where they're asking that "the Committee to
7 consider whether relocating those towers that will most --
8 that will be most visually offensive strike a more
9 appropriate balance between the aims of Groton Wind and
10 its investors and the legitimate concerns of the Plymouth
11 property owners and residents who will bear the visual and
12 economic impacts of the Project." So, that's the only
13 municipality or regional commission that, you know,
14 provided a contrary viewpoint on the Project. All the
15 rest seem to have no position or supported the Project as
16 being in compliance with orderly --

17 CHAIRMAN GETZ: And, where was that?
18 Was that in their brief or in their testimony from the
19 Town of Plymouth?

20 MR. PERRY: That's in their -- a letter
21 dated December 6, 2010.

22 CHAIRMAN GETZ: Okay. Now, I look at
23 their brief, and it seems like the final brief just
24 focuses on essentially the fire-fighting/emergency

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1 response --

2 MR. PERRY: Right. They didn't bring
3 that up. So, it was just in an earlier letter that they
4 submitted.

5 CHAIRMAN GETZ: Okay. Any other
6 discussion? Dr. Kent.

7 DR. KENT: I just want to kind of bring
8 this back and simplify it a little bit, perhaps, this idea
9 of "orderly development". I would consider disruption of
10 the orderly development of the region if we had a
11 wholesale or broad-based decrease in property values by
12 the completion of this Project. We've had testimony by
13 Mr. McCann, from the Midwest. And, I appreciate his
14 testimony, but it came down to demonstrating the rigor of
15 his study. And, we had asked him for more information to
16 demonstrate that he had considered and eliminated other
17 factors that could have caused differences in real estate
18 values; and he wasn't able to provide that. That left us
19 with only one other document to review, and that was the
20 Berkeley Study, which was fairly comprehensive and fairly
21 rigorous, and that found no evidence that there's
22 wholesale diminishment of real estate values from the
23 construction of and operation of wind projects.

24 While I don't doubt that, for

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1 individuals, they perceive the value of their home
2 diminishing. If that does not extend to any potential
3 buyers, then I would not consider that an interruption or
4 interference with the orderly development of the region.

5 CHAIRMAN GETZ: Yes. And, let me talk a
6 little more about I think the test and the obligation
7 under the statute. The Applicant has to make an
8 affirmative case by a preponderance of the evidence that
9 the project will not unduly interfere with the orderly
10 development of the region. And, we have a lot of
11 testimony that was filed by Mr. Cherian. We have
12 reference to the UNH Study, reference to the Berkeley
13 Study. So, Mr. Cherian was subject to cross-examination.
14 The two studies, the proponents weren't here to be
15 cross-examined. And, I think they both were making, both
16 the UNH Study and the Lawrence Berkeley Study were setting
17 forth general propositions. So, it's a question, you
18 know, so, there's an issue of how much weight to give that
19 in bolstering the positions set forth by the Applicant.

20 We then have contrary testimony,
21 primarily by Mr. McCann, on the issue of the effect on
22 property values. And, two issues there. One is, is the
23 general credibility, and I think both Mr. Scott and
24 Dr. Kent have raised this issue, of how applicable is his

1 testimony about what happened in the Midwest, where
2 there's a different topography, and how applicable is it
3 to the situation here, in Groton? And, does that
4 testimony, is it incredible and persuasive enough to rebut
5 the affirmative case made by the Petitioner?

6 And, then, I guess there's even -- and,
7 then, there's a kind of secondary issue is there, and this
8 goes to what Mr. Harrington was talking about, is, even if
9 we find what he was saying to be credible, does it -- is
10 it sufficient enough to rebut the testimony as it applies
11 to the region or is it more specific or, you know,
12 restrictive in geographic effect that it really doesn't
13 alter the position? So, I think we have to make that
14 decision based on that structural analysis, especially,
15 and maybe we should kind of confine ourselves to the
16 property values for now.

17 Does anybody have any, anything else
18 that they want to talk about with respect to the property
19 values?

20 MR. IACOPINO: Mr. Chairman, could I
21 just point one thing out for the Committee, because I
22 think there may be a misstatement. In their brief, the
23 Town of Plymouth does, in fact, take the position that it
24 "supports the property value impact arguments raised by

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1 the Buttolph/Lewis/Spring Intervenor Group and the
2 testimony offered by [their] expert, Mr. McCann." And,
3 that's on Page 6 of their brief. I'm just pointing that
4 out so that you can consider that as part of the views of
5 the municipal bodies.

6 CHAIRMAN GETZ: Okay. So, that's on
7 Page 6 of the brief?

8 MR. IACOPINO: Page 6, yes, of the Town
9 of Plymouth's brief. They don't get into a detailed
10 discussion, they just say "we support that", "we support
11 that argument raised."

12 CHAIRMAN GETZ: Oh. And, that's at the
13 top paragraph?

14 MR. IACOPINO: Yes.

15 CHAIRMAN GETZ: Okay. Thank you.
16 Anyone else on this issue?

17 (No verbal response)

18 CHAIRMAN GETZ: Well, let me think
19 through. So, we have the property value issues. Is there
20 anything else that you think, Mr. Perry, we should be
21 emphasizing under "orderly development of the region"?

22 MR. PERRY: We have the issue of land
23 use and tourism, and decommissioning. I don't know if you
24 want to handle decommissioning under regional development

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1 or --

2 CHAIRMAN GETZ: Yes. I think that -- I
3 think that can fit in here or, I mean, I think it's been
4 treated here in other orders.

5 MR. PERRY: Okay.

6 CHAIRMAN GETZ: And, I think it kind of
7 comes in through the door because it's -- I think it is
8 substantively related to the notion of orderly
9 development.

10 MR. PERRY: Okay.

11 CHAIRMAN GETZ: And, it also, I mean,
12 obviously goes to, to the extent that there's agreements,
13 you know, between the localities, it expresses a view.
14 So, I think that would be -- I think that's appropriate.

15 MR. PERRY: Okay. Well, I'll just try
16 to summarize the land use and tourism component of that.
17 The Applicant asserts that the Project will have -- will
18 not have an unreasonable adverse impact on land use and
19 tourism in the region. Specifically, the Applicant
20 asserts that such activities as commercial timber
21 harvesting, outdoor recreation and the use of
22 non-motorized and motorized trails conducted and located
23 within the site will not be impacted by the Project.

