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STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

April 11, 2011 - 9:08 a.m.  
Public Utilities Commission  
21 South Fruit Street  
Suite 10  
Concord, New Hampshire

DAY 3  
DELIBERATIONS

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.
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'll reopen the proceedings in Site Evaluation Committee Docket 2010-01, deliberations concerning the Application of Groton Wind. Let me note for the record that eight of the nine members of the Committee are here this morning. Mr. Perry is out-of-town on a work assignment, and we will proceed today to -- by beginning with discussion of alternatives analysis. Mr. Harrington will lead that discussion. And, he'll be, I believe, looking in particular to the final brief of the Intervenor Group Buttolph/Lewis/Spring from April 1 as part of that discussion, in addition to the general discussion required.

There has been, as you recall, at the beginning of the hearing, there was a summary to set some context for some of the discussions we had with respect to particular findings under 162-H:16. So, he'll go through that. And, then, once that's completed, I'd like to go through to make sure that we've considered all of the proposed conditions. And, I think a good vehicle for that is by walking through the April 5th filing by the Applicant. That's their responses to conditions. And, it sets out conditions by the various parties. I think, at



[DELIBERATIONS]

1 this point, a good number of those have been addressed one  
2 way or another, but I want to -- and I don't think some  
3 have been specifically addressed. But we'll just walk  
4 through those to make sure we've got everything covered.

5 And, with that, I think that is  
6 effectively the agenda for this morning. Does anybody  
7 have any questions before we get started?

8 (No verbal response)

9 CHAIRMAN GETZ: Hearing nothing, then,  
10 Mr. Harrington.

11 MR. HARRINGTON: Okay. Good morning.  
12 What I'll be looking at is there was a lot of questions  
13 raised mostly by the -- in the final brief from the  
14 Intervenor Group, Intervenor Group Buttolph/Lewis/Spring,  
15 dated April 1st, but also in the Counsel for the Public  
16 may have raised some of these questions as well in the  
17 final brief. So, I'm going to be looking at 162-H:1,  
18 "Declaration of Purpose", because this appears to be the  
19 area where most of these questions came up from. And,  
20 I'll try to break this down into a couple of distinct  
21 sections.

22 The first being the need for new energy  
23 facilities in New Hampshire. This is part of that,  
24 directly out of the law. It says "Accordingly" -- I'll

[DELIBERATIONS]

1 try to stay slow when I'm reading. Okay. "Accordingly,  
2 the Legislature finds that it is in the public interest to  
3 maintain a balance between the environment and the need  
4 for new energy facilities in New Hampshire." And, looking  
5 at this, the Counsel for the Public has stated that "no  
6 evidence was presented that there is a need for additional  
7 generation in New Hampshire." And, without going into a  
8 lot of detail, I'd say that that's probably true. New  
9 Hampshire produces substantially more electricity than it  
10 consumes. So, there is no definitive need for new energy  
11 facilities.

12 With regard to the Renewable Portfolio  
13 Standard, which we have, which is to produce more  
14 renewable energy, which wind projects such as this qualify  
15 for, there is a need for more, more renewable energy, but  
16 it appears that, based on testimony, that the power is  
17 going to be sold to a Massachusetts utility, NSTAR. And,  
18 so, the renewable energy credits would go towards  
19 fulfilling the Massachusetts Renewable Portfolio Standard,  
20 and not the New Hampshire one.

21 We also have to note, though, that even  
22 though the surplus is present right now, that the Board of  
23 Directors of ISO-New England considers their top priority  
24 is the concern of losing capacity, electrical generation

[DELIBERATIONS]

11

1 capacity in New England over the next few years. The  
2 major concern here is that there's a lot of new EPA  
3 regulations coming out, both affecting cooling, as well as  
4 emissions. And, the fact there would be a large spread  
5 between the price of natural gas and oil, with natural gas  
6 being much cheaper per megawatt, now that oil -- the oil  
7 plants hardly ever run. This could result in retirement  
8 of a substantial amount of generation in New England. So,  
9 even though the immediate numbers show that there is no  
10 need for new power, that may be a fleeting situation,  
11 where, in four, five, six years from now, we may find  
12 ourselves not being so lucky.

13 There's also, you have to look at this,  
14 you have to go to 362-F:1, RSA 362-F:1, which is the  
15 Renewable Portfolio Standard law, because this also sheds  
16 some information on this. It says "Renewable energy  
17 generation technologies can provide fuel diversity to the  
18 state and New England", "and New England", and I trust the  
19 word "New England", "generation supply through use of  
20 local renewable fuels and resources that serve to displace  
21 and thereby lower regional dependence on fossil fuels."

22 And, going to the bottom, the end of  
23 this opening paragraph there, the conclusion is "It is  
24 therefore in the public interest to stimulate investment

[DELIBERATIONS]

12

1 in low emission renewable energy generation technologies  
2 in New England and, in particular, New Hampshire, whether  
3 at new or existing facilities." And, I think the key  
4 thing here is that the law clearly states that it's in the  
5 public interest to do this in New England, being that we  
6 have one regional electric grid, and not just exclusively  
7 in New Hampshire. So, I think the fact that they don't --  
8 this plant probably or appears not to qualify for RECs,  
9 renewable RECs in New Hampshire, it really doesn't matter,  
10 because the law states that as long as they're doing it in  
11 New England as a whole.

12 The second section was full and timely  
13 consideration of environmental consequences be provided.  
14 And, again, in the intervenors, they raised a lot of  
15 questions that the benefits were exaggerated and  
16 overstated, which is probably true. It's due to the  
17 inconsistent -- due to the variable nature of this, of  
18 wind. But, mostly, because I think there was an  
19 assumption that every megawatt of electricity that was  
20 produced by the project will displace either coal or oil  
21 generation.

22 Now, it's extremely contemplated and  
23 probably almost impossible to determine exactly what type  
24 of fuel each megawatt of new production will replace.

[DELIBERATIONS]

1 But, it's safe to assume that at least some of that would  
2 be natural gas, which would give out substantially less  
3 CO2 than the numbers that we use in the calculation. But,  
4 I mean, that's just a consideration. I mean, I don't see  
5 that as a major -- a major issue. People can draw their  
6 own conclusions as to that. I just -- the one I  
7 personally drew was that they were a little bit generous  
8 with themselves, and, probably -- the Intervenors were  
9 probably more accurate.

10 The second -- the next one I wanted to  
11 just touch on was all to ensure that the State has an  
12 adequate and reliable supply of energy in conformance with  
13 sound environmental principles. Again, the Intervenor  
14 Group talked about the low capacity values and the  
15 variable nature of wind. Therefore, it doesn't provide a  
16 reliable supply of energy. There's a lot of discussion  
17 ongoing on that right now. "How much wind can the system  
18 accommodate?" Things such as "the wind usually doesn't --  
19 its peak output is not coincidental with peak load.  
20 Because of the variable nature, you will need more backup  
21 for wind than other types of generation.

22 So, as to whether this is providing a  
23 adequate reliable supply of energy, is -- that's a  
24 conclusion that's difficult to draw. Wind, by its nature,

[DELIBERATIONS]

14

1 is not too reliable. If you have enough of it, it becomes  
2 more so. But, at the levels we're talking about now,  
3 there shouldn't be anything that the system grid couldn't  
4 accommodate. The ISO-New England has done a recent study  
5 that was published, where they look at "what would the  
6 grid be able to take in percentage of wind?" And, they're  
7 talking about "20 percent wind penetration". And, the 40  
8 megawatts that we're discussing here, with their capacity  
9 factor, would be substantially less than that. Is in the,  
10 you know, the "less than 1 percent range". So, I don't  
11 think that that becomes a problem. It certainly doesn't  
12 cause any negative problems for reliability.

13 But, I think the key thing in all of  
14 this is, there's a lot of good points raised, there was a  
15 lot of points raised about tax subsidies, through RECs and  
16 through the federal government, but they're simply not our  
17 -- they're not on our venue to discuss. Those are issues  
18 that have been taken up with the Legislature and with  
19 Congress. But I think it really comes back to 362-F:1,  
20 where it says "it is therefore in the public interest to  
21 stimulate [the] investment in low emission renewable  
22 energy generation technologies in New England." Clearly,  
23 this is a low emission renewable energy technology. So,  
24 even though, I appreciate all the effort and time that

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15

1 went into it by these various groups, but I just think  
2 most of their arguments really are better sent to their  
3 Congressmen or to their State Representatives, and not to  
4 here. So, I don't see any reason to put any stipulation  
5 on this or based on the arguments that were basically  
6 addressing RSA 162-H.

7 As far as the alternatives as a whole, I  
8 kind of -- I pretty much covered all of that last week.  
9 And, we went through the different alternatives that were  
10 looked at by the Applicant. And, I think that this, by  
11 doing that, this Committee has considered alternatives.  
12 And, therefore, I don't see any need for a condition  
13 associated with that part of the law.

14 CHAIRMAN GETZ: Well, first, are there  
15 any other questions or any comments?

16 (No verbal response)

17 CHAIRMAN GETZ: If not, I have some  
18 questions, Mr. Harrington. A couple of things. One is, I  
19 mean, looking at the final brief of the intervenors, which  
20 I think is part of what you were --

21 MR. IACOPINO: It's the April 1st one?

22 CHAIRMAN GETZ: Yes. That prompted some  
23 of this conversation. As I take it, there's some  
24 arguments in the brief about, really, the challenge of

[DELIBERATIONS]

1 some of the specific factual propositions by the Applicant  
2 about the generation and the capacity, the power  
3 production, environmental benefit, economic benefits.

4 And, what I understand you to be saying is that there may  
5 be some points that are well taken in their arguments, but  
6 they're not anything that would disturb the decision on  
7 whether to grant a certificate or not?

8 MR. HARRINGTON: Yeah, I think that's a  
9 good way of putting it. If you look to Page 8 and 9 of  
10 their -- of the intervenors' brief, it talks quite a bit  
11 about how much they would save from pollution, I think  
12 it's basically where they talk about CO2. And, they say  
13 -- they're assuming that it displaces coal-fired  
14 electricity. And, in fact, I don't think there would be  
15 that much displacement of coal-fired, if you did a  
16 megawatt-for-megawatt projection. Most coal plants in New  
17 England, especially in New Hampshire, are -- they're owned  
18 by Public Service of New Hampshire. And, they have  
19 baseloaded plants that run as much as they can. So,  
20 adding some additional megawatts into the system would  
21 most likely not displace coal plants. It would probably  
22 displace a slight amount of oil, but they hardly run at  
23 all now anyways, and maybe some natural gas.

24 So, I think there's merit to what they



[DELIBERATIONS]

17

1 say, as far as they're -- they're probably correct that  
2 the Applicant has overstated exactly how much it would  
3 save. There's also this whole debate on how much spinning  
4 reserves are required for wind, because it can vary so  
5 much, you have to have a higher percentage of spinning  
6 reserves, which means some plant is running at a lower  
7 efficiency than it would otherwise in order to be able to  
8 ramp up to make up for a decrease in the wind. But that I  
9 don't think is significant enough, because we're not  
10 really here to say how much pollution it's going to cut.  
11 The question is that it does, it will reduce emissions,  
12 there's no question about that. Unless it were to  
13 displace 100 percent of hydropower, which, again, is  
14 highly unlikely. It's going to reduce emissions of some  
15 type. And, I think it's really clear, in the 362-F:1,  
16 that when the law says it's "in the public interest to  
17 stimulate investment in low emission renewable energy  
18 generation technologies", clearly, this qualifies as that.  
19 And, the Legislature has told us that's "in the public  
20 interest." So, I think that supersedes as to whether it  
21 replaces, you know, X or X plus 2 amount of CO2 really  
22 isn't the major issue here. It's clearly not adding any  
23 CO2. It's going to reduce it. It's just a matter of "how  
24 much?" So, I think, though, the arguments may be

[DELIBERATIONS]

18

1 accurate, I'm not sure they're really, in this proceeding,  
2 that they're really germane.

3 CHAIRMAN GETZ: "Germane" or that  
4 they're so -- that there's not a -- the magnitude isn't  
5 such that it would create a problem in determining whether  
6 this is a facility that should move ahead? Because part  
7 of it, I guess, goes to this issue of -- about  
8 reliability, and it seems that that's really kind of a  
9 function of that these are intermittent resources, and  
10 that's the nature of wind. And, I think what you're  
11 saying is that, under the RPS law, it's encouraging  
12 renewables, like wind.

