

STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

October 29, 2012 - 10:10 a.m.
Concord, New Hampshire

DAY 1

In re: **SITE EVALUATION COMMITTEE:**
DOCKET NO. 2012-01: Application
of Antrim Wind, LLC, for a
Certificate of Site and Facility
for a 30 MW Wind Powered Renewable
Energy Facility to be Located in
Antrim, Hillsborough County,
New Hampshire.
(Hearing on the merits)

PRESENT:**SITE EVALUATION COMMITTEE:**

Amy L. Ignatius, Chrmn. Public Utilities Commission
(**Vice Chairman of SEC**)
(*Presiding Officer until 11:48 a.m.*)

Kate Bailey, Engineer Public Utilities Commission
(*Presiding Officer after 11:48 a.m.*)

| | |
|----------------------------|----------------------------------|
| Harry T. Stewart, Dir. | DES - Water Division |
| Johanna Lyons, Designee | Dept. of Resources & Econ. Dev. |
| Craig Green, Designee | Dept. of Transportation |
| Brad Simpkins, Dir. | DRED - Div. of Forests & Lands |
| Ed Robinson, Designee | Fish & Game Department |
| Richard Boisvert, Designee | Division of Historic Resources |
| Brook Dupee, Designee | Dept. of Health & Human Services |

COUNSEL FOR THE COMMITTEE: Michael Iacopino, Esq.

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

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

1
2 **APPEARANCES:** **Reptg. Antrim Wind, LLC:**
3 Susan S. Geiger, Esq. (Orr & Reno)
4 Douglas L. Patch, Esq. (Orr & Reno)
5 Rachel A. Goldwasser, Esq. (Orr & Reno)
6
7 **Reptg. Antrim Board of Selectmen:**
8 Galen Stearns, Town Administrator
9 Michael Genest, Selectman, Town of Antrim
10
11 **Reptg. the Harris Center for Cons. Edu.:**
12 Stephen Froling, Esq.
13
14 **Reptg. Antrim Planning Board:**
15 Martha Pinello, Member
16 Charles Levesque, Member
17
18 **Reptg. Antrim Conservation Commission:**
19 Peter Beblowski
20
21 **Reptg. Audubon Society of New Hampshire:**
22 David M. Howe, Esq.
23 Amy Manzelli, Esq. (BCM Envir. & Land Law)
24 Carol Foss

25 **Reptg. Industrial Wind Action Group:**
26 Lisa Linowes
27
28 **Reptg. Intervenors Allen/Edwards:**
29 Mary Allen
30
31 **Reptg. North Branch Group of Intervenors:**
32 Richard Block
33 Loranne Carey Block

I N D E X

PAGE NO.

| | |
|---|-----|
| <u>Motion by Mr. Dupee</u> to ask the engineer to the SEC (Kate Bailey) to take over as presiding officer in the absence of Chairman Ignatius | 27 |
| <u>Second by Mr. Green</u> | 27 |
| VOTE ON THE MOTION | 27 |
| * * * | |
| WITNESS: JOHN B. KENWORTHY | |
| Direct examination by Ms. Geiger | 32 |
| Cross-examination by Ms. Manzelli | 55 |
| Cross-examination by Mr. Howe | 80 |
| Cross-examination by Ms. Allen | 81 |
| Cross-examination by Mr. Block | 97 |
| Cross-examination by Ms. Linowes | 107 |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|------------------------------------|---|-----------|
| <i>[COMM = Committee exhibits]</i> | | |
| COMM-1 | Letter from State Fire Marshal, (02-21-12) | premarked |
| COMM-2 | Letter from NHDES (02-22-12) | premarked |
| COMM-3 | Letter from NHF&G (02-24-12) | premarked |
| COMM-4 | Letter from USACOE (03-05-12) | premarked |
| COMM-5 | Letter from NHDHR (04-04-12) | premarked |
| COMM-6 | Letter from NHDES (05-23-12) (Progress Report & Draft Conditions) | premarked |
| COMM-7 | Memo from NHNHB (07-02-12) (Progress Report) | premarked |
| COMM-8 | Letter from NHF&G (07-03-12) | premarked |
| COMM-9 | Letter from NHDHR (07-30-12) | premarked |
| COMM-10 | Memo from NHNHB, (08-02-12) (Final Report) | premarked |
| COMM-11 | Memo from NHDHR (08-30-12) (Final Report) | premarked |
| COMM-12 | Letter from NHDES, Final decisions and Conditions (08-31-12) | premarked |
| COMM-13 | Letter from NHF&G, Final Report and Permit Conditions (Not a final report) (09-04-12) | premarked |
| COMM-14 | NHDOT - Driveway Permit (final) (09-04-12) | premarked |
| COMM-15 | Letter from NHDHR (09-20-12) | premarked |