24 As to tourism, the Applicant asserts

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1 there is no empirical basis for either a positive or a
2 negative to likely tourism visitation or expenditures as a
3 result of the wind project. And, that conclusion was
4 based on impact of the Project with their experience with
5 the Lempster Wind Project.

6 Intervenor Ms. Lewis, who owns the Baker
7 River Campground, she disagrees with the statement that
8 the Project will not have adverse impact on tourism in the
9 area. According to Ms. Lewis, the tourists and visitors
10 of her campground are attracted to natural, wild, and
11 uninhibited environment of the region. So that she
12 testifies that "many of the tourists and visitors to the
13 area are outdoorsmen and women engage in rock-climbing and
14 other outdoor activities." She believes that "the
15 visibility of the wind turbines and the noise generated by
16 these turbines may make the region unattractive to these
17 tourists."

18 So that, essentially, was the only
19 components voiced on land use and tourism. So, I don't
20 know if there's any discussion on that component of it?

21 CHAIRMAN GETZ: Anything from anyone
22 else? Either on tourism or recreation or the agreements
23 with the Town of Groton or the Town of Rumney?
24 Mr. Harrington.

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1 MR. HARRINGTON: On the tourism piece,
2 again, that becomes -- that's really difficult to judge.
3 I mean, in the case of the campground owner, she says it
4 may have a negative effect on her business, I mean, it's
5 really very difficult to make a decision as to whether it
6 will or not, until you see what happens. I mean, in some
7 of the testimony we've heard in other cases, they have
8 said that, you know, "the wind turbines become a tourist
9 attraction in and of themselves", and people actually come
10 to see the wind turbines. So, it's -- how do you balance
11 that against the ones who might say "I don't want to go
12 someplace where I can see wind turbines"? So, I'm not
13 even sure how we really address that.

14 But, if we didn't see any real evidence,
15 I guess that comes to the point of "does the Applicant
16 have to prove that it will have no negative effect on that
17 or is there somebody has to show that there could be?"
18 Because I don't think we saw much one way or the other, I
19 think it's really based on individual opinion.

20 CHAIRMAN GETZ: Well, I think it gets to
21 the distinction between a generalized effect on the region
22 and a particularized effect on a particular property or
23 business. And, to the extent the campground is affected
24 by a particular turbine or set of turbines that have, you

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1 know, because of the location or their proximity and
2 potential noise impacts, I think that's better addressed
3 under "public health and safety", and where those noise
4 issues have been addressed in the past. I think you have
5 to, you know, kind of determine, is it that distinction
6 between "particularized" and "generalized" impacts. And,
7 one near location I don't think rises to the level of
8 being able to judge that it -- that the Project is having
9 -- is unduly interfering with the orderly development of
10 the region. I think it has to be more extensive, is the
11 way I would look at the issue.

12 MR. HARRINGTON: No, I agree with you
13 completely. I think that was, again, the point I was
14 saying. But, in the case of an individual, I think maybe
15 we can look at it. But, on the regional thing, I really
16 didn't see, other than statements like "it's going to be
17 harmful to tourism", I mean, nothing was quantified, as to
18 what tourists? What businesses is it going to hurt? How
19 generally is it? What's that statement based on? So, I'm
20 saying, I don't really see much one way or the other as
21 far as something on the record that shows that it's going
22 to be detrimental or not detrimental to tourism. I don't
23 think I could draw a conclusion on that. Just nothing was
24 presented one way or the other.

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1 CHAIRMAN GETZ: Mr. Steltzer.

2 MR. STELTZER: From a land use planning
3 side, the site is currently used as an active woodlot,
4 it's a forested active woodlot. That use can continue
5 forward with the turbines being there. And, so, I do see
6 that as this complementary use to that land. So, as far
7 as the determination of an orderly development from a land
8 use perspective, I see that they're largely in line with
9 each other.

10 From a tourism perspective, I would
11 agree that there's been identified the Rumney ledges and
12 cliffs that is well regarded for their rock-climbing, as
13 well as the Polar Caves, which are located nearby. I
14 don't see anything as far as evidence that's been
15 presented that those uses can't continue forward, and that
16 people can't continue to enjoy the Polar Caves and can't
17 continue to enjoy the cliffs for climbing because turbines
18 are there.

19 CHAIRMAN GETZ: Mr. Perry.

20 MR. PERRY: And, just to further bolster
21 what Mr. Steltzer said. You know, we do have the letter
22 submitted by the New Hampshire Timberland Association --
23 Owners Association that said that they felt that wind
24 farms was a compatible land use with working forests, and

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1 that it would assist owners of working forests with their
2 economic model. So, again, we have a large organization
3 that seems to support compatible land use between wind
4 generation facilities and working forests.

5 CHAIRMAN GETZ: Well, let me -- let me
6 just see if I can summarize where I think the sense of the
7 Committee is. I'm not hearing a lot of discussion that
8 seems to me to support a conclusion that the Project would
9 unduly interfere with the orderly development of the
10 region. I think there's been some discussion about maybe
11 some particular possible effects, but not of -- of a
12 generalized nature that would tend to a finding against
13 what the Applicant has proposed. And, I think I've heard
14 some concerns about the -- as well as about the
15 applicability of the McCann testimony to New Hampshire,
16 and I've also heard some concern about the condition about
17 guaranteeing property values, which, again, would only be
18 applicable if we found some really pervasive effect that
19 needed to be a condition.

20 But is that, if I've accurately
21 portrayed where I think the conversation has been going,
22 is that it's toward a finding that the Project would not
23 unduly interfere. Is that -- is there anyone that
24 disagrees with that or has some counterviews or some

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1 conditions we should be considering? Or, I guess failing
2 that, I don't know if Mr. Perry has a motion at some
3 point. But, Dr. Kent.

4 DR. KENT: Yes. To the point of
5 conditions, I think it would be of interest to include a
6 condition that requires some post construction noise
7 monitoring, so we can determine whether what we believe to
8 be the lack of unreasonable noise does in, fact, play out
9 when the Project is operating.

10 CHAIRMAN GETZ: Well, my personal view
11 on that is that's just something that should be addressed
12 not under the heading of "orderly development", but under
13 the heading of "public health and safety", looking at the
14 noise subset and looking, in particular, at, you know,
15 residences within certain distances of certain turbines,
16 so that it becomes a more particularized review of the
17 facts, and then a particularized condition under the
18 heading of "Public Health and Safety". I don't think, in
19 the past cases, with respect to noise, if I can just take
20 a look what happened in Granite Reliable and Lempster.
21 Did you have something, Mr. Iacopino?

