

1 STATE OF NEW HAMPSHIRE

2 SITE EVALUATION COMMITTEE

3
4 **June 1, 2011** - 10:19 a.m.
Public Utilities Commission
5 21 South Fruit Street
Suite 10
6 Concord, New Hampshire

DAY 1

MORNING SESSION ONLY

7
8 **RE: SEC Docket No. 2011-02**
Petition for Jurisdiction
9 Over Renewable Energy Facility
Proposed by Antrim Wind
Energy, LLC.
10 (*Public Hearing*)

11 **PRESENT:**

SITE EVALUATION SUBCOMMITTEE:

12 Thomas B. Getz, Chairman
(*Vice Chairman of SEC*)
13 (*Presiding as Chairman*)

Public Utilities Commission

14 Glenn Normandeau, Exec. Dir.
Clifton Below, Cmsr.
15 Amy Ignatius, Cmsr.
Elizabeth Muzzey, Dir.
16 Harry Stewart, Dir.
Robert Scott, Dir.
17 Brad Simpkins, Interim Dir.
Michael Harrington

N.H. Fish & Game Department
Public Utilities Commission
Public Utilities Commission
N.H. Div. of Historical Res.
Water Division - DES
Air Resources Division - DES
Div. of Forests & Lands - DRED
Public Utilities Commission

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20 Counsel for the Committee:

Michael Iacopino, Esq.

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23 *COURT REPORTER: STEVEN E. PATNAUDE, LCR No. 52*
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ALSO PRESENT:

Reptg. the Applicant:
(Antrim Wind Energy)

Susan S. Geiger, Esq.
Maureen D. Smith, Esq.
(Orr & Reno)

Counsel for the Public:

Peter C. L. Roth, Esq.
Senior Asst. Atty. General
Evan J. Mulholland, Esq.
Assistant Attorney General
N.H. Dept. of Justice

**Reptg. Town of Antrim
Board of Selectmen:**

Justin C. Richardson, Esq.
(Upton & Hatfield)

Reptg. Antrim Planning Board:

Silas Little, Esq.
(Fernald Taft Falby & Little)

**Reptg. Harris Center for
Conservation Education:**

Stephen Froling, Esq.

Reptg. Audubon Society of NH:

Frances Von Mertens

Reptg. the Block Group:

Richard Block

Reptg. the Allen Group:

Mary Allen

Gordon Webber, *pro se*

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I N D E X

PAGE NO.

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AWE-9	Town of Antrim Planning Board Minutes (03-17-11)	premarked
PC-1	Antrim Wind Energy, LLC Second Amended and Restated Limited Liability Company Agreement (01-21-11)	premarked
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E X H I B I T S

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Allen A	Petition re: SEC Rule Against the Petition for Jurisdiction Over Renewable Energy Facility	premarked
Allen B	Zoning Ordinance Amendment Ballot	premarked
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Webber 1	Direct Testimony of Gordon Webber (05-06-11)	premarked

1 **P R O C E E D I N G**

2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. I'd like to open the hearing regarding Site
4 Evaluation Committee Docket 2011-02, concerning a Petition
5 for Jurisdiction over the renewable energy facility
6 proposed by Antrim Wind Energy, LLC. My name is Tom Getz.
7 I'm the Chairman of the Public Utilities Commission, and
8 I'm also chairing this proceeding for the Site Evaluation
9 Committee.

10 And, at the beginning, I'd like to
11 start, on my far right, to introduce the members of the
12 Committee who are sitting today. So, Mr. Stewart, if you
13 could.

14 DIR. STEWART: Harry Stewart, Department
15 of Environmental Services, Water Division Director.

16 DIR. MUZZEY: Elizabeth Muzzey, Director
17 of the Division of Historical Resources and the Department
18 of Cultural Resources.

19 DIR. NORMANDEAU: Glenn Normandeau,
20 Director of Fish & Game.

21 DIR. SCOTT: Bob Scott, Department of
22 Environmental Services, Air Resources Division Director.

23 CMSR. BELOW: Clifton Below, one of
24 three Public Utility Commissioners.

1 CMSR. IGNATIUS: I'm sorry. Amy
2 Ignatius, Commissioner with the New Hampshire Public
3 Utilities Commission.

4 DIR. SIMPKINS: Brad Simpkins, Interim
5 Director of the Division of Forests & Lands.

6 MR. HARRINGTON: Mike Harrington, New
7 Hampshire PUC.

8 CHAIRMAN GETZ: And, so, I'll note for
9 the record that we have a quorum to proceed with this
10 hearing. And, I also note for the record that Counsel to
11 the Committee, Michael Iacopino, is present as well.

12 So, at this point, I'd like to take --
13 just go around the room to take appearances from the
14 parties. And, in that respect, we've, as part of the
15 procedural order, we have grouped some of the parties
16 together. So, we don't need to hear from each of the
17 members of the groups, but we do want to hear who the
18 spokesperson is for the various groups. And, I assume
19 that, on the abutting property owners, was it Mr. Block is
20 the spokesperson for that group?

21 MR. BLOCK: Yes.

22 CHAIRMAN GETZ: And, we'll address,
23 after we do the appearances, we'll address the issue of
24 the outstanding motion to reconfigure the groups. So,

1 we'll just note for the record that Mr. Block is here.

2 MR. BLOCK: Richard Block, Antrim, and I
3 will be the spokesperson for the abutting intervenors.

4 MS. GEIGER: Yes. Good morning, Mr.
5 Chairman and members of the Committee. I'm Susan Geiger,
6 from the law firm of Orr & Reno. And, with me this
7 morning, on behalf of Antrim Wind Energy, LLC, is
8 co-counsel Maureen Smith, from Orr & Reno, as well as
9 representatives of Antrim Wind, Jack Kenworthy, who will
10 be testifying today, Mr. John Soininen and Mr. Peter Mara,
11 from Westerly Wind.

12 CHAIRMAN GETZ: Okay. Good morning.
13 Other -- sir.

14 MR. LITTLE: Good morning, Mr. Chairman,
15 members of the Committee. I'm Silas Little. I'm here for
16 the Antrim Planning Board. With me are two members of the
17 Planning Board, Mr. Levesque and Ms. Pinello.

18 CHAIRMAN GETZ: Good morning. Other
19 representatives?

20 MR. RICHARDSON: Good morning, Mr.
21 Chairman, members of the Committee. Justin Richardson,
22 here on behalf of the Town of Antrim Board of Selectmen.
23 With me today I have its Chairman, Mike Genest, as well as
24 Town Administrator, Galen Stearns.

1 CHAIRMAN GETZ: Good morning.

2 Mr. Webber.

3 MR. WEBBER: Gordon Webber. I'm a
4 petitioner/intervenor.

5 CHAIRMAN GETZ: And?

6 MS. ALLEN: I'm Mary Allen. I'm a
7 spokesperson for the -- it's called the "Allen Petition
8 Group" now, if you make that motion.

9 CHAIRMAN GETZ: Okay. Thank you.
10 Anyone else make an appearance?

11 MR. FROLING: I'm Stephen Froling. I'm
12 here on behalf of the Harris Center for Conservation
13 Education, an intervenor.

14 CHAIRMAN GETZ: Good morning. Someone
15 on behalf of Audubon?

16 MS. VON MERTENS: That would be me.
17 Frances Von Mertens, New Hampshire Audubon. Thank you.

18 CHAIRMAN GETZ: Good morning. Anyone
19 else?

20 MR. MULHOLLAND: Hi. I'm Evan
21 Mulholland, for the Attorney General's Office, here for
22 Public Counsel.

23 CHAIRMAN GETZ: Okay. Good morning.
24 Okay. Let's deal with the -- we have two outstanding

1 motions. One was the Partially Assented to Motion for
2 Enlargement of Time for Filing of Supplemental Prefiled
3 Testimony filed by Antrim Wind on May 24. Is there any
4 objection to that motion?

5 (No verbal response)

6 CHAIRMAN GETZ: Okay. Hearing no
7 objection, that motion is granted. And, effectively, the
8 subject matter of that motion was the filing of testimony
9 that's already been filed. So, that's granted.

10 Then, we also have this Motion to
11 Reconfigure the Intervenor Groups. And, as I understand
12 the motion, the way we had handled this issue in the
13 procedural order issued on May 6 was we divided the
14 individuals into two groups, "Persons Owning Abutting
15 Property" and "Non-Abutting Property Owners". And, as I
16 understand it, one subset of the Non-Abutting Property
17 Owners would like to participate with the Abutting
18 Property Owners, because of their history of working
19 together, and that, I understand, is the group that Mr.
20 Block is the spokesperson for. And, then, the remaining
21 Non-Abutting Property Owners are the individuals that, Ms.
22 Allen, you're going to be the spokesperson for?

23 MS. ALLEN: Yes.

24 CHAIRMAN GETZ: Okay. Is there any

1 objection to that, to that motion?

2 (No verbal response)

3 CHAIRMAN GETZ: Okay. Hearing no
4 objection, then that motion is granted.

5 And, I understand at the -- you know,
6 there was a technical session. And, I think everybody
7 understands that the way we would proceed today is with
8 prefiled written testimony, that the individuals who have
9 filed that testimony will be sworn in and adopt that
10 testimony, and then be subject to cross-examination. And,
11 so, is there anything we need to -- and the order of
12 witnesses that I would propose today is to begin with
13 Mr. Kenworthy, from Antrim, and then go to Mr. Genest,
14 then Mr. Webber, then go to a panel of Ms. Pinello and
15 Mr. Levesque, and then to the Block/Cleland/Longgood/Law
16 witnesses as a panel as well.

17 So, is there any -- are there any other
18 issues, with that or other preliminary issues?

19 MR. MULHOLLAND: Mr. Chairman, as a
20 preliminary issue, we have motions that Public Counsel
21 filed this motion, motions to strike part of the Jack
22 Kenworthy testimony and to strike part of the Petition.
23 We also have an exhibit that goes with that, Public
24 Counsel 1. I don't know if everyone on the Board got

1 copies. We filed it this morning. And, I have copies.

2 CHAIRMAN GETZ: I haven't seen it. And,
3 I have other counsel or spokespersons seen this?

4 MR. MULHOLLAND: I tried to hand it out
5 this morning to everyone that I could recognize. If
6 anyone doesn't have one --

7 (Atty. Mulholland distributing
8 documents.)

9 CHAIRMAN GETZ: Well, Mr. Mulholland,
10 everybody has -- no one's had a chance at the Bench to
11 read this yet. Can you summarize what the issue is here?

12 MR. MULHOLLAND: Yes.

13 CHAIRMAN GETZ: And, then, we'll give
14 Ms. Geiger or anyone else an opportunity to respond.

15 MR. MULHOLLAND: Sure. This is as a
16 result from the technical session. The subject of the
17 motion is the technical, managerial, and financial
18 capacity of the Applicant, and, specifically, Mr.
19 Kenworthy and his testimony. And, Public Counsel is
20 asking the Committee to strike parts of his testimony for
21 two reasons. One is that the financial, technical, and
22 managerial capacity is not strictly relevant to the
23 question here today of jurisdiction, and as much as was
24 submitted by Mr. Kenworthy during the technical session.

1 And, number two, and more importantly,
2 in support of the testimony and the prefiled testimony in
3 the Petition, Mr. Kenworthy asserted facts concerning the
4 Petitioner Eolian -- Antrim Wind, and the parts of Antrim
5 Wind, which is Eolian Renewable and Westerly. And,
6 Counsel for the Public asked Mr. Kenworthy for the
7 document that he referred to, talking about the
8 relationship between those companies, which is the
9 operating agreement, which is Public Counsel 1, the Second
10 Amended and Restated LLC Agreement for Antrim Wind Energy,
11 LLC. And, we got a copy of that yesterday, which is
12 really seven pages of a 30-page document, and many of
13 those seven pages are heavily redacted. And, it's
14 impossible to understand the relationship between the
15 companies and to verify the assertions made by Mr.
16 Kenworthy about his and his partners' financial,
17 managerial, and technical capacity without seeing this.

18 And, as a result, the Public Counsel
19 asks for sanctions on this case. And, specifically, the
20 sanctions we're requesting is striking certain portions of
21 the Kenworthy testimony, the Kenworthy supplemental
22 testimony, and Paragraphs 1 through 3 of the Petition.
23 And, if I left anything out, it's in the written motion.

24 CHAIRMAN GETZ: So, do you have a --

1 MR. MULHOLLAND: I don't know if you got
2 Public Counsel 1.

3 CHAIRMAN GETZ: No.

4 MR. MULHOLLAND: It's marked up on the
5 table here. Public Counsel 1 is the copy of the LLC
6 agreement, which is redacted and missing many pages.

