

1 STATE OF NEW HAMPSHIRE

2 SITE EVALUATION COMMITTEE

3 **May 7, 2012** - 10:00 a.m.
4 Public Utilities Commission
5 21 South Fruit Street
6 Suite 10
7 Concord, New Hampshire

8 In re: **SITE EVALUATION COMMITTEE:**
9 **DOCKET NO. 2012-01: Application**
10 **of Antrim Wind, LLC, for a**
11 **Certificate of Site and Facility**
12 **for a 30 MW Wind Powered Renewable**
13 **Energy Facility to be Located in**
14 **Antrim, Hillsborough County,**
15 **New Hampshire.**
16 **(Prehearing Conference)**

17 **PRESENT:** **SITE EVALUATION COMMITTEE:**
18 Amy L. Ignatius, Chrmn. Public Utilities Commission
19 **(Vice Chairman of SEC)**
20 (Presiding Officer)

21 **COUNSEL FOR THE COMMITTEE:** Michael Iacopino, Esq.
22 (Brennan, Caron...)

23 **COUNSEL FOR THE PUBLIC:** Peter C. L. Roth, Esq.
24 Senior Asst. Atty. General
 N.H. Attorney General's Office

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

APPEARANCES:**Reptg. Antrim Wind, LLC:**

Susan S. Geiger, Esq. (Orr & Reno)
Douglas L. Patch, Esq. (Orr & Reno)
Jack Kenworthy (Antrim Wind)

Reptg. Antrim Board of Selectmen:

Galen Stearns, Town Administrator

Reptg. the Harris Center for Cons. Edu.:

Paul Faber, Trustee

Reptg. Antrim Planning Board:

David Dubois, Chairman
Martha Pinello, Member
Charles Levesque, Member

Reptg. Audubon Society of New Hampshire:

David M. Howe, Esq.
Carol Foss, Director/Conservation

Reptg. Industrial Wind Action Group:

Lisa Linowes

Reptg. Appalachian Mountain Club:

Kevin Kimball, Director/Research

Reptg. Antrim Conservation Commission:

Peter Beblowski, Chairman

Reptg. Richard Block and Lorraine Block:

Richard Block, *pro se*

**Reptg. Brenda Schaefer, Mark Schaefer,
and Nathan Schaefer:**

Mark Schaefer, *pro se*

Reptg. Annie Law and Robert Cleland:

Annie Law, *pro se*

Janice Longgood, *pro se*

Reptg. Mary Allen and Robert Edwards:

Mary Allen, *pro se*
Robert Edwards, *pro se*

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P R O C E E D I N G

CHAIRMAN IGNATIUS: Good morning.

Welcome, everyone. I'd like to open the hearing in Site Evaluation Committee Docket Number 2012-01, Antrim Wind. This is the Application of Antrim Wind, LLC, for a Certificate of Site and Facility for a renewable energy facility to be located in Antrim, Hillsborough County, New Hampshire. And, as I think everybody knows, but, for the record, let me just restate. On January 31st, 2012, Antrim Wind, LLC, which we're calling the "Applicant", filed an Application for the Certificate of Site and Facility, requesting that the Site Evaluation Committee issue a permit for them to site, construct, and operate a renewable energy facility. The proposal is for not more than ten wind turbines, each having a maximum capacity of not more than 3 megawatts, for a total of 30 megawatts.

On March 15th -- excuse me, March 5th, the presiding officer designated by the Chairman of the Committee was designated to be me, as Vice Chair of the Committee, to preside over the Subcommittee, and the Subcommittee appointed of members to serve throughout the proceeding. We, as you know, had a site visit last week, and many of you were in attendance, and then we had a public hearing that evening in the Antrim Elementary

{SEC Docket 2012-01} [Prehearing Conference] {05-07-12}

1 School. All of that is on the record, the public hearing
2 portion. And, also called for in the order of notice was
3 a prehearing conference set for today. And, so, that's
4 our proceeding today, will be to have the prehearing
5 conference, and then -- at which I'll preside, and we'll
6 discuss interventions, Motion for Confidential Treatment,
7 any other matters that are before us procedurally. It's
8 not the time for substantive discussion of the merits of
9 the proposal. And, then, if things are in good order, I
10 will hand it off to Counsel for the Committee, Michael
11 Iacopino, who you know, to continue to work on scheduled
12 matters and talk about the proceedings, and make sure,
13 those who have not participated in these before,
14 understand what to expect and how it will play out over
15 the next few months.

16 So, with that introduction, let's take
17 appearances please. And, I'll ask for counsel for
18 parties, and anyone who's seeking intervention on their
19 own, without counsel, to just introduce yourselves. You
20 don't need to make a presentation yet, but just introduce
21 yourselves, to make sure we've got everyone who's here
22 today. Ms. Geiger.

23 MS. GEIGER: Thank you. Good morning,
24 Chairman Ignatius. I'm Susan Geiger, from the law firm of

1 Orr & Reno. I represent the Applicant, Antrim Wind
2 Energy, LLC. And, with me this morning are Attorney Doug
3 Patch, also from Orr & Reno, and, from the Applicant,
4 Mr. Jack Kenworthy and Mr. John Soininen.

5 CHAIRMAN IGNATIUS: Good morning. Mr.
6 Block, I think you're next.

7 MR. BLOCK: My name is Richard Block.
8 And, I live directly across the road from the Tuttle Hill
9 site, on Loveren Mill Road, in Antrim.

10 CHAIRMAN IGNATIUS: Thank you.

11 MR. STEARNS: My name is Galen Stearns,
12 Town Administrator, in Antrim. I'm representing the Board
13 of Selectmen at this point. They e-mailed. We are going
14 to be intervenors, hopefully.

15 CHAIRMAN IGNATIUS: Thank you.

16 MR. FABER: I'm Paul Faber. I'm a
17 Trustee at the Harris Center.

18 CHAIRMAN IGNATIUS: Could you spell your
19 last name, I didn't get it?

20 MR. FABER: Faber, F-a-b-e-r.

21 CHAIRMAN IGNATIUS: Thank you.

22 MS. PINELLO: Martha Pinello, Antrim
23 Planning Board.

24 CHAIRMAN IGNATIUS: Thank you.

1 MS. LINOWES: Lisa Linowes, Industrial
2 Wind Energy Group.

3 CHAIRMAN IGNATIUS: Good morning.

4 MR. ROTH: Good morning. Peter Roth,
5 Counsel for the Public, from the Office of the Attorney
6 General.

7 MR. HOWE: Good morning. David Howe,
8 counsel for Audubon Society of New Hampshire. And, with
9 me is Carol Foss, Director of Conservation of the Audubon
10 Society of New Hampshire.

11 CHAIRMAN IGNATIUS: Thank you. Sir.

12 MR. KIMBALL: Kevin Kimball, Appalachian
13 Mountain Club.

14 MR. SCHAEFER: Mark Schaefer,
15 representing the Schaefer family, Salmon Brook Road,
16 Antrim.

17 CHAIRMAN IGNATIUS: Thank you.

18 MS. LAW: Annie Law, North Branch,
19 Farmstead. I live on Windsor Mountain. The Tuttle
20 Mountain, the natural ridgeline, is directly in my
21 viewshed. And, I'm also representing Robert Cleland,
22 who's my life partner.

23 CHAIRMAN IGNATIUS: All right.

24 MS. LONGGOOD: Janice Longgood,

1 representing myself. I live at 156 Salmon Brook Road, and
2 I am a direct abutter to this project.

3 MR. DUBOIS: David Dubois, Chairman,
4 Antrim Planning Board. Also with me is Charles Levesque,
5 member, Antrim Planning Board.

6 CHAIRMAN IGNATIUS: Thank you. And,
7 it's Dubois, D-u-b-o-i-s?

8 MR. DUBOIS: That's right.

9 CHAIRMAN IGNATIUS: Thank you.

10 MR. DUBOIS: Thank you.

11 MS. ALLEN: Mary Allen and Bob Edwards,
12 representing the Allen/Edwards Petition.

13 CHAIRMAN IGNATIUS: Thank you.

14 MR. BEBLOWSKI: Peter Beblowski,
15 Chairman, Antrim Conservation Commission.

16 CHAIRMAN IGNATIUS: All right. And, is
17 it "Bobloski", B-o --

18 MR. BEBLOWSKI: B-e-b-l-o-w --

19 CHAIRMAN IGNATIUS: B-e-b?

20 MR. BEBLOWSKI: Yes.

21 CHAIRMAN IGNATIUS: All right.

22 "Beblowski". Thank you. I remember your name from the
23 public hearing, but you had bailed by the time we finally
24 got to you. So, sorry we couldn't hear you the other

1 night. Sir, in the back? Oh, you work with us. I know
2 that name, that face.

3 MR. RUOFF: Sorry, Amy.

4 CHAIRMAN IGNATIUS: I think we got
5 everyone, is that right? Thank you.

6 And, now, I mentioned before, Mike
7 Iacopino is Counsel to the Committee. He's not a member
8 of the Committee, but assists and is always available for
9 questions and information through the process, and will be
10 involved in trying to work through a lot of that today.

11 One procedural matter I want to be sure
12 of. There was a requirement of publication of the Order
13 of Notice, and has that been received?

14 MS. GEIGER: Yes. Both have been filed.
15 And, I believe, Chairman Ignatius, you made reference to
16 both of the affidavits that I filed at the prehearing
17 conference -- excuse me, at the public information session
18 that we had on April 30th. But the affidavit of
19 publication regarding the display ads was filed with the
20 Committee on April 26th, and I have a copy of that, if you
21 need it. And, the affidavit of publication regarding the
22 legal notices that were published in the Union Leader, the
23 Monadnock Ledger, and I believe in the Antrim newspaper,
24 was filed with the Committee on April 10th.

1 CHAIRMAN IGNATIUS: And, the first one
2 you said, the display ads, that was -- when was it
3 published and when was it filed with the Committee?

4 MS. GEIGER: The publications for the
5 display ads were made on April 17th, 2012, in the
6 Monadnock Ledger-Transcript; and on April 20th in The
7 Villager, which is a free weekly newspaper serving the
8 Town of Antrim and other nearby towns, and the affidavit
9 of publication for those two publications was filed with
10 the Committee on April 26th.

11 CHAIRMAN IGNATIUS: Thank you. I think
12 what we're going to do is hear people's -- any further
13 discussion on people's motions to intervene. We have the
14 written materials and there has been an objection filed by
15 the Applicant. And, so, we'll take argument on those.

16 But, before we do, I think it would be
17 helpful, Mr. Roth, putting you on the spot here, if you
18 could describe, in a bit of detail, what it is that the
19 Counsel for the Public does, and ways in which it can take
20 some of the concerns of general members of the community
21 and ways in which it can't take the concerns of members of
22 the general community, the extent to which your role
23 overlaps with individual would-be intervenors' requests,
24 if you could explain that please.

1 MR. ROTH: Thank you. I'll do the best
2 I can, but -- is this microphone turned on?

3 CHAIRMAN IGNATIUS: It should show red,
4 and you've got to be pretty close to it.

5 MR. ROTH: There we go. That's actually
6 a fairly tall order, because, without knowing for sure,
7 having not heard from all the intervenors, I suspect many
8 of them are fairly staunchly opposed to the construction
9 of the Project. And, so, to suggest that Counsel for the
10 Public is "staunchly opposed to the Project" would not be
11 correct. And, to the extent that those individuals who
12 are intervenors believe that their interests would be
13 protected by Counsel for the Public in that respect would
14 be incorrect.