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E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-----------------------------------|--|-----------------|
| <i>[AWE = Antrim Wind Energy]</i> | | |
| AWE 1 | Application, Volume 1 (including prefiled direct testimonies) | premarked |
| AWE 2 | Application, Volume 2 (Appendices 1 through 2F) | premarked |
| AWE 3 | Application, Volume 3 (Appendices 3 through 18) | premarked |
| AWE 4 | Appendix 17-A (filed April 16, 2012) (Signed Agreement between Applicant and Town of Antrim) | Premarked |
| AWE 5 | Appendix 19 (filed May 25, 2012) (Substation subdivision plat) | premarked |
| AWE 6 | First Supplement to Application (including supplements to Appendices 2A, 2B, 2C, 11A, 12F, and Appendix 12G) (filed Aug. 10, 2012) | premarked |
| AWE 7 | Second Supplement to Application (including Appendix 9A-1 [10 mile viewshed data] and Appendix 20 [Agreement between Applicant & Appalachian Mountain Club] and First Supplemental Prefiled Testimony of Sean McCabe and Ellen Crivella, and Prefiled Direct Testimony of Ruben Segura-Coto) (filed Aug. 22, 2012) | premarked |
| AWE 8 | Third Supplement to Application (including Appendix 21)[Wind Resource Assessment] (filed Sept. 5, 2012) | premarked |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|---|-----------|
| AWE 9 | Fourth Supplement to Application (including supplemental prefiled testimonies and Appendices 2D-1, 2H, 2I, and 5A) (filed Oct. 11, 2012) | premarked |
| AWE 10 | ISO-NE System Impact Study (reserved) | premarked |
| AWE 11 | Petition for Declaratory Judgment, Merrimack County Superior Court (07-06-12) | premarked |
| AWE 12 | PILOT Agreement (06-20-12) | premarked |
| AWE 13 | Alternative PILOT Agreement (06-20-12) | premarked |
| AWE 14 | Ruben Secura-Coto response to Counsel for the Public Data Request 2-3 propounded on AWE | premarked |
| AWE 15 | Photographs of Wildlife in Vicinity of Wind Turbines | premarked |
| AWE 16 | Peter Beblowski response to AWE Data Requests 1-12 and TS 2-24 propounded on Antrim Conservation Commission | premarked |
| AWE 17 | Antrim Open Space Conservation Plan Final Report, Page 19 | premarked |
| AWE 18 | Peter Beblowski response to AWE Data Requests 1-24 through 26 propounded on Antrim Conservation Commission | premarked |
| AWE 19 | Antrim Conservation Commission Minutes of August 22, 2012 | premarked |
| AWE 20 | Charles Levesque responses to AWE Data Requests 1-6 and 1-7 | premarked |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|--|-----------|
| AWE 21 | Innovative Natural Resource Solutions Selected Client Listing (2011) | premarked |
| AWE 22 | <i>A vote in Favor of Wind Energy,</i> <u>Monadnock Ledger-Transcript</u> (11-10-11) | premarked |
| AWE 23 | Martha Pinello responses to AWE Data Requests 1-25 through 1-29 | premarked |
| AWE 24 | Charles Levesque responses to AWE Data Requests 1-14 through 1-19 | premarked |
| AWE 25 | Martha Pinello responses to AWE Data Requests 1-8, 1-9, 1-12, 1-13 | premarked |
| AWE 26 | Audubon Society of N.H. Energy Conservation Policy (04-24-07) | premarked |
| AWE 27 | Carol Foss Response to AWE Data Request 1-9 and 1-10 propounded on Audubon Society of New Hampshire | premarked |
| AWE 28 | Section from U.S. Department of Energy Report, 20% Wind Energy by 2030 | premarked |
| AWE 29 | Lisa Linowes response to AWE Data Request 1-7(a) propounded on IWAG | premarked |
| AWE 30 | Letter from Paul T. Mulcahey (10-21-12) | premarked |
| AWE 31 | Richard James Response to Tech Session Data Request 2-12 and Response to Data Request 1-27, 1-37, 1-39, 1-41 propounded on North Branch Intervenor Group | premarked |
| AWE 32 | Gregory Tocci Response to AWE Request 1-14, 1-22, 1-23, 1-24, 1-27 propounded on Counsel for the Public | premarked |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|--|-----------|
| AWE 33 | Preliminary Review of Antrim Wind Energy Ordinance and Wind Energy Siting Considerations (07-25-11) | premarked |
| AWE 34 | Clean States Energy Alliance, State Clean Energy Program Guide (May 2011) | premarked |
| AWE 35 | Jean Vissering Response to AWE Request 1-1 propounded on Counsel for the Public | premarked |
| AWE 36 | Letter from the Town of Antrim Board of Selectmen to Amy L. Ignatius (10-22-12) | premarked |
| AWE 37 | Redacted Conservation Easements (filed June 4, 2012) | premarked |
| AWE 38A | Project Location Map (10-17-12) (11 h x 17 h) | premarked |
| AWE 38B | Project Location Map (10-17-12) [Posterboard Size] | premarked |
| AWE 39A | 10 Mile Vegetated Viewshed Map, Attachment JWG-1 to First Supplemental Prefiled Testimony of John Guariglia (Oct. 11, 2012) [Posterboard size] | premarked |
| AWE 39B | 2 Mile Vegetated Viewshed Map (Enlargement of 2 mile area shown in Exhibit AWE 39A) [Posterboard size] | premarked |
| AWE 40 | 2010 Highest Ranked Wildlife Habitat by Ecological Function, Attachment DV & AJG-2 to First Supplemental Prefiled Testimony of Dana Valteau and Adam J. Gravel (10-11-12) [Posterboard size] | premarked |
| AWE 41 | Modeled Worst-Case Sound Levels (Figure 7.1) from the Sound Level Assessment Report, Appendix 13A to the Application of Antrim Wind Energy | premarked |

{SEC 2012-01} [Day 1] {10-29-12}

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|--|-----------|
| AWE 42 | Letter from Lyle J. Micheli, MD to Harris Center for Conservation Education (01-05-12) | premarked |
| | * * * | |
| | <i>[PC = Public Counsel]</i> | |
| PC 1 | Testimony of Jean Vissering | premarked |
| PC 2 | Testimony of Gregory Tocci | premarked |
| PC 3 | Testimony of Trevor Lloyd-Evans | premarked |
| PC 4 | Supplemental Testimony of Jean Vissering | premarked |
| PC 5 | Supplemental Testimony of Gregory Tocci | premarked |
| PC 6 | Supplemental Testimony of Trevor Lloyd-Evans | premarked |
| PC 7 | Deloitte Report (09-24-12) and Redacted Deloitte Report (09-26-12) | premarked |
| PC 8 | Applicant's response to Data Request 1-7 | premarked |
| PC 9 | Applicant's response to Data Request 1-9 | premarked |
| PC 10 | Applicant's response to Data Request 1-12 | premarked |
| PC 11 | Applicant's response to Data Request 1-14 | premarked |
| PC 12 | Applicant's response to Data Request 1-18 | premarked |
| PC 13 | Applicant's response to Data Request 1-19 | premarked |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|---------------------------|---|-----------|
| PC 14 | Applicant's response to Data Request TS 1-14 | premarked |
| PC 15 | Applicant's response to Data Request TS 1-15 | premarked |
| PC 16 | Applicant's response to Data Request TS 1-38 | premarked |
| PC 17 | Applicant's response to Data Request TS 1-53 | premarked |
| PC 18 | Applicant's response to Data Request TS 1-16 | premarked |
| PC 19 | Applicant's response to Data Request TS 1-17 | premarked |
| | * * * | |
| [NB = North Branch Group] | | |
| NB-1 | Pre-Filed Direct Testimony of Richard R. James (07-30-12) | premarked |
| NB-2 | Pre-Filed Direct Testimony of Richard Block (07-31-12) | premarked |
| NB-3 | Pre-Filed Direct Testimony of Lorraine Carey Block (07-31-12) | premarked |
| NB-4 | Pre-Filed Direct Testimony of Susan Morse (07-31-12) | premarked |
| NB-5 | Pre-Filed Direct Testimony of Elsa Voelcker (07-31-12) | premarked |
| NB-6 | Pre-Filed Direct Testimony of Annie Law and Robert Cleland (07-31-12) | premarked |