7 CHAIRMAN GETZ: Well, let me ask this
8 question, Mr. Mulholland. I think, at the hearing back on
9 April 22nd, I raised the issue that there may be two sets
10 of facts in play; one was going to "what's the status of
11 the Antrim Wind Project?" And, I'm taking some of this
12 testimony to be responsive to that issue of "what's the
13 status?" And, I think you've made the -- taken the
14 position already that the actual issue of the financial,
15 technical, and managerial capability is not an issue that
16 we would decide here today. So, can you -- I guess I need
17 to understand why this material actually needs to be
18 stricken?

19 MR. MULHOLLAND: That the relief we're
20 seeking, Public Counsel is seeking is -- it's for failure
21 to provide the complete copy of the operating agreement,
22 so that we can understand, through discovery, what the
23 relationship is and where the technical, financial, and
24 operational capacity comes from. And, without the whole

1 agreement, that testimony has to be stricken.

2 And, alternatively, you could postpone
3 ruling on this motion and just not look at anything about
4 financial, technical, and managerial capacity for today's
5 hearing, and deal with the motion later. I think that's
6 an alternative.

7 CHAIRMAN GETZ: So, is there an issue,
8 well, with the confidentiality? Well, maybe I should turn
9 to Ms. Geiger. Has there been a request for
10 confidentiality on this stricken material?

11 MS. GEIGER: The terms of the agreement
12 itself indicates that the agreement is confidential, and
13 it's not merely up to Antrim -- folks within Antrim, my
14 client, Mr. Kenworthy, to disclose that information. He
15 needed to check with folks at Westerly about whether or
16 not it could be disclosed.

17 But, I agree, Mr. Chairman. The issue
18 of -- well, let me go back to the very beginning. This
19 motion was filed, I just saw it this morning, Mr. Roth did
20 not contact me in a good faith effort to try to obtain my
21 position on it ahead of time, as the rules require here.
22 So, had he done that, perhaps you would have had more what
23 I'm saying reflected in the motion.

24 In any event, at the tech session on

1 Friday, we were asked for the operating agreement or the
2 portions of it that just showed the relationship between
3 folks from Eolian and the folks from Westerly, as they are
4 the -- as they are the participants in Antrim Wind Energy.
5 That information, or the financial, technical, and
6 managerial information was provided to the Committee as a
7 courtesy. We agree that it's not a front burner issue in
8 this jurisdictional phase of the proceeding. We did it in
9 response to the Committee's request for information about
10 the status of the Project. So, to the extent that the
11 Committee thinks it's relevant and needs to see it,
12 obviously, we supplied that information and we'd like to
13 go forward. I think that's a separate issue as to whether
14 -- as to how deep Public Counsel needs to dig into the
15 confidential information that's contained in that
16 agreement.

17 So, to the extent that the Committee
18 wants Mr. Kenworthy's information or testimony to remain
19 in the record, that's fine. We'll answer questions about
20 it. But we are working with a counterparty at Westerly to
21 see, in the spirit of cooperation, whether they will agree
22 to disclose the headings of the agreement. And, again, we
23 still don't think it's relevant. We think it's a big side
24 issue. And, we're not sure how it helps to inform the

1 record or the Committee concerning the operations of
2 Antrim Wind.

3 At the tech session, Mr. Roth said he
4 just wanted to see the portions of the agreement that
5 dealt with the relationship between the folks from Eolian
6 and the folks from Westerly. And, we gave him that. We
7 just simply don't think the rest of the agreement, which
8 is highly confidential, it's a business agreement,
9 operating agreements typically aren't publicly disclosed,
10 and we just don't think it should come in. But, if the
11 Committee disagrees with that, we will endeavor to try to
12 obtain consents from the folks at Westerly to provide
13 those headings that Mr. Roth has asked for. It's just
14 that we got the request yesterday afternoon and we didn't
15 have the time.

16 And, also, Mr. Chairman, on another
17 matter, unlimited to this, is in response to your
18 description of who will be testifying today and the panels
19 and so forth. I'd like to respond to that at an
20 appropriate time.

21 CHAIRMAN GETZ: Okay. Thank you. Well,
22 on this issue, then I guess there's two questions that
23 come to mind. One is, so this was -- Mr. Mulholland, this
24 is a document that was requested at a technical session as

1 part of discovery.

2 MR. MULHOLLAND: Yes.

3 CHAIRMAN GETZ: Does this material lead
4 to the production of evidence relevant to this proceeding?
5 And, I think you as much said "it doesn't." So, then, I'm
6 wondering, if that's the case, why we need this material,
7 and why is, and maybe this goes back to you, Ms. Geiger,
8 is the sanction of striking overly broad? Which, you
9 know, I'm not seeing -- I'm seeing this for the first
10 time, why the -- is your sanction overly broad in terms of
11 what would be stricken from the prefiled testimony and the
12 Petition? Can you respond to that?

13 MR. MULHOLLAND: The question is, "why
14 is it not overly broad?"

15 CHAIRMAN GETZ: Yes. It seems like, if
16 -- you know, I guess my tendency is, based on what I've
17 heard so far, is I'm not sure that the document leads to
18 anything relevant that we would deal with. And, if that's
19 the case, then it would seem to me to moot the motion.

20 MR. MULHOLLAND: I don't think it moots
21 the motion. I think maybe what you could do instead is
22 just postpone it and not rule on it right now.

23 CHAIRMAN GETZ: And, so, go through the
24 hearing, hear the testimony. And, then, at the close of

1 the hearing today, deal with the issue of what's going to
2 be admitted and what's going to be stricken?

3 MR. MULHOLLAND: I was thinking --

4 CHAIRMAN GETZ: That would be the --

5 MR. MULHOLLAND: I was thinking more
6 along the lines of not hearing testimony today on the
7 technical, managerial, and financial capacity of the
8 Applicant, and -- because it's not relevant.

9 CHAIRMAN GETZ: Okay. Well, certainly,
10 we could hear it and decide what weight, if any, to give
11 to it, which I think would be, given that we're already a
12 half hour into the hearing, that I would try to -- I
13 think, at least that's where my -- I intend to go in right
14 now. But, if there's other parties that want to weigh in?
15 Mr. Richardson.

16 MR. RICHARDSON: Thank you. The Town of
17 Antrim would like to ask questions towards the issue that
18 I think the Chair has correctly pointed out is relevant,
19 is -- which is "whether or not the Committee versus the
20 Planning Board has the authority to review technical and
21 managerial capability?" And, I think that that piece of
22 it, which board has the authority to review what, is
23 relevant. So, I would not want to see, and I just want to
24 state for the record, that the Town wants to be able to

1 ask questions related to this Board's authority to review
2 technical information. I don't intend to go into any of
3 the substantive questions about whether it's adequate, I
4 think that's for a later date.

5 CHAIRMAN GETZ: But you wouldn't be
6 asking those questions of Mr. Kenworthy?

7 MR. RICHARDSON: No. But I was
8 concerned that, if we start striking information about
9 technical and managerial capability, it would prejudice me
10 at a later date when I sought to ask questions as to this
11 Board's authority to review those very questions. So, I
12 just wanted to point out that the Town's position really
13 is is that we shouldn't strike any testimony right now.
14 We can always defer and we can rule on its relevance. But
15 the Town would like to ask questions related to this
16 Board's authority to inquire as to technical and
17 managerial capability.

18 CHAIRMAN GETZ: "This Board" being?

19 MR. RICHARDSON: The Site Evaluation
20 Committee. Versus the other board that's proposed, which
21 is the Planning Board.

22 CHAIRMAN GETZ: But aren't those legal
23 arguments? I'm not sure how that relates to this
24 particular question.

1 MR. RICHARDSON: That's true. But
2 witnesses have offered opinions as to which board would be
3 better suited for a review. And, so, really, that comes
4 to, if a board doesn't have the legal authority to review
5 on the question, and this Board does, that goes to the
6 merits of the jurisdictional question.

7 CHAIRMAN GETZ: Well, -- okay. I got
8 your issue. Mr. Little.

9 MR. LITTLE: Yes. On behalf of the
10 Antrim Planning Board, I think I must, based upon what
11 Mr. Richardson said, I think I join in the Counsel for the
12 Public's objection. Because, basically, what I understand
13 or the way I interpret it is we have a series of bland
14 assertions made by the Applicant or its principal, for
15 which there is no substantiation. And, as an example, at
16 the technical hearing, on examination, Mr. Kenworthy
17 admitted that he had overstated his qualifications in his
18 prefiled testimony.

19 MS. GEIGER: I'm going to object to that
20 comment, because I don't believe that properly
21 characterizes what transpired at the technical session.

22 MR. LITTLE: Well, we'll see on
23 cross-examination, but -- and, so, I think that that is
24 exactly the point that Counsel for the Public was trying

1 to get to by filing this motion or making the request, and
2 then expressing his dissatisfaction with what was
3 produced.

4 CHAIRMAN GETZ: So, -- well, Ms. Allen.

5 MS. ALLEN: What I would ask is, is it,
6 having a sense of the threshold of financial viability,
7 relevant to whether or not the SEC chooses to take
8 discretionary jurisdiction of this case? And, we would
9 join in striking the information as being unsupported
10 assertions only.

11 CHAIRMAN GETZ: Okay. Anything else on
12 this issue?

13 (No verbal response)

14 CHAIRMAN GETZ: All right. For purposes
15 of the hearing today, I'm going to deny the motion without
16 prejudice, so that we can proceed with the hearing. And,
17 then, we'll take up, at the end of the hearing, precisely
18 what's going to be admitted. Again, noting my concern
19 that, really, that these arguments are about issues that
20 are not relevant, in terms of the decision we have to make
21 about whether to take jurisdiction. That the -- whether
22 they have financial, technical, and managerial capability
23 is an issue that needs to be decided in the context of
24 whether an application is granted. And, the point from

1 the previous hearing, as I laid it out on April 22nd, was
2 to get some factual context about the status of the
3 Project. And, I don't think that we really need to get
4 into all the issues that are being raised here and the
5 level that they're being raised.

6 So, other -- did you have something
7 else, Ms. Geiger?

8 MS. GEIGER: On the panel testimony that
9 the Chair proposed for the Antrim Planning Board. At the
10 technical session on Friday, Mr. Levesque indicated, in
11 response to questions from me, that he submitted prefiled
12 testimony in this docket not on behalf of the Planning
13 Board, but on behalf of himself personally. Mr. Levesque
14 is not an intervenor in this docket. Therefore, I
15 question the propriety of his having filed prefiled
16 testimony in this docket. And, unless I am mistaken or
17 his status has changed since Friday, I believe it would be
18 appropriate to strike Mr. Levesque's prefiled testimony
19 from the record. Again, because he's neither an
20 intervenor, nor a representative of the Antrim Planning
21 Board.

22 CHAIRMAN GETZ: Mr. Little, can you
23 respond please?

24 MR. LITTLE: Yes. I think Mr. Levesque

1 was confused in terms of his responses to the questions
2 from Ms. -- Attorney Geiger. And, his testimony was
3 presented to the Planning Board, was reviewed by the
4 Planning Board, it was authorized to be filed on behalf of
5 the Planning Board, and that is the position of the
6 Planning Board. Mr. Levesque's testimony, along with
7 Ms. Pinello's testimony, is testimony that's being
8 submitted on behalf of the Planning Board.

9 CHAIRMAN GETZ: Anything else on that?

10 MS. GEIGER: Then, I will withdraw my
11 Motion to Strike. And, I guess I would just say, in
12 response, I would have appreciated that information on
13 Friday.

14 CHAIRMAN GETZ: Okay. Anything else we
15 need to address before we turn to our first witness?

16 MR. RICHARDSON: Very briefly, just to
17 bring the Commission's attention to this. I have not
18 received the most recent order of the Committee. There
19 have been several filings that were made recently. I got
20 Counsel for the Public's, but none of the responses from
21 the Planning Board were provided. I am not, and I
22 understand that the Committee issued another document this
23 morning, and I'm not receiving copies of these. And, I
24 would hope that the Committee could investigate its

1 service list or find out what the issue is. I tried to
2 call Ms. Murray this morning, but I was unable to reach
3 her.

4 CHAIRMAN GETZ: And, you said "the
5 orders", you're not getting the orders from the --

6 MR. RICHARDSON: There was a notice of
7 this proceeding that I believe was sent to the service
8 list that I did not receive. I did not receive, but
9 fortunately saw on the Committee's website the procedural
10 schedule for the tech session. I happened to be checking
11 the website and I noticed the document was there. And, I
12 understand that it went out to all the parties. But, for
13 some reason, I'm not being copied on the list of documents
14 going to the parties.

15 MR. IACOPINO: Justin, did you get the
16 letter from Cynthia Crockett that was docketed on the
17 website this morning?