22 MR. IACOPINO: My recollection is, for
23 the most part, we dealt with noise in "health and safety".

24 MR. HARRINGTON: I mean, that's mine as

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1 well. I'm pretty sure we put it in there.

2 DR. KENT: Yes. What makes me think
3 about this a little bit differently here is that it
4 appears the most sensitive receptor in this case might be
5 a business, the campground, which is a little different
6 than people living in houses and being medically impacted
7 by noise.

8 CHAIRMAN GETZ: And, I don't disagree
9 with that. But what's the best measure for addressing
10 that issue? I just think that it's -- that's something
11 better addressed through "public health and safety",
12 rather than through a -- because, otherwise, I think you
13 have to have a generalized condition saying, "to the
14 extent that some business or residence might be affected
15 to some extent by noise of a certain level, then there
16 should be a condition that addresses that." And, I think
17 it's just helpful to be more specific in dealing with any
18 particular issue than deal with it here.

19 MR. HOOD: Mr. Chairman, I would agree
20 with that. I think we deal with noise a lot at the
21 Department of Transportation. And, you know, it is a lot
22 easier and it's more specific, and you get better results
23 if you do have a particular area that you have concerns
24 with. And, I think that would be -- would still address

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1 Dr. Kent's concerns, I think, and maybe put some
2 conditions on when we get to the "public health and
3 safety" portion of that. But I think it's a lot easier
4 till you know where you're actually going to be doing your
5 testing and your monitoring, and the reason for addressing
6 some background data for -- to compare to when you do your
7 future measurements. So, I think it will be easier to do
8 that as part of the "health and safety" portion of the
9 Project.

10 CHAIRMAN GETZ: Thank you. Anyone else?
11 Or, Mr. Perry.

12 MR. PERRY: Well, if we're going to deal
13 with decommissioning in this section of what we're
14 considering, you know, one condition that was put forward
15 by the North Country Council that the Subcommittee may
16 want to consider is the agreement that the Applicant has
17 with the Town of Groton be incorporated into the permit as
18 a permit condition that would address decommissioning.

19 CHAIRMAN GETZ: Yes. I think that the
20 Committee's practice has been, we have two agreements
21 here; one with the Town of Rumney and one with the Town of
22 Groton. And, I think, as a matter of standard operating
23 procedure, would make compliance with those agreements
24 conditions of the certificate.

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1 MR. PERRY: Okay. With that said, I'd
2 be willing to move forward with a motion, okay? So, I
3 would move that this project will not unduly interfere
4 with the orderly development of the region.

5 DIR. SCOTT: Second.

6 CHAIRMAN GETZ: Any discussion?

7 (No verbal response)

8 CHAIRMAN GETZ: All right. If there's
9 no further discussion, then all those in favor signify by
10 raising their hands?

11 (Subcommittee members indicating by show
12 of hands.)

13 CHAIRMAN GETZ: And, it is unanimous on
14 that issue. All right. Thank you, Mr. Perry. The next
15 item then, turning to 162-H:16, IV, Subsection (c), is we
16 must find that the Project "will not have an unreasonable
17 adverse effect on aesthetics. So, Mr. Steltzer.

18 MR. STELTZER: Yes. How I would like to
19 move forward on this is to separate it into three
20 different areas: One being the site itself and the
21 turbines; two being the distribution lines; and then three
22 being the step-up converter, because there's been
23 different components of aesthetics to each one of those
24 issues.

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1 So, focusing first on the turbines and
2 the site itself, we had evidence that was provided that
3 the turbine -- there's 24 turbines that are being
4 proposed. They're going to span two ridges across Tenney
5 Mountain, as well as Fletcher Mountain. The turbines are
6 Gamesa G87 two-megawatt turbines that are 256 feet tall to
7 the nacelle, and 399 feet to the tip of the blade in its
8 most upright position. The turbines will be painted an
9 off-white color. And, the site is currently an actively
10 logged site that is forested.

11 The Applicant has found an expert, John
12 Hecklau, that conducted a visual impact assessment, and
13 that was provided to the Committee underneath the
14 Applicant's Exhibit 3, Appendix 24. That visual impact
15 assessment used a methodology for a simulation that was
16 developed by the Department of Interior's Bureau of Land
17 Management. That identified an area within a 10-mile
18 radius of each individual turbine. And, they assessed 180
19 different viewpoints of that, of the Project itself. Out
20 of those 180 viewpoints, there were 11 simulations that
21 were created using a 50 millimeter lense, which is
22 equivalent to what our eyes perceive.

23 Additionally, the Committee had a site
24 visit. Specifically, there was a tour driving around,

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1 circumferencing the Project site itself and getting in a
2 number of different view sites. And, at that time, there
3 were three existing met towers on the ridgelines. One
4 tower was at 50 meters height, two towers are at 60 meters
5 height, and it was provided that the nacelle height was at
6 78 meters, to give a perspective to the Committee, as far
7 as the height of these turbines and what they might look
8 like.

9 As far as -- so, that kind of gives a
10 background a little bit of the site itself and the
11 description of the site. And, how I thought we might be
12 able to proceed forward on this is to break up the site
13 itself into three different areas. One being the
14 visibility of the turbines; two being the shadow flicker
15 effect of the turbines; and then three being nighttime
16 lighting conditions.

17 As far as visibility goes, through the
18 course of our hearings, there were two areas that were
19 brought up as potential concerns. One was the Loon Lake
20 was identified and was noted that there was not a
21 simulation done at that facility. Public Counsel did
22 provide two exhibits to that, Exhibit Number 12 and 13,
23 that did a viewshed analysis of the turbines. Those
24 turbines to the -- the closest turbine to the lake was

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1 2.3 miles. And, what they found was that, in Exhibit --
2 Public Counsel's Exhibit 12, was that 19 to 24 turbines
3 would be viewed in an area that did not have any sort of
4 vegetative screen to the area. And, that was, from
5 looking at the image, was excessive to the area. When
6 that vegetative screen was added, the viewshed for 19 to
7 24 turbines was limited to the Northern coastline of Loon
8 Lake, as well as the portions of the water body itself.

9 Additionally, there was some discussions
10 about the visual impact assessment's cross-sections had
11 some errors, noting that the turbine heights in the study
12 initially had been 300 feet high, when, in fact, the
13 turbine blades in their most upright position were at
14 399 feet. That new analysis was provided to the Committee
15 as Applicant's Exhibit 37.