13 MR. HARRINGTON: It is encouraging,  
14 there's no question about that. And, you know, maybe if  
15 we were sitting here and this was a 500-megawatt or  
16 1,000-megawatt wind project, and we already had  
17 5,000 megawatts of wind in New England, then we'd be  
18 looking at this as a different -- in a different view.  
19 But, right now, the ISO-New England's latest study says  
20 they feel they can accommodate up to 20 percent of the  
21 total capacity being from wind. And, these 40 megawatts  
22 added to the additional -- the existing wind in New  
23 England, even if you assume Cape Wind was going to be --  
24 was completed, doesn't even come close to anywhere near

[DELIBERATIONS]

1 20 percent.

2 So, as far as reliability goes, it's the  
3 ISO who are the people that deal most exclusively in  
4 reliability would say that "this isn't a problem."

5 CHAIRMAN GETZ: And, did you quote from  
6 -- what did you quote exactly from 162-H:1 in the  
7 "Purpose"? I'm sorry, I didn't --

8 MR. HARRINGTON: Well, there's a couple  
9 of sections here. In the -- I broke it down, so, to make  
10 it a little bit clearer, but, if you go to the second  
11 paragraph, "Accordingly, the Legislature finds that it is  
12 in the public interest to maintain a balance between the  
13 environment and the need for new energy facilities in New  
14 Hampshire." And, again there, it was that "is there a  
15 need for new energy facilities in New Hampshire?" Well,  
16 in New Hampshire itself it doesn't need, we have capacity  
17 well in excess of our load. And, even at this present,  
18 let's say, a snapshot in time, New England doesn't really  
19 need capacity right now. But, if you start looking to the  
20 future, you have this concern. And, again, it's the top  
21 item on the ISO Board of Directors' concerns for the  
22 future, and that's the potential retirement of thousands  
23 of megawatts of oil plants. We're already seeing a no  
24 price/delisted by Salem Harbor plant, which is a plant in

[DELIBERATIONS]

20

1 Massachusetts, a coal plant. And, that's a reaction to  
2 the EPA regulations for emissions. There could be  
3 additional retirements, if cooling towers are required.  
4 And, quite simply, oil plants just don't run very much.  
5 They only produce 0.6 percent of the electrical energy in  
6 New England. So, what happens is, these plants are  
7 basically just not economical to stay open, and you're  
8 going to lose that. And, right now, we have, I don't  
9 know, it's in the range of 5 to 6,000 megawatts of oil  
10 capacity that most could close over the next four or five  
11 years.

12                   You combine that with some potential  
13 shutdowns due to the emissions and putting up cooling  
14 towers. So, it's difficult to say with any certainty.  
15 But, since these types of projects generally take a number  
16 of years to build, between the planning, you know, and  
17 inception, and then going through the whole process, as  
18 we've seen here with just this project, that you have a  
19 window that's fairly lengthy as far as looking to the  
20 future. So, even though we have a surplus of capacity  
21 now, that might not be -- I think you could make a very  
22 good argument and say that "in five or six years, maybe  
23 not be the case." And, then, that gets you to, you know,  
24 whether they're in New England -- or, whether they're in

[DELIBERATIONS]

21

1 New Hampshire or other parts of New England, really, is  
2 kind of meaningless. I mean, the law probably isn't as  
3 descriptive as it should be there, because there could be  
4 --

5 CHAIRMAN GETZ: "The law" meaning --

6 MR. HARRINGTON: 162-H:1, the need for  
7 new energy facilities in New Hampshire. It's written with  
8 the idea that somehow New Hampshire is an electrical  
9 island, and that's not really correct. The only reason I  
10 think it's written that way is because, you know, we don't  
11 have jurisdiction over energy facilities in another state.  
12 So, -- but you have to look at whether we need them in the  
13 whole. And, you know, a case could be made, if you  
14 retired a substantial number of plants in southern New  
15 England, that that would generate the need for energy in  
16 New England as a whole, part of which would be in New  
17 Hampshire. For instance, if Connecticut passes the tax  
18 that they claim they're going to, Dominion says they'll  
19 shut down the Millstone plants, at least on a temporary  
20 basis.

21 So, I guess my point is that there are  
22 some -- there's some good information in the briefing, and  
23 they're dealing with capacity factors. Though, I will  
24 note that the -- just for the record, that the Counsel for

1 the Public misquoted the capacity factors. It's not "4 to  
2 5 megawatts", because that's on the low side, to say the  
3 least. But a lot of these things aren't really germane.  
4 I don't think they really matter on what we're looking at  
5 here. Because, you know, we have the law that says it's  
6 "in the public interest to stimulate investment in low  
7 emission renewable energy generation...in New Hampshire."  
8 And, clearly, this qualifies as that.

9           It doesn't -- as to whether there's a  
10 need for new energy, there was a question that was raised  
11 by the Counsel for the Public that "no solid evidence  
12 presented by the Applicant that there's either a need for  
13 additional generation in New Hampshire or the power  
14 produced by the facility will be used and available in New  
15 Hampshire." Well, my point is that that's, if you looked  
16 at it right today, you could say that. But, because of  
17 the planning horizon associated with building power  
18 plants, there is probably -- you could certainly make a  
19 valid case that we may need this five or six years from  
20 now. And, given the length of time it takes to permit and  
21 license and build, that now is the time to start looking  
22 at that, what could be our future needs.

23           And, again, the environmental  
24 principles, again, it's, by definition, this qualifies.

[DELIBERATIONS]

1 It would qualify for the RPS. It's a no emissions/low  
2 emission renewable energy source.

3 CHAIRMAN GETZ: Well, I guess that gets  
4 me to one other question I wanted to ask you is, the way  
5 the intervenor brief is framed is in terms of positives  
6 and negatives, and they are trying to determine what the  
7 balance is. And, you talked about the balancing required  
8 under the "Purpose" section, and you've spoken about the  
9 issues about, you know, capacity factor and the  
10 environmental/economic benefits, and they're kind of one  
11 part of the brief. And, then, the other part of the brief  
12 talks about, you know, negatives and seeks conditions in a  
13 number of areas, in environmental impacts, health and  
14 safety, noise, property values, historic --

15 MR. HARRINGTON: And, I thought those  
16 were all covered under other sections.

17 CHAIRMAN GETZ: -- historic sites,  
18 etcetera. And, that's what I guess I'm saying. To the  
19 extent, with those conditions, some we are going to  
20 condition, some we've concluded that the conditions  
21 weren't necessary. But, I guess, is it your position that  
22 the balance, once you do that balancing that they're  
23 proposing, that the balance is in favor of the Project?

24 MR. HARRINGTON: Yes. I think some of

1 the stuff that they debate, there's a lot of discussion  
2 on, for example, capacity factor. Well, I'm not sure how  
3 much that really matters to this Committee, as far as  
4 there's nothing in the law that talks about saying that  
5 "you must have a high capacity factor or even consider  
6 capacity factor." That's basically an economic position  
7 for the Applicant. They think the capacity factor is  
8 going to be high enough to warrant building this plant and  
9 so they can make money off of it. And, well, who are we  
10 to say their wrong? There isn't anything in here that  
11 says "you must have a certain capacity factor or certain  
12 efficiency", or even consider that, as far as what the  
13 legal basis of our review is.

14 So, whether the capacity factor is  
15 35 percent or 22 percent, I just think that's an economic  
16 argument that's -- that's the Applicant. I mean, if  
17 they're wrong on that, and the capacity factor is a lot  
18 lower than they think, they'll just make a lot less money.

19 CHAIRMAN GETZ: Well, let me ask, are  
20 there any questions, comments? Because, otherwise, do you  
21 have a -- we need to complete this cycle.

22 MR. HARRINGTON: Well, I would just --

23 CHAIRMAN GETZ: Do you have a motion  
24 with respect to the alternatives analysis?



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1 MR. HARRINGTON: Yes. I would just say  
2 that -- let me get to that, get it the right way. That  
3 this Committee has considered available alternatives, and  
4 finds the analysis presented by the Applicant to be  
5 acceptable, which was their analysis in their brief, on --  
6 I don't know exactly what page it's on, but it's in here  
7 somewhere. "Available alternatives", Page 12.

8 CHAIRMAN GETZ: This is the Applicant's  
9 brief?

10 MR. HARRINGTON: Yes. On Page 12,  
11 Section C, "Available Alternatives", and, like I say, I  
12 won't go through and read it. They describe all the  
13 different options they looked at with regard to siting  
14 turbines, as well as the interconnection. And, I'd say  
15 that that was acceptable. So, I don't even know if we  
16 have to have a specific motion on this. It just says "The  
17 Site Evaluation Committee, after having considered  
18 available alternatives", which I guess we just did, today,  
19 as well as last week. So, I'm a little -- I'm not exactly  
20 sure what you're looking for here, Mr. Chairman.

21 CHAIRMAN GETZ: Well, that's why I'm  
22 trying -- I'm taking a look at what the Committee did in  
23 Lempster and what was actually done in --

24 MR. HARRINGTON: Let me ask Counsel.

[DELIBERATIONS]

1 Mike, do you have it down here?

2 CHAIRMAN GETZ: -- Granite Reliable.

3 MR. IACOPINO: I think there was, in the  
4 Lempster decision and in Granite Reliable, I believe -- I  
5 believe that, in both decisions, there was a discussion of  
6 alternatives. I think, I'm not sure that it went into the  
7 relative merits of wind power versus other types of power  
8 or sort of the global, more global analysis that you just  
9 undertook.

10 MR. HARRINGTON: Yes. This was because  
11 specifically in response, I felt as though the  
12 intervenors' questions should at least be addressed, and  
13 they raised a number of them. And, there was also some  
14 others. I should also note that some of the questions  
15 that I responded to came from some of the letters from the  
16 public. There were also questions on capacity factor and  
17 reliability and spinning reserves and so forth that were  
18 raised in some of those letters that were received. So, I  
19 tried to address all of them.

20 CHAIRMAN GETZ: Well, I think you make a  
21 point about the -- under 162-H:16, it doesn't set forth a  
22 specific requirement for a finding, as it does with other  
23 areas. And, I think it does provide a context.

24 But, also, if you look at Lempster, for

1 instance, it does say that, in the second to last  
2 paragraph of the discussion of alternatives, that "The  
3 Committee finds that the Applicant has engaged in a  
4 reasonable process in examining alternative sites and it's  
5 made a reasonable determination in its selection", in that  
6 case, "of the Lempster site. The Committee also finds  
7 that the location of the proposed site, its significant  
8 wind resources, the availability of sufficient undeveloped  
9 acreage, and the proximity of the site to an efficient  
10 interconnection point to the electrical distribution grid  
11 render the proposed site a reasonable location among  
12 available alternatives for construction of the proposed  
13 facility."

14 MR. HARRINGTON: I'd say that works.

15 CHAIRMAN GETZ: Okay. Well, I was going  
16 to ask counsel, is that -- even though there's no specific  
17 finding set forth in the statute, would it make sense to  
18 make a similar finding here?

19 MR. IACOPINO: Sure.

20 CHAIRMAN GETZ: Okay. The -- Oh,  
21 Dr. Boisvert.

22 DR. BOISVERT: I just want to make sure  
23 I understand what you're saying. So, fundamentally, the  
24 way the law is written, it's always in the public interest

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1 to construct a wind farm, if someone is willing to risk  
2 the investment?

3 MR. HARRINGTON: Well, rather than give  
4 you an opinion, I'll read you exactly what it says.

5 DR. BOISVERT: But my interpretation --  
6 what you're saying is, I interpret that to mean that, "so  
7 long as an applicant is willing to and able to put up the  
8 money, if it's a wind farm, then there's no reason to say  
9 that it's not in the public interest."

10 MR. HARRINGTON: Right. It's the "low  
11 emission renewable energy generation technologies."

12 DR. BOISVERT: Right.

13 MR. HARRINGTON: And, that's out of  
14 362-F, which specifically grants renewable energy credits  
15 to wind farms. So, by definition, --

16 DR. BOISVERT: Yes.

17 MR. HARRINGTON: -- wind is included as  
18 one of those types of technologies. And, I would say  
19 that, you know, that would be the policy that would apply,  
20 presuming that all the criteria of 162-H are met. And, I  
21 don't see anything dealing with this issue that would say  
22 that they didn't meet 162-H. As far as the need for new  
23 energy, the need for, you know, whether it's reliable and  
24 environmental and all that other stuff, I think that they

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1 have met that.