18 MR. RICHARDSON: No, I have not received
19 that. That was the information that I heard from other
20 parties. And, I received from my client today the
21 Planning Board record request responses, but I wasn't
22 copied on those as well. So, I just -- but there's an
23 issue that needs to get worked out on that, and I just
24 hope that the parties and the Committee will endeavor to

1 do that.

2 MR. IACOPINO: I think what may have
3 happened is Ms. Murray, I know she put you on the service
4 list, but she may have not put you into her email service
5 list.

6 MR. RICHARDSON: Okay.

7 MR. IACOPINO: But we will -- I will
8 certainly make sure that gets taken care of.

9 MR. RICHARDSON: Thank you.

10 CHAIRMAN GETZ: Okay. So, it sounds
11 like that the two issues that you raise, one, I mean,
12 obviously, you were on notice of the hearing today?

13 MR. RICHARDSON: Oh, absolutely. And,
14 this isn't an objection in any sense. Just that I would
15 like to be able to correct the problem before it does
16 become a substantive issue. Thank you.

17 CHAIRMAN GETZ: Okay. Anything else,
18 before we turn to the first witness?

19 MR. ROTH: Mr. Chairman, I'm sorry for
20 being late, I had an unavoidable appointment. Have we
21 discussed the order of cross-examination at this point?

22 CHAIRMAN GETZ: We haven't discussed
23 order of cross. We've discussed the order of witnesses.

24 MR. ROTH: Okay.

1 CHAIRMAN GETZ: And, in terms of order
2 of cross -- well, you have a burning issue, apparently?

3 MR. ROTH: Well, no, not necessarily,
4 other than we'd like to go last, as has been our custom.

5 CHAIRMAN GETZ: And, what I would
6 expect, in terms of as a general matter for order of
7 cross, we're going to start with -- our order of witnesses
8 would be those in favor of the Petition, Antrim Wind, the
9 Selectmen, the Town's Board of Selectmen, and Mr. Webber
10 will be the first witnesses. They will be crossed in
11 turn, I would -- starting with Mr. Kenworthy, then crossed
12 by, which is commonly called "friendly cross", by parties
13 who share the same position, and then cross by persons
14 adverse, and then prepared to have the Public Counsel go
15 last. But is there any -- and, then, a similar order
16 would play out with other witnesses. Was there any
17 objection to that procedure? And, then, of course, we'll
18 go to the Committee last.

19 MR. ROTH: Right. And, then, I guess,
20 since the Counsel for the Public has taken the position
21 that jurisdiction should not be granted, with respect to
22 those witnesses who come in favor of denial of
23 jurisdiction, I would expect that the Applicant, or
24 Non-Applicant, if you will, would want to go last. And,

1 in that case, we would go before them.

2 CHAIRMAN GETZ: Okay. Any objections?

3 MS. SMITH: I'm sorry. I didn't
4 understand.

5 CHAIRMAN GETZ: I think that Mr. Roth is
6 saying that he would forgo his opportunity to be the last
7 examiner in those situations where there is testimony or
8 witnesses who are adverse to the position of the
9 Petitioners, and then would agree that the Applicant gets
10 to go last in that case.

11 MR. ROTH: If she wished.

12 MS. GEIGER: That makes sense.

13 MS. SMITH: That makes sense.

14 CHAIRMAN GETZ: Okay. Well, then, we'll
15 do that. Anything else?

16 (No verbal response)

17 CHAIRMAN GETZ: All right. Then,
18 Ms. Geiger, you can call your witness.

19 MS. GEIGER: Thank you, Mr. Chairman.
20 Antrim Wind Energy, LLC, calls Jack Kenworthy. And, my
21 understanding is that the witnesses are going to be seated
22 at the first counsel table here, is that correct?

23 (Whereupon **John (Jack) B. Kenworthy** was
24 duly sworn and cautioned by the Court

[WITNESS: Kenworthy]

1 Reporter.)

2 **JOHN (Jack) B. KENWORTHY, SWORN**

3 **DIRECT EXAMINATION**

4 BY MS. GEIGER:

5 Q. Could you please state your name for the record.

6 A. My name is Jack Kenworthy.

7 Q. By whom are you employed and in what capacity are you
8 employed?

9 A. I'm employed by Eolian Renewable Energy. I am the CEO.
10 I am also an executive officer of Antrim Wind.

11 Q. And, Mr. Kenworthy, are you familiar with the Petition
12 for Jurisdiction filed in this docket by Antrim Wind
13 Energy, LLC, on March 11th, 2011?

14 A. Yes, I am.

15 Q. And, I'm going to show you a copy of the Petition that
16 you just referenced. Is this the Petition for
17 Jurisdiction filed by Antrim Wind?

18 A. Yes.

19 MS. GEIGER: Mr. Chairman, my
20 understanding is that all of the Committee members have a
21 copy of the Petition. And, I would ask that the two
22 copies that I've left for Attorney Iacopino and for the
23 court reporter be marked for identification as "Exhibit
24 "AWE Exhibit 1"?

[WITNESS: Kenworthy]

1 CHAIRMAN GETZ: So marked.

2 (The document, as described, was
3 herewith marked as **AWE Exhibit 1** for
4 identification.)

5 MS. GEIGER: Thank you.

6 BY MS. GEIGER:

7 Q. Mr. Kenworthy, did you submit prefiled testimony in
8 this docket on May 6th?

9 A. Yes, I did.

10 Q. I'm going to show you a document that is entitled
11 "Prefiled Direct Testimony of Jack Kenworthy". Is that
12 the prefiled testimony you just referred to?

13 A. Yes, it is.

14 MS. GEIGER: And, Mr. Chairman, I'd like
15 to have that document marked for identification as "AWE
16 Exhibit 2"?

17 CHAIRMAN GETZ: So marked.

18 (The document, as described, was
19 herewith marked as **AWE Exhibit 2** for
20 identification.)

21 BY MS. GEIGER:

22 Q. Mr. Kenworthy, did you submit -- before we talk about
23 your supplemental testimony, do you have any
24 corrections, updates, or other revisions to your

[WITNESS: Kenworthy]

1 prefiled direct testimony that we've just marked for
2 identification as "AWE Exhibit 2"?

3 A. Yes, I just have three minor edits that are
4 typographical or grammar-related. The first is on Page
5 11, on Line 7. The final sentence there says "However,
6 a desktop study of the Project as it related to air
7 quality", it should say "as it relates".

8 The second edit is on Page 16, in Line
9 20, begins, "held two public hearings in March 2010
10 review", the word "to" should be inserted between
11 "2010" and "review".

12 The final is on Page 19, Line 10.
13 Beginning on Line 9, it reads "there was no public
14 notice that the Planning Board intended to reconsider
15 the prior Board's action on the amendments was
16 provided." We need to strike the words "was provided".
17 So, it should read "There was no public notice that the
18 Planning Board intended to reconsider the prior Board's
19 action on the amendments."

20 Q. Thank you, Mr. Kenworthy. With the changes that you
21 just noted, if you were asked the same questions today
22 under oath as those contained in AWE Exhibit 2, would
23 your answers be the same as those contained in the
24 exhibit?

[WITNESS: Kenworthy]

1 A. Yes, they would.

2 Q. Did you submit supplemental prefiled testimony in this
3 docket on May 26, 2011?

4 A. Yes, I did.

5 Q. And, is this document that supplemental prefiled
6 testimony?

7 A. Yes, it is.

8 MS. GEIGER: And, Mr. Chairman, I would
9 like to have Mr. Kenworthy's supplemental prefiled
10 testimony dated May 26, 2011 marked for identification as
11 "AWE Exhibit 3"?

12 CHAIRMAN GETZ: So marked.

13 (The document, as described, was
14 herewith marked as **AWE Exhibit 3** for
15 identification.)

16 MS. GEIGER: Thank you.

17 BY MS. GEIGER:

18 Q. Mr. Kenworthy, do you have any corrections, updates, or
19 other revisions to your supplemental prefiled
20 testimony?

21 A. Yes, I do. There are two modifications. One is a
22 slight modification of the language for clarity. And,
23 that is on Page 6. Beginning on Line 12, the sentence
24 begins -- it reads now "More specifically, Westerly

[WITNESS: Kenworthy]

1 Wind, LLC, an entity owning 50 percent of AWE, has
2 successfully permitted and built over 700 megawatts of
3 wind energy facilities." I would like to modify that
4 sentence to read "More specifically, the principals of
5 Westerly Wind". So, insert "the principals of", "an
6 entity owning 50 percent of AWE", change the word "has"
7 to "have", "successfully permitted", and strike the
8 word "built", and insert "manage the construction and
9 operation", "of over 700 megawatts of wind energy
10 facilities."

11 The second modification is an addition
12 on Page 12. At the end of Line 10, I would like to
13 insert a sentence, because of new information that I've
14 become aware of. The sentence should read "In
15 addition, I was made aware yesterday that the Chairman
16 of the Planning Board, Andy Robblee, has also resigned
17 from the ad hoc committee citing several concerns about
18 the committee's ability to perform its duties."

19 Q. And, thank you. Just for clarification, Mr. Kenworthy,
20 I believe it's your testimony today that yesterday you
21 became aware of this information. But, since this
22 prefiled testimony is dated May 26th, do you wish to
23 clarify that statement further?

24 A. I'm not sure how to answer that. I was made aware

[WITNESS: Kenworthy]

1 yesterday of the fact that the Chairman resigned. So,
2 however I should word that so that it fits with the
3 timing of the document.

4 Q. You could just state the date. Yesterday's date was?

5 A. Sorry. Yesterday's date was the 31st of May.

6 Q. Okay. Thank you. I just want to make sure the
7 record's clear.

8 MR. HARRINGTON: Excuse me, Mr.
9 Chairman. Could you have him repeat that sentence back
10 again, because I didn't get a chance to get it down.

11 WITNESS KENWORTHY: Sure. "In addition,
12 I was made aware yesterday, May 31st, 2011, that the
13 Chairman of the Planning Board, Andy Robblee, has also
14 resigned from the ad hoc committee raising additional
15 concerns about the Committee's ability to perform its
16 duties."

17 BY MS. GEIGER:

18 Q. And, Mr. Kenworthy, with the changes that you just
19 provided, if you were asked the same questions today
20 under oath as those contained in AWE Exhibit 3, would
21 your answers be the same as those contained in the
22 exhibit?

23 A. Yes, they would.

24 MS. GEIGER: The witness is available

[WITNESS: Kenworthy]

1 for cross-examination.

2 MR. ROTH: Mr. Chairman, I'd like to
3 renew the objection that we made in the Motion to Strike
4 this morning, with respect to the additions that were made
5 by the witness to his supplemental testimony, on Page 6,
6 Line 11, 12, and 13. And, I would also like to make a new
7 objection to the statement that was just offered by the
8 witness as being hearsay and not admissible in this
9 proceeding. While rules of evidence clearly don't apply,
10 the hearsay rule is one which goes directly to the
11 fundamental fairness of the proceeding. And, a hearsay
12 statement like this, attributing words to Mr. Robblee,
13 without his being present to be cross-examined about
14 whatever his views were on his resignation I think is
15 inappropriate and unfair to the parties.

16 MS. GEIGER: Mr. Chairman, just in brief
17 response. Although Mr. Kenworthy, in his own words,
18 explained what he learned yesterday, to address Attorney
19 Roth's concerns about hearsay or lack of more concrete
20 evidence over what transpired with respect to
21 Mr. Robblee's resignation from the ad hoc committee, we do
22 have a copy of the e-mail from Mr. Robblee that indicates
23 exactly what Mr. Kenworthy just said. So, at the
24 appropriate time, --

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[WITNESS: Kenworthy]

1 MR. ROTH: That would also be hearsay.

2 MR. LITTLE: I believe that's an
3 incorrect statement about the e-mail. That's not what Mr.
4 Kenworthy testified to.

5 MS. GEIGER: Well, I'll let --

6 CHAIRMAN GETZ: One person at a time.

7 MS. GEIGER: I'll let the e-mail speak
8 for itself. If, at the appropriate time, the Committee
9 wants to look at it, we'd be happy to introduce it to
10 substantiate Mr. Kenworthy's update to his supplemental
11 prefiled testimony.

12 MR. ROTH: Mr. --

13 CHAIRMAN GETZ: Ms. Allen.

14 MR. ROTH: I'm sorry.

15 MS. ALLEN: We have to object as well.
16 I'm a member of the ad hoc committee, and I saw the email.
17 And, unless the email is read into the record or Mr.
18 Robblee is here, this is hearsay.

19 MR. ROTH: Mr. Chairman, the e-mail is
20 hearsay also. And, at least Mr. Kenworthy could be
21 cross-examined. We can't cross-examine an e-mail. So, I
22 would object to it's being admitted as well for the same
23 reasons.