16 Out of that, the opinion from
17 Mr. Hecklau was that the turbines were likely to be
18 visible from only a small portion of the visual study
19 area. And, that it was likely to have an effect on the
20 visual aesthetic character of some mid ground views within
21 the study. Those views would be coming from open road
22 corridors, agricultural fields, water bodies, areas of
23 exposed rock, and cleared yards of some rural homes.
24 There would be views of the Project from Rumney Village,

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1 as well as portions of the River Heritage Trail Scenic
2 Byway.

3 Out of the visual -- out of the visual
4 impact assessment, it was found that, out of the total
5 area within that 10-mile range, 49.4 percent of that area
6 would be able to view the Project without any sort of
7 vegetative screen. Four percent of the Project, once you
8 take the vegetative screen into effect out of that area,
9 would -- so, once you take into effect the trees,
10 etcetera, only 4 percent of the landscape within that
11 10-mile radius would actually have a viewshed of the
12 turbines itself.

13 There was some testimony provided as far
14 as what the impact might be to the campground that is
15 owned by Ms. Lewis. And, those were provided in
16 Applicant's Exhibit Number 11. Where they noted that, if
17 a vegetative screen is not taken, and we're specifically
18 talking about the area at the beach, along the river there
19 at the campground. And, at that location, if a vegetative
20 screen is not applied, so the trees aren't incorporated
21 into that, that 7 to 12 turbines would be visible from the
22 beach area. However, if that vegetation screen is used,
23 no turbines would be visible from the beach area.

24 The intervening parties that have

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1 provided testimony do believe that the -- that the
2 turbines would be an unreasonable adverse impact, and that
3 has specifically been provided by Ms. Lewis in Buttolph
4 Exhibit 25. There was also additional comments made by
5 the public that the turbines would be unsightly. There
6 were also a number of comments made by the public that
7 they felt that the turbines were pleasant and in fitting
8 with the agricultural landscape.

9 The Applicant had suggested some
10 mitigative measures on how they have chosen the site and
11 how they could reduce some of that impact. Those include
12 that they have selected a site that is a remote forested
13 area, where there will be limited visibility of the site.
14 The turbines would be white. There would be no exterior
15 ladders or catwalks. And, that they would be developed in
16 a uniform design, the speed of the turbines and how they
17 rotate would be similar, the height of the turbines would
18 be similar, and the rotor diameter would be similar. It
19 was -- testimony was provided by Mr. Hecklau that that
20 uniform design, of having turbines in a string, tends to
21 be more favorable towards people than if they are at
22 different sizes and different heights and different
23 locations. And, then, finally, as far as visibility and
24 mitigation to visibility is that there would be no

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1 advertisements placed on the turbines.

2 So, that's where things are at on laying
3 the groundwork for visibility. And, I thought maybe we
4 should have conversations on what people thought about
5 that first, before we move over to shadow flicker and then
6 night lighting.

7 CHAIRMAN GETZ: Any questions?
8 Comments? Discussions? I guess I have one question, I
9 want to make sure I recall the testimony correctly. When
10 you're talking about the -- with respect to the Baker
11 River and the -- you said the "vegetative screening",
12 you're talking about normal vegetation growing and the
13 difference between summer and winter? Or, does that also
14 include some mitigative measure to establish some
15 vegetative screening?

16 MR. STELTZER: The "vegetative
17 screening" that they're referring to, in my understanding,
18 is referring to a filter that they applied based off of
19 the natural landscape that is existing. And, what it
20 would look like with leaf on versus leaf off, for example.
21 It does not take into effect any sort of mitigative
22 measures to provide some sort of a vegetative screen to
23 conceal the site of the turbines.

24 CHAIRMAN GETZ: Okay. Thank you.

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1 Anything else?

2 MR. STELTZER: Well, in moving on then
3 to shadow flicker, there was an assessment done by the
4 Applicant on shadow flicker. And, within -- they
5 identified that there were 207 structures within a
6 one-mile radius of the proposed Project. Out of that
7 analysis for shadow flicker, they found that 98.5 percent
8 of those structures would experience no flicker effect at
9 all; 0.5 percent may be affected less than one hour per
10 year; and then 1 percent may be affected from one to three
11 hours per year. They also found that no -- none of those
12 207 structures within a one-mile radius would have any
13 effect greater than three hours per year.

14 There was little testimony and
15 information provided by the intervenors as far as any
16 concerns related to this shadow flicker. And, the
17 Applicant's position is that the shadow flicker impact is
18 almost nonexistent.

19 And, any comments or thoughts on the
20 shadow flicker and components of that, before I move onto
21 the lighting of the site itself?

22 CHAIRMAN GETZ: Does not appear to be.

23 MR. STELTZER: Great. On the lighting,
24 there would be lights that would be placed onto some of

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1 the turbines to be in compliance with FAA, the Federal
2 Aviation Administration's regulations. Mr. Hecklau does
3 state that the synching of the lights of the turbines at
4 night could have an adverse effect, and that was provided
5 in Applicant's Exhibit 1, at Page 64. To mitigate some of
6 those effects of the lighting, the Applicant has suggested
7 that the lights pulse 20 times per minute and have a
8 vertical beam spread of 3 degrees. And, that was also
9 stated in Applicant's Exhibit 1, Page 62. And, the
10 Applicant has agreed to use the device with the lowest
11 light pollution envelope, as long as it is compliant with
12 FAA regulations.

13 There has been some testimony provided
14 by the intervenors and public regarding the concerns to
15 that lighting. And, that's where it's at, as far as
16 needing to be compliant with FAA and taking mitigative
17 measures to help minimize the adverse effects that might
18 be occurring, that would be occurring, based off of
19 Mr. Hecklau's testimony.

20 CHAIRMAN GETZ: Any discussion?

21 (No verbal response)

22 MR. STELTZER: With that said then,
23 moving onto the second area, which is the distribution
24 lines, there has been quite a bit of discussion about how,

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1 and when I say "distribution lines", these are the lines
2 that are going from the site itself to the step-up
3 facility, there's been a lot of discussion. And, the
4 initial Application was suggesting to go down Groton
5 Hollow Road, it was also suggesting to go down Quincy Road
6 in order to get to the facility. Out of that
7 conversations with some of the locals, as well as the
8 intervenors, specifically members who -- residents who
9 live on Groton Hollow Road, there was an alternative site
10 that was identified for the distribution lines. A new
11 right-of-way, with easements on private land, was
12 ascertained. And, that area would have some clear-cut for
13 safety considerations to the lines itself. Those
14 easements have been in place, there would be approximately
15 50 poles, little over 50 poles that would be going from
16 the site itself to get down to Route 25. Visual
17 simulations were done of that location.