15 That said, I think it's clear that my
16 role is to ensure that an appropriate balance is met
17 between the energy value of the Project and the
18 environmental impacts of the Project. And, so, typically,
19 I would engage in challenges to the Applicant's evidence
20 on issues involving environmental and to the viability of
21 the Project. And, I would expect to do that here. The
22 environmental issues that I have in the past engaged in
23 have been, and I'm not saying that this necessarily is
24 going to happen in this case somewhat along the same

1 playbook, but I've taken on wetlands issues, sound and
2 noise issues, impacts on wildlife and avian species,
3 visual impacts. I've also challenged financial/managerial
4 capability. I'm sure I'm forgetting something, but --

5 In this case, you know, I still have not
6 completed, you know, going through the Application and
7 mapping out or, you know, coming to conclusions about my
8 strategy. But I would expect that, at a minimum, I will
9 probably take on the noise issue, the avian impacts, and
10 probably financial/managerial capability.

11 Beyond that, for example, issues that I
12 probably would not take on would include property values,
13 or any issue that is particular to a individual landowner
14 or resident. To the extent that there's some overlap, in
15 terms of, you know, the noise, for example, you know, that
16 I think is something. But, again, you know, if a person
17 is expecting Counsel for the Public to go to the mat and
18 appeal this, appeal a certificate, were one to be granted,
19 you know, till the end of the appellate route, that would
20 not be a reasonable expectation. So, in that respect,
21 intervenors are, to a certain extent, on their own.

22 CHAIRMAN IGNATIUS: All right. That's
23 helpful. Thank you. I think what we should do then is
24 start working through the various intervention requests.

1 And, I'd like to group them, if I can, into some
2 categories. There may be a bit of an overlap. But, if we
3 think in terms of municipal entities first, I think we
4 have filed with us the Antrim Board of Selectmen, the
5 Antrim Planning Board, the Antrim Conservation Commission,
6 and also the Stoddard Conservation Commission have all
7 submitted requests to intervene. If we could first take
8 those individual -- those entities, and then allow the
9 Company to respond to those as a group. You may have
10 different positions on each of them, but to be able to
11 kind of group them together before we take the individual
12 homeowner applications and the organizational
13 applications.

14 So, perhaps, Mr. Stearns, if you're
15 representing the selectmen first, I know you've submitted
16 a written petition. And, if there's anything you want to
17 add to that or anything in response to the Applicant's
18 response to yours?

19 MR. STEARNS: No. I believe the
20 Applicant said that they have no problem with the
21 selectmen intervening. And, we'll stand by our
22 submission.

23 CHAIRMAN IGNATIUS: Do you expect to
24 appear individually or through counsel?

1 MR. STEARNS: Individually, unless
2 counsel is required. At which time, Justin Richardson, of
3 Upton & Hatfield, will be our counsel.

4 CHAIRMAN IGNATIUS: All right. Any
5 response anyone has to the Petition to Intervene?
6 Anything from the Company? Any response?

7 MS. GEIGER: Mr. Stearns is correct.
8 The Applicant has no objection to the Board of Selectmen's
9 Petition to Intervene.

10 CHAIRMAN IGNATIUS: All right. In all
11 of these, I'll tell you, we will take them under
12 advisement. But this is an opportunity to be able to
13 gather all of the information. And, at the conclusion of
14 this phase of the morning addressing interventions, when
15 it's time to discuss schedules and other matters, we'll
16 ask you all to participate as if you assume you had been
17 granted intervention, in order to make this a meaningful
18 morning, even though there won't yet be a ruling on that.

19 The next municipal request then would be
20 the Antrim Planning Board. And, Mr. -- Ms. Pinello, were
21 you going to speak to that or --

22 MS. PINELLO: Mr. Dubois.

23 CHAIRMAN IGNATIUS: Mr. Dubois.

24 MS. PINELLO: Thank you.

1 MR. DUBOIS: We have nothing further to
2 add at this time.

3 CHAIRMAN IGNATIUS: All right. And, you
4 had circulated that previously. I hope, certainly, the
5 Company has seen it, because they filed a response.
6 Ms. Geiger, anything you want to speak to in response?

7 MS. GEIGER: I believe all of the
8 reasons for our objection are laid out in the written
9 pleading that we filed in April, April 18th. If it's the
10 pleasure of the presiding officer, I'd be happy to go
11 through the objection. It basically relies on the fact
12 that the Application -- excuse me, the Petition for
13 Intervention is facially deficient, in that it does not
14 indicate a "right, duty, responsibility, immunity,
15 privilege or other substantial interest" being affected
16 here. And, that, obviously, the Planning Board has the
17 ability and the Committee has a responsibility to consider
18 the views of the Planning Board, but we don't believe that
19 the Planning Board needs to be granted intervenor status
20 to make those views known to the Committee.

21 CHAIRMAN IGNATIUS: Mr. Dubois, I guess
22 I'd ask you, the Company responds by saying that you
23 describe your role in reviewing certain materials, but
24 nothing that demonstrates any interests or rights, duties

1 under the statute that need to be protected through your
2 intervention. Do you have a response to that?

3 MR. DUBOIS: Only to the extent that our
4 participation is connected directly with the zoning
5 regulations of the Town of Antrim. And, that the Town has
6 a duly elected board, and there are aspects of the
7 Application that would take away some of the duties and
8 rights of the Planning Board.

9 CHAIRMAN IGNATIUS: All right. Ms.
10 Geiger, another thing you had said in your response, your
11 written response, was that, if the Planning Board were to
12 be granted intervention, it "should be limited to issues
13 relating to whether the Project will unduly interfere with
14 the orderly development of the region". And, why is your
15 -- why do you believe they should be so limited?

16 MS. GEIGER: I believe that the language
17 that's contained in 162-H:16, IV(b) contemplates that the
18 role of the Planning Board here would be limited to
19 providing information concerning the orderly development
20 of the region, because that, again, the mention of
21 "municipal governing and planning bodies" in that statute
22 is with respect to the findings that the Committee must
23 make on orderly development of the region. And, again,
24 it's based on an interpretation of that statute. Again,

1 it's Section IV, IV(b) of 162-H:16, and the Committee must
2 find that the -- in order to grant a certificate, that the
3 Project "will not unduly interfere with the orderly
4 development of the region with due consideration having
5 been given to the views of", and then "municipal and
6 regional planning commissions and municipal governing
7 bodies".

8 So, to the extent that the Planning
9 Board is a municipal planning commission or planning body,
10 it may give views to the Committee, the Committee may
11 consider them, but with respect to the "orderly
12 development of the region" finding.

13 CHAIRMAN IGNATIUS: What would you think
14 is an example of something outside of the limits of the
15 "orderly development of the region"? What would be
16 something you'd say "well, that's off the -- out of the
17 expertise or the role of a planning board"?

18 MS. GEIGER: I think the first one that
19 might come to mind is the finding that the Committee has
20 to make with respect to the Applicant's financial,
21 managerial and technical capabilities. And, certainly,
22 there may be others, but that's the first one that springs
23 to mind.

24 MR. ROTH: Madam Chairman, may I be

1 heard on these arguments as well?

2 CHAIRMAN IGNATIUS: All right. Yes.

3 MR. ROTH: I would just first point out
4 that the arguments that are made by counsel for the
5 Applicant would be equally applicable to the Selectboard.
6 And, I reserve comment on the Selectboard's inclusion in
7 the process on that basis. But, if there is a limitation
8 to be placed or a denial of intervention on these bases,
9 it would be fully applicable to the Selectboard.

10 Secondly, I would just point out that
11 this argument has been made in other cases before and has
12 never been accepted. The notion that a party, once
13 admitted to be a party in a proceeding, should be limited
14 to a particular issue, especially based on this fairly
15 strained interpretation of the statute, has never been
16 accepted by the Committee, as far as I know, and should
17 not be in this case. A party is a party is a party.

18 (Chairman Ignatius and Mr. Iacopino
19 conferring.)

20 CHAIRMAN IGNATIUS: All right.

21 MS. GEIGER: May I just respond very
22 briefly?

23 CHAIRMAN IGNATIUS: Oh, certainly.

24 MS. GEIGER: I believe, as the presiding

1 officer is aware, with respect to the very last comment
2 that Attorney Roth made, is under 541-A:32, III. The
3 presiding officer does have the authority to limit
4 intervention to particular issues or participation as the
5 presiding officer deems appropriate. And, I think that
6 that sufficiently responds to the sort of broad statement
7 that was made by Attorney Roth.

8 CHAIRMAN IGNATIUS: Thank you. All
9 right. The next municipal entity, that's a very broad use
10 of the phrase, is the Antrim Conservation Commission.
11 And, yes, Mr. --

12 MR. BEBLOWSKI: Beblowski.

13 CHAIRMAN IGNATIUS: -- Beblowski, thank
14 you.

15 MR. BEBLOWSKI: Good morning. And,
16 thank you. I'm here to represent the Antrim Conservation
17 Commission. And, the Antrim Conservation Commission is
18 the only local body that's specifically charged with
19 protecting the natural resources of the town. It provides
20 a local viewpoint within municipal government for
21 environmental concerns. And, that's essentially the basis
22 for our intervention. In that, we had reviewed the
23 Application, and there are a number of concerns that we
24 would like to bring forward within our intervention. We

1 are not in opposition nor are we in favor of the Project,
2 as we said in our response. We are not in opposition of
3 the selectmen. The selectmen have a particular role
4 within the Town government. And, we are charged and our
5 belief is we should be bringing forward a concern with
6 regard to the natural resources in the Town, as well as
7 the landscape-scale conservation properties that surround
8 this Project. Thank you.

9 CHAIRMAN IGNATIUS: Thank you. Company
10 response?

11 MS. GEIGER: Yes. Thank you. The
12 Company has objected to the intervention of the Antrim
13 Conservation Commission. And, picking up on one of the
14 points that Mr. Beblowski has made, and also as it relates
15 to arguments that Mr. Roth has made, concerning the
16 applicability or the limitation of the Board of
17 Selectmen's role here. I think that it's clear that the
18 Board of Selectmen are the authorized representatives of
19 the Town. And, so, I think their role is a bit broader or
20 would be a bit broader than the Planning Board.

21 So, I disagree with Mr. Roth's position
22 that, to the extent that the Planning Board's
23 participation here might be limited, that the
24 Selectboard's participation should be similarly limited.

1 Number two, with respect more
2 particularly to the intervention petition that has been
3 filed by the Antrim Conservation Commission, as our
4 response indicates, the Conservation Commission, and
5 municipalities generally, have only such powers and duties
6 and responsibilities as are conferred by the Legislature
7 in statutes. And, nothing in the statute that creates the
8 conservation commissions for municipalities, RSA 36-A,
9 allows or specifically authorizes municipal conservation
10 commissions to advocate or to participate or intervene in
11 proceedings such as this one.

12 In addition to that, if the Antrim
13 Conservation Commission were allowed to intervene in this
14 proceeding, in addition to the Antrim Board of Selectmen,
15 which is the authorized representative of the citizens of
16 the Town of Antrim, that will create redundancies and
17 inefficiencies that will impair the orderly and prompt
18 conduct of these proceedings. And, as you're aware, RSA
19 541-A:32, II, requires that, in authorizing or granting
20 intervention, that the presiding officer find that such
21 intervention "would not [disrupt or] impair the orderly
22 and prompt conduct of the proceedings".

23 CHAIRMAN IGNATIUS: Well, let me ask you
24 why the fact of multiple entities from the municipality

1 automatically means an impairment of the process?