24 CHAIRMAN GETZ: Okay. Well, I'm going

[WITNESS: Kenworthy]

1 to -- as you well know, the technical rules of evidence
2 don't apply in these proceedings. I'm going to overrule
3 the objection. We will have the opportunity, as you will,
4 to inquire into the basis of the statement. And, we'll
5 decide, as a matter of our discretion, what weight, if
6 any, to give to the statement by Mr. Kenworthy. And,
7 we'll also deny -- or, overrule your renewed objection to
8 any other material that should be stricken.

9 So, now, anything before we turn for
10 opportunity to cross?

11 (No verbal response)

12 CHAIRMAN GETZ: We'll turn first to
13 Mr. Richardson.

14 MR. RICHARDSON: Thank you. Good
15 morning, Mr. Kenworthy.

16 WITNESS KENWORTHY: Good morning.

17 **CROSS-EXAMINATION**

18 BY MR. RICHARDSON:

19 Q. You have reviewed the testimony in this proceeding
20 filed by the other parties, I assume?

21 A. Yes, I did.

22 Q. Okay. And, is it fair to say that one of the issues is
23 the timing for the review under the SEC versus under
24 the Planning Board or local review?

[WITNESS: Kenworthy]

1 A. Yes.

2 Q. Okay. And, would you agree that it's the Planning
3 Board's position that they could adopt an ordinance in
4 six months or so, is that a fair characterization?

5 A. My understanding, from the testimony, was that the ad
6 hoc committee would take a period of approximately six
7 months, followed by approximately three months for the
8 Planning Board to deal with that material.

9 Q. Uh-huh. And, is --

10 CHAIRMAN GETZ: Well, Mr. Richardson,
11 are we -- let me make sure that I've got full command of
12 Mr. Kenworthy's direct and supplemental testimony. Are
13 you asking him questions about his testimony or are you
14 asking him questions about his opinion of other testimony?

15 MR. RICHARDSON: Well, I wasn't going to
16 cite specifically to his testimony, but I understand that
17 he talks about the time frame and whether or not this ad
18 hoc committee will do its job. So, I'm just trying to get
19 really to the merits, which is whether or not he agrees
20 with their time frame and what impact their time frame has
21 on the schedule -- I mean, on the Project, excuse me.

22 BY MR. RICHARDSON:

23 Q. So, do you agree that, with the Planning Board's
24 position, and I think you discuss this in your

[WITNESS: Kenworthy]

1 testimony, that that's a realistic time frame that can
2 be achieved for the Project?

3 A. No. Well, we have -- I have a number of concerns about
4 the time frame, whether or not the six to nine months I
5 think is -- we have concerns that the outcome that has
6 been charged of the committee and the Board can be
7 achieved within that six to nine month time frame, or
8 even if it will ever be achieved at all, in that it
9 would need to come before the Town for a vote. And, it
10 is further unclear, as to whatever was being voted on
11 by the Town at some point in the future, what types of
12 timing concerns, guidelines, regulations would be in
13 place in those regulations. So, that's all of concern.

14 Q. So, to get back to the question, do you believe that
15 the Planning Board's proposed time frame for review as
16 matching a nine month time period for the SEC is a
17 realistic one?

18 A. Well, no, I don't. But, to make sure I understand the
19 question, the nine months that we are discussing is
20 for, as I understand it, for the Board to actually
21 adopt regulations. Not the nine months in the SEC
22 process to actually review a project and issue a
23 decision.

24 Q. Right. But isn't -- isn't the Planning Board arguing

[WITNESS: Kenworthy]

1 that they could have their ordinance done before you
2 would submit an SEC application?

3 A. I do not believe so.

4 Q. All right.

5 A. In my testimony, I indicated that we will be submitting
6 an application by the end of this year.

7 Q. Uh-huh.

8 A. And, I understand nine months to be longer than the end
9 of this year.

10 Q. Okay. What has been your experience with the local
11 Planning Board and ZBA process? Has it moved according
12 to an aggressive schedule?

13 A. No. I think we have a number of experiences that I
14 have testified to, in both my direct prefiled testimony
15 and I think to a lesser extent in my supplemental
16 testimony, with the ZBA, on a decision regarding an
17 area variance for a meteorological tower, which was
18 initially applied for in June of -- I apologize if I
19 forget the date, it's either June or July of 2009, it
20 is in my testimony. That process for an area variance
21 for a temporary meteorological tower went through five
22 public hearings from June, until a decision was finally
23 issued in October of 2009. That decision was appealed
24 in a motion for rehearing, which was filed by the

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[WITNESS: Kenworthy]

1 Blocks. Despite our opinion that there was no new
2 evidence provided or procedural errors that were
3 pointed out in the granting of that variance, a
4 rehearing was granted by the ZBA, who subsequently
5 voted again to grant that variance in August of 2010, a
6 year later. That met tower decision is still the
7 subject of dispute almost two years after the initial
8 application.

9 With respect to the Planning Board, I
10 think it is -- it's unclear to us, you know, what the
11 time frames of this, of the current sitting Planning
12 Board members will be, as we have not seen any -- any
13 progress related to an ordinance development happen
14 since they have been elected. One of the concerns that
15 we have relates to a previous Planning Board, which had
16 gone through efforts from October through February of
17 -- October 2010 through February of 2011, in a public
18 process, to enact ordinance changes or bring proposed
19 ordinance changes to the voters in Antrim to vote upon.
20 Those ordinance amendments were approved by the
21 Planning Board and approved by the Selectmen to be put
22 on the Warrant for the March 8th Town election ballot
23 vote. A noticing error had been -- a noticing error in
24 one of the public hearings led to a situation where

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[WITNESS: Kenworthy]

1 they could not be listed on that ballot.

2 There was subsequently a new vote by the
3 Planning Board to advance a new set of ordinance
4 amendments, which would have addressed this Project, in
5 March. In response to those, that action by the
6 Planning Board and a petition by Antrim citizens, the
7 Selectmen then voted to have a Special Town Meeting on
8 April 26th, in order to allow the residents of Antrim
9 to vote on those amendments. A week later, the
10 Selectmen reversed that decision and canceled that
11 Special Town Meeting.

12 So, I think there we look at a process
13 where the Planning Board and Town bodies went through
14 an effort that took place over approximately six or
15 seven months, which was ultimately rendered moot in a
16 fairly unpredictable fashion. And, all that kind of
17 leads to our concern about timing and the timeliness of
18 process in the Town.

19 Q. So, to summarize, I mean, two years later you still
20 don't have the level of certainty that you were looking
21 for from the local review process?

22 A. No.

23 Q. Okay. And, what impact does that uncertainty have on
24 your ability to finance a project like this?

[WITNESS: Kenworthy]

1 A. Well, I think there are a lot of impacts. I mean, for
2 the current purposes, you know, since the Selectmen in
3 the Town of Antrim petitioned the Site Evaluation
4 Committee, and we submitted our Petition, and a
5 residents petition was also submitted, we have been
6 advancing permitting studies in the Project, you know,
7 pending a ruling from this Committee.

8 In the event that a decision is not made
9 in the near term or if the Committee decides not to
10 assert jurisdiction, we will stop those studies. And,
11 as I've testified, the schedule, if we proceed as we
12 currently are, will allow us to submit an application
13 for certification in front of the Site Evaluation
14 Committee before the end of this year. But, in the
15 absence of a, you know, reasonable -- reasonable
16 regulatory standards that are known to us and
17 timelines, we cannot justify the expenditures in the
18 permitting and design work that needs to be done to
19 prepare an application.

20 As you know, I believe, or as you may or
21 may not know, a lot of the permitting studies that are
22 required and are typical of facilities of this nature
23 are seasonally dependent. Thus, if we -- if we make,
24 in our good judgment, a decision that it's not wise for

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[WITNESS: Kenworthy]

1 us to continue to invest now in the studies that are
2 required, because of the uncertainty in permitting, it
3 will cost us a year until we can actually complete
4 those studies. That leads to a host of issues for us
5 related to --

6 Q. Okay. So, to just, I don't mean to cut you off, --

7 A. Yes.

8 Q. -- but what I'm trying to get to is the question is
9 what impact does this have on your ability to go out
10 into the capital markets and finance a project like
11 this to move forward?

12 A. Principally, I think it affects our ability to
13 understand and predict with, again, reasonable
14 certainty what turbine supply markets are going to be,
15 what power purchase agreement markets, we're in a
16 competitive market for turbine supply, we're in a
17 competitive market for PPAs. Those affect project pro
18 formas and project certainty. And, it really hampers
19 our ability to advance the Project at all.

20 Q. Okay. All right. But then the market -- let me ask
21 you a question about the market, because I think that's
22 different from the financing, but they may be related
23 as well. But what is the impact on a project like
24 this, if there is uncertainty and you're not able to

[WITNESS: Kenworthy]

1 move forward? Do the markets change or what impact
2 does that have on the Project?

3 A. Well, again, I think there are a number of impacts.
4 The ability for a project to successfully negotiate a
5 power purchase agreement requires the Project have,
6 again, a reasonable amount of certainty that it is --
7 has the ability to obtain its permits. In the absence
8 of a permitting pathway or regulatory standards at all,
9 it would preclude us from having meaningful
10 conversations for a power purchase agreement, for
11 example. The power purchase agreement is an element
12 that is very important in the financing of a project.

13 Q. But are there risks in the market, if you just wait
14 until the permitting is done and then have those
15 conversations two or three or four years from now, what
16 does that mean for a developer like yourself?

17 A. Yes, I think there's a lot of uncertainty. As I said,
18 these are competitive marketplaces, where there are
19 other projects that are seeking the same limited supply
20 of PPAs and REC sale agreements. And, to the extent
21 that those become saturated with other projects, it
22 would hamper our ability to compete.

23 Q. Okay. So, I want to show you a document and see if you
24 agree with it, based on that response.

[WITNESS: Kenworthy]

1 MR. RICHARDSON: I have copies. I'd
2 like to mark it as "BOS", I have other documents that I
3 intend to use through different witnesses, so this would
4 be "14", if that's all right?

5 CHAIRMAN GETZ: That's so marked.

6 (The document, as described, was
7 herewith marked as **Exhibit BOS-14** for
8 identification.)

9 MR. RICHARDSON: They're marked just for
10 identification. I have copies for everyone. I brought 30
11 with me.

12 MR. IACOPINO: Do the parties already
13 have it though?

14 MR. RICHARDSON: They do not, no.

15 MR. IACOPINO: I'll help you pass them
16 out.

17 MR. RICHARDSON: All right. I have ten,
18 is ten for the Committee, is that what the Committee
19 needs?

20 MR. IACOPINO: Yes.

21 (Distributing documents.)

22 MR. RICHARDSON: Did the copies go out
23 to the parties yet? Do they have those?

24 MR. IACOPINO: I only have four left.

[WITNESS: Kenworthy]

1 BY MR. RICHARDSON:

2 Q. So, what I'm showing you is direct testimony of Gary
3 Long in front of the Public Utilities Commission that
4 was filed last year. Do you know who Mr. Long is?

5 A. I am familiar with Mr. Long. I do not know him
6 personally.

7 Q. He's with Public Service, is that right?

8 A. Right.

9 Q. Okay. And, if you will look at the second page, this
10 is an excerpt. It's marked "Page 16" on the bottom.

11 MR. LITTLE: I would like to object to
12 this line of questioning. I mean, this gentleman
13 apparently has never seen or had any occasion to verify
14 these statements. This is a person whose testimony has
15 been handed out who wasn't listed as a witness. I don't
16 understand how, under the ordinary rules of evidence, this
17 is an appropriate subject for examination of this witness.

18 MR. RICHARDSON: Well, I intend to ask
19 him if he agrees with the statements that are in this
20 testimony from Mr. Long, who I'm sure is familiar to all
21 the members of the Committee, and concerning the subjects
22 that he just testified to about the opportunities to
23 compete in the market, in light of the delays and
24 uncertainty that local review causes.

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[WITNESS: Kenworthy]

1 MR. FROLING: Mr. Chairman, I'd like to
2 raise two objections at this point. One is, this document
3 has not in any way been authenticated. We have no idea,
4 the witness has not -- apparently has never seen it,
5 except what a lawyer saying what it is is what it is.
6 It's several sides of paper. And, the other is that
7 Mr. Richardson is examining a friendly witness here. And,
8 I have to say, his questions are a little bit on the
9 leading side. And, I'd like to ask him to stay within the
10 rules of examination.

11 MR. ROTH: Mr. Chairman, I would concur
12 with both of those gentlemen in their arguments about
13 this. And, further, that it seems to me that this line of
14 questioning is repetitive. That he's already established
15 that he's got the witness to agree with his assertion
16 that, after much difficulty, it seemed to me, that
17 additional delay would create additional difficulty
18 obtaining or attracting financing. I don't think that
19 this adds anything. And, he should move onto something
20 else.