2 CHAIRMAN GETZ: Yes. So, let me make  
3 sure that that's not unclear on the record. Because I  
4 think the way you posed the question was only -- was  
5 basically asking Mr. Harrington, "so long as the applicant  
6 can afford to do it and wants to do it, that it should  
7 proceed?" But I think what his answer was --

8 DR. BOISVERT: And, it does not --

9 CHAIRMAN GETZ: Well, let me --

10 DR. BOISVERT: Yes, go ahead.

11 CHAIRMAN GETZ: But you have to -- that  
12 decision really is in the context of all of the -- the  
13 balancing of all of the other findings that need to be  
14 made. And, I think his point is that, --

15 MR. HARRINGTON: That is correct, yes.

16 CHAIRMAN GETZ: -- because there is a  
17 state policy favoring or promoting renewables, that, if  
18 there is a slight differential about the output, about the  
19 capacity factor, etcetera, that that's not something  
20 that's in and much itself should be determinative of the  
21 outcome, I guess, if it's within a reasonable range.  
22 That's the way I would put it.

23 MR. HARRINGTON: But it still has to  
24 meet all the requirements of 162-H, having said that. The

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1 goal is, it's in the public interest, provided all the  
2 other parts of the law.

3 MR. IACOPINO: I would just point out,  
4 Mr. Chairman, from RSA 162-H:1, I think the most pertinent  
5 sentence in there is "Accordingly, the Legislature finds  
6 that it is in the public interest to maintain a balance  
7 between the environment and the need for new energy  
8 facilities in New Hampshire." I think that's really the  
9 crux of what Mr. Harrington is talking about here. Is  
10 that there is this need, based on 362-F, and that that  
11 need is not outbalanced by the environmental impacts in  
12 this particular case, is what I hear him saying.

13 MR. HARRINGTON: I just want to make  
14 sure we're clear on that, because that was an issue that  
15 was brought up. This plant, as proposed, will not fulfill  
16 the Renewable Portfolio Standard requirements of 362-F.  
17 So, the need for renewable energy in New Hampshire only  
18 provides, only applies to the fact that the RECs are sold  
19 in New Hampshire. These are going to -- apparently are  
20 going to be sold to NSTAR in Massachusetts. But we also  
21 have, it's clear in 362-F, that that's -- it's not limited  
22 just to facilities that would sell RECs in New Hampshire  
23 or meet the Renewable Portfolio Standard. Because, in two  
24 places in the law, they talk about "New England

1 generation" or "stimulating low emission renewable energy  
2 generation technologies in New England." So, the fact  
3 that these are being sold, the RECs are being sold to  
4 Massachusetts, still meets the intent of the law, which is  
5 to promote renewable energy in New England. Because that  
6 was an issue that was brought up, just to be clear on  
7 that.

8 CHAIRMAN GETZ: And, in a way, I think  
9 at least the analysis is structured in my mind is, a lot  
10 of these issues, you know, in terms of finding the  
11 decision we have to make, they go to kind of the balancing  
12 --

13 MR. HARRINGTON: Uh-huh.

14 CHAIRMAN GETZ: -- that informs some of  
15 these other issues, part of it informs our -- what the  
16 conclusion of -- with respect to alternatives. And, that,  
17 again, informs all these other findings. So, I think that  
18 what we need then is an actual motion that goes to the  
19 reasonableness of the alternative.

20 MR. HARRINGTON: Well, I didn't see  
21 anything that -- I didn't hear anything from what you read  
22 from Lempster that wouldn't be applicable here. I mean,  
23 again, if you look at the testimony and the final brief,  
24 they considered different options for locations of the

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1 individual turbines, as well as the amount of turbines.  
2 They, in fact, changed some of their original plans. We  
3 know quite well that they changed the interconnection  
4 location. So, I would just think that those, and,  
5 obviously, they have got access to land that's  
6 non-developed. So, I think that -- I didn't hear anything  
7 that you read off of the Lempster thing that wouldn't  
8 apply here.

9 CHAIRMAN GETZ: Well, should I make the  
10 motion then?

11 MR. HARRINGTON: Yes. Because you --

12 CHAIRMAN GETZ: Since I have the  
13 language in front of me and you don't?

14 MR. HARRINGTON: Yes.

15 CHAIRMAN GETZ: Okay.

16 MR. HARRINGTON: I'll second.

17 CHAIRMAN GETZ: I move that the  
18 Committee find that the Applicant has engaged in a  
19 reasonable process in examining alternative sites, and  
20 that it has made a reasonable determination in its  
21 selection of the Groton site.

22 MR. HARRINGTON: Second.

23 CHAIRMAN GETZ: Any discussion?

24 (No verbal response)



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1                   CHAIRMAN GETZ: Hearing no discussion,  
2 all those in favor, signify by raising their hands?

3                   (Subcommittee members indicating by a  
4 show of hands.)

5                   CHAIRMAN GETZ: I'll note that the  
6 motion passes unanimously. Okay. Let's then turn to the  
7 consideration of the proposed conditions. And, I think a  
8 good vehicle for that is that April 5 response by the  
9 Applicant. And, let's just work our way through there to  
10 find out which ones have been addressed, and if there are  
11 some that still need to be addressed.

12                   All right. And, Mr. Iacopino, or anyone  
13 else, remind me if I'm not recalling what -- which actions  
14 we've specifically taken and which we haven't. But  
15 starting on Page 1, the first item, the first request is  
16 by the Intervenor Group, and that's with respect to  
17 "property values". And, I believe that's already been  
18 discussed and denied.

19                   MR. HARRINGTON: Mr. Chairman, just as a  
20 point of order. On each of these now, are we going to  
21 just go through each of them and vote or is it just simply  
22 --

23                   CHAIRMAN GETZ: Well, it depends.

24                   MR. HARRINGTON: Okay.

[DELIBERATIONS]

1                   CHAIRMAN GETZ: Because I think some of  
2 them have been --

3                   MR. HARRINGTON: Voted on already.

4                   CHAIRMAN GETZ: Correct. And, then,  
5 with others that haven't been specifically addressed, then  
6 I think we either vote for or against or see if there's a  
7 -- I mean, I guess there's a couple of structural ways.  
8 We could do a specific vote up or down and a discussion of  
9 each of the ones that haven't been addressed, or leave it  
10 to see if someone wants to make a motion to attach one of  
11 those conditions. But I think maybe a -- unless anybody  
12 has an objection, I think maybe the better way is just  
13 have an up or down on each of the ones that haven't been  
14 addressed. Is that --

15                   MR. HARRINGTON: Sure, that works for  
16 me. I just had a question on the first one then. Do we  
17 even -- even if we thought this was the way to go, does  
18 this Committee have the legal authority to guarantee  
19 property values for people that live a few miles or  
20 wherever they're located, because of wind farms being  
21 built? I mean, because I could throw that out maybe to  
22 counsel. I just don't know. Does this occur when someone  
23 builds a Wal-Mart or puts up a supermarket or a movie  
24 theater or a factory? Do they pay people in the vicinity

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1 money or give them a guaranteed value of their property by  
2 law?

3 MR. IACOPINO: It's a complicated  
4 question in light of the Kelo case, and all sorts of  
5 considerations of the impact of development on other  
6 private property. However, I will point out that this  
7 Committee did, in the Londonderry case, approve an  
8 agreement that included a buyback provision, where AES  
9 agreed to actually purchase homes that were within a  
10 certain neighborhood around the facility, if the noise  
11 reached certain conditions.

12 MR. HARRINGTON: But that was for,  
13 correct me if I'm wrong here, but that was --

14 MR. IACOPINO: That was by agreement.

15 MR. HARRINGTON: That was an agreement  
16 that was made, and it was just certified by the Committee?

17 MR. IACOPINO: Yes.

18 MR. HARRINGTON: Not proposed by the  
19 Committee?

20 MR. IACOPINO: Yes.

21 MR. HARRINGTON: Would we have the  
22 authority to impose something like that?

23 MR. IACOPINO: I think you do. I mean,  
24 I think you have the authority to, under RSA 162-H, to put

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1 such conditions on the Project that, in this particular  
2 case, would make it consistent with the orderly  
3 development of the region. Now, whether there is a legal  
4 or logical connection between surrounding property values,  
5 especially in residential property values and the orderly  
6 development of the region, you know, that, obviously,  
7 could be the focus of a lot of argument.

8 MR. HARRINGTON: Okay. Thank you.

9 CHAIRMAN GETZ: And, I think the bottom  
10 line on this issue is we've already discussed it and  
11 denied it.

12 The second and third requests are  
13 talking about "buildings eligible for National Register"  
14 and the Town of Rumney, I think we've already --

15 MR. IACOPINO: Each of those were  
16 unanimously denied as well, your Honor.

17 CHAIRMAN GETZ: In the context of the  
18 Historic Site discussion, I believe. So, then, Request  
19 Number 4 is -- Dr. Boisvert.

20 DR. BOISVERT: In that context, however,  
21 in our discussion --

22 CHAIRMAN GETZ: And are you talking  
23 about Request 2 and 3?

24 DR. BOISVERT: In 2 and 3. At this

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1 point in time, I argued that they should not be granted.  
2 However, these could hypothetically become mitigation  
3 options under the Section 106 process.

4 CHAIRMAN GETZ: Basically stating that  
5 there was premature arguments?

6 DR. BOISVERT: Premature, yes. So that  
7 I don't -- in my mind, I did not mean to construe that  
8 these would never be applied. Just that, at this point in  
9 time, this was ahead of the process, because all parties  
10 recognize the process is not completed.

11 CHAIRMAN GETZ: So, the requests have  
12 been denied for the time being?

13 MR. IACOPINO: I think they have been  
14 denied as conditions, --

15 CHAIRMAN GETZ: To the certificate.

16 MR. IACOPINO: -- a specific condition  
17 to the certificate. However, you also, as I recall, did  
18 require a condition that they continue with the Division  
19 of Historic Resources and the process. And, if that  
20 process requires these or similar type mitigation measures  
21 down the road, they're not prohibited under those  
22 circumstances, at least the way the record is now.

23 CHAIRMAN GETZ: They may be a natural  
24 product of the Historic Resources review.

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1 MR. IACOPINO: Yes.

2 CHAIRMAN GETZ: Okay. The next request  
3 is under the heading of "Fire/Safety". About building a  
4 primary access road to the Project area from Halls Brook  
5 Road rather than accessing the area via Groton Hollow  
6 Road.

7 MR. HARRINGTON: Mr. Chairman, on this  
8 one, I think the condition that we've already imposed  
9 about developing an emergency plan to deal with the  
10 vehicles and posting of it, getting input from the  
11 residents of Groton Hollow Road, would sort of supersede  
12 the need for this specifically.

13 CHAIRMAN GETZ: Okay. So, this is one  
14 that we haven't acted on expressly, but --

15 MR. HARRINGTON: Correct.

16 CHAIRMAN GETZ: So, I guess your  
17 position is that we wouldn't adopt it. Is there any other  
18 discussion?

19 (No verbal response)

20 CHAIRMAN GETZ: Well, all those in favor  
21 of adopting that proposed condition, please raise their  
22 hands?

23 (No indication by Subcommittee members.)

24 MR. IACOPINO: And, Mr. Chairman, I just

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1 want to point out, you're voting on Request Number 4,  
2 contained on Page 2 of the Applicant's --

3 CHAIRMAN GETZ: Yes.

4 MR. IACOPINO: -- Response to  
5 conditions.

6 CHAIRMAN GETZ: Yes. The building of a  
7 separate access road. So, does everybody understand which  
8 condition we're voting on? Okay. All those opposed to  
9 the proposed condition, raise their hands.

10 (Subcommittee members indicating by a  
11 show of hands.)

12 CHAIRMAN GETZ: I'll note that it's  
13 unanimous to deny that request.

14 The Request Number 5 is the -- would  
15 require the Applicant to purchase a brush truck for the  
16 Town of Plymouth. I believe that was denied expressly.

17 Request Number 6 similarly concerns  
18 providing training for Rumney and Plymouth Fire  
19 Departments and a one-time payment to the Rumney Fire  
20 Department. We addressed that issue already.