18 There was also some testimony
19 specifically provided by Mr. Mazur that, as well as the
20 Town of Rumney, that they felt that the lines should not
21 go down Quincy Road. As a result, the Applicant has taken
22 mitigative measures to move forward with those lines going
23 down Route 25 to the step-up facility. The majority of
24 the distribution lines would be going along existing

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1 areas, such as Route 25, that does already have those
2 distribution lines there.

3 So, that's a summary of the distribution
4 lines and some of the background that had been provided on
5 the aesthetics and the appearance to that, and how the
6 Applicant has taken measures to mitigate the concerns that
7 have been addressed. If there's any questions on the
8 distribution lines?

9 (No verbal response)

10 CHAIRMAN GETZ: I think not.

11 MR. STELTZER: The last area, that is
12 the step-up facility, which has been a part of the
13 hearings that have happened now in 2011. A site was
14 identified. The site is adjacent to existing transmission
15 lines. The site is a commercial use, with a sand pit and
16 metal fabrication facilities that are located there. It
17 is a disturbed area that is being used. And, from the
18 visual assessments that have been done by Mr. Hecklau,
19 there were some views that were identified of the step-up
20 facility, which would be enclosed within a fence. Those
21 views specifically would be coming from Route 175.

22 The Town of Holderness, in their late
23 intervention to this docket, they provided testimony
24 regarding their desires to have the Holderness's Dark Sky

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1 Ordinance apply to the Project. The Applicant has
2 provided testimony that they would adhere to that Dark Sky
3 Ordinance via including it into the RFP, and they would
4 adhere to this Dark Sky Ordinance so long as it didn't
5 affect any sort of requirements from ISO-New England. The
6 Public Counsel has proposed in their briefing that was
7 filed that the site be -- have some sort of vegetative
8 screening.

9 So, as far as the step-up facility, this
10 is -- I think those are the two key things that we might
11 want to have some discussion on, is (a) how does the
12 Committee want to -- or, does the Committee so choose to
13 take any sort of measures to ensure that the Holderness's
14 Dark Sky Initiative is maintained as the Applicant has
15 suggested? And, is what the Applicant has suggested
16 adequate enough as far as including it into the RFP? Or,
17 maybe there should be other measures, such as having the
18 building inspector, I'm unfortunately not familiar with
19 how the Town itself is set up, whether there would be some
20 sort of building inspector or the Board of Selectmen that
21 would sign off to state that, after the facility has been
22 lighted, that it is compliance with their Dark Sky
23 Ordinance.

24 The second area is on the vegetative

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1 screening that is being proposed by counsel, and whether
2 that should be enacted. And, in this terminology, the
3 vegetative screening would be mitigative measures where
4 trees would be planted in order to encase the facility
5 from being viewed from the area.

6 CHAIRMAN GETZ: Can you address, on the
7 first of those last two issues, whether the ordinance on
8 lighting is incompatible with what is being proposed or
9 are there other lighting obligations that are controlling
10 or might be problematic?

11 MR. STELTZER: I don't believe that it's
12 against the Dark Sky Ordinance. It's just really as far
13 as the methodology, how to ensure that the Town of
14 Holderness has a comfort level that their ordinance would
15 be enacted in a manner for this Project. And, the
16 Applicant's -- and, unfortunately, we don't have testimony
17 from the Town of Holderness that the methodology that is
18 being proposed by the Applicant, to include the Dark Sky
19 Ordinance into the RFP to find a lighting contractor,
20 would be adequate in the eyes of the Town of Holderness.

21 CHAIRMAN GETZ: Okay. All right. Thank
22 you. Anyone? Mr. Harrington.

23 MR. HARRINGTON: Yes. Correct me if I'm
24 wrong, but what I thought the deal was here is that the

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1 Applicant agreed to incorporate the Dark Sky Ordinance to
2 the extent that it didn't violate any other existing, you
3 know, National Electrical Code requirements and so forth.
4 Isn't that correct?

5 MR. STELTZER: Correct. And, the
6 methodology that the Applicant has suggested to meet that
7 desire is to include the Dark Sky Ordinance requirements
8 into the RFP to hire a contractor. There is no suggestion
9 from the evidence that's been provided that there would be
10 a verification that the lighting that has been installed
11 by the contractors does meet the Dark Sky Ordinance. It's
12 a minor distinction, but it is a distinction nonetheless,
13 that we don't understand how the Town of Holderness feels
14 on that.

15 MR. HARRINGTON: I understand what
16 you're saying on that. Then, I would think, since there's
17 no benefit one way or the other to the Applicant on this,
18 that if they put this in their RFP or any other
19 requirement in their RFP would be reasonable to think that
20 they would see that it was adhered to, just because
21 they're paying money to get that done. So, I would have
22 no problem leaving it the way it is.

23 With regard to the vegetative screening,
24 you know, I think this is a -- that's a real stretch.

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1 This is an industrial -- this is a building with a fence
2 around it. It's next to a gravel pit, with large pieces
3 of equipment and trucks and big shovels and so forth, and
4 there's some kind of another industrial building there.
5 It's set back quite a ways from the road. And, I don't
6 think anyone driving down there is going to be offended by
7 seeing another building in with all that other stuff
8 there. It's an industrial area, and there's industrial
9 processes going on. Probably the most, if you're looking
10 at it, simply from the point of view of aesthetics, I'm
11 sure the gravel pit, with the trucks and the dust and the
12 noise associated with that is going to be much more
13 disturbing than this building, which is basically going to
14 be a benign building that just sits there, set back quite
15 a bit from the road. So, I see no reason to require any
16 additional vegetative screening whatsoever.

17 CHAIRMAN GETZ: Any discussion on any of
18 the issues related to aesthetics? Dr. Boisvert.

19 DR. BOISVERT: Just to comment that,
20 when we get to historic sites, the focus will be, in
21 essence, on aesthetics, but as they specifically relate to
22 historic sites. So, I will reserve discussion on
23 aesthetics to that area. I'll just point out that there
24 is a potential regarding historic sites from an aesthetic

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1 vector, just to point out that it's there. And, I don't
2 -- it's not appropriate to address it at this point in
3 time.