EXHIBITS

| EXHIBIT NO. | DESCRIPTION | PAGE NO. |
|-------------|--|-----------|
| NB-7 | Supplemental Pre-Filed Direct Testimony of Richard Block (10-11-12) | premarked |
| NB-8 | Supplemental Pre-Filed Direct Testimony of Richard R. James (10-11-12) | premarked |
| NB-9 | James Exhibit 1 (10-11-12) | premarked |
| NB-10 | James Exhibit 2 (10-11-12) | premarked |
| NB-11 | James Exhibit 3 (10-11-12) | premarked |
| NB-12 | James Exhibit 4 (10-11-12) | premarked |
| NB-13 | James Exhibit 5 (10-11-12) | premarked |
| NB-14 | James Exhibit 6 (10-11-12) | premarked |
| NB-15 | James Exhibit 7 (10-11-12) | premarked |
| NB-16 | James Exhibit 8 (10-11-12) | premarked |
| NB-17 | James Exhibit 9 (10-11-12) | premarked |
| NB-18 | James Exhibit 10 (10-11-12) | premarked |
| NB-19 | James Exhibit 11 (10-11-12) | premarked |
| NB-20 | James Exhibit 12 (10-11-12) | premarked |
| NB-21 | James Exhibit 13 (10-11-12) | premarked |
| NB-22 | James Exhibit 14 (10-11-12) | premarked |
| NB-23 | James Exhibit 15 (10-11-12) | premarked |
| NB-24 | James Exhibit 16 (10-11-12) | premarked |
| NB-25 | James Exhibit 17 (10-11-12) | premarked |
| NB-26 | James Exhibit 18 (10-11-12) | premarked |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|---|-----------|
| NB-27 | James Exhibit 19 (10-11-12) | premarked |
| NB-28 | James Exhibit 20 | premarked |
| NB-30 | James Exhibit 22 (10-11-12) | premarked |
| NB-31 | James Exhibit 23 (10-11-12) | premarked |
| NB-32 | James Exhibit 24 (10-11-12) | premarked |
| NB-33 | James Exhibit 25 (10-11-12) | premarked |
| NB-34 | <u>Union Leader</u> Editorial (10-25-12) | premarked |
| NB-35 | Berwickshire News Article (10-25-12) | Premarked |
| NB-36 | Lempster property sales records (10-25-12) | premarked |
| NB-37 | Salt, Responses of the ear to low frequency (10-25-12) | premarked |
| NB-38 | Noise complaints to be investigated (10-25-12) | premarked |
| NB-39 | Moller & Pedersen, low-frequency noise (10-25-12) | premarked |
| NB-40 | CBC Ontario wind farm health risk (10-25-12) | premarked |
| NB-41 | BBC News - Lincolnshire wind farm noise... (10-25-12) | premarked |
| NB-42 | Denmark Vesta translation | premarked |
| NB-44 | C. Schneider, Background sound level (10-25-12) | premarked |
| NB-45 | Persson-Waye & Leventhal, 1997 JSV Effects on performance (10-25-12) | premarked |
| NB-46 | Krogh 11a WindVOICE (10-25-12) | premarked |

{SEC 2012-01} [Day 1] {10-29-12}

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| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|--|-----------|
| NB-47 | Large eddy simulation study (10-25-12) | premarked |
| NB-48 | Palmer, A new explanation for wind turbine whoosh (10-25-12) | premarked |
| NB-49 | Pedersen, Why is wind turbine noise poorly masked (10-25-12) | premarked |
| NB-50 | Phillips, Properly interpreting the epidemiology (10-25-12) | premarked |
| NB-51 | Salt 11, Infrasound from wind turbines could... (10-25-12) | premarked |
| NB-52 | Summary of new evidence (10-25-12) | premarked |
| NB-53 | Audibility of low frequency wind turbine noise (10-25-12) | premarked |
| NB-54 | Thorne, The problems with "noise numbers" (10-25-12) | premarked |
| | * * * | |
| | [ASNH = Audubon Society of N.H.] | |
| ASNH-1 | Attachment PB-1: HUC 12 Watersheds near the proposed AWE project in Antrim, NH | premarked |
| ASNH-2 | Attachment PB-2: Location of proposed Turbine 10 relative to Powder Mill Pond watershed boundary | premarked |
| ASNH-3 | Attachment FVM -1: NH Audubon's dePierrefeu-Willard Pond Wildlife Sanctuary and the proposed AWE project in Antrim, NH | premarked |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|----------------------------------|--|-----------|
| ASNH-4 | Attachment FVM-2: Raised on Willard Pond, Letter to Kate, Brendan, and Morgan From Dad, Christmas 2008 | premarked |
| ASNH-5 | Attachment FVM-3: Willard Pond - A Legacy of Protection | premarked |
| ASNH-6 | Attachment FVM-4: Photo Packet of various field trips to the Willard Pond Wildlife Sanctuary | premarked |
| ASNH-7 | Attachment FVM-5: Photo Packet of parking lot and boat launch on typical hot summer weekend | premarked |
| ASNH-8 | Attachment FVM-6: Photo of glacial boulders in Willard Pond Wildlife Sanctuary area | premarked |
| | * * * | |
| [EA = Edwards/Allen Intervenors] | | |
| EA-1 | Prefiled testimony of Mr. Edwards | premarked |
| EA-2 | Prefiled testimony of Ms. Allen, with six exhibits identified as EA-2A - EA-2F | premarked |
| EA-2A | Allen testimony - Exhibit A | premarked |
| EA-2B | Allen testimony - Exhibit B | premarked |
| EA-2C | Allen testimony - Exhibit C | premarked |
| EA-2D | Allen testimony - Exhibit D | premarked |
| EA-2E | Allen testimony - Exhibit E | premarked |
| EA-2F | Allen testimony - Exhibit F | premarked |