21 Page 4, Request Number 7, says "A  
22 detailed emergency plan will be created and submitted to  
23 the Site Evaluation Committee for their approval." And,  
24 I'm not sure that we directly addressed this, but I think

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1 the distinction here is, that there is during the -- in  
2 the agreements with the Towns of Groton and Rumney,  
3 there's discussion about emergency -- emergency response.  
4 So, I think what this does is would require, in addition,  
5 I guess, some specific action by the Committee in  
6 approving plans.

7 MR. HARRINGTON: Again, Mr. Chairman,  
8 we've also covered at least part of this by the condition  
9 that required the Applicant to work with the Town and the  
10 residents of Groton Hollow Road and develop a plan for,  
11 you know, emergencies that might arise when the access to  
12 that road is limited.

13 CHAIRMAN GETZ: Any other discussion  
14 about this proposal?

15 DR. KENT: Yes. I concur with  
16 Mr. Harrington. I think the only difference is that this  
17 proposed condition suggests that the SEC approve the plan.  
18 And, in the condition that we put forth last week, we  
19 didn't require that we approve it, we let the Town work it  
20 out with the Applicant and the residents.

21 CHAIRMAN GETZ: So, all those in favor  
22 of the proposed condition, raise their hand?

23 (No indication by Subcommittee members.)

24 CHAIRMAN GETZ: All those opposed?



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1 (Subcommittee members indicating by a  
2 show of hands.)

3 CHAIRMAN GETZ: Note that it's unanimous  
4 to deny that condition.

5 Request Number 8 goes to the issue of  
6 the noise measuring and constraints. And, we've already  
7 addressed what the appropriate dBA levels are. So, that's  
8 already been taken care of.

9 Request Number 9, at the top of Page 5,  
10 "Complaints of sound issues by either Groton or Rumney  
11 residents will be kept in a permanent log and submitted to  
12 the SEC annually. Applicant will provide a phone number  
13 to the town offices. The Applicant will respond in  
14 writing to each complaint." So, I think what -- the way I  
15 would characterize this is parts of this have already been  
16 approved in terms of requiring that the Applicant put --  
17 make some access names and numbers available at the town  
18 offices. This goes some extra steps. So, is there any  
19 discussion about this particular request?

20 MR. HARRINGTON: Just a general  
21 question, maybe be best addressed to counsel. Is there a  
22 formal procedure for people to file complaints to this  
23 Committee, Mike? How does that work?

24 MR. IACOPINO: If anybody, including a

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1 member of the Committee or a staff of a State agency  
2 believes that any condition of a certificate or  
3 certificate itself is being violated, they can seek the  
4 Committee to exercise its enforcement jurisdiction, which  
5 could include suspension of the certificate.

6 MR. HARRINGTON: So, there is a process,  
7 basically, that would take this into account, if somebody  
8 thought there was a concern that they had, if they had  
9 made a number of noise complaints, for instance, and they  
10 felt as though nothing was being done, they could bring  
11 that directly to the Committee and ask for some --

12 MR. IACOPINO: So long as it is framed  
13 in the sense of they're violating the conditions of the  
14 certificate.

15 MR. HARRINGTON: Okay.

16 MR. IACOPINO: So, for instance, let's  
17 say they operate at the sound levels that you've set, or  
18 even under those, yet, you're still getting 50, 60  
19 complaints a month, then, you're not technically in  
20 violation of the certificate. It would be hard to use  
21 enforcement jurisdiction under those circumstances if  
22 they're in compliance. So, there's not really a response  
23 to complaints, but there is a enforcement procedure to  
24 enforce the actual terms of the certificate that you all

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1 have set.

2 MR. HARRINGTON: Well, without trying to  
3 make this process any longer than it already is, I guess  
4 just a question on that more generally then. Is there any  
5 method for the Committee to re-address something, let's  
6 say, whatever conditions we put on turns out that it  
7 doesn't work the way we expected to, do we have the option  
8 of revisiting that, if someone were to bring it to our  
9 attention? Or, is it, once it's done, it's done, that's  
10 it?

11 MR. IACOPINO: For our purposes today, I  
12 think you should be operating on the basis that whatever  
13 conditions you set are the conditions that are going to  
14 govern the lifetime of this facility, if you grant the  
15 certificate.

16 CHAIRMAN GETZ: I'm trying to  
17 understand, you know, what the kind of scenario might be,  
18 I mean, that you're thinking about. Is it, there's a  
19 difference between a condition that sets a standard has to  
20 be met and how you would enforce such a standard. I  
21 think, in terms of a noise standard, for instance, if it's  
22 -- if the standard is violated, and a complaint comes for  
23 enforcement, then I think there's, you know, some broad  
24 ways of dealing with how to enforce.

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1 MR. HARRINGTON: Well, I was referring  
2 more to a change in circumstances. Let's just say, for  
3 instance, we put out some kind of a sound standard, and  
4 then three years from now there's been some massive study  
5 done and it comes out and says "absolutely, you shouldn't  
6 be subjected to wind turbine noise above 38 decibels."  
7 I'm making this up, obviously. Would then there be a  
8 vehicle for someone to come back to the Committee and say  
9 "we want you to reconsider that, the level you put out,  
10 given this new scientific study or the new government  
11 recommendation or something"? Or, is it "too bad, next  
12 windmill we'll take that up on it"?

13 MR. IACOPINO: There's nothing that  
14 specifically addresses that in RSA 162-H.

15 MR. HARRINGTON: Okay. Well, that's --

16 MR. IACOPINO: RSA 162-H always speaks  
17 in terms of "monitoring the construction and operation of  
18 any energy facility and enforcing the terms and conditions  
19 of any certificate."

20 MR. HARRINGTON: Well, that's sort of  
21 outside of the discussion for today, I'll just stop there.

22 CHAIRMAN GETZ: And, so, any other  
23 discussion about Request -- what's called "Request Number  
24 9" here, about the sound complaints?

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1 DR. KENT: Yes. I just want to maybe  
2 have my memory freshened here. We talked about this issue  
3 in the context of Groton and Rumney agreements with the  
4 Applicant last week. And, I wondered if, I think  
5 Mr. Steltzer led this discussion, if we had extended an  
6 agreement of this type to Rumney as well?

7 MR. IACOPINO: You extended it to  
8 Plymouth, Hebron, and Holderness.

9 DR. KENT: Okay.

10 MR. IACOPINO: In addition to Groton and  
11 Rumney.

12 DR. KENT: Okay. Thank you. So, I  
13 would say, we seem to have addressed this. And, that  
14 discussion, in fact, did include the discussion of contact  
15 information being put in town offices.

16 MR. HARRINGTON: Mr. Chairman, just for  
17 the record, I think we should just emphasis one point.  
18 That even though we think we've gotten most of this  
19 covered someplace else, the second half of this that's the  
20 proposed condition says "Any sound testing results which  
21 exceed the levels will require the Applicant to  
22 immediately make changes to reduce sound levels.  
23 Possibilities include", and they list them. Just because  
24 we don't necessarily endorse or make this a condition,

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1 doesn't mean that this -- that the information put in here  
2 isn't factual. I mean, if there is a -- if they exceed  
3 the amount of the sound levels, there's, I think, some  
4 time period involved in there. But, if they exceed the  
5 conditions of the certificate dealing with sound levels,  
6 they will have to do something. And, that could include  
7 "reducing hours the turbines are operational", "mitigation  
8 worked out between the Applicant and the complainant", and  
9 "shutting down the project altogether". Those are all  
10 possibilities if they exceed the noise levels of the  
11 certificate. So, I just want to make it clear that we're  
12 not discounting that, we're just simply saying "I think  
13 it's already covered."

14 CHAIRMAN GETZ: And, I think there's a  
15 number of moving parts in this paragraph. The one -- it's  
16 clear we've done, I think, that the second sentence has  
17 been addressed, "the Applicant will provide a phone number  
18 to the town offices." The first sentence has not been  
19 addressed, to my recollection. The "Complaints of sound  
20 issues by either Groton or Rumney residents will be kept  
21 in a permanent log and submitted to the SEC annually."  
22 Now, I'm not sure if that means "complaints to the  
23 Applicant" or "complaints to the town offices". Though,  
24 really what's happening at the town offices, I take it, is

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1 you would go there and you would get the information to  
2 make a complaint to the Applicant. And, then, it adds  
3 further process, that "The Applicant will respond in  
4 writing to each complaint that has been voiced." So, this  
5 is really creating more process around the informational  
6 requirement. Then, it goes to the traditional process  
7 about what you do with the complaint. "Two complaints,  
8 [then] the Applicant will have to pay the Town to hire a  
9 sound consultant to perform studies." And, then -- then  
10 it goes into, like, remedies. So, this is a -- this is,  
11 you know, a multistep process that's being proposed, one  
12 or two steps which we've already discussed and adopted.

13 So, I think it's, you know, an issue of  
14 what, in addition to what we've already required, should  
15 we require?

16 MR. HARRINGTON: You know, looking at it  
17 from that aspect, I don't see any problem with keeping a  
18 record of the complaints. In the long run, it might make  
19 more sense if that's done, whether -- let's assume there's  
20 a lot of frivolous complaints, then you would have a list  
21 of a lot of frivolous complaints, and you can show that,  
22 rather than just a bunch of people that say they filed  
23 complaints. I don't think this can be burdensome to say  
24 that, whoever received the complaints, if they go to the

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1 Applicant, that they will keep a record of the complaints.

2 CHAIRMAN GETZ: And file it with the  
3 SEC?

4 MR. HARRINGTON: I would -- I'm not sure  
5 we'd do anything with them if they showed up. So, I would  
6 probably leave that as, if somebody determined they wanted  
7 to file them with the SEC, I'm not sure that it's the  
8 right vehicle there. If someone thought there was a  
9 sufficient number of them, I don't know, maybe publish  
10 them once a year or something. I don't know what that --

11 CHAIRMAN GETZ: Well, but the proposal  
12 is, I take it, that the Applicant would annually file with  
13 the Committee --

14 MR. HARRINGTON: Yes.

15 CHAIRMAN GETZ: -- a list of complaints.  
16 I mean, that's --

17 MR. HARRINGTON: Maybe that's the best  
18 way to make them public.

19 MR. STELTZER: Mr. Chairman, two  
20 thoughts on that. One was, who's going to be keeping  
21 track of this, on whether it's the Town or whether it's  
22 the Applicant themselves. And, I would certainly lean  
23 more towards the Applicant, as opposed to the town. So,  
24 it's only the calls that go -- there's multiple people



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1 that could call the town to get the number, but it's only  
2 those that go to the Applicant that that should be tracked  
3 or logged.

4 But, then, the one question I do have is  
5 what, with that information being, if it were to be given  
6 to the SEC, what would the SEC do with it? Could the SEC  
7 take any action? And, what is the threshold for taking  
8 action then? Is it, well, 20 complaints per year? Is it  
9 200 complaints per year? And, I don't know if that's  
10 really fleshed out. So, I just question whether -- what  
11 would come about of that good? Maybe it's simply that it  
12 is in the permanent record then and in the public record,  
13 and I do see value in that. But I just question what that  
14 threshold actually would be then?

15 CHAIRMAN GETZ: Well, I think you go to  
16 162-H:12 is the enforcement provision of the statute.  
17 And, as I read it, it could go either of two ways. I  
18 mean, if there's any complainant who believes that a  
19 condition of a certificate hasn't been abided by, could  
20 come and seek enforcement before us. If you have some  
21 other vehicle, for instance, this proposal about, you  
22 know, annual filing of noise complaints, whatever comes  
23 in, I take it that the Committee could determine, you  
24 know, if it sees an annual list, that it looks like it's

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1 an issue of concern, then it could take action on its own  
2 to investigate and to determine whether, you know, there's  
3 a problem or not and how it should be addressed. So, I  
4 think there's a vehicle -- there is an enforcement vehicle  
5 that's available under the statute.

6 MR. STELTZER: I guess I'd just say, you  
7 know, is that for complaints that are only above the 40  
8 decibel value at the Campground? Is it only complaints  
9 that are above the 55 decibels at nighttime? Or, is it  
10 all complaints that are made? And, then, if it's all  
11 complaints that are made, including someone who might feel  
12 annoyed that it's at 30 dBA, and because it's a 5-degree  
13 above the ambient level that's there, in that case then  
14 would it -- I guess it's up to our decision whether we,  
15 and it can be determined at that point then, whether the  
16 Subcommittee feels that it's enough of a concern in order  
17 to take some sort of enforcement action?