4 CHAIRMAN GETZ: Okay. And, I think we
5 can make that distinction, to the extent we have a
6 decision on aesthetics, to make sure that it's not
7 preclusive with respect to the issue of historic sites.
8 And, then, we'll move onto that later today or tomorrow.
9 Any other discussion on aesthetics?

10 (No verbal response)

11 CHAIRMAN GETZ: Well, --

12 MR. STELTZER: Well, I believe --

13 CHAIRMAN GETZ: -- Mr. Steltzer, do you
14 have a conclusion, a motion, a recommendation?

15 MR. STELTZER: I believe, you know,
16 based off of evidence that has been provided, specifically
17 by Mr. Hecklau, who is the one expert that has been
18 provided on the visual assessment, and the aesthetics of
19 this facility, both the distribution lines, the step-up
20 facility, as well as the turbines itself, that it does not
21 -- there is no unreasonable adverse effect as far as the
22 aesthetics for this Project.

23 CHAIRMAN GETZ: And, how's does that
24 relate to whether we adopt or don't adopt the two

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1 conditions; the one on the -- both related, I take it, to
2 the substation, one being the lighting issue, the Dark Sky
3 Ordinance, and the other being the vegetative screening?

4 MR. STELTZER: It's, you know, as far as
5 the vegetative screening, we have heard from one
6 individual on the Committee. I don't know if other
7 Committee members have an opinion on that one way or the
8 other whether a vegetative screening is needed. In my own
9 personal opinion, I would concur with Mr. Harrington that
10 the site is an existing commercial use of a sand pit, as
11 well as transmission lines that are in the area and a
12 metal fabrication facility, and that the visual
13 disturbance would be minimal and shouldn't require any
14 sort of vegetative screen, especially since a majority of
15 the area where the step-up facility would be located
16 already has natural screening there. And, so, it would be
17 only a very small portion of vegetative screening.

18 CHAIRMAN GETZ: Mr. Perry.

19 MR. PERRY: Just a question on the Dark
20 Sky Ordinance. Since it appears that this is a
21 commercially, industrially utilized area in Holderness
22 anyways, do we know if any of those other uses of that are
23 being held to the Dark Sky Ordinance?

24 MR. STELTZER: We don't. And,

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1 unfortunately, we don't know when that Dark Sky Ordinance
2 went into effect. And, certainly, with site
3 consideration, sites are grandfathered in. If they
4 already have existing lighting there, they're not
5 typically required to make retrofits to their lighting
6 when an ordinance goes into place.

7 To that effect, as far as -- as far as
8 the lighting and adhering to it, you know, we've heard
9 from Mr. Harrington that no other method is needed, my own
10 personal sense is that it wouldn't necessarily hurt to
11 have some sort of condition placed in that the Town,
12 through their Board of Selectmen or designee, would need
13 to sign off, just like the building inspector would do on
14 an occupation certificate for a building, would sign off
15 that the facility is in adherence to the ordinance itself.

16 CHAIRMAN GETZ: But how does that play
17 out? So that it's not -- I guess this is my concern.
18 That it's -- I think it should be consistent with the Town
19 ordinance, except to the extent that it violates some
20 applicable electrical safety standard of some sort. Would
21 that be clear if we had the condition set somehow like
22 that?

23 MR. STELTZER: I think we could make
24 that clear in that condition.

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1 CHAIRMAN GETZ: All right. Any other
2 discussion?

3 (No verbal response)

4 CHAIRMAN GETZ: Do you have a motion?

5 MR. STELTZER: Well, I would move that
6 the Committee finds that the aesthetics of the Project
7 would not unreasonably be -- would not have unreasonable
8 adverse effects, and to place a condition that would
9 require the Applicant to receive a sign-off from the Board
10 of Selectmen or designee to see that the lighting at the
11 substation is in compliance with the Dark Sky Initiative
12 -- Dark Sky Ordinance, so long as it doesn't deviate from
13 electrical safety requirements.

14 DR. BOISVERT: Second.

15 CHAIRMAN GETZ: Second from
16 Dr. Boisvert. Any discussion?

17 MR. HARRINGTON: Yes.

18 CHAIRMAN GETZ: Mr. Harrington.

19 MR. HARRINGTON: I'd like to see a copy,
20 I don't have it with me, of the agreement of the proposal
21 from the Town, is this Holderness is the town we're
22 dealing with?

23 CHAIRMAN GETZ: Yes.

24 MR. HARRINGTON: Okay. Because there is

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1 some specific wording in there I'd like to see before we
2 vote on this. I don't have it.

3 MR. IACOPINO: I don't think we have an
4 agreement. I think what we have is the prefiled testimony
5 of Mr. Johnson, which I'm looking for right now, but I
6 can't put my finger on it.

7 MR. HARRINGTON: Yes, there was
8 something that was submitted, and then there was something
9 that was agreed to by the Applicant.

10 MR. IACOPINO: Yes. Yes.

11 MR. HARRINGTON: And, those are the two
12 things I'm trying to find.

13 MR. IACOPINO: Yes. And, on March 22nd,
14 if you recall, I spoke by telephone and reported back to
15 the Committee on the record that Mr. Ratigan had told us
16 that, as far as the Town of Holderness was concerned, they
17 were in agreement that the -- that to the extent that the
18 Applicant would not be held to the Dark Skies Ordinance,
19 to the extent that it was inconsistent with Life and
20 Safety Fire Codes and Building Codes that applied to the
21 facility. That was based on a telephone conversation that
22 I had with Holderness's lawyer. If you'll recall,
23 Mr. Johnson -- nobody from Holderness showed up on that
24 day. And, so, the only written documentation that is in

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1 this record is Mr. Johnson's prefiled testimony. And,
2 then, there's the representation that I made to the
3 Committee after my phone call with Mr. Ratigan.

4 MR. HARRINGTON: Wasn't there something
5 by the Applicant that said that they would accept that
6 condition, to the extent --

7 MR. IACOPINO: I'm sorry, yes. I
8 believe Mr. Cherian's testimony was consistent with what
9 Mr. Ratigan represented to me. That the Applicant would
10 comply to the best of its ability with the Dark Skies
11 Ordinance, to the extent that it did not -- to the extent
12 it was not inconsistent with the Building Codes and Life
13 Safety Codes for the construction of the facility.