21 MR. RICHARDSON: Well, that's one of the
22 most important issues to be decided by the Committee.
23 Because, as the Committee members know, the statute calls
24 upon the Committee to decide whether or not this Project

[WITNESS: Kenworthy]

1 requires a certificate, considering the policies in RSA
2 162-H:1. One of those policies concerns delay. And, so,
3 I'm trying to really get to the heart of the matter, which
4 is "what impact delay has on his ability to sell to a
5 particular market participant, who, in this case, is PSNH,
6 is the state's largest electric utility?"

7 CHAIRMAN GETZ: Okay. Well, let me
8 address a number of issues. First of all, I mean, I
9 understand where you're going, and I think there's a lot
10 quicker way to get there. I'm going to overrule the
11 objections about the use of the document and about the
12 objection to leading the witness. This is an
13 administrative hearing, and we'll permit the examination
14 in this manner, not the least of which is we're going to
15 hear from *pro se* examiners.

16 With respect to this document, I'm going
17 to permit the question about it, recognizing that the -- I
18 think the representation by Mr. Richardson that this is
19 the actual testimony filed in a proceeding before the
20 Commission in which Mr. Long makes a statement, and I
21 think it's fair to ask Mr. Kenworthy whether he agrees or
22 disagrees with that particular statement. To the extent
23 we need to, we can resort to the full testimony and the
24 full record, to make sure that it's an accurate rendition

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1 of that testimony.

2 But I am concerned, Mr. Richardson,
3 about just going over what he's already testified to.

4 MR. RICHARDSON: Okay.

5 CHAIRMAN GETZ: So, if you could move
6 that along in a way --

7 MR. RICHARDSON: I'll keep it very
8 brief.

9 CHAIRMAN GETZ: -- that's not repetitive
10 to what he's already filed. So, all pending objections
11 are overruled.

12 BY MR. RICHARDSON:

13 Q. So, if you'll see on Page 5 of Mr. Long's testimony, at
14 Line 16, he says, "At this time, PSNH's interest in
15 entering into additional long-term power purchase
16 agreements is highly limited." How does that relate to
17 timing and the local review process?

18 MR. LITTLE: I don't know how he can ask
19 this witness a question about testimony that was given,
20 and incomplete even, because we don't even have the cross
21 of Gary Long in a hearing that occurred approximately a
22 year ago, in a subject matter that's 200 miles north of
23 here.

24 MR. RICHARDSON: Well, let me -- I'll

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1 withdraw the question, if that will make it simpler.

2 CHAIRMAN GETZ: And, I think the
3 reality, I mean, this was testimony from a year ago.

4 MR. RICHARDSON: Uh-huh. That's right.
5 But that's precisely my point, is that time is running
6 out. And, I think that's what the witness would say, if
7 allowed to answer the question.

8 CHAIRMAN GETZ: Well, I think he's
9 already -- I think you've already responded about the
10 delay prejudices his project.

11 BY MR. RICHARDSON:

12 Q. Okay. Well, what role does PSNH have or would PSNH
13 potentially have for a project like yours?

14 A. Really, two roles. PSNH is the interconnecting
15 utility, so we will be connecting our project to lines
16 owned by PSNH. So, we work with them in that capacity.
17 Also, as the largest electricity supplier in New
18 Hampshire, they are a potential purchaser for the
19 off-take from the Project.

20 Q. So, you would be selling what commodities to PSNH, if
21 -- potentially?

22 A. Power and Renewable Energy Credits.

23 Q. Okay. Now, would you agree that the market is not an
24 unlimited one, as Mr. Long suggests?

[WITNESS: Kenworthy]

1 A. Yes, I would.

2 Q. And, what impact would delay have, in light of, if Mr.
3 Long's testimony is representative of other utilities,
4 what does that mean in terms of timing for your
5 project?

6 A. Again, I believe we cannot enter into meaningful
7 conversations with counterparties for PPAs, with or
8 without RECs, or separate REC sales, without a project
9 that has a reasonable permitting path forward. These
10 negotiations do not happen in a speculative environment
11 on projects that don't have a good chance of occurring.
12 So, we miss opportunities.

13 Q. And, by "missed opportunity", do you mean to say that
14 the Project potentially wouldn't get built, if there's
15 not the certainty that you need?

16 A. If we cannot sell the power and the RECs from the
17 Project, then, yes, it would not be built.

18 MR. RICHARDSON: Thank you.

19 CHAIRMAN GETZ: Thank you. Mr. Webber,
20 any questions for the witness?

21 MR. WEBBER: No.

22 CHAIRMAN GETZ: Mr. Froling,
23 examination?

24 MR. FROLING: Can I defer to Mr. Little

[WITNESS: Kenworthy]

1 first?

2 CHAIRMAN GETZ: Well, my understanding
3 is, Mr. Froling and Ms. Von Mertens, that your position,
4 as you enunciated earlier, was you didn't have a position
5 neither for nor against this proceeding. So, I would
6 prefer to go to parties who have not an established
7 position, before we go to the parties who have indicated
8 they're adverse to the position.

9 So, if you have any questions,
10 Mr. Froling or Ms. Von Mertens, now would be the time?

11 MR. FROLING: I will pass then.

12 MS. VON MERTENS: No questions.

13 CHAIRMAN GETZ: Okay. Mr. Little.

14 MR. LITTLE: Thank you.

15 CHAIRMAN GETZ: And, then, after
16 Mr. Little, I would turn to, unless there is any
17 objection, I would go to Mr. Block and Ms. Allen. Is
18 there any objection by anybody?

19 (No verbal response)

20 CHAIRMAN GETZ: Okay. Hearing none,
21 Mr. Little.

22 MR. LITTLE: Good morning, Mr.
23 Kenworthy. I'm Silas Little. I have a couple questions.

24 BY MR. LITTLE:

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1 Q. First of all, have you taken through, that is you,
2 personally, taken through any permitting process in New
3 Hampshire on a facility of the scale that you are
4 before this Committee on?

5 A. No, I have not.

6 Q. Have you done -- have you made any applications to any
7 of the State agencies in connection with any -- any of
8 the State of New Hampshire agencies in connection with
9 any of the subsidiary permits that might be required in
10 this application?

11 A. Have we submitted completed applications for those
12 permits? Is that the question?

13 Q. For any -- not for this application, but have you ever
14 submitted an Alteration of Terrain Permit?

15 A. No, I have not.

16 Q. Have you ever submitted a Wetlands Permit?

17 A. No, I have not.

18 Q. Have you ever dealt with water quality certification?

19 A. In the State of New Hampshire?

20 Q. Yes.

21 A. No, I have not.

22 Q. Have you dealt with any of those issues in any other
23 state?

24 A. Yes, I have.

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1 Q. What states?

2 A. Can you clarify what you mean by "dealt with"?

3 Q. Have you been involved in the assembly of the data
4 necessary to support the application, retention of
5 service providers/vendors, and overseen the process
6 through to a successfully completed application to the
7 responsible agency?

8 A. I think that my answer would be a two-part answer. I
9 think, in response to the piece about a "successfully
10 completed application", the answer is "no." Have I
11 been involved with and responsible for the management,
12 the retaining of consultants, assembling teams to
13 collect the data that is required for a submission of
14 those permits, yes. In the case of both this
15 application, in the State of New Hampshire, and in
16 another wind project that we are currently developing
17 in the State of Maine, in Waldo County, in the Town of
18 Frankfort.

19 Q. If I understand your previous statements, the matter in
20 Maine is still a long ways from getting a final permit?

21 A. Our intention there is a similar time frame to what we
22 hope to achieve in Antrim, where we could submit a
23 completed permit application by the end of this year.

24 Q. But, in terms of the actual retention of the service

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1 providers, the engineers, the wetland soil scientists,
2 the surveyors, you have not actually retained and seen
3 the completed work product for like an Alteration of
4 Terrain Permit, wetlands mapping, those similar
5 activities, as a completed product? In other words,
6 hire them, get them out in the field, get the project
7 back?

8 A. We have hired them. We have gotten them out into the
9 field. And, we have gotten a great deal of work back
10 in both cases. We have not completed an Alteration of
11 Terrain Permit application. In part, as I've testified
12 to, because some of the studies that are underway
13 ultimately affect final facilities layout, which would
14 need to be finalized before we complete that
15 application.

16 Q. So, you have no basis here today to make a statement
17 about when you will actually have a completed
18 application before the SEC, because you haven't
19 actually done all those things necessary to have a
20 completed application to date in your experience?

21 A. Well, I do not agree that I "have no basis". I think
22 we have provided, in my testimony, ample basis for our
23 assertion that we will be prepared to submit an
24 application before the end of this year. I am not the

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1 only individual on the team that is responsible for the
2 management of Antrim Wind Energy. We have retained
3 experienced teams, including counsel, and our owner's
4 engineers, environmental consultants, TRC Environmental
5 Solutions, Stantec, and others who have substantial
6 wind energy experience that understand the requirements
7 of both completing the studies and completing the
8 application work that is required. And, it is on the
9 basis of our work together with those teams that we
10 make this assertion.

11 Q. My point, though, and you would agree with me, is that
12 at this point you're looking at the beginning or
13 possibly the initial stages of a journey, you see the
14 goal. But you have not actually been to the goal yet
15 with any project?

16 A. We've been involved in Antrim for over two years.
17 We've spent a lot of resources and we've advanced the
18 Project considerably. As I've stated, we have not
19 completed any projects.

20 Q. Thank you.

21 A. That's correct.

22 Q. Now, in connection with your experience in Antrim, you
23 have not actually submitted an application to the
24 Planning Board, have you?

[WITNESS: Kenworthy]

- 1 A. For -- for what?
- 2 Q. Have you submitted an application to the Planning
3 Board?
- 4 A. We have submitted a site plan application for a
5 meteorological tower to the Planning Board, yes.
- 6 Q. And that was approved?
- 7 A. Correct.
- 8 Q. It was noticed for a hearing, was it not?
- 9 A. Correct.
- 10 Q. And, a quorum of the Board showed up?
- 11 A. Yes.
- 12 Q. It wasn't continued for lack of attention on the part
13 of the Planning Board?
- 14 A. I do not believe so.
- 15 Q. And, it proceeded to an approval?
- 16 A. It did.
- 17 Q. Now, with the Zoning Board, you said there were "five
18 hearings". Actually, that was the same application
19 heard five different nights, was it not?
- 20 A. The initial hearing was continued, and four additional
21 hearings, including a site visit. So, yes, it was
22 continuances of the initial hearing.
- 23 Q. But that each night there was full testimony, it wasn't
24 continued because of a lack of a quorum?

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1 A. Not because of a lack of a quorum, no. I believe, for
2 the most part, it was continued because the Board was
3 distracted by issues that were not relevant to the
4 application.

5 Q. Well, --

6 A. Namely, the application was for a temporary
7 meteorological tower, and the testimony was largely
8 related wind energy and wind farms.

9 Q. Well, didn't you assist in that, because you presented
10 to the Zoning Board of Adjustment your grand vision of
11 a wind farm up there, and you got into an extensive
12 discussion at the Zoning Board about that, did you not?

13 A. I believe that there are requirements for us in
14 demonstrating the need for the variance to assert why
15 it is that a tower that is taller than a tower allowed
16 by right is necessary and cannot be achieved by some
17 other means. Therefore, we need to provide information
18 about what is required for wind energy facilities,
19 thus, I think, ensues the connection.

20 We also -- the information that we
21 presented relative to wind energy specifically was in
22 response -- was not at the initial application, was in
23 response to a lot of what we thought were false
24 assertions being made by members of the public

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1 regarding wind energy, and we wanted an opportunity to
2 present a different side.

3 Q. So, part of the reason that these hearings went on is
4 because you extended your application and your
5 discussion beyond that just of a meteorological tower.
6 And, now, you're complaining, because other people in
7 Antrim were given the opportunity to question or offer
8 their opinions as part of just the local control. Is
9 that my understanding?

10 A. No. I think it's the opposite. I think what I believe
11 I stated was that, at the initial hearing, a lot of the
12 concerns that were brought out were unrelated to a
13 temporary meteorological tower. They related to wind
14 energy facilities. I believe that allowing those
15 concerns, to the extent that they were allowed, was --
16 it raises concerns that we have, and I'm talking about
17 over from June to October, when a decision on this
18 temporary tower was made, raised our concerns about the
19 ability of the ZBA, in this case, to understand clearly
20 the issues that are before it and to adhere to them.
21 Our submission of additional information related to
22 wind was in response to initial submissions by members
23 of the public that were against wind.