18 CHAIRMAN GETZ: Well, I think it depends  
19 on the facts of any case. If you have a much better case  
20 to make, if you say -- if you're someone in the vicinity  
21 who comes in and has facts showing that the specifics of a  
22 condition have been violated, versus someone who comes in  
23 and says "I'm uncomfortable, but I don't really have any  
24 facts to support my discomfort about the facility." So,

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1 the conditions have a -- to the extent that they're very  
2 specific, as they are with the sound issues and the dBA  
3 requirements, if they're exceeded, then you have a case to  
4 make on the facts, and then we would -- the Committee  
5 would take actions appropriate, you know, for remedies.  
6 But, if it's a very non-specific complaint, then, it's,  
7 you know, much more difficult to address.

8 MR. STELTZER: And, going to that point  
9 then, if this is the direction that the Committee so  
10 chooses to go, it might be good to know exactly what sort  
11 of data is needing to be reported on to the full SEC.  
12 Because, if we just say "a permanent log", it could just  
13 be "received one call on this date at this time." Well,  
14 we don't know any of the details then about what is the  
15 nature of that complaint.

16 CHAIRMAN GETZ: Yes. Dr. Boisvert.

17 DR. BOISVERT: A couple observations.  
18 It would seem to me that there may be different people  
19 complaining who are unaware that the others are  
20 complaining. That, in the aggregate, there may be the  
21 discovery of many different individuals who have reason to  
22 complain, they would be unaware of each other, so it would  
23 be a way to aggregate all the information in one place.

24 And, second, if this information is

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1 collected, and it may be meaningful, it may be frivolous,  
2 it would be available for third parties to raise the  
3 question of enforcement. It would not be left exclusively  
4 to the Committee, but there would be a repository of  
5 information available to the public, so that third parties  
6 could raise the issue. Would not be just the SEC that  
7 would need or want to respond, but others may recognize  
8 that, in the aggregate, there may be a problem. Or, there  
9 may not, they may be frivolous, as you mentioned. But  
10 there would be a way to collect all information and make  
11 it available to the public and put it out in the sunshine.

12 MR. HARRINGTON: I think, given all the  
13 controversy over noise, and I think a lot of the -- what  
14 we've heard here, but also all the letters and stuff we've  
15 received and on the basis of some other wind projects as  
16 well, that's the big area that people seem to have a major  
17 concern over. I just think it would be worthwhile to  
18 track them. And, if they're all frivolous, then they're  
19 all frivolous. But, at least it gives a central place  
20 where people can do that, knowing that at least people are  
21 going to look at overall, as was just stated, you know, a  
22 lot of people might not realize that there's 50 other  
23 people making the same complaint they did. So, I think  
24 it's -- I think it's not too much of a burden to put on

1 the Applicant.

2 CHAIRMAN GETZ: Mr. Scott.

3 DIR. SCOTT: I agree. Since it's one of  
4 the issues we're putting an explicit concern about and we  
5 put some limits on, I think that makes sense. And, I  
6 think I would suggest, perhaps, just the Applicant is  
7 required to collect and maintain that data and make it  
8 available upon request. And, that way, whoever needs it,  
9 it's there. It seems the simplest way, in my view.

10 CHAIRMAN GETZ: But not file it with the  
11 SEC annually?

12 DIR. SCOTT: I'm not sure what I would  
13 do with it. I think I would -- I don't have a strong  
14 feeling, but I'm not sure I would need to see it here.

15 CHAIRMAN GETZ: Because the way I think  
16 -- well, Mr. Iacopino.

17 MR. IACOPINO: Mr. Chairman, I would  
18 just point out that, in addition to enforcement, you also  
19 have the continuing authority to monitor the operation of  
20 the plant. And, if you -- I could envision, if you're in  
21 a circumstance where you're getting a large number of  
22 complaints from a certain geographical area during --  
23 about whatever specific issue, whether it's noise or some  
24 other issue, the Committee might want to have that

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1 information, so that you could determine whether or not  
2 you want to take some further monitoring action, such as  
3 setting up sound meters or requiring the Applicant to do  
4 that, so that you can undertake your authority to monitor,  
5 to further monitor the operation of the facility.

6 So, I mean, you might get 30 frivolous  
7 complaints, so there might be 30 complaints, and there's a  
8 reason why there happens to be that sort of concentration  
9 of complaints.

10 CHAIRMAN GETZ: Well, let me pose this  
11 as a potential motion. That we would -- the complaints of  
12 noise issues, and I wouldn't limit it to Groton or Rumney  
13 residents, I would just say "complaints of noise issues to  
14 the Applicant will be kept in a permanent log, identifying  
15 the identity of the complainant, the date of the  
16 complaint, and the nature of the complaint, and that a log  
17 will be submitted to the Committee annually."

18 And that, I think the other part of it  
19 here as well is that should include what the Applicant's  
20 response was to that. Now, do we, and probably would make  
21 some sense that they're required, which is like the third  
22 sentence of this request, that the Applicant is required  
23 to respond in writing to each complaint, and that it --  
24 and it also provide in the log a copy of its response.

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1 And, then, we'll have the full picture. And, that will  
2 help us determine whether any further monitoring needs to  
3 be taken -- steps need to be taken or if, on its own  
4 motion, the Committee should seek some other enforcement.  
5 So, again, the larger context is somebody who has a  
6 particular complaint can always come seeking enforcement.

7 MR. HARRINGTON: But my only concern  
8 with that would be that, if the complaints can be given  
9 during or via telephone, the fact that, you know, no one  
10 pays for each call anymore, somebody could sit at home and  
11 just call 20 or 30 times a day, and then they would have  
12 to give a written response to each one of those. So,  
13 maybe the response in writing, I would think, would only  
14 be to written complaints. If someone takes the time to  
15 write something out and mail a letter, then at least  
16 there's some time and effort involved on their part and  
17 the cost of a postage stamp. But, if you leave it open to  
18 a phone call, I mean, if somebody doesn't like this thing,  
19 they could call every 20 minutes, and get their friends  
20 and neighbors to do it, you could get 100 calls a day.  
21 And, I don't think it's something that we want the  
22 Applicant having to issue 100 or 150 letters a day.

23 CHAIRMAN GETZ: Okay. What about  
24 e-mails?

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1 MR. HARRINGTON: I would say in writing.  
2 So, I wouldn't -- again, e-mails, you can keep sending  
3 them just by doing this [indicating], and it doesn't cost  
4 anything. So, that would be sent electronically. I  
5 wouldn't consider that in writing. You're not getting a  
6 piece of paper. So, I would say "all complaints received  
7 in writing will be responded to in writing."

8 CHAIRMAN GETZ: But that would not  
9 include e-mail?

10 MR. HARRINGTON: Not including e-mails.  
11 Because you don't get an e-mail in writing, I mean, I  
12 don't -- I don't know how -- you put it on paper, I guess,  
13 or something. But, again, that would be the same thing.  
14 Someone could write up an e-mail and just, you know, hit  
15 the "send" button 50 times, it's even faster than phone  
16 calls. And, you would have to have them respond over and  
17 over and over again. I think that just --

18 CHAIRMAN GETZ: Dr. Kent.

19 DR. KENT: I think we're starting to  
20 micromanage here. You know, I don't have any problem with  
21 asking the Applicant to keep a log of complaints, you  
22 know, no matter what way they come in, I would say they  
23 respond as appropriate, if appropriate. And, then just,  
24 on an annual basis, provide the Committee with the log of



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1 the complaints received and any response they make.

2 MR. HARRINGTON: I would agree with  
3 that. I think, if they're not responding at all, that  
4 would be something that someone could write a letter to  
5 the Committee on saying, you know, "I filed 22 written  
6 complaints and I never got any response back."

7 DR. KENT: I don't want the Applicant --  
8 I don't want to be telling the Applicant to respond to  
9 complaints that are clearly without merit. I don't want  
10 to be in that position of micromanaging what the Applicant  
11 is doing.

12 My other suggestion is, I'm not sure why  
13 we're limiting it to noise. Just log any complaint that  
14 comes in, and respond appropriately, and give us an annual  
15 summary of that. And, that's fine with me. I don't want  
16 to start telling them what to do and how to do it and  
17 which ones to take and which ones to ignore.

18 CHAIRMAN GETZ: Well, I think we're  
19 discussing it in the context of noise because that's the  
20 proposed condition.

21 DR. KENT: Well, I would say our  
22 condition should not be specific to any one issue.

23 DIR. SCOTT: Mr. Chair? I concur. I  
24 think this ought to be broader. But, again, to me, where

1 the writing ought to be is in the log, they ought to be  
2 putting in writing how they responded, so we can have that  
3 documented. And, especially, if it's going to be  
4 submitted to us, then there would be some accountability,  
5 that "did you ignore this complaint or did you respond?"

6 I'd also -- I guess I would ask an open  
7 question, for instance, on the noise issue. If there's no  
8 complaints ten years from now, do we still want an annual  
9 report? And, that's where kind of I was going. I was  
10 wondering if there is some way to, you know, we require an  
11 annual report for the first X years, and then, unless  
12 there's some affirmative action from the Committee, that  
13 they don't need to do it after that. I don't know if  
14 there's a way to do that. But, I guess, you know, 20  
15 years from now I wouldn't want to be still burdening the  
16 Applicant that, if there's no problems, why are we doing  
17 this.

18 CHAIRMAN GETZ: Well, I guess, you know,  
19 part of this goes to, if it's just noise, then that may be  
20 one issue, maybe you don't require it. But, if it's just  
21 a general condition, requiring an annual filing of  
22 complaints made within the previous year, identifying who  
23 made the complaint, when it was made, what was the nature  
24 of the complaint, and how you responded, you know, maybe

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1 that dissipates over time, maybe -- you know, I guess  
2 there's always the argument about "are things going to be  
3 either abused by one side or another?" And, I'm not sure  
4 that you can have enough foresight to consider every  
5 possible scenario.

6 So, maybe I would get back to proposing  
7 a condition that said "any complaints made to the  
8 Applicant will be kept in a permanent log, setting forth  
9 the identify of the complainant, the date of the  
10 complaint, the nature of the complaint, and the response  
11 by the Applicant to the complaint be filed annually with  
12 the Committee." Would that seem to address the -- I'm  
13 seeing no objection.

14 DR. KENT: Do you want to capture  
15 Mr. Scott's point about "until the Committee deems it no  
16 longer necessary"?

17 CHAIRMAN GETZ: Well, I was thinking  
18 that, you know, I thought his point made more sense in the  
19 context of, if you were looking at sound and noise issues,  
20 and that would dissipate over time, but there are other  
21 issues that may accrue over time. And, I don't know what,  
22 you know, what they could be. If the roads aren't being  
23 maintained or, you know, I'm not sure what they might be.  
24 So, I would just, you know, not put a time element on it.

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1 And, I'm not sure what a burden would be if, in year nine,  
2 the Applicant said there was, you know, "one complaint  
3 this year about somebody working there who drove too fast  
4 on the highway." I mean, I can't anticipate what they  
5 would be, but certainly wouldn't seem to be that much of a  
6 burden.

7 DR. KENT: Did you make a motion?

8 CHAIRMAN GETZ: I was about to say "so  
9 moved."

10 DR. KENT: Can I second then, and we can  
11 move on?

12 CHAIRMAN GETZ: Consider it a motion and  
13 a second. Any discussion about my proposal about an  
14 annual log of complaints to be filed with the Committee?

15 (No verbal response)

16 CHAIRMAN GETZ: All those in favor,  
17 please signify by raising your hands?

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

20 CHAIRMAN GETZ: Note that the motion  
21 passes unanimously.

22 The next item is Request Number 10,  
23 "Sound studies will be conducted post-construction and  
24 compared to pre-construction studies." And, that "the SEC

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1 will hire a consultant. The Applicant will pay for those  
2 studies. Statistical analysis will be performed...and  
3 submitted within one year of operation." Any discussion  
4 about that motion -- or, that condition?

5 MR. STELTZER: Mr. Chair, I feel like  
6 we've generally handled that situation underneath I  
7 believe it was Friday's discussions with the Town of  
8 Groton's agreement, and they had a provision in there that  
9 was also applied to the Town of Rumney in the condition of  
10 this site certificate. What I'm trying to recall was  
11 whether that motion required that that information be  
12 provided to the SEC or not, and I don't recall that.