2 MS. GEIGER: Well, again, I think that,
3 to the extent that efforts will be duplicated, and the
4 Applicant would be required to answer multiple rounds of
5 discovery that are potentially similar from, you know, two
6 or three different bodies, governmental units within the
7 Town of Antrim, I think that would be disorderly and
8 disruptive. Certainly, I think it would impair the
9 conduct of the hearings proper, because it would mean more
10 time and effort, you know, devoted to hearing from
11 multiple parties who may be saying very similar things.
12 And, so, looking ahead to adjudicative proceedings,
13 clearly, under 541-A, you know, the presiding officer may
14 exclude unduly repetitious information. And, therefore,
15 if, you know, if that information can be excluded, then it
16 seems to me that similarly, at the outset, we should
17 recognize whether or not a party would be duplicating
18 efforts of others and would contribute to that.

19 In addition to that, I've cited a case
20 in my response in which the Supreme Court basically spoke
21 to the issue of whether a conservation commission could
22 represent the interests of a town or could appeal a zoning
23 board of adjustment decision, and the Supreme Court said
24 "no". Again, I recognize that case is very limited to the

1 interpretation of a particular statute, but I think the
2 principle is the same. And, in the Court's decision, the
3 Supreme Court said that, you know, that in that particular
4 case the Hooksett Conservation Commission was not an
5 appropriate party to appeal a ZBA decision, and, for
6 public policy reasons, including minimizing wrangling
7 among governmental units, the Hooksett Conservation
8 Commission should not be allowed to pursue that appeal.

9 CHAIRMAN IGNATIUS: All right.

10 MR. ROTH: Madam Chairman, may I be
11 heard?

12 CHAIRMAN IGNATIUS: Briefly, yes.

13 MR. ROTH: Thank you. It seems to me
14 that the Applicant's complaint is not about a disorderly
15 process, but one that takes time and effort, and,
16 obviously, would cost them money. That's different than a
17 "disorderly process". I think, as some of us remember,
18 there were a number of intervenors with very diverse
19 interests, and sometimes very similar interests, in the
20 Groton case. And, there were orders in place that
21 required those intervenors to coordinate with each other
22 to minimize the duplication of effort. And, I think that
23 that would be an appropriate measure to take in this case.
24 But it's certainly not a basis for excluding somebody's

1 voice from being heard in this proceeding.

2 The second thing I would say is that the
3 notice of this prehearing conference I don't think fairly
4 gave any of these intervenors, or myself, frankly, notice
5 that there was going to be argument made today about
6 intervention. The notice of the prehearing conference
7 said "intervenors should be there, we're going to talk
8 about scheduling." This was not properly noticed as a
9 hearing on the merits of anybody's intervention motion,
10 and, you know, I respectfully object to this hearing being
11 converted into oral argument on those motions.

12 CHAIRMAN IGNATIUS: Well, I'm going to
13 deny the objection and keep on going. So, --

14 MR. ROTH: I appreciate that, but I'm
15 making the record. I also would just point out that, with
16 respect to the argument made about the Hooksett case, you
17 know, I think she said it all, in terms of appellate
18 jurisdiction and appellate rights. Nobody is here looking
19 to establish appellate rights from this case. They're
20 here looking to be heard. And, juris -- or, "standing to
21 appeal" is a different question that will come up in front
22 of the Supreme Court, if ever. So, that that case, I
23 think Attorney Geiger very correctly pointed out is very
24 limited in its application, doesn't really help here,

1 because that deals with a very distinct issue that's not
2 in front of us today.

3 CHAIRMAN IGNATIUS: All right. Thank
4 you. The next sort of municipal organization is not from
5 Antrim, but from Stoddard. That's the Stoddard
6 Conservation Commission. And, that request was filed by
7 Mr. Jones, who I don't think is here today. Am I right?
8 Is there anyone else who is here representing the Stoddard
9 Conservation Commission?

10 (No verbal response)

11 CHAIRMAN IGNATIUS: All right. Well, we
12 have the pleadings on file. And, so, we will take those
13 under advisement as well.

14 Let's turn now to a couple of the
15 organizational applicants. We have two who either own
16 property or are stewards of property in Antrim, I believe;
17 the Harris Center for Conservation Education and the
18 Audubon Society of New Hampshire. I've lost track, is
19 someone here on behalf of the Harris Center? Yes, sir.

20 MR. FABER: Good morning. I'd just like
21 to read this briefly. My name is Paul Faber. I'm a
22 Trustee of the Harris Center for Conservation Education in
23 Hancock, and a member of its Land Committee. Our counsel,
24 Steve Froling, was not able to attend today, since he's

1 out of the country. He has given me a brief statement to
2 read about the Harris Center's Petition to Intervene:

3 The Harris Center is a conservation land
4 trust and a registered charity. It owns land and holds
5 easements and other property interests in an eight-town
6 area in western Hillsborough County and eastern Cheshire
7 County, including Antrim. The Harris Center was an
8 intervenor in the earlier Antrim Wind Energy proceeding
9 here last year. It asserts the same interests now as it
10 did then, plus an additional one. As we told you last
11 time, the Harris Center owns more than 1,950 acres within
12 a three-mile radius of the project site and thus
13 potentially within the site and sound of the project. It
14 holds this land as wildlife habitat and for low-impact use
15 by the public. Both of these interests may be affected by
16 the proposed nearby development. The Harris Center also
17 holds easements, which it has a fiduciary duty to enforce,
18 on parcels having over 4,650 acres where the parcels are
19 wholly or partly in the same three-mile area. The
20 interests may be affected by the proposed development.

21 Since the last proceeding here, the
22 Harris Center has entered into agreements with Antrim Wind
23 Energy and four landowners. Under those agreements, the
24 Harris Center has the right, and the obligation, to

1 acquire conservation easements on a substantial portion of
2 the project site and surrounding lands, amounting to
3 685 acres in total, if the project is approved and enters
4 into commercial energy production. The Harris Center thus
5 has direct legal rights in the Project site which are
6 contingent upon the proceedings here.

7 Other facts are stated in the petition,
8 but I do not believe that I should take any more time
9 reciting them now.

10 I want to emphasize that, although the
11 Harris Center has interests which may be affected by these
12 proceedings, we should not be identified as "for" the
13 Proposal or "against" the Proposal. The Harris Center is
14 for full development of the facts and for a decision based
15 on science. Thank you.

16 CHAIRMAN IGNATIUS: Thank you. I know
17 the Applicant has filed a response. Anything you'd like
18 to speak to that on -- by -- Ms. Geiger, anything you want
19 to address?

20 MS. GEIGER: No, nothing further. I
21 think the response is fairly brief and straightforward.

22 CHAIRMAN IGNATIUS: All right. And,
23 again, you had no objection to their participation, but
24 asked that it be limited according to the -- as the

1 Commission -- I mean, excuse me, as the SEC finds
2 appropriate, but not limited in a subject matter way, as
3 you raised with the Planning Board?

4 MS. GEIGER: No. I did actually raise a
5 subject matter limitation, basically asking that the
6 limitation be with respect to the Harris Center's property
7 interests only. And, I believe that Mr. Faber adequately
8 or accurately represented what those property interests
9 are, as mentioned in the petition.

10 CHAIRMAN IGNATIUS: You're right. I
11 apologize. I was in the wrong paragraph. Any response,
12 Mr. Roth?

13 MR. ROTH: I just would make the same
14 objection. That those kinds of limitations are not
15 appropriate and have never been done by the Committee
16 before.

17 CHAIRMAN IGNATIUS: Okay. Thank you.
18 Mr. Howe, you're here on behalf of the Audubon Society of
19 New Hampshire?

20 MR. HOWE: That's correct.

21 CHAIRMAN IGNATIUS: And, you filed a
22 Petition to Intervene. Is there anything, it was --
23 anything else you want to speak to?

24 MR. HOWE: I would like to make a few

1 additional points, Chairman Ignatius.

2 CHAIRMAN IGNATIUS: Please.

3 MR. HOWE: First of all, I'd like to
4 express support for the intervention philosophy or policy
5 suggested by Attorney Roth, both with respect to Audubon
6 Society of New Hampshire, and all of the other Petitions
7 to Intervene, all of which we support.

8 I'd just like to make, I think, two
9 points, and otherwise leave you with our Petition.
10 There's some things that I think distinguish us from the
11 other property owners. One, we hold the Willard Pond
12 Sanctuary in trust, as a charitable trust, for the public.
13 And, so, that -- we have a different "property rights"
14 perspective from the individuals that own property. And,
15 we have a fiduciary responsibility to protect it.

16 Secondly, our mission is to protect the
17 natural environment both for people and for wildlife.
18 And, for that reason, I think it's important to us that we
19 have full participation in the proceeding. And, we think
20 we have a valuable perspective to provide, and therefore
21 that justice would be served by that. Thank you.

22 CHAIRMAN IGNATIUS: And, am I right that
23 one of the first visits we took on the site visit was
24 "something Pond"? Willard Pond? And, that there was an

1 "Audubon Society" sign at the boat launch drop-off spot
2 where we parked. Is that an area that you hold a
3 conservation easement or a monitoring role?

4 MR. HOWE: I'm not sure what you're
5 talking about, Chairman Ignatius, about the "boat launch"
6 area. Ms. Foss can correct me, I believe that we own that
7 area in fee, although there's clearly a public
8 right-of-access. The pond is a great pond, and the public
9 has access at that point. And, so, there's probably
10 easement over that.

11 But perhaps you can clarify that, Ms.
12 Foss.

13 MS. FOSS: I believe that the Fish &
14 Game Department has the developed access, but Audubon
15 owns, I believe, the entire perimeter of the pond. The
16 surface water is a public water body.

17 CHAIRMAN IGNATIUS: Thank you.
18 Ms. Geiger, any response?

19 MS. GEIGER: Yes. The response of the
20 Applicant is that the Applicant doesn't object to the
21 Audubon's Petition for Intervention, so long as the
22 participation is limited to the interests of Audubon as
23 the owner of property that abuts the Project.

24 To the extent that the intervention is

1 being sought for other reasons or because Audubon protects
2 additional properties that do not abut the Project, we
3 would object to that. Primarily because the Application
4 -- or, the Petition itself did not articulate exactly what
5 the Audubon's obligations were with respect to those
6 properties and how those obligations might be affected.

7 In addition, we would object to
8 Audubon's participation on the basis that it has adopted a
9 wind policy or wind power policy pursuant to which it
10 intends to review the application for its impacts on
11 wildlife and the environment. Respectfully, we submit
12 that it's the Site Evaluation Committee's role to, by
13 statute, examine and evaluate the Project's impacts on
14 wildlife and environmental issues, among others. And,
15 therefore, it would be improper for the Audubon Society to
16 intervene in these proceedings to advance that position.

17 And, in addition to that, we would
18 respectfully also ask that, if the Audubon Society is
19 allowed to intervene, that, as the presiding officer deems
20 appropriate, the intervention should be either
21 consolidated or combined with other groups or similarly
22 situated individuals, and otherwise limited as
23 appropriate.

24 (Chairman Ignatius and Mr. Iacopino

1 conferring.)

2 CHAIRMAN IGNATIUS: All right. Mr.
3 Roth, any response to that?

4 MR. ROTH: I would simply restate the
5 arguments I made earlier about there "being no basis to
6 limit their participation on subject matter". I was
7 especially surprised by the argument that somehow the fact
8 that they may have properties that aren't abutting the
9 property, that they can't protect those rights or
10 interests or impacts that might occur on those properties,
11 is fairly astonishing an argument to make, and I don't
12 think that should be given much credence.