14 MR. HARRINGTON: Well, I guess I would
15 say that without -- it sounds like that's pretty specific.
16 If the Town is satisfied with that agreement, and it's
17 their requirement, I see no reason for us to impose an
18 additional requirement above and beyond what the Town is
19 happy with, since it is the Town's Dark Skies Ordinance
20 that they're trying to see imposed. So, I would be
21 opposed to this motion, with those -- with that
22 stipulation in there that we impose an additional
23 inspection. I'm sure the Town would be free, in any case,
24 to go out and inspect it under their existing rules. And,

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1 if they found that it didn't meet it, they could come back
2 to this Committee and say "they're not living up to what
3 they stated they were going to do."

4 CHAIRMAN GETZ: I want to make sure that
5 I understand. So, your distinction is, I think you're
6 agreeing with Mr. Steltzer on the underlying, what the
7 condition would be, that it would be that they would be
8 required to comply with the Dark Skies Ordinance, except
9 to the extent it violated or it was incompatible with a
10 fire or safety or electrical code of some sort. But what
11 you wouldn't -- where you depart is you wouldn't require a
12 sign-off from the Town?

13 MR. HARRINGTON: That's correct. The
14 Town is not asking for it. And, to tell you the truth, we
15 have no way of knowing if, whoever the Town was to send
16 out there would be adequately -- that they would know all
17 the requirements of those other codes, such that they
18 could determine that, "well, the Dark Skies Ordinance said
19 you have to do (a), but it's prevented by the Electrical
20 Code for, you know, siting of substations or something.
21 So, I just think, if the Town is happy with the -- what
22 the Applicant has said they will do, then there's no need
23 for us to impose an additional requirement. After all,
24 it's not a state law that we're dealing with here, it's

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1 simply a municipal ordinance.

2 CHAIRMAN GETZ: Any other discussion?

3 Dr. Kent.

4 DR. KENT: I was looking for

5 Mr. Cherian's testimony with regard to this.

6 MR. IACOPINO: I believe it would be on

7 March 22nd.

8 MR. HARRINGTON: The March 22nd one,

9 Mike?

10 MR. IACOPINO: Yes. I believe so.

11 DIR. SCOTT: Is that the afternoon

12 session?

13 CHAIRMAN GETZ: Well, let's go off the

14 record. We don't need all this on the record.

15 (Off the record.)

16 CHAIRMAN GETZ: Back on the record. On

17 Page, it looks like from 100 to 101 of March 22nd, it's

18 the morning session, Mr. Cherian says, at the top of

19 Page 101, "I would like to update that to reflect

20 discussions I've had with the Town of Holderness,

21 regarding the Town's concerns over the compliance with the

22 Town of Holderness Dark Skies Ordinance. We've indicated

23 to the Town of Holderness that the substation will be

24 compliant with the Town's Dark Skies Ordinance, unless and

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1 except if there are specific lighting requirements that
2 are mandated by Safety Code, electrical utility
3 requirements or ISO-New England requirements that require
4 us to deviate from the Town's Dark Skies Ordinance." So,
5 that was his testimony on that issue.

6 DIR. SCOTT: Mr. Chair, if you go to the
7 afternoon session, on Page 27 also, it is brought up
8 again. And, he's questioned on that. And, he said
9 "typically, what we would do", I'm paraphrasing, "is we
10 include a -- for bidding, we would include a copy of the
11 Town's Dark Skies Ordinance with the bidding documents and
12 would bid it out to the contractor that way." That's on
13 Page 27 in the afternoon also.

14 CHAIRMAN GETZ: All right. Thank you.
15 Well, then, I guess the issue of debate is whether, it's
16 not so much as what the condition is, but whether we're
17 going to have some initial sign-off enforcement of the
18 condition by the Town.

19 MR. STELTZER: And, the thought that I
20 had to that is simply that towns have enforcement
21 jurisdiction as far as building codes go. And, that would
22 fall, you know, either to the designee by the board of
23 selectmen, be it the building inspector, or be it, you
24 know, the State Fire Marshal's Office. But they certainly

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1 have the ability to enforce those requirements and just do
2 a sign-off as far as building occupation. I don't think
3 it's an excessive requirement. And, just I'm looking to
4 the concerns that the Town of Holderness has stated, to
5 ensure that what is put into place there as far as
6 lighting is in compliance with the Project.

7 MR. HARRINGTON: Just, Mr. Chairman, I
8 guess looking at specific words, this is what my concern
9 would be. That the building inspector may be very
10 knowledgeable of the town building ordinances, but this
11 says "Safety Codes, electrical utility requirements or
12 ISO-New England requirements." I have no way of knowing,
13 and probably think that the building inspector of a small
14 town is not knowledgeable of all the electrical utility
15 requirements or ISO-New England requirements that may or
16 may not apply to a substation. So, again, I go back to
17 the fact that we may be having someone inspect it that
18 doesn't understand the requirements. And, if the Town of
19 Holderness is happy with having this, putting, you know,
20 in the RFP that Dark Skies Ordinance, and they have not
21 objected to that proposal, in fact, they didn't even, as
22 was stated, they didn't show up, then I don't see the need
23 for us to impose any additional requirements.

24 CHAIRMAN GETZ: Mr. Scott.

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1 DIR. SCOTT: If I could suggest maybe a
2 compromise. Rather than having a condition where we
3 require the Town to sign off on anything, is just the
4 conditions say something to the extent that "the Project,
5 the Applicant shall comply with Dark Skies Ordinances to
6 the extent practical under Electrical Code, etcetera,
7 requirements", and that way we're not requiring the Town
8 to sign off on anything. If somebody is aggrieved, they
9 can come and bring it back to us, I suppose. But I'm just
10 suggesting that may be a compromise.

11 CHAIRMAN GETZ: Well, I think there are
12 two, clearly two ways of enforcing this. Sign off in the
13 first instance, and I think when you're referring to also,
14 under 162-H:12, goes to the issue of "enforcement":
15 "Whenever the Committee determines that any term or
16 condition of any certificate issued under this chapter is
17 being violated, it shall, in writing, notify the person
18 holding the certificate of the specific violation and
19 order the person to immediately terminate the violation."
20 So, I guess, you know, we could always, after the fact,
21 somebody would have that opportunity to come to us. But
22 that we'd be making the judgment about whether there is an
23 actual enforcement problem or violation. But I'm just
24 noting the procedural options.

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1 Anybody else want to address this issue?