24 Q. So, your complaint is is that the Town of Antrim,

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1 rather -- Zoning Board, rather than just cut off the
2 decision, which would have been your desire, allowed a
3 full hearing process to continue, and if I get it, the
4 five hearings, that would have been one each month, the
5 Zoning Board meeting once each month, to consider your
6 application?

7 A. Well, the ZBA meets Tuesdays, as needed.

8 Q. So, they met once each month, five hearings? Is that
9 it?

10 A. I don't recall the exact dates.

11 Q. And, they didn't shut the meeting down, you know,
12 because of a lack of a quorum. They regularly
13 scheduled the following meeting?

14 A. Yes, I believe they scheduled a meeting at the end of
15 each previous meeting.

16 Q. So, what you're complaining about is our New Hampshire
17 statutes, not the Antrim Zoning Board of Adjustment?

18 A. I don't believe so.

19 Q. Now, you just were in front of the Zoning Board of
20 Adjustment, were you not?

21 A. Yes.

22 Q. You made an application in the beginning of May?

23 A. That's right.

24 Q. You received Zoning Board of Adjustment approval

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1 somewhere around the 26th of May?

2 A. I believe it was the 24th, yes.

3 Q. So, there was nothing wrong with that procedure?

4 A. No. This was the same meteorological tower that they
5 had heard in two previous hearings over the last two
6 years.

7 Q. And, if I understand correctly, when you first were in
8 front of the Antrim Zoning Board of Adjustment on this
9 meteorological tower, you had no counsel or other land
10 planning professional experienced with dealing with the
11 Town of Antrim representing you or assisting you before
12 the Board. Is that a correct statement?

13 A. We did not have counsel representing us before the
14 Board when we initially filed our application. That's
15 correct.

16 Q. So, now, with respect to the permitting here, if I
17 understand correctly, you need an Alteration -- you've
18 testified you need an Alteration of Terrain Permit.
19 And, you would need that if you were before the Town of
20 Antrim land use boards in any event, is that correct?

21 A. Yes.

22 Q. And, if there were wetlands, and there was some issue
23 about crossing wetlands, you would still need a
24 Wetlands Permit, just if you were in front of the Town

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1 of Antrim Planning Board?

2 A. Yes.

3 Q. And, you're going to need to deal with water quality,
4 and that would be something regardless of whether
5 you're in front of the Town of Antrim or the SEC,
6 you're still going to need to deal with that?

7 A. Yes.

8 Q. And, the issues with respect to the Department of
9 Safety, in the event that you're involved with
10 blasting, that would still be an issue that would --

11 A. Yes. And, I would be willing to stipulate that all of
12 the permits that we've testified we would also need if
13 we were in front of the Town of Antrim.

14 Q. So, in terms of getting the permits, whether you choose
15 to go through the SEC or you choose to go to the Town
16 of Antrim, you need all those permits anyway?

17 A. Yes, that's correct. I would assert that we are not
18 choosing necessarily one way or another. The Town of
19 Antrim petitioned the Site Evaluation Committee to
20 assert jurisdiction.

21 Q. You've joined in that petition?

22 A. We have.

23 Q. All right. So, you are actually a petitioner seeking
24 to have the SEC take jurisdiction over this Project?

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1 A. That is correct. And, --

2 Q. And, this Project is not a project that requires the
3 SEC to take jurisdiction? Is that correct?

4 A. Was that a question?

5 Q. Yes. This is not -- you're not proposing a project
6 that meets the statutory minimum, which requires the
7 SEC to take jurisdiction?

8 A. I think we meet one of the conditions that does allow
9 for the SEC to decide to assert jurisdiction over the
10 Project. It is not 30 megawatts.

11 Q. Now, in your direct testimony, you gave as an example
12 the permitting and time-sensitive and time-consuming
13 process, and you were referring to May, this is at your
14 -- I believe in your testimony on April 22nd hearing.
15 Have you actually gone -- you've indicated in your
16 testimony that you're just holding up doing these
17 projects, because you don't know where you're going to
18 go. Is that a correct statement?

19 A. I'm not sure I'm clear on the question. Could you
20 repeat it. We're "holding up these projects"?

21 Q. You're holding up your groundwork for this Project,
22 because at this point you do not know whether you will
23 be in front of the SEC or possibly before the Town of
24 Antrim Planning Board?

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1 A. No, that's not correct. We have studies that are
2 underway right now, and are continuing for the time
3 being along a path that will allow us to submit a
4 complete application in front of the Site Evaluation
5 Committee by the end of this year. Those will continue
6 if there's a decision to assert jurisdiction; if
7 there's not, then they will stop. That's what I've
8 testified to.

9 Q. Now, I just want to return to the point. Is it your
10 understanding that the Town of Antrim is not intending
11 to place before the voters an ordinance directed to
12 wind energy of your scale, industrial, not homeowner or
13 residential, they're not intending to place that
14 proposal until the March 2012 meeting? Is that what
15 your testimony is?

16 A. Honestly, I do not know when they intend to do it. I
17 believe in their testimony it said "six months" and
18 then "three months". Six months and three months, from
19 which date we're not clear, and it seems to us that
20 puts you right about March 2012, which is when Antrim
21 holds their ordinary town meeting.

22 Q. You were -- you have reviewed the testimony of
23 Ms. Pinello, have you not, because you actually
24 responded to that in your supplemental testimony?

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1 A. I have read it, yes.

2 Q. And, wasn't she stating that the Board is looking at
3 presenting a final article in September?

4 A. I'm not aware of that. Could you point that out to me
5 in her testimony?

6 Q. Well, I'll --

7 (Short pause.)

8 MR. LITTLE: Apologize, Commissioner.

9 This questioning wasn't --

10 BY MR. LITTLE:

11 Q. Bring your attention to on Page 14, Line 10 and 11.

12 A. Yes, that's what I'm familiar with, the reference to
13 "six months" and "three months".

14 Q. Now, and the ad hoc committee has been meeting
15 regularly since then, has it not, since it was formed?

16 A. I am aware that they have met, I believe, four times.

17 Q. Now, -- so, in terms of the actual experience you've
18 had in the Town of Antrim, to go back, if I understand
19 your complaint, your complaint is with the public
20 participation aspects of the local land use boards, is
21 that not the case?

22 A. I'm not sure I understand the question.

23 Q. Well, you mentioned you're in court. Now, that's a
24 right that the statute secured to people who can show

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1 they have the necessary status to challenge the
2 decision of a land use board. Do you understand that?

3 A. Yes, I do.

4 Q. So, that's nothing that's within the control of the
5 Town of Antrim, is it?

6 A. No.

7 Q. And, similarly, the Antrim Planning -- the Antrim
8 Zoning Board proceeded with your application back in
9 2008, that you made without counsel, went through five
10 hearings, they held the hearings regularly, they
11 rendered a decision. And, your complaint there is that
12 they allowed people to talk?

13 A. I think I've testified to the concerns about that
14 process.

15 Q. And, then, that was appealed to the Superior Court?

16 A. It was.

17 Q. So, your complaint then is with the New Hampshire
18 statutes that permit people to participate in land use
19 decisions, is it not? Not with the Town of Antrim
20 Planning Board or the Town of Antrim Zoning Board?

21 A. No, I don't believe that's correct. I think I've
22 testified to the concerns about the process that the
23 ZBA led for the initial and the rehearing process
24 related to the temporary meteorological tower. I think

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1 there are other concerns that are related to the
2 process that the Planning Board went through from
3 October, and I guess with what the Town has to do with
4 the ordinance amendment process that was begun by the
5 Planning Board in October of 2010 was largely at the
6 behest of the ZBA, to request that they provide clarity
7 in their ordinance related to meteorological towers
8 that were not tied to small wind energy and for wind
9 energy facilities. That board undertook an effort in
10 the public sphere to make those amendments, they
11 offered those amendments, they were approved, and they
12 were put on the ballot. A noticing error kept them
13 off. They were revoted to be put on the ballot. A new
14 Planning Board, again, this is in my testimony, came
15 in, and one of the very first things that they did was
16 to vote to reconsider the approval of those proposed
17 ordinance amendments in a meeting where this six-month
18 process that had transpired was not noticed that it was
19 going to be handled by the Planning Board at that
20 meeting. It was not on the agenda for that meeting.
21 The current Chair of the Planning Board, who had
22 participated in the initial work from October through
23 February, --
24 Q. Mr. Kenworthy, --

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1 A. -- was not present at that meeting. These are --

2 Q. Mr. Kenworthy, the question was "your complaint is with
3 the public participation in the local land use board
4 function?"

5 A. I believe you said that my concern was with the
6 statute, and not with the Planning Board, and I'm
7 trying to correct that.

8 Q. Well, the statute provides for all of that. The
9 statute provides noticing error. The statute provides
10 for the Planning Board to recommend amendments, does it
11 not?

12 MS. GEIGER: Mr. Chairman, I'm going to
13 object to this question. I believe that now Mr. Little is
14 testifying, and I don't think that that's appropriate.

15 CHAIRMAN GETZ: Well, two things, I
16 think, Mr. Little. I think we've covered this ground, at
17 least once --

18 MR. LITTLE: Thank you. I think I've
19 made my point. Thank you.

20 CHAIRMAN GETZ: Okay. Let me just note
21 one thing. We're going to break for lunch at 12:00, just
22 so folks know that in advance. And, I would turn now to
23 Mr. Block. Do you have questions for the witness?

24 MS. BLOCK: Yes.

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1 MR. BLOCK: I'm sorry?

2 MS. BLOCK: "Do you have questions for
3 the witness?"

4 MR. BLOCK: Yes, I do.

5 MR. HARRINGTON: Excuse me, Mr.
6 Chairman. Could they just identify who they're
7 representing, so we can get it straight for each when
8 their cross-examining people?

9 CHAIRMAN GETZ: Well, Mr. Block is the
10 spokesperson for what initially was the "Abutter Group",
11 but we granted the motion to reformulate. So, Mr. Block
12 is a spokesperson, we can call them the "Block Group", on
13 behalf of the abutters, plus a group of non-abutters who
14 have been part of an ongoing collaboration in the Town.

15 MR. HARRINGTON: In opposition to the
16 Project? Okay. Thank you.

17 CHAIRMAN GETZ: And, we'll call the
18 other group the "Allen Group".

19 MR. BLOCK: Hello, Mr. Kenworthy. How
20 are you doing today?

21 WITNESS KENWORTHY: Good. Thank you.

22 BY MR. BLOCK:

23 Q. Let me see. You claim that Westerly Wind -- you talked
24 about Westerly Wind and their 700 megawatts. And, I

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1 understand you've now clarified that this morning.
2 Could you please further clarify what you mean about
3 "the principals". In other words, in what capacity did
4 they get that work done? Can you explain that in a
5 little more depth?

6 A. I certainly can, to the best of my understanding. The
7 principles of Westerly Wind, being Joe Cofelice, Peter
8 Mara, and Sean McCabe. Sean and Joe, in a previous
9 capacity, were employed at Catamount Energy, which was
10 an energy -- an independent energy company based in New
11 Hampshire, focused on wind energy. Joe was the
12 President. I believe -- I believe Sean's role was --
13 it's in his resumé that we've submitted, I think it's
14 either a VP of Development or a Senior Development
15 Manager. And, in their capacity as Senior Development
16 Manager and President of Catamount, they were
17 responsible for the development, construction,
18 financing, operation and maintenance of those
19 700 megawatts.

20 Q. And, what was the time frame on this?

21 A. I believe it was from 2002 through 2008, roughly,
22 subject to check.

23 Q. Okay. The other half of Antrim Wind Energy, as I
24 understand, is Eolian Renewables, is that correct, the

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1 other 50 percent owner?

2 A. That's correct.

3 Q. Okay. And, you state in your testimony that you have a
4 development portfolio consisting of five wind energy
5 projects with a total nameplate capacity of
6 approximately 80 megawatts in New Hampshire, Maine, and
7 Vermont. Can you give us some specifics on that?
8 Where are each of those projects and what is their
9 status?

10 A. We have the Antrim Project in New Hampshire. That is
11 the only project that we're currently developing in the
12 State of New Hampshire. We have two sites in Maine,
13 which I referenced in -- on Friday in the technical
14 session. One of them is in the Towns of Orland and
15 Dedham; another one is in the Town of Frankfort, in
16 Waldo County. The Waldo County project is -- we have
17 -- it's somewhat analogous to Antrim, although also
18 somewhat different. We have commenced permitting
19 studies there, we have several years of wind data, we
20 have done design engineering, and are in the process of
21 working with the Town and working with the state
22 entities on establishing kind of full study protocols,
23 in an effort to hopefully submit an application by the
24 end of this year. That project is anticipated to be a

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1 10 megawatt project. In Orland and Dedham, Maine, it's
2 in two towns/one project. We've moved a little bit
3 more slowly. We've had a meteorological tower on that
4 site for about 15 months now. In the Town -- on the
5 Dedham side, we've retained -- Tetra Tech is our
6 engineers there, and Soule is our surveyors. And, we
7 have done initial project mapping, critical issues
8 analysis, preliminary environmental reviews, and wind
9 resource modeling. We intend to advance that project
10 more aggressively through permitting in 2012.