13 I really didn't understand the "wind
14 policy" argument. It seems to me, if they have some way
15 of processing this information within their own
16 organization and presenting it to you, I don't know why
17 that would offend anybody. And, I don't see that as a
18 basis for denying the intervention. Thank you.

19 MS. GEIGER: Excuse me. May I briefly
20 respond? And, just to clarify --

21 CHAIRMAN IGNATIUS: Briefly.

22 MS. GEIGER: -- for Mr. Roth, I didn't
23 intend to astonish him. And, I probably didn't articulate
24 the basis for my objection very well then, if I did. The

1 reason -- the reason that I cited, and I was reading from
2 my written pleadings, one of the reasons that we cited for
3 the objection was that the Petition itself did not explain
4 exactly what the Audubon Society's duties and
5 responsibilities and obligations were to these other
6 non-abutting parcels. I believe Mr. Howe has explained a
7 little bit further on the record this morning. And, so, I
8 didn't mean to suggest that they didn't.

9 Just, if they had other interests or
10 property rights that were somehow implicated and obvious,
11 certainly they're free to advance those. But the Petition
12 itself didn't explain what these -- what these rights
13 were.

14 CHAIRMAN IGNATIUS: All right. The next
15 -- oh, yes, Mr. Howe.

16 MR. HOWE: Chairman Ignatius, if I could
17 make just one more point. I don't need to respond to most
18 of that. I meant to say that, for the same reasons that I
19 said that we have kind of a special perspective here that
20 should not lead to any limitation on our participation,
21 the same reasoning would apply that we would not like to
22 see ourselves combined in a joint presentation to the
23 Committee. Our interests are different from the other
24 property owners. We have not reached an agreement with

1 the Applicant, such as the Harris Center has. AMC, we
2 welcome in the proceeding. They do not have a property
3 interest at stake, such as we do.

4 CHAIRMAN IGNATIUS: Thank you. The
5 Industrial Wind, I can't find your pleading. I know you
6 filed it, I saw it. It's not --

7 MS. LINOWES: Would you like --

8 CHAIRMAN IGNATIUS: I'm not finding it
9 in front of me. But that's all right. Why don't you go
10 ahead, Ms. Linowes. If there are things that you have --
11 here it is -- you have in addition to your pleading or
12 anything you want to particularly stress, without going
13 through all of it.

14 MS. LINOWES: Thank you, madam Chairman.
15 I just wanted to state, I have specific experience in wind
16 energy development. I've tracked wind energy across the
17 country. I was an intervenor with full status before the
18 Site Evaluation Committee on the Granite Reliable, LLC
19 Project, as well as the Deerfield Wind Project, in
20 Vermont, before the Public Service Board, also full
21 status. In those cases -- and, in the case of Lempster, I
22 was an intervenor, but as an individual in the State of
23 New Hampshire, a resident. It was my experience that the
24 -- that the information I brought to the table I thought

1 was helpful and expanded the record from specific
2 knowledge of other similarly sited projects elsewhere in
3 the country.

4 It was also my experience that any
5 delays that occurred, Granite Reliable was delayed in
6 terms of the decision, it was largely because of the
7 information that was brought forward that was known by the
8 Applicant, but not readily brought forward by them, but
9 was brought forward through cross-examination and
10 information that other intervenors, myself included,
11 brought forward.

12 I think, to identify intervenors and
13 exclude them because of -- for the reasons that Attorney
14 Geiger has put forth, would shortchange the State of New
15 Hampshire and this Committee in getting access to
16 information that may not be readily forthcoming. Thank
17 you.

18 CHAIRMAN IGNATIUS: Thank you.
19 Ms. Geiger, I know you filed a response to the Petition,
20 included in your group response. Do you want to speak to
21 that or any of what Ms. Linowes just spoke to?

22 MS. GEIGER: Yes. Thank you. The first
23 basis for the Applicant's objection to the Industrial Wind
24 Action Group's Petition is based not on opinion or a

1 position, it's based on the statute, 541-A:32, I,
2 subsections (b) and (c). These are requirements that the
3 Legislature has put in place for persons or parties
4 seeking intervention in administrative hearings. So,
5 these aren't just personal preferences or positions of the
6 Applicant.

7 As we stated in our response, we
8 primarily object because we believe that IWAG's Petition
9 to Intervene doesn't meet the standards articulated in the
10 statutes that I just cited. More specifically, IWAG has
11 not demonstrated that its rights, duties, privileges,
12 immunities or other substantial interests may be affected
13 here, or that it qualifies for intervention under any
14 profession of law. The fact that a presiding officer in
15 other administrative hearings held by the Site Evaluation
16 Committee may have allowed Ms. Linowes and/or her
17 organization to intervene does not relieve this presiding
18 officer of her responsibility to analyze the facts and the
19 law that applies here and make a determination.

20 Here, in its Petition, IWAG states that
21 it's "a national organization comprised of subscribers who
22 reside throughout the United States, including neighbors
23 to the lands on which the...facilities [of this project]
24 will be constructed." And, the Petition goes on to state

1 other interests that the subscribers of IWAG have, one of
2 them being that they live "within the ISO Control" --
3 "ISO-New England Control Area", and there are others.

4 Even though IWAG has, obviously, some
5 "interest" in wind power and wind projects, those
6 interests are not commensurate with the legal interests
7 that must be demonstrated under the statute for
8 intervention. In addition, it is, even though it -- in
9 addition, I would note that, in the Granite Reliable Power
10 case, the presiding officer made a specific determination
11 that "IWAG did not demonstrate rights, duties, privileges,
12 immunities or other substantial interests" that required
13 it to be granted intervention in that proceeding.
14 However, IWAG was allowed to intervene there under what we
15 believe was a flawed interpretation of the statute, RSA
16 541-A:32. And, we've explained that analysis and why we
17 believe it's inappropriate in the pleading that we filed
18 on May 4th.

19 More specifically and succinctly, we
20 believe that the presiding officer in other cases has
21 invoked improperly the provisions of RSA 541-A:32, II,
22 which we believe relates only to untimely filed petitions
23 for intervention. So, in other words, as we've laid out
24 in pleading, we believe all persons wishing to intervene,

1 even late filers, must meet the statutory requirements
2 that demonstrate that they have rights, duties,
3 privileges, immunities, *etcetera*. And, -- and, assuming
4 they meet those qualifications and those criteria, if they
5 are intervening late, then the presiding officer, under
6 II, can allow the petitioner to intervene, so long as it
7 would be in the interest of justice and the orderly and
8 prompt conduct of the proceedings would not be impaired.

9 So, again, even though a petition for
10 intervention by IWAG, and perhaps others, were allowed in
11 other proceedings, we believe that that was a
12 misapplication of the statute.

13 In addition to that, we would object,
14 because we believe that the Petition filed by IWAG, the
15 issues of concern expressed there, are common to the
16 public at large, and that those interests could be
17 adequately protected by Counsel for the Public in this
18 proceeding. A similar determination has been made by a
19 presiding officer in the Laidlaw docket. In that case,
20 intervention was denied to a resident of a host community
21 for his failure to state substantial interests that differ
22 from the public at large, and because the Public Counsel
23 could adequately represent that person's interests. And,
24 we've cited that case and decision in our pleading.

1 Therefore, to the extent that IWAG's
2 interests are indistinguishable from those of the public
3 at large, participation by IWAG separately from others
4 could create inefficiencies and redundancies that could
5 threaten to disrupt the orderly and prompt conduct of the
6 proceedings. So, we believe their intervention petition
7 should be denied.

8 In addition, we would note that, to the
9 extent IWAG has information that it believes would be
10 helpful to this proceeding, they need not become a full
11 intervenor to provide the Committee with that information.
12 Under RSA 162-H:6-a, VII, members of the public can
13 provide comments on applications at the adjudicative
14 hearing. And, in addition to that, under RSA 162-H:10,
15 III, the Site Evaluation Committee can consider and weigh
16 information and reports submitted by members of the
17 public, both during and -- before, during, and after the
18 proceeding. So, we believe that, to the extent IWAG
19 wishes to participate, they need not be an intervenor in
20 this proceeding.

21 CHAIRMAN IGNATIUS: Thank you. Mr.
22 Roth, any comments? And, then we'll loop back to Ms.
23 Linowes for final words, if she has any.

24 MR. ROTH: Yes. Thank you. I would

1 just say that, in previous proceedings in which IWAG has
2 participated, I have found their contributions to be
3 interesting and helpful, and in no way disruptive or
4 causing of undue delay or chaos or anything like it. And,
5 while, you know, I think that their opposition to wind
6 energy and wind projects is well known, I think that they
7 have handled themselves in a professional and orderly way.

8 To suggest that, because -- or, to
9 suggest that they simply represent "interests of the
10 public and they're no different than the public" I think
11 is perhaps not entirely fair to the public, because the
12 public has -- some people are in favor of this project and
13 some people are opposed to it. So, to the extent that
14 Ms. Linowes' organization represents those people who are
15 opposed to it, I suppose there's something to that. But
16 that doesn't simply say that, you know, they represent
17 everybody.

18 And, I think the same argument goes with
19 respect to Counsel for the Public. I cannot stand here
20 and say that "I will oppose this project and make the
21 International -- or, the Industrial Wind Action Group
22 happy", because that's not going to happen. You know, but
23 I will say that I've always had a good working
24 relationship with Ms. Linowes and she's conducted herself

1 in a professional way in these proceedings. And, she
2 should be allowed to intervene here as well. Thank you.

3 CHAIRMAN IGNATIUS: Thank you. Ms.
4 Linowes, comments for you. And, let me ask one question.
5 Are any of your subscribers people who live in Antrim or
6 own property in Antrim?

7 MS. LINOWES: They are. But I don't
8 release their names. There are people that are
9 subscribers that live within Antrim, as well as
10 surrounding communities. And, they've asked me to --

11 CHAIRMAN IGNATIUS: Without asking you
12 names, can you tell me how many there are, if you know?

13 MS. LINOWES: Not that -- well, not
14 many. Probably, maybe six.

15 CHAIRMAN IGNATIUS: Who live in or in
16 adjoining towns?

17 MS. LINOWES: The surrounding community,
18 correct.

19 CHAIRMAN IGNATIUS: All right. Other
20 comments?

21 MS. LINOWES: Yes. First of all, I
22 wanted to make a comment. I'm happy that Attorney Geiger
23 has referenced RSA 451-A:32 [541-A:32?], and not the rules
24 for the Site Evaluation Committee. Specifically, if she

1 objects to my participation as -- or, acceptance as an
2 intervenor under Roman Numeral I, II does not say anything
3 about "late filed". It says, "The presiding officer may
4 grant one or more petitions for intervention at any time,
5 upon determining that such intervention will be in the
6 interests of justice and would not impair the orderly and
7 prompt conduct of the proceedings." So, this exaggerated,
8 unnecessary argument over "late filed", and only late
9 filed applications would come under II, I don't understand
10 where that's coming from. The plain reading of the law
11 does not say anything about "late filed".

12 So, the other point I wanted to make is
13 that the -- we know well that comments coming through from
14 the public are not comments that carry the same kind of
15 weight as those that have intervenor status. Intervenors
16 do have specific privileges that do not come with -- that
17 the public does not have. And, the information that I
18 would expect to examine under cross-examination with the
19 Applicant would have to do with their claimed economic
20 benefits, their claimed environmental benefits,
21 specifically CO2 emission reductions, and other -- a host
22 of other questions that relate to this project that
23 Attorney Roth did not mention, that I think need to be
24 fully vetted.