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|--|-----------|
| EA-3 | Excel chart with analysis of potential revenue loss to town under signed PILOT Agreement | premarked |
| | * * * | |
| | <i>[APB = Antrim Planning Board]</i> | |
| APB 1 | 04-09-12 - Petition for Intervention by Antrim Planning Board[1].pdf (4-10-12) | premarked |
| APB 2 | APB to AWE Final DRs[1].pdf(06-21-12) | premarked |
| APB 3 | APB 1-2 Master Plan, 8. Future Land Use[1].pdf (06-21-12) | premarked |
| APB 4 | APB 1-11 PB SEC DATA REQUEST 1.11 SUPPORTING MAP FINAL V1[1].pdf (06-21-12) | premarked |
| APB 5 | APB 1-12 PB SEC DATA REQUEST 1.12 SUPPORTING MAP FINAL V1[1].pdf (06-21-12) | premarked |
| APB 6 | APB 1-17 WD-10-12 NHDES blasting bmps[1].pdf (06-21-12) | premarked |
| APB 7 | APB 1-21 Open Space Map[1].pdf (06-21-12) | premarked |
| APB 8 | 07-24-12 - Antrim Planning Board's Memorandum of Law Concerning the Committee's Lack of Authority over Subdivision[1].pdf (07-26-12) | premarked |
| APB 9 | Levesque pre-filed testimony [1].pdf (08-01-12) | premarked |
| APB 10 | CALExhibitA[1].pdf (08-01-12) | premarked |

{SEC 2012-01} [Day 1] {10-29-12}

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| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|--|-----------|
| APB 12 | CALExhibitD[1].pdf (08-01-12) | premarked |
| APB 13 | CALExhibitE[1].pdf (08-01-12) | premarked |
| APB 13 | MEP Exhibit A Resume[1].pdf(08-01-12) | premarked |
| APB 14 | M.E.Pinello Prefiled Testimony, Antrim Planning Board[1].pdf (08-01-12) | premarked |
| APB 15 | Levesque answers AWE data req[1].pdf (08-20-12) | premarked |
| APB 16 | Pinello, Antrim Planning Board Response to AWE Data Requests[1].pdf (08-21-12) | premarked |
| APB 17 | 09-27-12 - Memo from the Antrim Planning Board[1].pdf (09-27-12) | premarked |

* * *

[ACC = Antrim Conservation Commission]

| | | |
|--------|--|-----------|
| ACC-1 | April 27, 2012 Petition For Intervention | premarked |
| ACC-2 | Prefiled Testimony of Peter Beblowski (07-31-12) | premarked |
| ACC-3 | AWE response to ACC 1-13 (06-20-12) | premarked |
| ACC-3A | Attachment to ACC 1-13 (06-11-12) | premarked |
| ACC-4 | September 6, 2012 email from Chris Wells (Q2C) to Peter Beblowski (ACC) | premarked |
| ACC-5 | Q2C factsheet (2pg) | premarked |

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{SEC 2012-01} [Day 1] {10-29-12}

E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|--|--|-----------|
| [SCC = Stoddard Conservation Commission] | | |
| SCC-1 | Motion to Intervene <i>pro se</i> of Stoddard Conservation Commission (04-28-12) | premarked |
| SCC-2 | SCC Pre-Filed Testimony, with attachments (07-30-12) | premarked |
| SCC-3 | SCC Answers to Applicant Data Request of Pre-Filed Testimony (08-20-12) | premarked |
| SCC-4 | SCC Response to Request for Information From August 13, 2012 Tech Session (with attachments) | premarked |
| SCC-5 | Stoddard Selectmen's Letter of Support (for SCC Intervenor Concerns) and Additional Concerns | premarked |
| SCC-6 | New Exhibits: a) Photo of NH License Plates; b) Earthlights; c) Photo from southeast shore of Willard Pond; d) Photo before/after Willard Pond Shack removed Oct. 2012 by NHA | premarked |
| * * * | | |
| [IWAG = Industrial Wind Action Group] | | |
| IWAG-1 | Linowes pre-file direct testimony | premarked |
| IWAG-2 | Linowes supplemental testimony | premarked |
| IWAG-3 | Linowes supplemental-1 testimony | premarked |
| IWAG-4 | AWE Responses to IWAG 1st set of data requests | premarked |

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| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------------------|---|-----------|
| IWAG-5 | AWE Responses to SEC October 2 Order | premarked |
| IWAG-6 | AWE Responses to 7.3.12 Tech Session Requests | premarked |
| IWAG-7 | AWE Responses to data requests October 4 technical session | premarked |
| <i>(N = Noise)</i> | | |
| IWAG-N1 | Standard 9613-2 | premarked |
| IWAG-N2 | CTA-Cape Vincent 2008-01 | premarked |
| IWAG-N3 | From CADNA-to Bolton | premarked |
| IWAG-N4 | Low Frequency Noise and Annoyance | premarked |
| IWAG-N5 | Falmouth Letter fm MassDEP_30jun2011 | premarked |
| IWAG-N6 | Laurie+Swinbanks - 3d | premarked |
| IWAG-N7 | SCHOMER: Background Sound Measurements & Analysis In The Vicinity Of Cape Vincent, NY | premarked |
| <i>[E = Economics]</i> | | |
| IWAG-E1 | Wind Farms, Residential Property Values, and Rubber Rulers | premarked |
| IWAG-E2 | Linowes-Short memo on New England RECs | premarked |
| IWAG-E3 | 2010 HR Michaels Supplemental testimony final | premarked |
| <i>[EM = Emissions]</i> | | |
| IWAG-EM1 | ISO-NE environmental update | premarked |

E X H I B I T S

| EXHIBIT NO. | DESCRIPTION | PAGE NO. |
|-------------|---|-----------|
| IWAG-EM2 | Reuters article- Fewer than expected bid for cap | premarked |
| | * * * | |
| | <i>[ABUTTERS = Intervening Abutters]</i> | |
| ABUTTERS-1 | Pre-filed Testimony of Annie Law and Robert Cleland | premarked |
| ABUTTERS-2 | Pre-filed testimony of Janice Duley Longgood | premarked |
| | * * * | |
| | <i>[SULLIVAN = Intervenor Katharine Sullivan]</i> | |
| SULLIVAN-1 | Pre-filed Testimony of Katharine Sullivan | premarked |
| | * * * | |
| | <i>[AMC = Appalachian Mountain Club]</i> | |
| AMC-1 | Petition by The Appalachian Mountain Club to intervene in the matter of Antrim Wind Energy, LLC SEC Docket No. 2012-01 (05-02-12) [File Name: AMC Petition to Intervene 5_2_2012.docx] | premarked |
| AMC-2 | Appalachian Mountain Club Technical Session #1 Data Request (06-01-12) [File Name: Antrim Wind LLC Study request AMC 6_1_2012.pdf] | premarked |