2 (No verbal response)

3 CHAIRMAN GETZ: Are you proposing a
4 friendly amendment? We have had a motion --

5 DIR. SCOTT: If Mr. Steltzer would be
6 inclined, that would be my proposal.

7 MR. STELTZER: Yes. That would be fine.
8 You know, I think I would agree with Mr. Harrington. I
9 think there has been a lot of agreement between the Town
10 of Holderness, as well as the Applicant, on this. I
11 personally just would like to see some assurance that the
12 lighting is being constructed in a manner that would
13 adhere to it. I don't know if I'd get that sense of
14 comfort that that would happen by just putting it into the
15 RFP itself. But I also recognize that this is a smaller
16 component of the overall project. And, in that regards,
17 if both the Town is comfortable with it just being placed
18 in the RFP, as well as the Applicant, then I would be fine
19 with that, that condition.

20 CHAIRMAN GETZ: Well, trying to recall,
21 I think you actually did make a motion.

22 MR. STELTZER: I did.

23 CHAIRMAN GETZ: And there was a second.

24 MR. STELTZER: I withdraw that motion.

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1 CHAIRMAN GETZ: And, the second is
2 withdrawn. Would you like to reformulate your motion?

3 MR. STELTZER: I would move that the
4 Committee determine that there is no unreasonable adverse
5 impact to the aesthetics of the Project, and a condition
6 be placed that in the bidding documents the Town of
7 Holderness's Dark Sky Ordinance is included and adhered
8 to, to the extent that it does not -- excuse me -- that it
9 would not be inconsistent with electrical safety
10 requirements.

11 DR. BOISVERT: Second.

12 CHAIRMAN GETZ: Okay. Any discussion?
13 Mr. Dupee.

14 MR. DUPEE: Mr. Chairman, could we
15 re-read the motion please.

16 (Whereupon the Court Reporter read back
17 the motion presented by Mr. Steltzer.)

18 MR. DUPEE: So, we are saying that there
19 was no adverse effect on the aesthetics of the proposal?
20 Are we --

21 CHAIRMAN GETZ: Yes. And, I think,
22 actually, let me just make this observation. I think that
23 it would be more appropriate to -- that the motion would
24 be that "the Project will not have an unreasonable adverse

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1 effects on aesthetics, subject to the condition that's
2 proposed."

3 MR. HARRINGTON: Mr. Chairman, just I
4 think we also need to add in "the bidding documents for
5 the substation", so it's clear what we're talking about.
6 This just says "bidding documents", which is a pretty --
7 we're not going to impose the Holderness "Dark Skies"
8 thing on every bid that the Project puts out. We're
9 talking about the Project as a whole. We've had a
10 discussion, and everybody in the room right now knows that
11 we're talking about the substation. But, when this
12 condition comes out, it's just going to say "bidding
13 documents", and the assumption would be "bidding documents
14 for the whole Project". I think what we're talking about
15 is the "bidding documents for the construction of the
16 substation".

17 I don't think anyone has a problem with
18 that. We're just making it clear as to what we were
19 saying.

20 CHAIRMAN GETZ: Mr. Steltzer, want to
21 take another run at this?

22 MR. STELTZER: I would agree. We'll
23 see.

24 MR. PERRY: Mr. Chairman, if I could

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1 just go back before you maybe amend your motion, to go
2 back to what Mr. Scott had indicated. That, really, it
3 was the condition that the Dark Sky Ordinance be met,
4 unless, you know, these other requirements don't allow it.
5 How the Applicant gets to that, whether it's included in a
6 bid document or not, I mean, is kind of immaterial. But
7 we just -- the condition is that it meet the Dark Sky
8 Ordinance, unless these other requirements prevent some
9 portion of it. And, just leave it that way and it can be
10 done however it's done.

11 So, I'm not sure it's necessary that the
12 condition include it being part of the bid package, but
13 just the final product needed to meet it, unless there was
14 some other condition that prevented it.

15 CHAIRMAN GETZ: So, it's the result that
16 we focus on, rather than the mechanism to get to the
17 result?

18 MR. PERRY: Right. That's right.

19 MR. HARRINGTON: But I would still say
20 we have to make sure we're talking about the substation,
21 and not the Project as a whole. That's all.

22 CHAIRMAN GETZ: I can take a shot at it
23 or --

24 MR. STELTZER: Why don't you go. I

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1 wrote it down, but you can go.

2 CHAIRMAN GETZ: Okay. Then, I guess I
3 would move that the Committee find --

4 MR. PERRY: Do we have to pull this
5 motion first?

6 MR. IACOPINO: No, it's not been
7 seconded.

8 MR. HARRINGTON: It never got put back
9 on, right?

10 MR. PERRY: I thought we had a first and
11 --

12 MR. IACOPINO: The original motion was
13 withdrawn, Mr. Chairman. And, so, the floor is open for a
14 new motion.

15 CHAIRMAN GETZ: Well, I think there was
16 a second motion and a second.

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

19 CHAIRMAN GETZ: Well, let's try to have
20 one person talking at a time, otherwise Mr. Patnaude is
21 not going to be able to get all of this on the record.
22 Mr. Boisvert, do you withdraw your second?

23 DR. BOISVERT: Sure.

24 MR. STELTZER: Yes.

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1 CHAIRMAN GETZ: And, Mr. Steltzer
2 withdraws his motion. And, I would move that the
3 Committee find that the Project does not have an
4 unreasonable adverse effect on aesthetics, so long as,
5 with respect to the substation in Holderness, that the
6 Applicant complies with the Town's Dark Skies Ordinance,
7 unless and except if there are specific lighting
8 requirements that are mandated by Safety Code, electrical
9 utility requirements, or ISO-New England requirements that
10 would require a deviation from the Town's Dark Skies
11 Ordinance.

12 MR. HARRINGTON: Second.

13 DR. BOISVERT: Second.

14 MR. HARRINGTON: He can do it.

15 CHAIRMAN GETZ: I think Dr. Boisvert has
16 tried several times to have the second. So, we will
17 accord him that privilege. Is there any discussion?

18 (No verbal response)

19 CHAIRMAN GETZ: Hearing no discussion,
20 all those in favor of the motion, please signify by
21 raising your hand?

22 (Subcommittee members indicating by show
23 of hands.)

24 CHAIRMAN GETZ: I'll note for the record

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1 that the motion passes unanimously.

2 It's now 12:20. I would suggest that we
3 take an hour for the lunch recess. And that, when we
4 resume, that we take up the issue of air and water
5 quality, which will be addressed by Mr. Scott. So, we're
6 in recess. Thank you.

7 (Whereupon Deliberations Day 1 Morning
8 Session recessed for lunch at 12:41 p.m.
9 The Deliberations Day 1 Afternoon
10 Session to resume under separate cover
11 so designated.)
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