1 And, finally, the objection to my
2 application for intervenor status, as well as the others
3 that were received on or around April 30th, was -- I
4 received it on Friday. If the Applicant would like a
5 formal -- or, madam Chairman, would like a formal
6 response, I would like the opportunity, if they feel that
7 the information that was in my petition was inadequate or
8 deficient, I would like that opportunity to respond to it
9 with more detail, and perhaps that would help satisfy the
10 Applicant in accepting my intervenor petition. Thank you.

11 CHAIRMAN IGNATIUS: Thank you.

12 MS. GEIGER: May I --

13 CHAIRMAN IGNATIUS: Ms. Geiger, very
14 briefly please.

15 MS. GEIGER: Very briefly. Just want to
16 thank Ms. Linowes for pointing out that I did not, in my
17 oral comments, cite to a reference that is in my written
18 comments, and that is to the Committee's rules, Site
19 202.11(c). That rule clearly states that "the presiding
20 officer [can] grant...late-filed petitions to intervene
21 pursuant to 541-A:32, II."

22 So, we believe, and, again, I tried to
23 give a very abbreviated version of the arguments in my
24 written pleading, and therefore neglected to cite to that

1 rule. But I believe that rule, as well as an overall
2 review and interpretation of 541-A:32, lend itself to the
3 conclusion that all intervenors, all parties requesting
4 intervention must meet the standards that are articulated
5 under I of Section 32.

6 CHAIRMAN IGNATIUS: Thank you. We have
7 the -- I'm told that the AMC has sought intervention, but
8 I haven't seen anything. Is there a written pleading?

9 MR. KIMBALL: Yes. I filed that on May
10 2nd.

11 MR. IACOPINO: Do you have a copy with
12 you --

13 MR. KIMBALL: Yes, I do.

14 MR. IACOPINO: -- that the Chair could
15 use?

16 CHAIRMAN IGNATIUS: I would appreciate a
17 copy. We can return it to you and make extras of it.
18 Presumably, it's in the building somewhere.

19 (Mr. Kimball handing document to Mr.
20 Iacopino.)

21 MR. IACOPINO: Thank you.

22 CHAIRMAN IGNATIUS: And, you are Mr.
23 Kimball, is that right?

24 MR. KIMBALL: That is correct.

1 CHAIRMAN IGNATIUS: Would you like to
2 address your pleading? And, have others seen this? Are
3 they aware of this being filed? And, it looks like it was
4 emailed on the 2nd, and, hopefully, it's been widely
5 enough distributed that people are aware of it. Please go
6 ahead, Mr. Kimball.

7 MR. KIMBALL: Yes. Thank you, madam
8 Chairman. First off, AMC's namesake is "Mountains". And,
9 the Appalachian Mountain Club was formed in 1876. And,
10 our primary mission is to provide for the protection, wise
11 stewardship and use of the mountains. And, there's
12 probably nothing that is impacting mountains more in the
13 State of New Hampshire than wind power development today.
14 AMC has over 10,000 members in New Hampshire, and over
15 80,000 members, many of them who come to New Hampshire to
16 use New Hampshire's mountains.

17 AMC has also had a very rich history in
18 wind power development. We participated in the
19 subcommittee that looked at wind energy siting. We
20 participated as a intervenor in the Granite Reliable
21 Project. AMC brought much of the information that was
22 used in determining the final mitigation that was used in
23 the Granite Reliable Project. So, I think we've had a
24 very, very rich history in wind power development here in

1 the State of New Hampshire, and it very much fits with our
2 namesake and the interests that our organization has.

3 There was an objection to our
4 intervention that we would obstruct justice and the prompt
5 conduct of these proceedings. I believe, if you take a
6 look at the record with Granite Reliable, you would find
7 that that's very contradictory to that particular
8 statement, particularly when that statement is made with
9 no evidence whatsoever, based on our past history. And, I
10 think, if you even look at the SEC's Webpage, there is the
11 draft Wind Power Siting Policy, of which AMC was one of
12 the leads in actually putting together that was used.

13 Number two is "the interests described
14 by AMC are indistinguishable from those of the others." I
15 would point out, as has already been pointed out by
16 Attorney Roth and others, that the public's position does
17 vary on wind power, from being pro-development to
18 anti-development. And, we believe that it would be
19 improper to essentially put us in either one of those
20 categories, as we take a look at the facts and determine
21 what is in the best interest of mountains relative to the
22 interests of our organization.

23 There was also a request to combine us
24 with Audubon. We do not believe that that is correct at

1 this time. Audubon owns property there; we do not.
2 Audubon has interests in wildlife; AMC's interest is not
3 only the ecosystem, but also has to do with the aesthetics
4 and the recreational use of these mountains.

5 And, I think, if you took Attorney
6 Geiger's objections at face value, it basically would say
7 is the only groups that could intervene would be abutters.
8 And, it would also be taking the position that the only
9 entities that could provide viable information would be
10 State resource agencies, relative to the intervening
11 process. And, we don't believe the history of looking at
12 cases before the SEC has shown that to be the case. And,
13 I think that it has been demonstrated, not only by our
14 organization, but other organizations, that there is a
15 capability of bringing many times information that the
16 State resource agencies may not have at their hands.
17 Thank you.

18 CHAIRMAN IGNATIUS: Thank you. Ms.
19 Geiger.

20 MS. GEIGER: Yes. Thank you, Chairman
21 Ignatius. The responses and objections that the Applicant
22 has are laid out at Pages 13 through 15 of the pleading
23 that we filed on Friday. Specifically, while we have
24 great respect, obviously, for AMC's rich history, as well

1 as its charge to protect the mountains, we believe that,
2 as a matter of law, AMC still must qualify for
3 intervention by meeting the standards articulated under
4 the statute. As we've indicated in our pleadings, we
5 believe that the AMC Petition does not do that. We
6 believe that AMC's interests are indistinguishable from
7 the public at large.

8 We also would like to point out again,
9 as we pointed out with respect to Industrial Wind Action
10 Group, that it has been previously determined in the
11 Granite Reliable Power docket that AMC has not
12 demonstrated rights, duties, privileges, immunities or
13 other substantial interests that required it to be granted
14 intervention in that proceeding. And, again, as we argued
15 with IWAG, we believe that that intervention was granted
16 under a misapplication of the relevant statute. And, I
17 won't repeat those arguments here, because they have been
18 made in my pleading. But I did not, and I need to clarify
19 this, I did not, in my response, indicate that AMC, if it
20 were allowed to intervene, should be consolidated with the
21 participation of Audubon. We simply objected on the basis
22 that AMC's interests are similar to those expressed by
23 Audubon, and that allowing AMC to intervene as a separate
24 party would duplicate efforts and create redundancies and

1 inefficiencies that would disrupt the orderly and prompt
2 conduct of the proceedings, and therefore would be
3 impermissible under RSA 541-A:32, I(c).

4 So, we would also end on the note by
5 indicating that, if AMC or other members of the public
6 wish to make comments or provide information to the
7 Subcommittee, they clearly are free to do that under a
8 couple of statutes that I've cited previously.

9 CHAIRMAN IGNATIUS: Thank you. Mr.
10 Roth.

11 MR. ROTH: Thank you. I just want to
12 briefly address the argument about 541-A:32, II. I think
13 that Ms. Linowes touched on this a little bit, but the
14 argument applies here as well. It would be nice if that's
15 what it said, but that's not what the statute says. The
16 statute doesn't say "if you're late, then you apply -- you
17 can do it this way." And, I think it's already been
18 established as a precedent in this body that that statute
19 enables intervention on a somewhat more relaxed basis.

20 In addition, I would suggest that AMC
21 and other organizations, and I think this probably applies
22 to IWAG as well, is really what we're talking about are
23 the interests of their members. And, I don't know, you
24 know, I didn't get a good close look at their intervention

1 application. But, if my memory about it and about the
2 general jurisprudence on the standing of organizations
3 like this is correct, it's the activities of their
4 members. And, if they -- I think, given the shortness of
5 the time between which the application was made, the
6 objections were made, this hearing was conducted without
7 notice to anybody, that they should be all given an
8 opportunity to submit further evidence about the interests
9 of their members in this proceeding.

10 CHAIRMAN IGNATIUS: And, I just, for the
11 record, that's an incorrect statement. This hearing was
12 not held without any notice to anyone. I know you take
13 issue to whether there was enough description of
14 discussing interventions. But there's clearly notice of
15 this hearing today. But continue.

16 MR. ROTH: There was clearly notice of a
17 prehearing conference, but not a hearing on objections to
18 intervention.

19 But the last thing I would point out
20 about AMC is, in terms of -- there was -- to the contrary
21 of there being any impairment or disorderly nature of the
22 proceedings because of their involvement in the Granite
23 Reliable case, I found them also to have conducted
24 themselves in a very professional, courteous, and orderly

1 fashion. The information that they brought to the record
2 was invaluable, and was, as I think Mr. Kimball has said,
3 directly and perhaps of greatest weight in terms of
4 fashioning a really good mitigation plan in that case.
5 And, I would expect that their participation in this case
6 ought to be welcomed by all the parties in this case,
7 because it's going to produce a much better result for
8 everybody involved. Thank you.

9 CHAIRMAN IGNATIUS: Thank you. Any
10 response, Mr. Kimball?

11 MR. KIMBALL: I think it's all been
12 said. I won't repeat it.

13 CHAIRMAN IGNATIUS: All right. Thank
14 you. I do have one question for you. Do you have members
15 -- you are a membership organization, correct?

16 MR. KIMBALL: That is correct.

17 CHAIRMAN IGNATIUS: Do you have members
18 in Antrim?

19 MR. KIMBALL: I have not looked at that,
20 so I can't answer. I would be surprised if we do not have
21 members in that general area, since we have over 10,000
22 members in New Hampshire. And, the largest proportion of
23 our membership is in the southern part of the state. But
24 I did not come prepared to answer that.

1 CHAIRMAN IGNATIUS: Mr. Iacopino has a
2 question.

3 MR. IACOPINO: Mr. Kimball, when AMC
4 intervened in the Granite Reliable, that was a project
5 that dealt with a project area that, in large part, was
6 above 2,700 feet elevation. I don't believe that we have
7 those types of elevations in this particular docket. How
8 would you respond to that might be a difference that
9 should be noted for the purposes of intervention?

10 MR. KIMBALL: There are multiple impacts
11 that come from these projects. In that particular
12 project, and the criteria that we used, the biggest impact
13 was on the high-elevation alpine ecosystems. I think, if
14 you took a look at our interventions in Maine, and
15 particularly with the Highlands Project, one of the
16 biggest impacts there was visual. And, this project here
17 is going to have a major visual impact. And, the
18 aesthetics and the visual use of the mountains is
19 extremely important to our membership.

20 MR. IACOPINO: Thank you.

21 CHAIRMAN IGNATIUS: Thank you. All
22 right. We now have numerous individual requests for
23 intervention; some of the people who filed are here, some
24 are not. I think that those that are present, we have a

1 handful. And, so, I think we don't need everyone to
2 restate what they have already spoken to, but maybe we'll
3 go in the order people are here. First, looking at Mr.
4 Block. You filed your petition on behalf of yourself and
5 your wife. And, is there anything that you want to
6 highlight from that or add or add to, based on this
7 morning's discussion? And, you don't need to restate,
8 and, again, this isn't a time to discuss the merits of the
9 Application. It's really the procedural questions of what
10 interests are at stake that you would be representing.