E X H I B I T S

| EXHIBIT NO. | DESCRIPTION | PAGE NO. |
|---|---|-----------|
| AMC-3 | Assent Motion by AMC to Compel response to Data requests (06-28-12) [File Name: 06_28_2012-Partially Assented to Motion by AMC to Compel Response to Data Requests.pdf] | premarked |
| AMC-4 | Prefiled Direct Testimony of Dr. Kenneth D. Kimball (07-31-12) [File Name: Kimball prefiled testimony SEC 2012-01 7.31.pdf] | premarked |
| AMC-5 | Terms of Agreement between AMC and AWE (Appendix 20 of AWE Application) (07-31-12) [File Name: AWE-AMC Agreement Partially Executed.pdf] | premarked |
| AMC-6a | AMC's (Dr. Kenneth D. Kimball) responses to AWE Technical Session #2 Data Request (08-31-12) and attachments (below) [File Name: AMC response to tech data session request#2.docx] | premarked |
| <i>(The following are attachments to AMC- 6a)</i> | | |
| AMC-6b | OCAS web site [http://www.ocasinc.com/] | premarked |
| AMC-6c | Harrier Technical Data Sheet [http://www.detect- inc.com/Documents/Technical%20Data%20Sheet%20%20HARRIER%20Visual%20Warning%20System%20%20Wind%20Energy%201110.pdf] | premarked |

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| EXHIBIT NO. | D E S C R I P T I O N | PAGE NO. |
|-------------|---|-----------|
| AMC-6d | PPT presentation by Jim Patterson, FAA, Oct 20, 2009 - Visual Considerations: FAA Obstruction Lighting and marking for Wind Turbine Farms - Note: slides 6 and 7 covers the FAA Obstruction Marking and Lighting Advisory Circular's (AC 70/7 460-1K) relevant sections for wind power. [File Name: FAA Patterson Public presentation2009.pdf] | premarked |
| AMC-6e | Modification to the US National Forest - Green Mountain National Forest "Deerfield Wind Final EIS Record of Decision" March 16, 2012 [File Name: Modified Lighting MitigationFINAL3-16-12-Deerfield.pdf] | premarked |
| AMC-6f | FAA Letter [File Name: FAALetter 2010 letter AVWS.pdf] | premarked |
| AMC-6h | FAA AC70 7460 Lighting Circular [File Name: FAA AC70 7460 Lighting Circular.pdf] | premarked |

1 P R O C E E D I N G

2 CHAIRMAN IGNATIUS: Good morning. I'd
3 like to open the hearing in Site Evaluation Committee
4 Docket 2012-01. This is the Application of Antrim Wind
5 Energy for a Certificate of Site and Facility for a
6 renewable energy facility proposed to be located in
7 Antrim, in Hillsborough County, New Hampshire. This is
8 the first day of the evidentiary proceedings in this
9 adjudicated matter.

10 And, we will go around the room and
11 introduce the members of this Subcommittee. But, before
12 we do that, I first want to thank everyone for their
13 patience and indulgence. We didn't expect a hurricane
14 moving in when we scheduled this. And, how it goes this
15 week still is a bit uncertain. But I was not able to get
16 here at 9:00 as hoped, because of meetings with the
17 Governor.

18 I'll give you a really brief update of
19 where we are on the hurricane reports, so that you know,
20 and it will affect our scheduling today as well. The best
21 estimates right now from the Weather Service are that the
22 storm will start to really come in seriously into New
23 Hampshire about 3:00 this afternoon, into the southern
24 border of New Hampshire, and work its way north. Those

1 will be heavy winds and rain beginning at that point. You
2 can tell it's starting now, but it's going to really start
3 to pick up. And, when it starts to move, it's going to
4 accelerate quickly. In Concord, more likely hit around
5 4:00. And, as you go north, it will continue to sort of
6 follow that pattern.

7 There will be a six-hour or so period of
8 pretty intense storm, of winds, high winds, and rain,
9 though, not as significant of rain as people were hearing
10 beforehand. So, the flooding risk is far less than
11 expected. Once the storm really moves through, then we'll
12 have a few days of overcast, drizzly, rainy days, but not
13 significant rain. So, the rain is really going to be in
14 that first six-eight hour period, once the storm hits.

15 The winds, they're predicting to be
16 gusts of 50 to 60 miles per hour, and possibly 70 in
17 certain higher elevations and on the Seacoast. So, we're
18 expecting significant power outages. The sustained winds,
19 more likely 30 to 40 miles per hour. So, we're going to
20 have some serious wind.

21 For that reason, the Governor is asking
22 that people be off the roads by 3:00 this afternoon, if
23 possible. And, he is sending State workers home at 3:00.
24 People who have to be heading south or have longer

1 commutes, we'll work out their schedules to make sure that
2 they're safe. And, I think, for us, we'll have to talk
3 about what the right time is to adjourn today. Obviously,
4 we don't want to hold you here and put you at risk, or
5 have you so distracted that you're worried about getting
6 home to not be able to attend to what's going on here.
7 So, this will not be a long day today. But we'll get done
8 what we can.

9 And, what it looks like for tomorrow, I
10 honestly don't know. My expectation is that we'll be back
11 here as scheduled, at 9:00. And, things will be, in terms
12 of the storm, things will be quiet tomorrow. The question
13 is, how much disruption there is from power outages and
14 road closures, and possibly some flash-flooding, but I
15 think that's less of a -- flooding is far less of a risk
16 than we thought. So, I think we're just going to have to
17 play it by ear. If you don't -- I think you should assume
18 that we're on at 9:00. If things are suspended or
19 canceled, delayed, any other change to the schedule, we
20 will put an announcement on our tape at the PUC, if you
21 call the regular PUC number, 271-2431. If it's before
22 working hours, there will be a tape telling you any change
23 that might have been put in place.

24 The other thing that I do want to say is

1 that, because I may have to be over at the Emergency
2 Operations Center, as well as some of the other members of
3 our panel who have double duty, Mr. Dupee, Mr. Simpkins,
4 Mr. Stewart. I just heard Ms. Lyons' name mentioned a
5 moment ago possibly. People may have to come and go.
6 And, if that happens, certainly, if it happens and we
7 maintain a quorum, we will continue forward. And, anyone
8 who misses any portion of the proceeding will review the
9 transcript so that they don't miss the testimony. If
10 enough people have to be pulled over into the Emergency
11 Operations Center that we miss a quorum, then we'll have
12 to suspend at that point. But I'm hoping that's not going
13 to happen. If there's a block of time where we're really
14 going to miss a number of people, and then things will
15 settle down again, we might just simply suspend for that
16 portion of the day. But we'll, again, have to play that
17 by ear.