13 CHAIRMAN GETZ: Well, two ways to  
14 address this. One is by looking particularly at this  
15 request, but the other is, with respect to the conditions  
16 that we set forth on the noise issues, I mean, would it be  
17 your -- well, which direction are you headed? That you  
18 would like to make sure that some of that information is  
19 provided to the Committee or --

20 MR. STELTZER: I think it wouldn't hurt.  
21 Certainly, you know, the study is being done. It's going  
22 to be provided to the towns respectively. And, you know,  
23 if the report's already being constructed, I don't see  
24 there's much burden or issues for that report then to be

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1 provided to the SEC.

2 CHAIRMAN GETZ: Because the way maybe to  
3 go then would be to deny this particular condition, but  
4 just to require that any of the sound study measurements  
5 or anything conducted by the Applicant through the --  
6 through the sound studies be also provided to the  
7 Committee. Is that --

8 MR. STELTZER: That would be fine.

9 CHAIRMAN GETZ: And, that comes under, I  
10 guess, the heading of the "Post-construction noise  
11 measurements" in the Groton Agreement, I guess.

12 DR. KENT: Right. What the Agreement  
13 says is that they "will provide the final report of the  
14 acoustics engineer to the Town within 30 days." So, the  
15 Town is receiving it, but there is no stipulation  
16 specifically that the SEC receives it.

17 CHAIRMAN GETZ: Well, I would then move  
18 that we, to address this issue, that we require that the  
19 reports required under the agreements with the Town also  
20 be provided to the Site Evaluation Committee.

21 MR. STELTZER: Seconded.

22 CHAIRMAN GETZ: Okay. All those in  
23 favor, signify by raising their hand?

24 (Subcommittee members indicating by a

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1 show of hands.)

2 CHAIRMAN GETZ: Okay. I'll note that  
3 that's unanimous. Well, let's just close the loop then.  
4 All those in favor of adopting Request Number 10, on Page  
5 5 of the Response to Conditions, if you're in favor of  
6 that additional condition, raise your hand?

7 (No indication by Subcommittee members.)

8 CHAIRMAN GETZ: If you're opposed, raise  
9 your hand?

10 (Subcommittee members indicating by a  
11 show of hands.)

12 CHAIRMAN GETZ: We'll note that the  
13 condition is denied unanimously.

14 The next condition is "Groton Hollow  
15 Road Residents" is the heading. Request Number 11, "All  
16 residents within 3,000 feet of blasting will have their  
17 wells tested prior to the blasting paid for by the  
18 Applicant." I believe we've already addressed this. And,  
19 if I recall correctly, the issue really was the distance,  
20 2,000 feet to 3,000 feet, so I think we can move onto  
21 Request Number 12.

22 And, it says "If the SEC does not  
23 require the Applicant to build a primary access road off  
24 of Halls Brook Road...then we would request the following

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1 additional conditions." And, we have concluded earlier  
2 not to add that additional access road.

3 So, there is one, two, three, four,  
4 five, six additional conditions, including that "the  
5 Applicant will pay to have all residences and buildings  
6 structurally surveyed"; "Applicant will be jointly liable,  
7 along with contractors, for all damages"; "the Applicant  
8 will not be allowed to work at the Project site on Sundays  
9 for any reason." Which do I recall correctly that that's  
10 addressed in the agreements with the towns?

11 DIR. SCOTT: Mr. Chair, if I could, in  
12 the Town of Groton Agreement, Section, well, 9.7.2 says  
13 "Construction vehicles not travel on Town roads before  
14 6:00 a.m. or after 7:00 p.m. on Monday through Saturday,  
15 unless prior approval is obtained." "Construction will  
16 only be conducted", the next one is 9.7.3, "Construction  
17 will only be conducted between 6:00 a.m. and 7:00 p.m.  
18 Monday through Saturday", and again, "unless other --  
19 unless prior approval is obtained through the Town.  
20 Construction will not be conducted on Sundays, unless  
21 prior approval is obtained through the Town." So, I think  
22 that's sufficient. I guess my question would be, I don't  
23 remember that being in the Town of Rumney's.

24 MR. IACOPINO: There are similar



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1 provisions in Section 8.4 of Applicant's Exhibit 7, which  
2 is the agreement with the Town of Rumney.

3 DIR. SCOTT: I see it now. Thank you.

4 CHAIRMAN GETZ: And, then, the next  
5 subsection talks about an "emergency plan specific to  
6 Groton Hollow Road", I think we've addressed that. Then,  
7 it says next "Each Groton Hollow Road property owner will  
8 be paid \$7,800 prior to construction"; and the last is  
9 "The Applicant will not be allowed to widen Groton Hollow  
10 Road under any circumstance", which I think that's  
11 effectively addressed by the agreements with the Town.

12 Well, addressing these as a package, are  
13 there any -- some of these things are addressed in one way  
14 or another, some are not. But are there any pieces of  
15 this that any member would propose we adopt?

16 DIR. SCOTT: Mr. Chair, I'm not  
17 proposing we adopt anything, but I just want to point out  
18 for my recollection, 12A I think is -- of the intervenors'  
19 request, I think is coming out of, if I remember right,  
20 one of the residents testified on Groton Hollow Road that  
21 they were concerned that large vehicles coming by are  
22 going to crack their foundation or do other things to  
23 their home. Where I'm not sure I see that happening, I  
24 can see the -- I can understand where the concern is

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1 coming from. So, I assume that's where this is coming  
2 from. And, I'm just not sure how that resident, if that  
3 were to happen, how that all plays out. I suppose they  
4 would have to make a case, if we don't do some kind of  
5 conditions in, that crack or anything were to happen was  
6 from that construction equipment, I gather.

7 MR. IACOPINO: There is nothing in a  
8 Certificate of Site and Facility that would eliminate any  
9 legal rights that a resident of Groton Hollow Road or any  
10 resident, who had a claim against the developer, we don't  
11 limit their legal rights. If their negligence causes  
12 damage, they run somebody over, they cause damage to  
13 property, those residents still have legal rights. The  
14 question become, but, as a plaintiff, that resident would  
15 have to prove by a preponderance of the evidence that it  
16 was the Applicant's conduct that caused the damage. And,  
17 that would be done not here, but, generally, in a court of  
18 law or through a mediation process.

19 DIR. SCOTT: So, in that context, Item  
20 12B would be basically the same in that?

21 MR. IACOPINO: Yes. And, I would also  
22 point out that one of -- I forget which agreement it is,  
23 but one of the agreements requires the carrying of  
24 \$10 million of liability insurance as well.

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1 DR. KENT: I see that as 2.9 in the  
2 Groton Agreement. "There shall be maintained a current  
3 general liability policy covering bodily injury and  
4 property damage with limits of at least 10 million in the  
5 aggregate."

6 MR. IACOPINO: And, it's Section 2.8 in  
7 the Rumney Agreement.

8 CHAIRMAN GETZ: In Section 9.4.3 of the  
9 Groton Agreement says that "A Pre-Blast Survey will be  
10 performed to cover residents within 500 feet of the work  
11 area and a copy of the survey will be recorded in the Town  
12 office. Residents within 500 feet will be notified in  
13 person whenever possible, or by registered mail, prior to  
14 work in the area." Now, maybe this is a particular subset  
15 of concern. I think the way the proposed condition is is  
16 a larger concern about trucks going up and down the road  
17 may have impacts on cellars, buildings, whatever. Seems  
18 to be there's some addressing of the issue of impacts from  
19 blasting, but this appears to be a larger issue.

20 I don't know if you had any thoughts on  
21 how you think we should proceed, if anything more than  
22 what's in the agreements with the towns?

23 DR. KENT: In 9.7 in the Groton  
24 Agreement, there is some discussion of "vehicle weights

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1 greater than 88,000 pounds to use a Town road". And, it  
2 discusses "acceptance by the Town of vehicles exceeding  
3 this level is not a waiver of the Owner's obligation to  
4 repair all damage to roadways caused by vehicles." So, we  
5 seem to be covering this broad issue in multiple points,  
6 multiple parts of agreements with Groton, and possibly  
7 with Rumney. I'm not looking at Rumney.

8 CHAIRMAN GETZ: Any other discussion  
9 about any of these proposed conditions, 12A through 12F?

10 MR. HOOD: Just a question on 12F,  
11 because does that stipulation have an impact on what  
12 emergency plan that the Applicant is going to come up  
13 with, what they can do for addressing being trapped in  
14 your house if a truck breaks down, if you're not allowed  
15 to do any kind of widening to the roadway, even  
16 temporarily?

17 MR. HARRINGTON: It won't if we don't  
18 impose it.

19 MR. HOOD: But how --

20 CHAIRMAN GETZ: Well, I think he's  
21 positing the question of "what if one of the emergency  
22 responses is to widen the road?"

23 MR. HOOD: Temporarily put some  
24 bump-outs or something to allow people to get by. And,

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1 this one here says you can't do --

2 MR. HARRINGTON: If we don't accept  
3 this, then that wouldn't be a problem, right?

4 MR. HOOD: Right.

5 MR. HARRINGTON: Because I think that's  
6 an option we should leave out there just in case.

7 CHAIRMAN GETZ: Well, any other  
8 discussion?

9 (No verbal response)

10 CHAIRMAN GETZ: Then, I would ask, if  
11 you're in favor of imposing any of the conditions set  
12 forth in 12A through 12F, raise your hand?

13 (No indication by Subcommittee members.)

14 CHAIRMAN GETZ: If you're opposed, raise  
15 your hand?

16 (Subcommittee members indicating by a  
17 show of hands.)

18 CHAIRMAN GETZ: I'll note that  
19 conditions, what are identified as 12A through 12F, are  
20 denied.

21 Takes us to Page 8, Request 13, under  
22 the heading of "Avian": Impose post construction surveys  
23 for three years." And, I think we've effectively  
24 discussed this issue. And, I guess I would characterize

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1 it that, you know, effectively, we've approved the three  
2 year notion.

3 Request Number 14: "Post construction  
4 studies overseen by an Audubon hired avian company, which  
5 can go on the property any time to perform studies." And,  
6 then, also "Bat studies to be performed in a similar  
7 fashion to avian with respect to the three year  
8 requirement." And, again, I'd say I think we've  
9 comprehensively addressed how the studies with respect to  
10 bat/bird issues have been addressed. So, I would move on,  
11 unless there's any discussion?

12 (No verbal response)

13 CHAIRMAN GETZ: I'd move on to Page  
14 [Request?] 15, under "Visual". Request 15: "Applicant  
15 shall be required to utilize the latest technology in  
16 safety light pollution reduction consistent with FAA  
17 regulations." Which I guess is a distinction between the  
18 Applicant complying with FAA regulations, which it would  
19 be required to do, versus complying in a specific way. So  
20 that they would have to -- whatever the "latest  
21 technological means of complying", I think is what this  
22 condition proposes. So, it's a particular method of  
23 compliance, is how I interpret it. And, I think the only  
24 -- and I'm trying to recall what discussion, we had some

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1 discussion in the context of the substation that  
2 Mr. Steltzer spoke to, I believe. I'm not sure that we  
3 had any other discussion about this issue in our  
4 deliberations.

5 DR. KENT: But, in testimony, this issue  
6 came up, and there was a commitment or, actually, was a  
7 proposal from the Applicant prior to us requesting  
8 anything, that they would minimize lighting and only put  
9 up what the FAA required them to do.

10 MR. IACOPINO: I would just point out  
11 that, at least in the Executive Summary of the  
12 Application, which is Exhibit 1, the Applicant states that  
13 "To mitigate for any potential visual affect, Groton Wind  
14 will use lights that pulse 20 times per minute and have a  
15 vertical beam spread of 3 degrees which is the lowest  
16 amount allowed by the FAA. This means that there will be  
17 more dark space between flashes and less ground scatter or  
18 light noise because less of the light from the beam  
19 reaches the ground." And, I think that's also repeated in  
20 a subsequent section of the Application.

21 CHAIRMAN GETZ: So, I guess my  
22 conclusion would be that this particular proposed  
23 condition is unnecessary, if anything. Is there any  
24 discussion?

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1                   DIR. SCOTT: So, just to clarify, by  
2                   that being in the Application, does that mean it's  
3                   binding?