11 MR. BLOCK: Okay. I'd like to add that,
12 besides myself and my wife, today I'm also speaking on
13 behalf of Katharine Sullivan, Elsa Voelcker, James
14 Hankard, Samuel and Michele Apkarian, and Clifton
15 Burdette. None of whom could make it today. Almost all
16 of these people were intervenors in the Antrim Wind
17 jurisdictional hearings a year ago. And, all live in
18 close proximity to the proposed site and in the rural
19 conservation zone. And, we share issues that are of
20 concern, including property values, noise, potential noise
21 and shadow flicker, the general quality of life and
22 aesthetics of our property, and, also, concern for
23 equitably applied zoning issues, vis-a-vis the Rural
24 Conservation District.

1 So, I guess, I mean, I think the
2 petitions speak for themselves. And, I think we all are
3 very concerned with the outcome of this.

4 CHAIRMAN IGNATIUS: Thank you. One of
5 the people who's not here, but filed a similar sort of
6 pleading to the others, was Mr. Craig. Are you speaking
7 on behalf of Mr. Craig also?

8 MR. BLOCK: Actually, no. The reason I
9 wasn't speaking for Clark Craig, is Clark Craig is a
10 direct abutter to the property. None of the people I
11 mentioned are direct abutters, although we do live in
12 close proximity. I was hoping that Janice Longgood who's
13 here, who is also a direct abutter, might speak for Clark
14 Craig, because they worked together on their application,
15 on their petitions.

16 CHAIRMAN IGNATIUS: All right. Thank
17 you. That's a good distinction. I appreciate that.
18 Ms. Geiger.

19 MS. GEIGER: Yes. Thank you. On Page
20 13 of the filing that we made on May 4th, we've set out
21 our position with respect to the intervention requests of
22 non-abutting property owners who have indicated they
23 reside in the North Branch Region of Antrim.

24 More specifically, the Applicant takes

1 no position on the Apkarian, Block, Burdette, Cleland,
2 Hankard, Law, and Voelcker motions. However, in the event
3 these individuals are allowed to intervene, the Applicant
4 would ask that these non-abutting property owners be
5 consolidated or that their interventions and participation
6 be consolidated. And, more specifically, that they be
7 required to designate a spokesperson for the group, and to
8 notify everyone on the service list of such designation as
9 soon as possible, to conduct discovery as a group, and to
10 combine their presentation of witnesses, argument, and
11 cross-examination, and all other forms of participation in
12 this docket. In addition, we would ask that the presiding
13 officer limit their intervention as the presiding officer
14 deems appropriate.

15 Now, with respect to Ms. Sullivan, who
16 Mr. Block indicated that he was also representing this
17 morning, we filed a separate response to Ms. Sullivan,
18 because she's not within that North Branch Region of
19 Antrim. And, our objection with respect to Ms. Sullivan
20 is that she has indicated, I believe, that her property
21 abuts the Audubon Society's property. She's also
22 indicated in her application -- or, excuse me, in her
23 Petition for Intervention that -- that the property, that
24 Audubon's property or wildlife sanctuary has been ably

1 protected and managed by Audubon. And, therefore, it's
2 our position, the Applicant's position, that, because
3 Ms. Sullivan isn't a direct -- is not a direct abutter,
4 and because her interests are aligned with and ably
5 protected by the Audubon Society, that she should not be
6 allowed to intervene in these proceedings, and that such
7 participation would be duplicative of Audubon's, and
8 therefore would impair the orderly and prompt conduct of
9 the proceedings.

10 However, in the alternative, if the
11 presiding officer allows Ms. Sullivan to participate or
12 intervene, she should combine her participation with the
13 Audubon Society's, or others whose interests are similar
14 to hers. And, in addition, if such -- such intervention
15 is granted, and if her participation is otherwise limited
16 or consolidated, that she should be subject to conditions,
17 such as being in a group that's required to designate a
18 spokesperson and conduct cross-examination, discovery, and
19 other participation as a group.

20 CHAIRMAN IGNATIUS: Mr. Roth, any
21 response that goes beyond what we've already been hearing?

22 MR. ROTH: Yes. Actually, I share
23 Ms. Geiger's concern on this, that the non-abutting
24 intervenors be grouped and made to designate a

1 spokesperson and participate with, basically, you know, a
2 single voice or responsible person. I think that's a
3 technique that's worked well in the past, and I think it
4 would work well here.

5 With respect to Ms. Sullivan, who I'm
6 not -- I don't know whether Ms. Sullivan, nor any of the
7 others, to the extent that they were already granted
8 intervenor status in the jurisdictional phase of this
9 case, it seems to me that that creates a strong
10 presumption, if not, in fact, law of the case that they
11 should be granted intervenor status in this proceeding.
12 Thank you.

13 MS. GEIGER: And, excuse me. I don't
14 believe that Ms. Sullivan was granted intervenor status
15 previously.

16 CHAIRMAN IGNATIUS: All right.

17 MR. IACOPINO: Mr. Block is --

18 CHAIRMAN IGNATIUS: Oh, I'm sorry.
19 Mr. Block, yes.

20 MR. BLOCK: May I respond? In the case
21 of Ms. Sullivan, she is a resident who does live in very
22 close proximity to Willard Pond, where, as you've seen,
23 there will be a significant presence of the turbines. I
24 believe that the Audubon Society is not planning to speak

1 for residential issues, but rather for wildlife and
2 perhaps recreational issues. So, I don't believe that
3 it's appropriate for Ms. Sullivan's application to be
4 included with them.

5 As far as everybody else I've mentioned,
6 we do not have any objection to consolidating the group of
7 non-abutters. I would suggest that -- that direct
8 abutters are not included in that group. And, I also
9 suggest that other Antrim residents, who do not live
10 directly in close proximity, not be included in that
11 group. But the rest of us are fine with consolidating.

12 CHAIRMAN IGNATIUS: All right. Mr.
13 Howe, I saw you beginning to rise?

14 MR. HOWE: Yes. Thank you. I think
15 I've addressed the consolidation issue previously. I'd
16 just simply like to add that, if the Committee were to
17 require Ms. Sullivan and New Hampshire Audubon to
18 consolidate, you'd put me in a difficult position
19 professionally, because it would be very difficult I think
20 for me to avoid attorney/client relationship with them.
21 And, so, another consideration for you.

22 CHAIRMAN IGNATIUS: All right. And,
23 Mr. Block's comment that he understood that Audubon would
24 not be taking up what he called "residential issues", is

1 that -- would you agree with that statement?

2 MR. HOWE: I don't want to agree with
3 that, but we do have a different perspective, because we
4 hold property as a charitable trust and not as a private
5 individual. And, so, our perspectives would be different.

6 CHAIRMAN IGNATIUS: All right. Thank
7 you. Is there anyone who's similar to Mr. Block, has sort
8 of come prepared to act as sort of a spokesperson for any
9 other groupings of intervenors?

10 (No verbal response)

11 CHAIRMAN IGNATIUS: If not, we can just
12 work through the list. But, if there's anyone who's going
13 to speak on behalf of or -- yes. Are you Ms. Law?

14 MS. LAW: Yes.

15 CHAIRMAN IGNATIUS: Yes. Please.

16 MS. LAW: I was representing Bob
17 Cleland, my partner, but we'll be included in the group
18 with the Blocks.

19 CHAIRMAN IGNATIUS: Okay.

20 MS. LAW: As the North Branch/Farmstead
21 non-abutters.

22 CHAIRMAN IGNATIUS: All right. Is there
23 anyone else who would sort of self-identify themselves
24 with Mr. Block's group, the Block block, that you would

1 add to that? And, then --

2 (No verbal response)

3 CHAIRMAN IGNATIUS: That's it? Okay.

4 And, Ms. Geiger, any other response that hasn't been
5 mentioned as to Ms. Law or Mr. Cleland?

6 MS. GEIGER: No. I would just rely on
7 what's in the pleading.

8 CHAIRMAN IGNATIUS: All right. Thank
9 you. Then, we have Ms. Longgood, perhaps you're next?

10 MS. LONGGOOD: Hi. I am a direct
11 abutter to the proposed Project. And, I'd like to draw
12 your attention, on your tour, I believe I saw on the map
13 you were going up to the power lines on Salmon Brook Road.
14 If you went to the end of the road, a half a mile beyond,
15 my driveway is like a fork. And, we chose to build a
16 house 800 feet into the woods off Salmon Brook Road, which
17 would put me in closer proximity to this Project. And, as
18 a direct abutter, there are a variety of issues that I am
19 gravely concerned about, and believe that this Project
20 will have a very negative impact on the quality of life,
21 presumptions that have gone with the land since I've lived
22 there. And, I would like to ask for full intervention
23 status.

24 I'm also concerned with health, noise,

1 there's the entire gamut. But, if you drove up there,
2 I've seen maps, I was told in the public hearing there was
3 only one residence that was half a mile within -- from the
4 Project. Every map I've seen would be key, I'm in very
5 close proximity to that half mile, from what I can read on
6 the maps that have been developed. So, I have a very
7 strong interest in the outcome of this proceeding. Thank
8 you.

9 CHAIRMAN IGNATIUS: All right. Thank
10 you.

11 MS. LONGGOOD: And, I'm also to speak
12 for Clark Craig, who is a direct abutter, who was unable
13 to be here, who has similar concerns and has lived for the
14 entirety of his life in his residence.

15 CHAIRMAN IGNATIUS: Thank you. That
16 part of the tour, I have to say, I brought a tick home
17 that I think might be belong to --

18 (Laughter.)

19 MS. LONGGOOD: You didn't go up far
20 enough.

21 CHAIRMAN IGNATIUS: A little souvenir.
22 Ms. Geiger.

23 MS. GEIGER: Thank you. Perhaps to save
24 some time, the Applicant doesn't object to the requests

1 for intervention of abutters Brenda Schaefer, Mark
2 Schaefer, Nathan Schaefer, Janice Longgood, and Craig
3 Clark, Jr. We've indicated our position on Page 5 of the
4 pleading we filed on Friday.

5 Basically, we recognize that, as
6 intervenors, that they do meet the intervention criteria
7 established by the statute. However, we would
8 respectfully ask that these abutters' participation be
9 consolidated or limited in accordance with the presiding
10 officer's authority under the statute. And, more
11 specifically, we would request that these abutters
12 designate a spokesperson for the group and notify the
13 service list as soon as possible as to who that is,
14 conduct discovery as a group and combine their
15 presentations of witnesses, cross-examination, and all
16 other matters pertaining to their participation.

17 CHAIRMAN IGNATIUS: Mr. Schaefer, we
18 haven't heard from you yet. Is that -- have you -- did
19 you review that? Do you have any response to that?

20 MR. SCHAEFER: I do have a response. I
21 am an individual abutter, and I would like to be separate
22 in my intervention. Although we have similar interests,
23 but we do have different interests. And, I would like to
24 have our family as a separate intervention. And, the

1 quantity of abutters is small enough that I think that
2 would be a reasonable request.

3 CHAIRMAN IGNATIUS: All right. Mr.
4 Roth, any response?

5 MR. ROTH: Yes. Actually, I agree with
6 Mr. Schaefer. I'm not sure that requiring these abutters
7 to consolidate, if they don't want to, is necessary or
8 perhaps even appropriate. They may wish to consolidate,
9 and I think that's, you know, there are economies of scale
10 to be done in doing that. But it seems to me that, where
11 these individual property owners may have a very specific
12 appellate right, and to bundle them together, you know, in
13 a way that's a little bit unnatural, in terms of their
14 property ownership, could create problems for them, both
15 in building a record for an appeal, and perhaps even in
16 taking an appeal. So, I would suggest that, perhaps in
17 this instance, that the consolidation rule or policy not
18 be applied, and that they be allowed, if they wish, to
19 intervene separately. Thank you.