18 But, because of the potential for
19 significant power outages, in my role as Chairman of the
20 Public Utilities Commission, I will have to be over in the
21 Emergency Operations Center a good bit this week. So, in
22 anticipation of that, I would like to get the
23 Subcommittee's views on the possibility of designating a
24 member of the Committee -- the Subcommittee to serve as

1 presiding officer in my stead. We have rules,
2 administrative rules that authorize that sort of stand-in
3 role, when necessary, for the Site Evaluation Committee.
4 And, I would like to recommend that we do that, to have as
5 little disruption as we can for this unusual week.

6 My recommendation would be that Kate
7 Bailey be designated as "presiding officer". Kate is an
8 engineer and the Director of our Telecommunications
9 Commission -- Telecommunications Section. She has
10 participated in other SEC hearings and participated in
11 countless Public Utilities Commission proceedings. So,
12 she knows the drill better than just about anyone. And,
13 we would shift back and forth, as days go, if I can be
14 here, I can chair. But, if I have to leave, to know that
15 it would be in good hands. And, we've got Attorney
16 Iacopino to assist as well.

17 So, I'm not springing this on Kate out
18 of the blue. We talked about it yesterday. And, she said
19 she would be willing to do it, if that were everyone's
20 wishes.

21 So, is that an acceptable plan to the
22 members of the Subcommittee? Is there anyone concerned
23 with that?

24 (No verbal response)

1 CHAIRMAN IGNATIUS: All right. Then, --
2 MR. IACOPINO: Yes, you need a majority
3 vote.
4 CHAIRMAN IGNATIUS: All right. Why
5 don't we take a vote. All those who --
6 MR. DUPEE: Madam Chair, I move that we
7 ask the engineer for the SEC to take over in your absence.
8 CHAIRMAN IGNATIUS: All right. Is there
9 a second?
10 MR. GREEN: Second.
11 CHAIRMAN IGNATIUS: All right. So moved
12 and second that Kate Bailey be appointed as an interim or
13 a substitute Chair in the periods of time that I am not
14 able to attend.
15 Any other questions or discussion?
16 (No verbal response)
17 CHAIRMAN IGNATIUS: If not, all those in
18 favor, please signify by saying "aye"?
19 (Multiple members indicating "aye".)
20 CHAIRMAN IGNATIUS: Any opposed?
21 (No verbal response)
22 CHAIRMAN IGNATIUS: Any abstentions?
23 (No verbal response)
24 CHAIRMAN IGNATIUS: All right. Thank

1 you.

2 All right. A couple of administrative
3 things to take care of, and then we'll begin with
4 testimony with Mr. Kenworthy. Has there been a
5 publication of the notice and affidavit of publication
6 received?

7 MS. GEIGER: I believe so.

8 MR. IACOPINO: Madam Chair, the
9 Committee received an affidavit of publication on
10 October 15th from the Applicant. That affidavit indicated
11 that, on September 24th, the Order of Notice issued by you
12 was published in the Manchester Union Leader, a statewide
13 newspaper; that, on September 25th, the Order of Notice
14 was published in the Monadnock Transcript Ledger, I
15 believe is the name of the paper, and that is a paper of
16 general circulation in Hillsborough County; and the
17 Applicant also advised that, on September 28th, the Order
18 of Notice was also published in The Villager, which is, I
19 guess, a weekly newspaper in the Antrim area. That
20 affidavit from Counsel for the Applicant was filed on
21 October 15th and is in the record.

22 CHAIRMAN IGNATIUS: Thank you.

23 MR. IACOPINO: I'm sorry. And, also,
24 that notice, of course, indicates that the authority for

1 our hearing is under RSA 162-H.

2 CHAIRMAN IGNATIUS: All right. We got
3 the legal stuff out of the way. I should have done this
4 at the beginning also. Let's have an introduction of all
5 of the members of the Subcommittee, starting with Mr.
6 Stewart.

7 DIR. STEWART: I'm Harry Stewart, the
8 Director of Water Division, Department of Environmental
9 Services.

10 MS. LYONS: Johanna Lyons, representing
11 the Department of Resources & Economic Development.

12 DIR. SIMPKINS: Brad Simpkins,
13 Department of Resources & Economic Development.

14 MR. ROBINSON: Ed Robinson, Wildlife
15 Biologist for the Fish & Game Department.

16 MS. BAILEY: Kate Bailey, Director of
17 Telecommunications at the PUC.

18 MR. DUPEE: Brook Dupee representing the
19 Department of Health & Human Services.

20 MR. GREEN: Craig Green, New Hampshire
21 Department of Transportation.

22 MR. BOISVERT: Richard Boisvert, State
23 Archeologist and Deputy State Historic Preservation
24 Officer from the Division of Historical Resources.

1 CHAIRMAN IGNATIUS: Thank you. And,
2 let's have appearances by parties please.

3 MS. GEIGER: Yes. Good morning. Susan
4 Geiger, from the law firm of Orr & Reno, representing the
5 Applicant, Antrim Wind Energy, LLC. And, with me this
6 morning at counsels' table are Attorneys Douglas Patch and
7 Rachel Goldwasser. Good morning.

8 MR. FROLING: I'm Stephen Froling. I'm
9 here representing the Harris Center for Conservation
10 Education.

11 MS. STEARNS: I'm Galen Stearns, Town
12 Administrator in Antrim. And, with me today is Mike
13 Genest, Board of Selectmen.

14 MR. BEBLOWSKI: Peter Beblowski
15 representing the Antrim Conservation Commission.

16 MR. LEVESQUE: Charles Levesque, Antrim
17 Planning Board.

18 MS. ALLEN: Mary Allen. I'm
19 representing the Allen and Edwards intervenors.

20 MS. PINELLO: Martha Pinello, Antrim
21 Planning Board.

22 MS. MANZELLI: Good morning. Amy
23 Manzelli, from BCM Environmental & Land Law, representing
24 New Hampshire Audubon. For New Hampshire Audubon, we have

1 Carol Foss. And, we also have Attorney David Howe
2 representing New Hampshire Audubon. Thank you.

3 MR. ROTH: Peter Roth, Counsel for the
4 Public.

5 MS. LINOWES: Lisa Linowes representing
6 Industrial Wind Action Group.

7 MR. BLOCK: Richard Block representing
8 the North Branch Group of intervenors, and Loranne Carey
9 Block also.

10 CHAIRMAN IGNATIUS: Anyone else? All
11 right. Yes, sir.

12 MR. McCABE: Sean McCabe, Antrim Wind
13 Energy.

14 CHAIRMAN IGNATIUS: All right. Thank
15 you all. Welcome. And, do we have any other
16 administrative matters to take care of or can we move to
17 beginning with testimony? Mr. Roth.