4                   MR. IACOPINO: Well, I was just going to  
5                   raise that, when you approve an application or when you  
6                   grant a Certificate of Site and Facility, you are granting  
7                   the certificate to the site as proposed by the Applicant,  
8                   subject to any modifications or conditions that you've set  
9                   forth. So that, yes, if the certificate is granted, and  
10                  there is a representation about specifications or  
11                  something contained within that, the Applicant is bound to  
12                  follow those specifications, unless you've permitted some  
13                  kind of procedure for them to not follow them, which most  
14                  often occurs in those areas where there are state permits,  
15                  and you say "the State agency will be delegated the  
16                  authority to monitor and approve any minor changes."  
17                  Which is something that I will remind the Committee we  
18                  probably also need to vote on at the end of going over the  
19                  conditions.

20                  CHAIRMAN GETZ: Okay. Well, I'll leave  
21                  --

22                  MR. IACOPINO: I'll remind you again on  
23                  it.

24                  CHAIRMAN GETZ: -- that to you to again



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1 remind us. Okay.

2 Then, for this Request Number 15,  
3 regarding compliance, particular method of complying with  
4 FAA regulations, all those in favor, raise their hands?

5 (No indication by Subcommittee members.)

6 CHAIRMAN GETZ: All those opposed?

7 (Subcommittee members indicating by a  
8 show of hands.)

9 CHAIRMAN GETZ: Note that it's denied  
10 unanimately.

11 Next turn to conditions proposed by the  
12 Town of Plymouth. And, we've already addressed both the  
13 primary request and the alternative request.

14 So, then, on Page 10, we move on to  
15 conditions proposed by Counsel for the Public. And, the  
16 first request goes to the -- by counsel recommends that we  
17 "consider a condition similar to that recently imposed by  
18 the Committee on the Brookfield Power application." And,  
19 I have before me a copy of the order, and it's Docket  
20 Number 2010-03. It's the Joint Application of Granite  
21 Reliable and Brookfield Power for approval to transfer  
22 equity interests in Granite Reliable Power. And, it's a  
23 Decision and Order on February 8, 2011 approving the  
24 transfer of ownership interest in Granite Reliable Power.

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1 That case, this is for some background, on July 15, 2009,  
2 the Site Evaluation Committee issued a Certificate of Site  
3 and Facility permitting the siting, construction,  
4 operation of the Granite Reliable Wind Park. And, so,  
5 that was in July of 2009. And, approximately, like 17, 18  
6 months later, in December of 2010, Granite Reliable and  
7 Brookfield filed a Joint Application seeking approval of  
8 the transfer of 75 percent of ownership interest by Noble  
9 to Brookfield. And, an order was issued on February 8th  
10 approving that transfer.

11 But it included a condition -- well, let  
12 me point to this discussion in the order first. There was  
13 a discussion about qualifying for investment tax credits,  
14 and it had to be -- and the Project had to be completed by  
15 a certain -- by the end of 2012. And, the discussion says  
16 "In the event that construction of the facility is not  
17 completed by July 31, 2013, Granite Reliable will be  
18 required to notify the Committee and show cause why the  
19 decommissioning provisions of the Certificate should not  
20 be invoked. This condition will provide the Committee and  
21 the public with sufficient information to understand the  
22 intentions of Granite Reliable, and to determine whether  
23 Brookfield intends to continue to invest in the Project.  
24 In the event that Brookfield ceases to finance the Project

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1 and sufficient alternatives are not provided, GRP will be  
2 required to decommission the facility and remediate the  
3 Project area to its original condition, in accordance with  
4 the decommissioning conditions contained within the  
5 Certificate."

6 So, I think this was a specific  
7 condition set forth in the context of the transfer of the  
8 certificate. I guess the question before us is whether  
9 it's necessary to or advisable to require a similar  
10 condition in this circumstance? Mr. Scott.

11 DIR. SCOTT: Mr. Chair, just for the  
12 record, I just want to point out to the Committee here,  
13 for those who weren't involved. For the Brookfield issue  
14 here, that the location, basically, half of the Project  
15 was in a high altitude, more of a concern area, if you  
16 will, given where it was located. So, I just want to  
17 point out that that had a little bit more -- there was a  
18 little bit more to recommend this because of the high  
19 altitude location. That, if you had started to disturbing  
20 things up there and didn't complete, there was a little  
21 bit more of a concern.

22 Having said that, if we were to adopt  
23 this, obviously, 2013 would not be the date for this  
24 Project, since we're really talking about giving them

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1 enough time to construct something, if we were to go down  
2 that road.

3 CHAIRMAN GETZ: Any other discussion?

4 (No verbal response)

5 CHAIRMAN GETZ: Yes, it seems to me, in  
6 the Granite case, we were aligned with a specific set of  
7 circumstances, including the change of ownership, what had  
8 been, in effect, a substantial passage of time since the  
9 issuance of the certificate, and a -- so, there are  
10 circumstances that I don't think apply to this particular  
11 case. And, again, if you were going to do something, you  
12 know, you'd have to move the date out to a different date.  
13 But I'm not sure that the facts here, you know, merit this  
14 kind of condition. Any other discussion?

15 (No verbal response)

16 CHAIRMAN GETZ: Okay. Well, then, I'll  
17 pose the question. All those in favor of the request by  
18 counsel with a Brookfield-type condition raise their hand?

19 (No indication by Subcommittee members.)

20 CHAIRMAN GETZ: All those opposed?

21 (Subcommittee members indicating by a  
22 show of hands.)

23 CHAIRMAN GETZ: Note that the condition  
24 is denied unanimously.

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1 Under "Avian Species", on Page 11, I  
2 believe we've effectively addressed that in our  
3 conditions.

4 Under "Historic Sites", --

5 MR. IACOPINO: That was already denied  
6 unanimously.

7 CHAIRMAN GETZ: Yes. That's already  
8 taken care of.

9 Request Number 4, noise criteria, I  
10 believe that's already been sufficiently addressed. And,  
11 I would say in all four subsections.

12 So, then, it gets to "Other Conditions",  
13 on Page 13. Talks about the "Town of Plymouth" and "fire  
14 fighting apparatus", that's been addressed. "Vegetative  
15 screen around the Holderness Substation" has been  
16 addressed. "The Committee should require the facility  
17 (including the Holderness Substation) be constructed and  
18 operated in conformity to fire, life safety and electrical  
19 codes." That's already been addressed.

20 Request Number (d) -- or, letter (d):  
21 "The committee should require that the Applicant return to  
22 the Committee should the feasibility study or any other  
23 cause require the Applicant to modify the facility from  
24 the design presented to the Committee and the parties in

1 the hearings. To the extent that the Applicant believes  
2 such modifications are immaterial, it should be required  
3 to provide a report and analysis demonstrating the  
4 immateriality to the Committee and the parties."

5 Mr. Iacopino, I mean, don't we have a  
6 standard condition that effectively addresses that issue?

7 MR. IACOPINO: Well, I think there are  
8 two issues involved. The feasibility study must be the  
9 ISO feasibility study. And, what is being suggested, what  
10 is being proposed to the Committee is a certain set of  
11 specs for these, for the Project specifically, the  
12 particular turbine and the particular specifications for  
13 the step-up transformer facility. If ISO requires some  
14 substantive change in that, the Applicant has to come back  
15 to the Committee anyway.

16 So, normally, we do require them to  
17 continue with the ISO-New England process, which they're  
18 going to have to do anyway, but it's normally contained as  
19 a condition in our certificates. And, so, it could be  
20 that the Applicant is looking at a major change being  
21 required by ISO, and then they would have to come back  
22 here and have that change approved.

23 CHAIRMAN GETZ: So, you're saying that  
24 this is unnecessary?

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1 MR. IACOPINO: Yes. I think this  
2 particular request is unnecessary, because, if there is a  
3 change in what the Applicant -- the specifications to the  
4 Project, the Applicant is going to have to have that  
5 change approved by us anyway. However, I also point out  
6 that, in addition, we normally have a requirement that  
7 they comply with the provisions of ISO.

8 CHAIRMAN GETZ: So, then, perhaps an  
9 appropriate condition would be to make it specific then,  
10 that the -- to the extent that this request is speaking to  
11 the requirements of ISO, that we impose a condition that  
12 makes it clear that the Applicant needs to comply with ISO  
13 requirements. And, if there are any substantial changes  
14 in the requirements, that the Committee will be notified?

15 MR. IACOPINO: Yes.

16 MR. HARRINGTON: I'm a little confused  
17 now. The ISO part will take care of itself. What you're  
18 saying, we need a condition to tell us to be notified or  
19 we don't need it, because it's going to happen anyways?

20 MR. IACOPINO: Well, I'll just give you  
21 a made-up example, hypothetical. There's a step-up  
22 transformer station, it's going to have equipment, certain  
23 equipment in it. If ISO comes back and tells them "well,  
24 yes, that's good, but you also need this other equipment

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1 that's not in the application. And, maybe it expands the  
2 footprint of the step-up transformer facility or  
3 something, that's technically something they should come  
4 back and have approved, because it's not what was in their  
5 Application.

6 MR. HARRINGTON: Is that in the -- where  
7 is that in 162-H? Is there a specific -- you're talking  
8 about changes after the certificate of a condition?

9 MR. IACOPINO: Is there?

10 MR. HARRINGTON: Yes.

11 MR. IACOPINO: Yes. Well, no. Because  
12 what you are doing is you're approving a particular  
13 application that has particular specifications in it.  
14 When a certificate is granted, it's granted on the basis  
15 of the application that's been presented. If there's then  
16 a change, if there's got to be a modification, they do  
17 have to come back to the Committee to have it modified.  
18 It's not something that they can just do on their own.  
19 They have to have the modification approved by the  
20 Committee.

21 MR. HARRINGTON: Is that a "substantial  
22 change" or --

23 MR. IACOPINO: Well, --

24 MR. HARRINGTON: That was a joke.



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1 MR. IACOPINO: I think that's, actually,  
2 joke or not, I think that may be what Counsel for the  
3 Public is getting at with respect to this particular  
4 condition, and that's something for the Committee to  
5 determine is. I think that what Counsel for the Public is  
6 envisioning here is a situation where there's a change,  
7 but the Applicant determines "Well, that's an immaterial  
8 change. We don't have to go back for that. It's not  
9 really anything that makes any difference." And, I think  
10 what Counsel for the Public is trying to do in its  
11 condition is to make sure that you are -- that the  
12 Applicant is required to tell you "We've got to change  
13 this. We believe it's an immaterial change. Here's why."  
14 But that's up to you all to decide whether or not you want  
15 to adopt a condition like that.

16 MR. HARRINGTON: Have we ever done that  
17 in the past, put in this "if there's any changes, let us  
18 know" clause?

19 MR. IACOPINO: I don't know. I don't  
20 recall any off the top of my head.

21 CHAIRMAN GETZ: Dr. Kent.

22 DR. KENT: A condition like this might  
23 be valuable if there were some question about the  
24 integrity of the Applicant. But, under the circumstances,

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1 there's no reason that I believe that this Applicant is  
2 inclined to disguise any changes that would bring them  
3 back to the Committee anyway. So, I find this  
4 unnecessary.

5 CHAIRMAN GETZ: Mr. Dupee.

6 MR. DUPEE: Thank you, Mr. Chairman.  
7 Have we imposed similar conditions in the past?

8 CHAIRMAN GETZ: I've just looked through  
9 the Lempster and Granite Reliable conditions, and I'm not  
10 seeing anything that appears similar.

11 MR. IACOPINO: I don't recall any  
12 either.

13 CHAIRMAN GETZ: And, I think  
14 Mr. Iacopino speaks to the general obligation, you know,  
15 to build consistent with the certificate, which includes  
16 all of these conditions. The ones that are reflected in  
17 the Application and the ones that we impose in addition to  
18 the ones reflected in the Application. So, if they're  
19 going to do something that they don't have authority to  
20 do, they want to do something they don't have authority to  
21 do, they should be coming before the -- before the  
22 Committee.

23 Now, again, we have this issue of  
24 "substantial" versus "insubstantial", "material" versus

1 "immaterial". Whether you need some extra tracking, and I  
2 guess that's the policy question that we -- is there a  
3 basis for that or a need for that? And, it doesn't  
4 appear, at least in the last two wind cases, it does not  
5 appear to have been a specific condition.

6 MR. DUPEE: So, in the absence of  
7 anything to the contrary, if the Applicant were to  
8 undertake what it thought was a minor modification, which  
9 to others, including us, thought was a major one, there  
10 would be grounds for enforcement or review, redress at  
11 that time?