20 MS. GEIGER: I would take a different
21 view of that. And, I understand that this may be a bit
22 unfair, but there is a map in the Application showing
23 where the abutters' properties are. And, make an offer of
24 proof that on the Project abutter map, at least the one I

1 have copied from the Application, indicates that the
2 Schaefer's property and the Longgood property are right
3 next to one another.

4 And, so, I think that they should be
5 consolidated. I'm not quite sure I understand Attorney
6 Roth's argument about appellate rights. It seems to me
7 that participants in this proceeding can combine their
8 presentations and still preserve whatever rights they may
9 have individually to take appeals to the Supreme Court, if
10 they believe that's appropriate.

11 So, you know, for purposes of
12 administrative efficiency, as well as the orderly and
13 prompt conduct of these proceedings, I believe that the
14 Schaefer, Longgood, and Clark groups should be
15 consolidated. They're all direct abutters. And,
16 especially Schaefer and Longgood's properties are right
17 next to one another. So, I don't see any --

18 MR. SCHAEFER: That's irrelevant.

19 MS. GEIGER: I don't --

20 MR. IACOPINO: Ms. Geiger, do you have
21 the figure number or map number that you've referred to in
22 the Application?

23 MS. GEIGER: It's in -- I believe it's
24 in Volume II of the Application. And, I apologize that I

1 don't actually have the -- it is the Abutters Map. And, I
2 --

3 MR. IACOPINO: Is that the title on the
4 document, "Abutters Map"?

5 MS. GEIGER: It is. And, I apologize
6 I --

7 MR. IACOPINO: And, it's in Volume II?

8 MS. GEIGER: I believe so.

9 MR. IACOPINO: Thank you.

10 MS. GEIGER: And, in addition, in the
11 back or directly behind the Abutters Map, there's a list
12 of abutters, too. So, as you are working your way through
13 these intervention requests, it may make some sense to
14 take a look at that. But, again, as an offer of proof,
15 and I'll leave it to these property owners to tell you
16 where they live. But Schaefer and Longgood's properties
17 abut one another, and they also abut the Project.

18 CHAIRMAN IGNATIUS: Is your argument
19 that they should be granted intervention, but that you are
20 asking that they be required to consolidate their
21 participation in the hearing as a group?

22 MS. GEIGER: Correct. Correct. And, I
23 haven't heard anything this morning or haven't seen
24 anything in the petitions that explains, that's not to say

1 that there isn't an explanation, but I haven't heard an
2 explanation as to why their interests are so distinct or
3 different from one another that they should be
4 consolidated. Granted, I understand it's within the
5 discretion of the presiding officer to make that
6 determination.

7 CHAIRMAN IGNATIUS: Well, one of the
8 things I think is important for people to keep in mind is
9 I use -- think of these terms, whether or not one is
10 granted intervention is a separate question from whether
11 or not one designates a spokesperson to work together in
12 the conduct of the proceedings. And, so, when I hear the
13 word "consolidation", I don't take that to mean to turn it
14 into only one intervention and only one interest being
15 represented, but that it would be just more of a
16 management of the process. "Coordination" maybe is a
17 better word than "consolidation". Is that how you're
18 using the word "consolidation"?

19 MS. GEIGER: Yes. And, I believe
20 historically that's the way the Site Evaluation Committee
21 has operated with respect to combined participations by
22 intervenors.

23 CHAIRMAN IGNATIUS: All right.

24 MR. ROTH: Madam Chairman, just one

1 thought on it. If, for example, one of these property
2 owners wanted to retain an expert to render an opinion on
3 property value, and the other one didn't, now,
4 coordinating that could be an interesting challenge, and
5 especially in terms of trying to "who's going to share the
6 fee?"

7 I know, you know, in the Groton case,
8 one property owner hired a consultant, at considerable
9 expense to himself. So, if they were to do something like
10 that in this case, you know, it could create confusion and
11 problems for them within their -- in their sort of
12 organization.

13 And, so, as I say, I think, you know, if
14 they want to do this, I think they ought to welcome that
15 opportunity, but I don't think they should be made to do
16 it. Thank you.

17 CHAIRMAN IGNATIUS: Thank you. The last
18 intervention request that I have didn't fit into either of
19 the two categories we've talked about so far, and that was
20 Mr. Edwards and Ms. Allen jointly petitioning. Ms. Allen,
21 you're here?

22 MS. ALLEN: Yes, I am.

23 CHAIRMAN IGNATIUS: Could you speak to
24 that please?

1 MS. ALLEN: Yes. Just briefly, speaking
2 to an earlier point made by --

3 (Court reporter interruption.)

4 CHAIRMAN IGNATIUS: And, you can remain
5 seated. Get good and close.

6 MS. ALLEN: Is that better?

7 CHAIRMAN IGNATIUS: There you go.

8 MS. ALLEN: Speaking earlier to the
9 point made by the Counsel for the Public, we were not
10 expecting today to have to give you a full reasoning for
11 why we're asking for intervening status. So, I'd like to
12 reserve the ability to send something in in writing after
13 this procedure.

14 We are not -- we are not here to either
15 support or to object to this Application. We are here in
16 our various capacities, I, as a school board member for a
17 cooperative school district that Antrim is part of, and
18 Mr. Edwards, as a member of the Town Budget Committee, to
19 bring special -- to alert the SEC to some special or
20 unusual circumstances that have to do with Antrim. I
21 believe that this is the first town that you have had a
22 hearing for that is a member of a cooperative school
23 district, and it has a very important tax aspect. Also,
24 we are, I believe, the first town that actually has a

1 contract with the wind developer that has been signed and
2 is in effect now. And, we would like to point out some
3 aspects of that that have a direct impact on the economic
4 and orderly economic development of our town and also of
5 the region.

6 All of our -- we're very narrowly
7 focused, and all of our points would speak to the
8 conditions that the SEC might want to include in granting
9 a certificate of the facility. And, I'm going back to
10 the, you know, Chapter 162-H, where you say that "all
11 [the] environmental, economic, and technical issues [need
12 to be] resolved in an integrated fashion." And, that is
13 the focus of our petition.

14 CHAIRMAN IGNATIUS: All right. Thank
15 you.

16 MS. ALLEN: Mr. Edwards would also like
17 to speak.

18 CHAIRMAN IGNATIUS: All right. Please.

19 MR. EDWARDS: Good morning. Can you
20 hear me?

21 CHAIRMAN IGNATIUS: Yes.

22 MR. EDWARDS: I'm listed, obviously, as
23 a "non-abutter property owner". But my question and
24 concern speaks to the issue of the level of oversight

1 provided by counsel for the people, the SEC, and even Town
2 counsel. I guess I would represent myself as being
3 concerned for the fiscal aspect to the Town of Antrim.
4 And, I'd like to cite an example, if I may. We did have a
5 Selectmen's meeting back in March. The purpose, it was a
6 public meeting. It developed into a discussion about a
7 key document between the Applicant and the Town of Antrim.
8 It recited terms and conditions that, after reading it, I
9 felt were poorly drafted in the best interests of the
10 Town. It spoke to things that are so critical, such as
11 the decommissioning costs associated with that, should
12 that occur. It spoke to the bonding and the letters of
13 credit, which I think were incorrectly stated.
14 Inadvertently, however, the Selectboard represented that
15 Town counsel reviewed the agreement and found it
16 acceptable. But it was not acceptable. And, it was
17 actually an error.

18 My concern is that I don't know who's
19 overseeing and to what level they're overseeing the Town's
20 interests and the taxpayers' interests. I know they'll
21 represent that the Board of Selectmen is the authority
22 that delivers that oversight. But we brought to the
23 attention of the Board of Selectmen the inefficiencies of
24 the document and the mistakes in the document. And, we

1 asked for time just to review it, because there was no
2 sense of urgency, except I was told by one of the Board of
3 Selectmen that we needed to pass and agree on this
4 agreement and sign it prior to the proposed energy --
5 large energy scale ordinance that was going to be voted
6 the following week by the public.

7 We asked for some consideration to work
8 together and to design something that represented more, in
9 my opinion, the interests of the Town. And, at the end of
10 that, all of the documentation that was submitted was
11 ignored, and the Board of Selectmen executed the document.
12 My only point is, that I'm not convinced that the Board of
13 Selectmen presently is representing the best interests of
14 the taxpayer. And, I would ask that we be allowed
15 intervenor status, so that we can do so to the best of our
16 ability, if it's not being done by the SEC or counsel for
17 the people, to the extent that it gets to this level.
18 Thank you.

19 CHAIRMAN IGNATIUS: Thank you. Ms.
20 Geiger.

21 MR. EDWARDS: Yes?

22 CHAIRMAN IGNATIUS: Ms. Geiger,
23 response?

24 MR. EDWARDS: Oh. I'm sorry.

1 MS. GEIGER: Yes. The Applicant has
2 objected to the petitions for intervention filed by Mr.
3 Edwards and Ms. Allen, they filed one petition together,
4 actually, because they haven't met the intervention
5 standards under the statute. More specifically, the
6 petition that they filed doesn't indicate with
7 particularity how their property or other substantial
8 interests will be affected by the instant proceedings.

9 As we are aware, they are not abutting
10 property owners. They are apparently residents of the
11 Town of Antrim. However, as we've discussed -- as I've
12 discussed previously this morning, interests, such as
13 those described by Mr. Edwards and Ms. Allen, are not
14 distinguishable from those of the public at large. And,
15 in the past, at least one presiding officer, in the Laidlaw
16 case, has declined to grant intervention to folks who live
17 in a host community because they failed to state what
18 their particular substantial interests are that are
19 different from the public at large.

20 In addition, although Mr. Edwards
21 apparently believes that the Board of Selectmen may not
22 adequately represent his interests, the Selectmen have
23 moved to intervene, and the Applicant has not objected.
24 The Board of Selectmen are the representatives, official

1 representatives of the Town of Antrim. And, we believe
2 that they do adequately represent the interests of
3 citizens in the Town of Antrim who do not have particular
4 interests that are distinguishable from members of the
5 general public.

6 CHAIRMAN IGNATIUS: Mr. Roth, any
7 response to that?

8 MR. ROTH: I would just suggest that it
9 seems to me that what I heard from these intervenors is
10 that they probably should be put in with the non-abutter
11 group, Mr. Block's group. And, I would again point out
12 that if -- I believe Ms. Allen, anyway, was allowed to
13 intervene in the previous jurisdictional proceeding. And,
14 as I said before, that's either the law of the case or a
15 strong presumption in favor of allowing them in this time.
16 Thank you.

17 CHAIRMAN IGNATIUS: Thank you. I do
18 have a question for Ms. Allen and Mr. Edwards. You
19 stated, and in your pleading, list a number of
20 organizations, entities within Antrim, boards and
21 committees that you've served on and may presently serve
22 on. Are you here on behalf of any of those entities or on
23 behalf of your own individual views?

24 MR. EDWARDS: The only entity that I

1 actively belong to now is the Antrim Budget Committee.
2 And, if you follow the flow of funds, I would be
3 interested in the outcome of this, based on its impact on
4 the Town and the tax rate.

5 MR. IACOPINO: Are you speaking for the
6 Budget Committee, sir?

7 MR. EDWARDS: No, I'm not. I'm just a
8 member of it.

9 CHAIRMAN IGNATIUS: Thank you. And, Ms.
10 Allen, similar question?

11 MS. ALLEN: I'm an elected, in my
12 seventh year of serving on the ConVal School Board. I'm
13 an elected representative from Antrim. That is the
14 current position that I hold. I am not speaking for the
15 ConVal School Board. But I'm speaking -- I do have
16 financial and fiduciary responsibilities to the Board.
17 And, in my liaison position with -- between as an Antrim
18 representative to that. And, I have some -- some
19 information about the impact that specifically happens in
20 a cooperative school district, which is different than the
21 other cases in the other towns that you've dealt with.
22 And, that's the unusual information I'm bringing forth.