18 MR. ROTH: You had mentioned at the
19 beginning of your remarks when you arrived discussing when
20 it could be appropriate to adjourn for the day. It
21 strikes me then, in light of the fact that, if the storm
22 is coming from the south, and as my recollection is
23 somewhat accurate, Antrim is somewhat south. We have a
24 number of people here from Antrim, who, if we leave at

1 3:00, will be driving into the face of the storm. And, I
2 guess I leave it up to them, if that's of interest to
3 them, but I didn't want the issue to be forgotten.

4 CHAIRMAN IGNATIUS: I think that's a
5 good point. And, I think that the goal is to have people
6 not on the roads as it's getting ugly out there. And, so,
7 adjourning at 3:00 is really too late for folks who are
8 heading in that direction. So, we'll think about where we
9 are with witnesses, what a good break is, but it will
10 certainly be before 3:00. Thank you.

11 MR. ROTH: Thank you.

12 CHAIRMAN IGNATIUS: All right. If
13 there's nothing else, then let's proceed with Mr.
14 Kenworthy. And, Mr. Patnaude, if you could swear him in
15 please.

16 (Whereupon **John B. Kenworthy** was duly
17 sworn by the Court Reporter.)

18 **JOHN B. KENWORTHY, SWORN**

19 **DIRECT EXAMINATION**

20 BY MS. GEIGER:

21 Q. Could you please state your name and address for the
22 record.

23 A. My name is Jack Kenworthy. And, my address is 155
24 Fleet Street, Portsmouth, New Hampshire.

1 Q. And, by whom are you employed and in what capacity are
2 you employed?

3 A. I am employed as the Chief Executive Officer of Eolian
4 Renewable Energy and also an Executive Officer of
5 Antrim Wind Energy.

6 Q. And, Mr. Kenworthy, could you very, very briefly give a
7 summary of your qualifications for the Committee.

8 A. I have been involved in the renewable energy industry
9 for most of the last ten years. I, in my capacity as
10 CEO of Eolian Renewable Energy, am responsible for
11 really all aspects of that company's activities, which
12 is focused around utility scale wind development in New
13 England. We have a group of four projects right now in
14 various stages of development that consist of about --
15 nominally about 150 megawatts of capacity.

16 Q. And, specific to the Antrim Wind Project, what is your
17 role?

18 A. My role in the Antrim Wind Project is managing most of
19 the day-to-day activities of the development of the
20 Project. I've been involved with the Antrim Wind
21 Project since day one, back in April of 2009. I have
22 been involved in virtually every aspect of it. From
23 negotiating land leases, to town agreements, to
24 consultant management, budgeting and reporting, and

1 permitting and development of the Project.

2 Q. And, are you the same Jack Kenworthy who submitted
3 prefiled direct testimony in this docket, which is
4 contained in a white binder marked "Volume 1", I think
5 its marked "Exhibit AWE 1"?

6 A. Yes, I am.

7 MS. GEIGER: And, for the Subcommittee,
8 Mr. Kenworthy's testimony is under, as I may have
9 indicated, Tab 1 of Volume 1.

10 BY MS. GEIGER:

11 Q. Mr. Kenworthy, did you also submit supplemental
12 prefiled testimony in this docket on October 11, 2012,
13 which is contained in the document entitled "Fourth
14 Supplement to the Application of Antrim Wind Energy"?

15 A. Yes, I did.

16 MS. GEIGER: And, for the Committee, Mr.
17 Kenworthy's supplemental testimony is contained in -- it
18 should be a binder, another document that's been marked
19 "Exhibit AWE 9", under Tab 1.

20 BY MS. GEIGER:

21 Q. Mr. Kenworthy, do you have any corrections or updates
22 to either your prefiled or your supplemental prefiled
23 testimony?

24 A. I do have two, two updates that I would like to provide

1 the Committee. The first is, we have I believe
2 indicated in some previous filings that we were
3 awaiting the System Impact Study Report from ISO-New
4 England. We have received that report in "draft"
5 status. We received it on October 12th, if I'm not
6 mistaken. And, we -- ISO continues to inform us that
7 the report is not able to be released until it has been
8 deemed "final". We expect that determination to be --
9 to come in the next couple of weeks. But, in essence,
10 what the report has indicated to us is that the Project
11 is able to interconnect on schedule, and is not --
12 there are no required upgrades for the Project to
13 interconnect where we proposed to, like building the
14 substation at L-163. And, again, as we've previously
15 indicated, we will provide copies of that System Impact
16 Study as soon as the report has been finalized.

17 The second update is, I just wanted to
18 advise the Committee and the parties that Antrim Wind
19 has been selected for a short list for a PPA. The
20 Project had bid in response to a solicitation by
21 National Grid in August of 2012. And, we were selected
22 as a short list for that solicitation on October 19th.

23 Q. Mr. Kenworthy, could you please explain for the
24 Subcommittee members who are not totally familiar with

1 what the acronym "PPA" stands for?

2 A. Certainly. "PPA" is a "power purchase agreement". So,
3 that is the instrument that would contract for the
4 long-term offtake of power, RECs, and capacity from the
5 wind facility.

6 Q. And, "RECs" are?

7 A. Sorry. "RECs" are "renewable energy credits", which
8 are sold generally along with the power, in order to
9 enable utilities to meet their state Renewable
10 Portfolio Standard requirements.

11 Q. Thank you. Now, Mr. Kenworthy, with the updates that
12 you have just described, if you were asked the same
13 questions today under oath as those contained in your
14 prefiled direct testimony and your supplemental
15 testimony, would your answers be the same as those that
16 are set forth in those written testimonies?

17 A. Yes, they would.

18 Q. Now, Mr. Kenworthy, in order to save the time of
19 bringing you back here to rebut what other witnesses
20 have indicated in their supplemental testimony, I'd
21 like to direct your attention to a couple of areas for
22 brief oral rebuttal.