11 And, then, we have two sites in Vermont
12 that I will not disclose the locations of, that we have
13 leased property, and are in the earliest stages of
14 development.

15 Q. How early? If you can compare it to what stage you're
16 in, I understand -- I mean, I've been following the
17 Antrim process. So, can you sort of parallel, tell us
18 at what stage you're in in Vermont, compared to, you
19 know, at what point you were in Antrim, so I can
20 understand that a little better?

21 A. One of the projects in Vermont has existing
22 meteorological data. And, we have done a critical
23 issues analysis and preliminary environmental review,
24 but we have not commenced any studies. And, that

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1 project is about a 26 megawatt project.

2 The other project is a project where we
3 have -- we have a property control in a lease, but we
4 have not done anything with respect to wind resource,
5 we have no meteorological data on the site, and nothing
6 further has been commenced, other than the actual lease
7 negotiations.

8 Q. Do you have an idea of the size of these two projects
9 or what they will be, if it progresses like you'd
10 intend?

11 A. Yes. I think the first one, as I mentioned, is about a
12 26 megawatt project and the second is about a 20
13 megawatt project.

14 Q. Okay. Thank you. Let's go back to Frankfort, Maine,
15 for a minute. Now, I understand that -- I think you've
16 mentioned twice now that you feel that Frankfort,
17 Maine, and Antrim seem to be pretty parallel in terms
18 of how advanced the process is in moving forward for
19 you. And, I understand you would like both to possibly
20 be ready to have applications submitted by the end of
21 year, is that correct?

22 A. That's right.

23 Q. Okay. Now, I've got a question about Frankfort.
24 Loranne, if you could help me with this. We have an

[WITNESS: Kenworthy]

1 exhibit that I've already turned into the Committee,
2 which I've called "RB-1", which is an article in the --
3 it's an article in the Bangor Daily News, and a copy of
4 the draft of a "Proposed Commercial Wind Energy
5 Facility Moratorium", which was just voted on in this
6 past week in Frankfort. And, --

7 CHAIRMAN GETZ: Well, let's just hold
8 for a moment and make sure --

9 MR. BLOCK: Okay.

10 CHAIRMAN GETZ: -- that the witness and
11 the parties and the Committee have a copy.

12 WITNESS KENWORTHY: I do not.

13 MR. BLOCK: Lorraine, can you make sure
14 that Jack has one of those.

15 MS. BLOCK: Sorry.

16 (Ms. Block distributing documents.)

17 BY MR. BLOCK:

18 Q. Now, the article states that "residents voted earlier
19 this week", this article was actually published on May
20 27th, so, several days ago, "to put a six-month halt on
21 all wind development in Frankfort." And, there was a
22 "special town meeting [this past] Monday lasted about
23 three hours", "89 votes in favor of the moratorium and
24 37 votes against".

[WITNESS: Kenworthy]

1 I have attached to this the draft of the
2 moratorium, which stated that "This prohibition
3 encompasses any form of on-site testing, the placement
4 of meteorological towers, and any earthwork or
5 construction". Also, "all Town boards are prohibited
6 from accepting applications, processing applications,
7 and issuing any or all authorizations, permits,
8 licenses and approvals."

9 Since this is now the beginning of June,
10 the six-month moratorium will bring this to December.
11 So, given that, and given the fact that the moratorium
12 will stop effectively all testing activity from now
13 until then, how do you anticipate being able to submit
14 an application before the end of year in Frankfort?

15 A. Well, I think there's a couple answers to that. One is
16 that the moratorium is in place for six months or until
17 an ordinance is enacted. So, there could be an
18 ordinance which is voted upon well before six months.
19 We have reason to believe that that may take place,
20 which may not be reported in the Bangor Daily News.
21 With regard to the ongoing studies, we do not -- it's
22 certainly subject to question at this point whether or
23 not towns have any authority to regulate or place
24 moratoria over conducting studies on a site. This is a

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1 site that has three existing communications towers on
2 it on which the anemometry is installed. So, we did
3 not erect a meteorological tower; it was there. It's
4 been there at least since the '80s, with lots of
5 different equipment installed on it. The required
6 studies that would need to be done include additional
7 wetlands delineations, natural communities mapping,
8 things that involve people walking on property. And,
9 we do not believe that those are legally able to be
10 prohibited by a moratorium. Certainly, we recognize
11 that an application cannot be submitted until some
12 ordinance comes out of the moratorium process. We have
13 worked with other towns. For example, the Town of
14 Orland, who unanimously voted in a moratorium, and came
15 out with an ordinance several months later that we are
16 perfectly happy working within.

17 Q. Okay. So, I understand, when I read their moratorium
18 draft here, the purpose -- one of the purpose is and
19 the necessity is because it says "The Town of Frankfort
20 currently does not have a comprehensive plan, zoning,
21 land development regulations, or other applicable
22 ordinances in place." So, I read this as part of the
23 process has been to form a committee, which is going to
24 start to research and put together some kind of

[WITNESS: Kenworthy]

1 ordinance to cover this. Is that your understanding
2 also?

3 A. That is what is happening. There are six
4 self-appointed individuals, in the case of this
5 moratorium, who will be attempting to draft regulations
6 to bring to the Town for a vote. That's right.

7 Q. Do you see any parallel there with the ad hoc committee
8 here in Antrim attempting to create regulations that
9 will -- any parallel with the ad hoc committee here in
10 Antrim that is going to work on drafting zoning
11 regulations? And, why not?

12 A. Well, it's a different state, it's a different town,
13 it's different people, a different process. It's a
14 very different process, in our minds.

15 Q. Okay.

16 A. I should also point out, if I can finish that?

17 Q. Sure.

18 A. That the State of Maine does not have a body equivalent
19 to the Site Evaluation Committee that would be, you
20 know, that could perform a similar role in that
21 context.

22 Q. Okay. Now, if, indeed, the project in Frankfort is
23 stalled for several months at least, while they work on
24 this, doesn't that therefore kind of put Antrim in the

[WITNESS: Kenworthy]

1 forefront of being, in effect, the most advanced
2 project that you're working on right now or at least
3 has the possibility of being that?

4 A. I think, regardless of what happens in Frankfort,
5 Antrim is the project that we have spent the most time
6 on, it's the project we have invested the most in, and
7 it's the project that we would consider the most
8 developed.

9 Q. Okay. So, therefore, wouldn't it be fair for us to say
10 that it appears that Antrim is your training ground, as
11 you've objected to?

12 A. No. Again, because the Applicant here is Antrim Wind
13 Energy. Antrim Wind Energy is made up of Eolian
14 Renewable Energy, which you've just spent time talking
15 about our projects. The other member of that group is
16 Westerly Wind, who, as I've testified to, its
17 principles have successfully developed, financed,
18 managed the construction and operation of over 700
19 megawatts of wind energy facilities. So, I do not
20 believe there is any testing happening.

21 Q. Okay. Except they're not here, and you're the only one
22 I have to question, so -- continuing on. Page 11, Line
23 16, of your testimony, you state the project site
24 possesses adequate -- "adequate distances from proposed

[WITNESS: Kenworthy]

1 turbine sites to residences." What is your definition
2 of "adequate" in this case?

3 A. This is on the original testimony?

4 Q. In your original testimony, correct.

5 A. I'm sorry, what line again?

6 Q. I believe it's on Page 11, Line 16.

7 A. Yes. Well, in this case, I believe, and this is also
8 subject to check, but I believe that the closest
9 residence to a turbine in our current layout is
10 approximately 2,200 feet, and that we believe is
11 adequate.

12 Q. Okay. So, do you -- by the way, can you tell us who
13 lives in that close? Do you know the names yet of --

14 A. I know many of the names. I don't know offhand who is
15 in --

16 Q. Okay. So, you're saying that a setback of less than
17 one half mile is adequate for protection from sound,
18 shadow flicker, and viewshed issues, is that correct?

19 A. I believe that sound and flicker are elements that are
20 studied largely independent of distance. Distance is a
21 contributing factor. But I think they are studied
22 independently to see if you're within compliance of
23 acceptable standards. So, I think those are somewhat
24 separate issues. But, I do believe that, for the

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1 purposes of protecting public health, safety, and
2 welfare, the setbacks that we have in Antrim are
3 adequate.

4 Q. All right. So, you're saying that less than a half a
5 mile is adequate? I just want to be sure. That's what
6 you're saying?

7 A. Yes. I'm saying, in this instance, --

8 Q. Okay.

9 A. -- that 2,200 feet is adequate.

10 Q. Okay. In the supplement testimony, on Page 9, Line 10,
11 you say "extensive and expensive studies are fully
12 underway". And, I know you mentioned it earlier today.
13 Can you just be a little more specific on what studies
14 are being done right now, maybe list them for us? And,
15 let us know when they started, when they commenced,
16 each one?

17 A. I do not have a list of the exact dates that we have
18 started which specific studies. I can tell you that we
19 have either commenced and completed or commenced and
20 are ongoing studies related to raptor migration, raptor
21 nests, related to nocturnal avian migration with the
22 radar, with acoustic bat studies. All of those have
23 been commenced, and some of them have been completed at
24 least for this season. We have commenced work on

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1 natural communities mapping. We have commenced work on
2 vernal pool studies. We have commenced -- obviously,
3 there are engineering efforts that are underway for the
4 civil engineering efforts. Wind resource analysis is
5 constantly ongoing. We have commenced initial
6 discussions to develop the scopes and commence the work
7 for the kind of historic and archeological studies,
8 which have then been approved to commence this month,
9 in June. I think that's a reasonable approximation of
10 what we have commenced so far.

11 Q. And, I assume there are a number of people or
12 organizations working this. Can you give us an idea of
13 who some of them are who are doing some of the major
14 studies?

15 A. Yes. For the most part, TRC is our -- they're doing a
16 large amount of the environmental consulting work, and
17 also some of the work on the cultural, the historic,
18 and prehistoric side. Stantec is the consultant that
19 we're using primarily on the bird and bat issues,
20 specifically bird and bat radar and acoustic bat. We
21 are working with TRC and others, including Soule on the
22 civil engineering side and the surveying. That's a
23 reasonable approximation.

24 Q. Okay. Continue with your supplemental testimony, on

[WITNESS: Kenworthy]

1 Pages 3 and 4, most of that you deny any vagueness to
2 your proposal. I guess you're objecting to our
3 characterization of your proposal as being "vague" and
4 not really -- "vague" -- "still vague and undefined",
5 that's how we evidently characterized it. But the
6 properties leased have changed since you started on
7 this, I know you've added more properties to it. The
8 number of turbines that you propose has changed, I
9 think a couple of times, and it's still not decided, as
10 far as I know. The extent of the ridge has changed.
11 The early map I saw is very different from the map I'm
12 seeing now.

13 MS. GEIGER: I'm going to object, Mr.
14 Chairman. I think Mr. Block is testifying. If he has
15 questions about his supplemental prefiled testimony, I'd
16 be happy to hear those. But, right now, I think he's
17 offering his own information into the record, which I
18 would object to.

19 MR. BLOCK: I'm sorry, but I really
20 didn't hear the last part of what you said.

21 MS. GEIGER: I think, from what I'm
22 hearing, Mr. Block, I believe that you are providing your
23 own information in introducing that, attempting to into
24 the record, rather than asking Mr. Kenworthy --

[WITNESS: Kenworthy]

1 MR. BLOCK: Okay. All right. I was
2 just introducing this, okay?

3 MR. ROTH: Ask him if he agrees with
4 that.

5 BY MR. BLOCK:

6 Q. I'm just saying, now --

7 A. If I could answer that question?

8 Q. Okay. Sure. I didn't ask --

9 A. No, I do not agree with that. And, all those things
10 have changed, as I testified to in my response,
11 precisely once. In other words, the extent of the
12 ridgeline, the number of the leases, and the number of
13 the turbines has changed one time. And, I think, as
14 this Committee is aware, there's been submissions,
15 formal applications for wind energy facilities that
16 have changed drastically, in number, size, and
17 configuration of turbines, well after application has
18 been accepted. So, I don't think it's particularly
19 relevant.

20 Q. All right. Then, let's just get down to details now.
21 Can you now give us any specific details of how many
22 turbines you propose or is that still -- narrow that
23 down any?

24 A. I think what we have submitted in our application and

[WITNESS: Kenworthy]

1 my testimony is the extent of what we can provide.