23 CHAIRMAN IGNATIUS: Mr. Stearns.

24 MR. STEARNS: Just to clarify, the Town

1 of Antrim does not have a statutory budget committee. We
2 have an advisory budget committee.

3 CHAIRMAN IGNATIUS: Thank you. Ms.
4 Allen, has the ConVal School Board asked you to
5 participate or designated you as an official sort of
6 representative of the Board to this proceeding?

7 MS. ALLEN: No, they have not. They
8 have -- it has been discussed amongst Board members, not
9 officially in a board meeting. We have another town in
10 our cooperative school district that is also not before
11 the SEC at this point, but is also the subject of a wind
12 development project that is forthcoming. This has risen
13 to a level of great interest amongst the Board. The
14 cooperative school district taxation is a little bit
15 different than in other towns. And, it's impact does --
16 it's impact would be substantial to the Town of Antrim.
17 And, as a taxpayer, and also as a school board
18 representative, those are my interests.

19 CHAIRMAN IGNATIUS: Thank you.

20 MS. GEIGER: Just briefly to that
21 point, --

22 CHAIRMAN IGNATIUS: Yes.

23 MS. GEIGER: -- madam Chairwoman. The
24 issues relating to the tax effects or taxation

1 consequences that result from this Project are within the
2 jurisdiction of at least the Department of Revenue
3 Administration. And, there is a pending proceeding there
4 concerning some legal issues relating to tax matters.
5 And, therefore, we don't believe that it's appropriate in
6 this docket, and certainly not within the subject matter
7 jurisdiction of the SEC, to be adjudicating issues
8 relating to tax issues.

9 CHAIRMAN IGNATIUS: Thank you.

10 MR. ROTH: Madam Chair? Chairman, I'm
11 sorry.

12 CHAIRMAN IGNATIUS: Briefly, please. We
13 have more to do.

14 MR. ROTH: Yes. This is -- this is kind
15 of a new argument, and I just wanted to address it. It
16 seems to me, if that's the case, if Ms. Geiger's argument
17 is correct, then we really shouldn't hear about the
18 economic benefits of the Project to the community either.
19 Seems to me, if there is to be a negative impact of this
20 Project on the town's finances or the region's finances,
21 that should be part of what is certainly within the scope
22 of this body's jurisdiction to hear about. I'm not saying
23 that the legal issue needs to get decided. But, if there
24 is a negative impact economically as a result of this,

1 that comes about because of some tax problem, then I think
2 that's clearly within your jurisdiction to know of.

3 CHAIRMAN IGNATIUS: I think that's it
4 for motions to intervene, unless I've dropped someone off.
5 Please wave your hand, if I did?

6 (No verbal response)

7 CHAIRMAN IGNATIUS: All right. We also
8 have a Motion for Confidential Treatment that was filed by
9 the Applicant regarding the Antrim Wind Energy balance
10 sheet that had financial information for the Applicant.
11 And, in the pleading itself, some of you may not have seen
12 it, there's a request that it be treated confidentially,
13 which means that the general public is not entitled to see
14 it, if it were to make a Right to Know Request or come and
15 review the records on file with the Site Evaluation
16 Committee.

17 It doesn't mean, however, that
18 participants to a proceeding would be blocked from seeing
19 it. That would be, and there's provisions for allowing
20 intervenors to file -- to sign confidentiality agreements
21 and agree to abide by the terms of the agreement. That's
22 fairly standard in our proceedings.

23 And, the Applicant's response, just to
24 sort of shortcut this, because it is going on 12:00, would

1 be to request confidentiality of the material, and there
2 probably will be other confidential financial matters yet
3 to come that we will address, but that they be allowed for
4 parties to see, if they agreed to sign a confidentiality
5 agreement.

6 The only response we've seen to that
7 thus far has been from Mr. Roth, saying "we're getting
8 ahead of ourselves. Intervenors haven't been identified
9 yet." And, even you were getting ahead of yourself,
10 because you hadn't yet been appointed in your role, but
11 that now has been resolved. So, is there anything further
12 that either of you want to speak to on the question of
13 confidentiality?

14 MR. PATCH: If I could just briefly,
15 madam Chair. I think you correctly represented the filing
16 of the motion, which was done at the same time that the
17 Application was submitted, on January 31st. And, if you
18 look at the other -- the three other proceedings this
19 Committee has had before it on wind power projects, in all
20 three instances the Committee has granted the requested
21 treatment, with and attached to our motion was a form for
22 the nondisclosure agreement.

23 The other thing that has happened in
24 those prior proceedings, and maybe I'm preempting Mr. Roth

1 when I say this, Counsel for the Public, because it plays
2 a special role in the past, did not need to sign the
3 agreement, but was not to disclose the information in it
4 without first obtaining the authority to do so, but was
5 sort of treated somewhat differently than the parties.
6 But, in all three other proceedings, the Committee
7 recognized that, under the Right to Know law and under the
8 Committee's rules, the fact that it was basically
9 commercially sensitive and proprietary information.
10 Information that, if disclosed to competitors, could have
11 a materially adverse effect. And, that it was not
12 information that, under the Lamy test, you know,
13 recognized by the Supreme Court, not information in which
14 there is a public interest in disclosure. That it was
15 appropriate for that to be maintained as non-public
16 information. But, again, subject to the signing of the
17 nondisclosure agreement, as you recognized.

18 CHAIRMAN IGNATIUS: All right. Mr.
19 Roth, any response?

20 MR. ROTH: Thank you, madam Chairman. I
21 made the objection by the Attorney General, actually, not
22 by Counsel for the Public, to cover the standing issue on
23 objecting. And, it was really more or less as a
24 placeholder, because I have in the past been surprised

1 somewhat by the entry of an order because I didn't object
2 to it. And, I wanted to make sure that our views were
3 known.

4 As Attorney Patch has said, we have
5 typically had access to all these documents without having
6 to enter into a nondisclosure agreement. And, I'm
7 satisfied with continuing that type of arrangement in this
8 case.

9 And, unfortunately, I again have to
10 raise sort of the notice issue about this, about a hearing
11 on this motion, which was, again, not part of the notice
12 that was sent out to the parties that there would be a
13 hearing on it. We now have a number of people who have
14 intervened, and who may now want to look at this motion
15 and make their voices known, and I'll let them speak to
16 that, if they care.

17 And, I do recognize that the Applicant
18 has confidential information that it wishes to preserve
19 the confidentiality of for good reasons. However, I don't
20 necessarily believe that there should be a blanket sort of
21 cloak over their information, without a showing, in nearly
22 every instance, what it is that they wish to keep
23 confidential. And, instead, having a blanket cloak like
24 this puts the burden on anybody else who wants access to

1 information to come forward and to try to prove that it
2 isn't confidential, which I think is not an appropriate
3 burden-shifting for this kind of information.

4 CHAIRMAN IGNATIUS: Mr. Roth, excuse me,
5 but the petition doesn't ask for that. It asks for
6 confidentiality of a particular document.

7 MR. ROTH: It was my read, and I'm going
8 from memory from two or three months ago now, but it was
9 my read of their request that they wanted an order that
10 would apply to other information going forward. And, if
11 the answer is "no, we're only looking for confidentiality
12 of these particular documents at this time", then that's
13 fine. I'll take that -- I'll take them on their word for
14 it. But, if they're looking for the ability to say
15 anything that they think is confidential, they get to hold
16 it back until somebody can either sign the agreement or
17 make a case before you why it shouldn't be, then I don't
18 think that that would be an appropriate thing to do.

19 CHAIRMAN IGNATIUS: Well, it requests
20 confidentiality for this particular document and for
21 "other [things that]...the Committee agrees, should be
22 accorded confidential treatment." So, it's not a blanket,
23 up to the Company to decide what's protected or not. I
24 think each time there will be another motion and another

1 identification of the particular document in question.

2 MR. ROTH: Okay. That would be fine.

3 Thank you.

4 CHAIRMAN IGNATIUS: Any further response
5 to the confidentiality issue? Yes, Mr. Edwards.

6 MR. EDWARDS: I'd just ask for a point
7 of clarification. Is it in the jurisdiction of the SEC to
8 determine and give the assurances that the financial
9 integrity of the Applicant is sufficient to perform? Is
10 it in your jurisdiction?

11 CHAIRMAN IGNATIUS: Yes, it is.

12 MR. EDWARDS: Thank you.

13 CHAIRMAN IGNATIUS: All right. I
14 appreciate everyone's cooperation in going through all of
15 those details this morning. A couple of more things that
16 I want to address, and then I'm going to hand it off to
17 Mr. Iacopino to continue.

18 And, that involves an understanding that
19 what we have left to do here before we even begin the
20 adjudicative process, the hearings process, is
21 identification of the parties, which you'll see an order
22 that will address that; development of a schedule, and I
23 think there's some drafts that are starting to be
24 developed that Mr. Iacopino can work people through; we

1 have a deadline we have to get to set by statute, in the
2 early fall; and a need in a case that -- in any case,
3 there's a need for people to really work together, and
4 particularly when you have multiple parties, to try to
5 find a workable level of coordination, so that we, the
6 Committee, hears what it needs to hear, and still
7 continues to make good progress every day in its
8 proceedings, and doesn't waste your time in having to come
9 day after day after day, but do it as efficiently as we
10 possibly can.

11 So, I think it would be useful for the
12 rest of the proceedings today, with Mr. Iacopino, to keep
13 in mind what the ultimate goal is. That we're reaching
14 for an orderly, thorough, clear, sound analysis. And, in
15 order to get there, we rely on the participants to really
16 be as organized as they can be, to stay focused on the
17 issues, to try to separate the facts from the fears, the
18 concerns that they have from the things they have heard
19 about from other people, and really stay focused on the
20 issues at hand. And, we have been successful in that in
21 other cases, and I have no doubt that we can be successful
22 again. But, I know it's hard, because these are personal
23 issues. Any ways that people can work together as groups
24 are helpful.

1 For this afternoon's, or however long
2 you go today, for your efforts, why don't assume that
3 people are granted intervention, although we haven't yet
4 made that determination, and think about what groupings
5 would be appropriate and what spokespersons would be
6 appropriate. And, then, a full order on that, addressing
7 in detail the determination on interventions is yet to
8 come.

9 We won't continue with a court reporter
10 for the rest of the session working with Mr. Iacopino.
11 And, so, it will be a bit more informal after I leave you.
12 And, you can work out what's best for you, in terms of
13 taking a break, and taking on issues in whatever order you
14 find best.

15 But I appreciate everyone's attention
16 this morning. I found it extremely helpful and thoughtful
17 responses that is useful in determinations.

18 So, with that, I will leave you. I
19 guess we'll close the formal -- oh, I see a request for
20 something else. Ms. Linowes.

21 MS. LINOWES: Madam Chairman, sorry to
22 interrupt you. Would it be helpful to you to have
23 additional information on the intervenor requests that
24 have been submitted, based on the objections that have

1 been filed, or do you think that you'll be making a
2 decision quickly and it's not necessary?

3 CHAIRMAN IGNATIUS: I don't see a need
4 for additional information. I think people did a good job
5 in their requests in putting in details for the most part,
6 and then further supplementing it this morning. So, I
7 think we're okay on that. So, thank you.

8 All right. Thank you. This portion
9 stands adjourned.

10 **(Whereupon the prehearing conference**
11 **ended at 12:05 p.m.)**