12 CHAIRMAN GETZ: Yes.

13 MR. IACOPINO: Just so you're aware,  
14 Section 162-H, Section 7, IX, requires that "The Applicant  
15 shall immediately inform the Committee of any substantive  
16 modification to its application." Now, that's somewhat of  
17 a backstop by statute. But, again, once you grant the  
18 certificate, you've certified the particular application.  
19 So, it's a little bit different. No longer a modification  
20 to an application, it's a modification to a certificate.

21 CHAIRMAN GETZ: Mr. Scott.

22 DIR. SCOTT: And, again, some of you  
23 have been around longer than I have, but, when I look at  
24 SEC history, I'm not aware of applicants, once they have

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1       been granted a certificate, this being an issue. I know  
2       we've had people consistently come back to us regarding  
3       modifications, if nothing else, just to reaffirm that it's  
4       not an issue. And, I'm not aware of any case where the  
5       SEC has said "No, you should have done something different  
6       in advance, you know, after coming to us."

7                       So, I just don't see this as an issue  
8       generally for the SEC historically, and I'm not sure why  
9       this case would be any different.

10                      MR. IACOPINO: And, a little more detail  
11       to that, it is common for the SEC to receive  
12       correspondence from existing facilities indicating that  
13       there is some type of modification that is going to be  
14       conducted. The most recent one, I believe, was at  
15       Seabrook. And, they, at that point, they asked to be,  
16       basically, well, it's not technically an exemption, but  
17       what they say is that "this is not a substantial" -- they  
18       asked for a ruling that it's not a substantial  
19       modification to the facility. And, this Committee has  
20       held hearings and made determinations in that regard with  
21       a number of different facilities over the years.

22                      CHAIRMAN GETZ: Well, let me call the  
23       question then. All those in favor of the condition that's  
24       set forth on Page 14 of the Applicant's response,

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1 identified as Request Number (d), all those in favor raise  
2 their hands?

3 (No indication by Subcommittee members.)

4 CHAIRMAN GETZ: All those opposed?

5 (Subcommittee members indicating by a  
6 show of hands.)

7 CHAIRMAN GETZ: Note that the proposal  
8 is denied unanimously.

9 Top of Page 15, "The Committee should  
10 require the Applicant to abide by the construction hours  
11 limitations from the Groton Agreement in the construction  
12 of the Holderness step-up facility." And, well, this is  
13 one where the Applicant noted that "the condition is  
14 acceptable."

15 All those in favor of adopting that  
16 condition raise their hands?

17 (Subcommittee members indicating by a  
18 show of hands.)

19 CHAIRMAN GETZ: Note that it passes  
20 unanimously.

21 Request f: "The Committee should  
22 require the Applicant to avoid any of the natural features  
23 identified by VHB in its report concerning the alternate  
24 route for the interconnection down to Route 25." The

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1 Applicant's response is it's "not acceptable". And, it's  
2 explanation is "It is unclear which natural features the  
3 condition is intended to address."

4 MR. HARRINGTON: What's "VHB"?

5 DR. KENT: It's the consultant.

6 CHAIRMAN GETZ: It's the consulting  
7 firm.

8 MR. HARRINGTON: Oh, it's the consulting  
9 firm.

10 CHAIRMAN GETZ: And, the Applicant  
11 states that it "has stated...that it would avoid any  
12 direct wetlands impacts along the alternative route." Any  
13 discussion?

14 MR. HARRINGTON: There's already a  
15 number of permits that have covered this, and they have  
16 been issued, and I assume they will be followed through.  
17 So, I don't think there is any need for anything  
18 additional.

19 CHAIRMAN GETZ: Any other discussion?

20 (No verbal response)

21 CHAIRMAN GETZ: All those in favor of  
22 the condition raise their hands?

23 (No indication by Subcommittee members.)

24 CHAIRMAN GETZ: All these opposed?

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1 (Subcommittee members indicating by a  
2 show of hands.)

3 CHAIRMAN GETZ: Note that it's denied  
4 unanimously.

5 And, I think what is the last condition  
6 here seems to be substantially the --

7 MR. HARRINGTON: The same as before.

8 CHAIRMAN GETZ: -- the Brookfield  
9 proposal. So, that's already been addressed.

10 I don't have any other conditions that I  
11 have been able to find that aren't already reflected here.  
12 So, getting back to the issue you were going to remind me  
13 about, Mr. Iacopino?

14 MR. IACOPINO: I just wanted to check  
15 one thing. Two things, Mr. Chairman, that I would point  
16 out. One involves the ISO-New England. And, it has been  
17 in the past, the Committee has required a continuing  
18 compliance with the ISO-New England process by the  
19 Applicant as a condition of the certificate. Second thing  
20 is is that, with respect to areas where state permits have  
21 been granted, and the Committee has found that there will  
22 be no unreasonable adverse impact with respect to --  
23 adverse effect with respect to the construction of the  
24 facility in accordance with those permits as conditions.

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1 It has also been common for the Committee to delegate to  
2 the relevant State agency the authority to authorize  
3 changes, minor changes, using any technique or methodology  
4 prescribed. And, that is another condition that is  
5 normally granted.

6 In this case, that would involve the  
7 Department of Environmental Services, with respect to the  
8 Alteration of Terrain Permit, with respect to the DES with  
9 respect to the Wetlands Permit, and the Division of  
10 Historic Resources, with respect to the continuing  
11 Historic Resource process. And, I believe that covers --  
12 oh, and DES with respect to the 401 Water Quality  
13 Certificate. So, I think that's -- I think that  
14 delegating authority to those two agencies to specify any  
15 changes with respect to the methodology and practices used  
16 in complying with those agreements is another condition  
17 that the Committee has normally adopted, pursuant to RSA  
18 162-H, Section -- I believe it's 4, but I'm  
19 double-checking, Section 4, III and III-a.

20 MR. HARRINGTON: H:4, III-a?

21 MR. IACOPINO: III and III-a. "The  
22 Committee may delegate" -- III-a states "The committee may  
23 delegate to an agency or official represented on the  
24 committee the authority to specify the use of any



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1 technique, methodology, practice, or procedure approved by  
2 the committee within a certificate under this chapter, or  
3 the authority to specify minor changes in the route  
4 alignment to the extent that such changes are authorized  
5 by the certificate", and it goes on about "energy lines"  
6 and "transmission lines".

7 So, that -- so, the question for the  
8 Committee is whether or not you wish to delegate that  
9 authority to the DES and to DHR with respect to the three  
10 certificate -- the three permits from DES and the process  
11 during the DHR analysis?

12 MR. HARRINGTON: It's a standard  
13 procedure, Mike?

14 MR. IACOPINO: Normally, yes.

15 MR. HARRINGTON: Then, I would say we do  
16 it.

17 DIR. SCOTT: Can I make a motion to that  
18 effect?

19 CHAIRMAN GETZ: I'm just reading the  
20 Lempster's decision and the conditions. And, I think that  
21 seems to be exactly on point. So, please, you have a  
22 motion?

23 DIR. SCOTT: What he said.

24 CHAIRMAN GETZ: Well, you're talking

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1 about both DES and the Division of Historic Resources?

2 MR. IACOPINO: Yes.

3 CHAIRMAN GETZ: So, I guess --

4 MR. IACOPINO: Delegate the authority to  
5 monitor the construction and operation of the facility and  
6 to specify any changes that may be necessary under the  
7 permits and the use of any technique or methodology  
8 required by the State agencies.

9 DIR. SCOTT: So moved with that  
10 language.

11 CHAIRMAN GETZ: Do we have a second?

12 DR. KENT: Second.

13 CHAIRMAN GETZ: Second by Dr. Kent. All  
14 those in favor, signify by raising their hands?

15 (Subcommittee members indicating by a  
16 show of hands.)

17 CHAIRMAN GETZ: Note that it passes  
18 unanimously.

19 Though, I guess that what we didn't  
20 address is the ISO-New England and proposing that there be  
21 a condition requiring continuing compliance by the  
22 Applicant with the requirements of the ISO-New England.  
23 So moved.

24 DIR. SCOTT: Second.

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1                   CHAIRMAN GETZ: All those in favor raise  
2 their hands?

3                   (Subcommittee members indicating by a  
4 show of hands.)

5                   CHAIRMAN GETZ: Note that it passes  
6 unanimously.

7                   DIR. SCOTT: Mr. Chair, do we need to do  
8 anything with the FAA certification or is that independent  
9 enough that we don't need to do anything about it?

10                  CHAIRMAN GETZ: I think that our  
11 discussion there was it was -- seemed to be laid out  
12 clearly in the Application. And, by approving the  
13 Application, in the absence of us saying something  
14 different, then the Applicant is held to its  
15 representation. And, there may be other things in there  
16 of that nature that they would also be held to.

17                  So, Mr. Iacopino, is there anything else  
18 that we need to address? I mean, I have nothing.

19                  MR. IACOPINO: Not that I can think of,  
20 other than, I assume you're going to delegate to me to  
21 memorialize the decisions that you've made over the past  
22 three days of deliberations?

23                  CHAIRMAN GETZ: Yes, indeed. Yes, I  
24 don't have anything else on my list of specific findings

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1 or decisions that we have to make. I think, as I pointed  
2 out earlier, we issued an order sometime ago extending the  
3 period of review to April 26th. So, my expectation is  
4 that Mr. Iacopino will draft a Decision and Order  
5 memorializing the decisions we've made, and it will be  
6 circulated for our review and signature by the deadline.

7 Is there anything else from the members?

8 Okay. Mr. Dupee?

9 MR. DUPEE: Actually not related to this  
10 proceeding, Mr. Chairman, but we do have some other SEC  
11 meetings coming up this week -- this month, rather?

12 CHAIRMAN GETZ: Yes. I believe  
13 April 22nd there's a meeting of the full Committee on  
14 possibly two issues.

15 MR. IACOPINO: Yes. There are two.

16 MR. HARRINGTON: Two.

17 MR. IACOPINO: There are two dockets on  
18 the April 22nd full Committee meeting. The first is  
19 there's a proposal to transfer the Certificate in the  
20 Laidlaw/Berlin Biopower docket to a new entity called  
21 "Berlin Station" and a reorganization of the original  
22 folks that came in with the Laidlaw Application.

23 There is also a request filed by Antrim  
24 Wind, LLC, and the Town of Antrim Board of Selectmen

1 requesting this Committee to take jurisdiction over a  
2 proposed wind facility proposed for a ridgeline in Antrim,  
3 New Hampshire. There is no application as of yet with  
4 respect to that particular docket. There is merely a  
5 request that the Committee take jurisdiction.

6 And, to date, I have not seen, I've  
7 heard lots of suggestions that there will be this person  
8 or that person seeking to intervene in each one of those  
9 dockets, however, to date, we have not received any  
10 intervention -- I'm sorry, we received one intervention  
11 request in the Laidlaw matter, which was just a one-page  
12 written -- handwritten letter. But we've not received  
13 anything else, nor have we received any notice from the  
14 Attorney General's Office as to what, if anything, they  
15 intend to do. Whether Counsel for the Public intends to  
16 participate in the Laidlaw or the Antrim decision.

17 Again, the Antrim is just whether or not  
18 the Committee is going to -- will exercise its  
19 jurisdiction. Because it's one of those renewable energy  
20 proposals that is more than 5 megawatts, but less than  
21 30 megawatts. So, there is some discretion involved in  
22 the assertion of jurisdiction there.

23 MR. DUPEE: Thank you.

24 CHAIRMAN GETZ: Thank you. Well, I'd

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1 like to say this on the record before we close. I want to  
2 thank you for your service. This has been a long  
3 proceeding, it's a complex proceeding, substantial issues  
4 of technical analysis, policy analysis, legal analysis.  
5 We've had a great deal of testimony, filings, arguments,  
6 briefing. And, I know that you all have a lot of  
7 responsibility in your positions and that require a lot of  
8 your effort and a lot of your resources. And, I also am  
9 well aware that every one of the members of the Committee  
10 is spending a great deal of time and evenings and weekends  
11 trying to master all of the facts and arguments in this  
12 case. And, I think that everyone has acquitted themselves  
13 extremely well. And, I want to just say thank you for  
14 your service.

15 And, we will close the deliberations and  
16 issue an order as soon as we can. So, thank you.

17 (Whereupon the deliberations ended at  
18 11:09 a.m.)

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