2 Q. Okay. During the tech session, I thought I heard you
3 say something about "there were certain factors that
4 might prevent you from putting in as many as ten."
5 Could you elaborate what some of those factors might
6 be?

7 A. There are numerous factors that affect where and how
8 many turbines you can place. And, it has to do with
9 the wind resource, that have to do with the
10 environmental conditions on the site, that have to do
11 with the final kind of interconnecting, technical
12 conditions related to interconnection. All those are
13 relevant.

14 Q. Okay. You are talking -- you're saying "up to ten
15 turbines in the 2 to 3-megawatt class". So, I think
16 you were talking about 3-megawatt turbines if, perhaps,
17 you had to go with fewer, is that correct, that you
18 would consider?

19 A. No. It's not "if we have to go with fewer". We're
20 going to be optimizing a site based on the studies that
21 we are currently conducting.

22 Q. Okay. If you do use 3-megawatt turbines, can you give
23 us an idea of what the height of those turbines would
24 be?

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[WITNESS: Kenworthy]

1 A. Less than 475 feet, as I think we have attested to.

2 Q. So, the 3-megawatt turbines are the same height as the
3 2-megawatt turbines, is that correct then?

4 A. No. You're welcome to find information about turbine
5 specifications online. I know it's available there.
6 There are many, many different turbines, of many
7 different sizes and shapes, by different manufacturers,
8 of different size classes, with different rotor
9 diameters. And, there is no kind of catch-all "2s are
10 the same as 3s".

11 Q. Okay. Is there a maximum output that the
12 infrastructure adjacent to your proposed site will
13 accommodate. Is that -- that I would assume would be a
14 factor?

15 A. It is a factor.

16 Q. Okay. Have you already signed any power purchase
17 agreement with PSNH?

18 A. No, we have not.

19 Q. Okay. Your testimony, on Page 20 of your regular
20 testimony, Lines 8 through 12, you conclude "As a
21 result of these experiences over the past two years,
22 and the continuing struggles between and among the
23 Town's governing land use bodies to agree on and adhere
24 to appropriate processes and decisions and the failure

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[WITNESS: Kenworthy]

1 to act upon the stated wishes of the Antrim residents,
2 Antrim Wind Energy has no confidence that the Town
3 would be able to fairly review an application for a
4 wind energy facility." So, my question is, why,
5 therefore, did you go back to Antrim for a third time
6 to seek permitting for your project?

7 A. We didn't.

8 Q. Was it somebody else?

9 A. No. What are you referring to? The meteorological
10 tower?

11 Q. Well, you applied -- you applied for a height variance.

12 A. Right.

13 Q. And were granted that. You applied for a site plan
14 review -- you submitted a site plan review for the met
15 tower, and were initially granted that. And, now,
16 you've just submitted another variance application for
17 height and use. So, I see that as a third time coming
18 to the Town -- to a Town board for -- with an
19 application.

20 A. Okay. I think what you just quoted to me on Lines 11
21 and 12, if I'm correct, on Page 20 of my testimony, is
22 that "Antrim Wind Energy has no confidence that the
23 Town" --

24 (Court reporter interruption.)

[WITNESS: Kenworthy]

1 WITNESS KENWORTHY: I'm sorry.

2 **BY THE WITNESS:**

3 A. "Antrim Wind Energy has no confidence that the Town
4 would be able to fairly review an application for a
5 wind energy facility."

6 BY MR. BLOCK:

7 Q. Okay.

8 A. Which is very different from a temporary meteorological
9 tower.

10 Q. But I was at the Planning Board hearings when you
11 applied for the site plan review, when you submitted
12 that for the met turbine -- met tower. And, I believe
13 that you were applying for that as an accessory use to
14 a wind turbine facility, is that not true?

15 A. I don't see how that relates. But, yes, we did apply
16 for it as accessory to and antecedent to a public
17 utility, which is an allowed use by right --

18 Q. To a public utility, namely --

19 CHAIRMAN GETZ: Mr. Block, I think we've
20 got to stop talking over one another or Mr. Patnaude is
21 not going to get this in the transcript. So, let's have a
22 breath between questions and answers.

23 MR. BLOCK: All right. I'll continue
24 on.

[WITNESS: Kenworthy]

1 BY MR. BLOCK:

2 Q. Now that the ZBA has granted the current variance, do
3 you have any intention of withdrawing this petition to
4 the SEC at any point?

5 A. No.

6 Q. Do you intend at any point to also submit an
7 application for a wind energy facility to the Town of
8 Antrim?

9 A. I'm not sure I understand the question.

10 Q. Do you intend to, regardless of how things go here, do
11 you have plans or are considering going to the Town of
12 Antrim with an application to propose a wind energy
13 facility?

14 A. I guess, maybe the question doesn't make sense to me
15 "regardless of what happens here". If the Site
16 Evaluation Committee does assert jurisdiction over the
17 Project, we will be submitting an application to them
18 for the wind energy facility. And, as I think we have
19 indicated a number of times, we are perfectly willing
20 to continue to work and intend to continue to work with
21 the Town of Antrim to reach various agreements on
22 Project conditions, on PILOT agreements, on a number of
23 things that are of particular concern and interest to
24 the Town of Antrim. So, we certainly would do that.

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[WITNESS: Kenworthy]

1 Q. So, there is a possibility that you might, at some
2 point, come to the Town of Antrim with an application?

3 A. Can you rephrase the question for me? You said
4 initially "irregardless", "regardless of what happens
5 here."

6 Q. All right.

7 A. What are you asking me?

8 Q. I'm just asking, is there a possibility that you might
9 approach the Town of Antrim and go through the Town
10 procedure to apply for and try to get permitting for a
11 wind energy facility?

12 A. As I've said here, we have no confidence that the Town
13 will be able to fairly review a wind energy facility.
14 So, I think, from our perspective, if jurisdiction is
15 denied, and, really, regardless of what happens in the
16 town, we are stopped indefinitely.

17 Q. Okay.

18 A. And have no intention to immediately prepare for and
19 file an application with Antrim.

20 Q. Okay. All right. That's clear. Okay.

21 CHAIRMAN GETZ: Mr. Block, how much more
22 cross do you have?

23 MR. BLOCK: I've got really two more
24 questions.

[WITNESS: Kenworthy]

1 CHAIRMAN GETZ: Okay.

2 MR. BLOCK: Okay.

3 BY MR. BLOCK:

4 Q. You seem to be -- earlier, you seemed to be blaming the
5 Town of Antrim for delays, the ongoing delays in the
6 process. I just would like to know, are you willing to
7 concede that Antrim Wind Energy's continuous and
8 multiple, simultaneous approaches to permitting has
9 added to those delays?

10 A. No, I don't believe they have added to the delays. I
11 think they have, in each instance, been an effort to
12 find a solution which would avoid delay and avoid
13 extensive and expensive litigation. We've been
14 unsuccessful in those efforts, as you're aware.

15 Q. All right. One other thing, I have Exhibit RB-2.
16 Lorraine, if you'd give a copy to Mr. Kenworthy, so he
17 can just take a look at this. And, we have a few
18 copies for other people. What I have here is a
19 document. I'd like you to confirm that, that this is
20 the original met tower height variance application that
21 you submitted to the ZBA in Antrim on July 7th, 2009?
22 Is that correct?

23 A. This appears to be part of an application, yes.

24 Q. Okay. This was the basic application form. It wasn't

[WITNESS: Kenworthy]

1 the supplementary materials. So, --

2 A. Well, yes, it is the basic application form. But the
3 supplementary materials contain responses --

4 Q. Responses. But I'm talking about --

5 A. -- to components that was on the form.

6 Q. -- what you submitted on July 7th, you signed this on
7 July 7th, and it looks like it was received by the Town
8 of Antrim on July 8th, or there's two dates, "July 8th
9 and July 10th" there. Is that correct? This is the
10 application you filled out and signed on July 7th,
11 2009?

12 A. It appears to be part of that application, yes.

13 Q. Okay. Now, if you look at the fact that this
14 application was filed on under Article XIV-D, Section
15 D-1-b, which happens to be the Small Wind Energy
16 Systems ordinance -- or, article in our zoning, and
17 that the answers to the questions about the first, you
18 know, I assume you knew at the point that you needed to
19 satisfy five criteria to be granted a variance. The
20 questions you have here on Page 2 primarily, for the
21 first three criteria, are pretty inadequate, just a
22 one-line thing that, for instance, says "The value of
23 surrounding properties will not be diminished because:
24 [it's] a temporary structure, not [exceeding] three

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[WITNESS: Kenworthy]

1 years." And that, if you turn to the last page, you'll
2 see that the last two criteria, the "substantial
3 justice" criteria and the "spirit of the ordinance"
4 criteria, were never even addressed in this
5 application. I would just like to know, with this as
6 your initial application, wouldn't you admit that it
7 was absolutely justifiable for us to characterize your
8 attempt as "amateurish", and obviously based on a lack
9 of experience when you came to Antrim?

10 A. No. I don't agree with that. I think that there were
11 some omissions in the initial application, in part, due
12 to the way that the application on the Town of Antrim's
13 website is structured. In other words, the criteria
14 that you mention are listed under for a use variance,
15 and, as such, they were not answered in an application
16 for an area variance. This was not all the information
17 that was submitted as part of this application. We
18 later completed that section of information, as the
19 Town noted that it was unclear for us that we were
20 going to need to supply that --

21 Q. I agree that you did --

22 A. -- with this application.

23 Q. -- you did complete it, but you completed it over a
24 month later. You submitted an amendment on

[WITNESS: Kenworthy]

1 August 25th, after you came to hearings and after it
2 was pointed out to you that this application was
3 woefully inadequate, didn't even address two of the
4 criteria.

5 A. I don't recall that --

6 Q. And, it shouldn't have been accepted. Well, --

7 A. I'm not sure why we're talking about the met tower.

8 Q. I'm talking about the fact that you challenged us in
9 our testimony, you challenged that we claimed that we
10 viewed Eolian Wind Energy as an inexperienced company,
11 that did not have enough experience to carry this
12 through in Antrim, in our opinion, and you denied that.
13 And, I'm just trying to show, through this application,
14 that it seems to me you were very inexperienced at that
15 point. That it did not take much experience to realize
16 that there are five criteria that need to be satisfied.
17 I guess, following a line of questioning that was
18 earlier, have you ever, before this application, had
19 you ever submitted any application for a variance
20 request anyplace in the State of New Hampshire?

21 A. No, I had not.

22 Q. Okay. So, I submit that you did not understand at the
23 time what the procedure was.

24 A. Again, at the time this application was submitted, it

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[WITNESS: Kenworthy]

1 was an application submitted, I believe, by Eolian
2 Renewable Energy, not by Antrim Wind Energy, the
3 current applicant. That had --

4 Q. Well, on the top it says "Name and --

5 CHAIRMAN GETZ: Mr. Block. Mr. Block.

6 MR. BLOCK: Okay. Excuse me.

7 CHAIRMAN GETZ: Let him finish.

8 MR. BLOCK: Okay.

9 CHAIRMAN GETZ: Or else we're not going
10 to have --

11 WITNESS KENWORTHY: I stand corrected.
12 I stand corrected.

13 CHAIRMAN GETZ: And, Mr. Kenworthy, when
14 I'm talking, let's get one person on the record at a time,
15 okay? Do you have a question, Mr. Block?

16 MR. BLOCK: No. I'd just, you know,
17 allow Mr. Kenworthy a chance to continue responding. If
18 not, I have no further questions.

19 CHAIRMAN GETZ: Okay. Mr. Kenworthy.

20 **BY THE WITNESS:**

21 A. I guess my only response is, I would agree that there
22 was information that was missing from this application;
23 it was later supplied. It is unrelated to any multiple
24 permitting efforts related to the met tower that we

[WITNESS: Kenworthy]

1 undertook to try and create a workable solution that
2 would save time and expense and avoid litigation. And,
3 again, that at this time Antrim Wind Energy was a
4 single member LLC, owned entirely by Eolian Renewable
5 Energy. It is no longer as such, as we supplied in the
6 LLC agreement redacted excerpts. It is now a LLC
7 agreement -- LLC with two members, that includes
8 Westerly Wind, as well as Antrim -- as well as Eolian
9 Renewable Energy.

10 MR. BLOCK: All right. But what was
11 relevant here was why we characterized you as
12 "inexperienced". No more questions. Thank you.

13 CHAIRMAN GETZ: Okay. It's almost
14 12:15. And, we're going to take the lunch recess, resume
15 at 1:00, and then we'll take up with examination by
16 Ms. Allen.

17 (Whereupon the *Day 1 Morning Session*
18 recessed for lunch at 12:15 p.m. The
19 *Day 1 Afternoon Session* to resume
20 under separate cover so designated.)
21
22
23
24

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