23 The first area is the Supplemental
24 Prefiled Testimony of Paul Nickerson, on behalf of New

1 Hampshire Audubon.

2 MS. GEIGER: And, madam Chairman, this
3 is a preliminary matter that I probably should have
4 addressed earlier, and I thought Audubon might do that, so
5 I remained silent. There was a motion, a Motion for
6 Late-Filed Supplemental Testimony. And, it hasn't been
7 ruled on yet. And, depending on what the ruling is, Mr.
8 Kenworthy may not need to go into the next summary that
9 he's prepared to give. So, I would ask at this time, and
10 I apologize for doing this out of order, that the Bench
11 consider Attorney Manzelli's motion.

12 CHAIRMAN IGNATIUS: I think that's fine.
13 And, you're right, it was on my list somewhere, and I
14 threw it away. So, Ms. Manzelli, do you want to explain
15 the motion and the reasons for the late filing?

16 MS. MANZELLI: Sure. Thank you. We
17 filed this motion last week on the eve of the
18 preconference -- the prehearing. Essentially, what
19 happened, Mr. Nickerson wanted to comment on two topics.
20 One, on a motion that Audubon made regarding the --
21 regarding its opinion on the adequacy of AWE's
22 conservation plan. And, two, on its interpretation of the
23 permitted uses in the conservation easements that were
24 proposed -- that were filed on June 4th, 2012. So that

1 those two topics are the topics of the supplemental
2 prefiled testimony.

3 The reason that the testimony was not
4 filed sooner was because Audubon's first attorney, David
5 Howe, here to my left, has experienced an ongoing and
6 serious personal situation that prevented him from
7 coordinating with all of the witnesses on two important
8 issues. One, that there was an October 11th, 2012
9 deadline. And, two, that anyone wishing -- any witness
10 who had submitted testimony earlier was going to need to
11 be present during the hearing to have that testimony
12 count, so to speak.

13 So, those are the circumstances
14 underlying why we made the motion. And, that's the
15 summary of what the supplemental prefiled testimony says.

16 CHAIRMAN IGNATIUS: Responses from other
17 parties as to, you know, in general, the deadlines for
18 testimony are the deadlines, and a extension is sometimes
19 possible. But, when it comes this late, there's no
20 opportunity for discovery or further follow-up to probe
21 that testimony, other than when we get into the hearing
22 room. So, we're reluctant to allow those deadlines to be
23 dispensed with entirely. But we also recognize that
24 there's circumstances in life that make it impossible

1 sometimes to meet them.

2 So, I'm curious to know, do any of the
3 parties feel they are disadvantaged by having it filed
4 late, and think that there's a fairness issue that would
5 warrant striking that and simply not admitting the
6 testimony? Ms. Geiger.

7 MS. GEIGER: Yes. Thank you, madam
8 Chairman. Antrim Wind does not want to be difficult or
9 obstructionist here. But we would raise for the
10 Committee's consideration the following fact: The
11 conservation easements that are the subject of this
12 late-filed supplemental testimony were filed by the
13 Applicant June 4th. The prefiled direct testimony from
14 Audubon was made and filed on July 31st. So, it's unclear
15 to us as to why someone from Audubon, whether it was
16 Mr. Nickerson or somebody else, didn't address those
17 conservation easements on July 31st.

18 So, even though the motion from Audubon
19 is seeking late-filed testimony beyond the October 11th
20 supplemental deadline, it seems to us that this is really
21 late in the game.

22 Having said that, the Applicant does not
23 want to be difficult, but we take -- we're not going to
24 object, but we're not going to assent either. We just

1 don't want to encourage this type of behavior in the
2 future. We understand that there are extenuating
3 circumstances. But here we just don't understand why the
4 subject of Mr. Nickerson's testimony couldn't have been
5 addressed in July, not to mention October. And, in
6 addition to that, in the motion filed by Audubon, they
7 indicate that we would not be prejudiced because we should
8 have known of Audubon's position on the conservation
9 easements, or that they are seeking a "Forever Wild"
10 easement, because of our participation at technical
11 sessions. But it's not my recollection or that of Mr.
12 Kenworthy that we ever addressed that issue in tech
13 sessions.

14 So, we're coming up to speed with what
15 the testimony says. We'll do the best we can to address
16 it. Mr. Kenworthy has some -- if the Chair allows the
17 motion for late-filed testimony, Mr. Kenworthy can make
18 some comments about it now. But we would reserve our
19 right to come back later, if we need to, after Audubon
20 testifies, if they're allowed to submit that testimony.
21 Thank you.

22 CHAIRMAN IGNATIUS: Thank you. Other
23 parties with a response? Mr. Roth.

24 MR. ROTH: It seems to me that Audubon

1 has expressed what, in any forum, would be considered to
2 be good cause for the late filing. And, the Applicant has
3 not really shown any prejudice. They have a witness
4 prepared to rebut it.

5 And, as a practical matter, you know,
6 what I would suspect would happen, if the presiding
7 officer were to deny the motion, that other parties would
8 get the testimony in through cross-examination anyway.
9 And, so, it seems to me that, for the orderly process, it
10 would make sense to let it in. And, you know, honor the
11 fact that they have expressed -- they expressed good
12 cause, and I have not heard any real prejudice to the
13 Applicant. Thank you.

14 CHAIRMAN IGNATIUS: Anything further,
15 Ms. Manzelli? Anything you'd like to add?

16 MS. MANZELLI: Thank you. I just want
17 to make one quick point of clarification. The motion that
18 New Hampshire Audubon made, that is part of the subject of
19 the supplemental testimony, was not made until September.
20 So, with respect to this being "a topic that should have
21 been addressed in the original direct testimony", that's
22 not entirely accurate.

23 With respect to the analysis of the
24 conservation easements, my understanding is that that

1 topic arose and was scrutinized during a technical
2 session, that also occurred after the original direct
3 testimonies were filed. Thank you.

4 CHAIRMAN IGNATIUS: All right. We will
5 allow the testimony in, given the circumstances. I think,
6 Mr. Kenworthy, you should feel free to rebut orally,
7 respond to it orally right now. And, then, if, after
8 Mr. Nickerson testifies, if that testimony goes any
9 further into areas that were not in the written testimony,
10 and you feel a need to retake the stand, then we'll allow
11 your attorney to make such a request and consider it at
12 that time. So, why don't you proceed.

13 MS. GEIGER: Thank you.

14 BY MS. GEIGER:

15 Q. Mr. Kenworthy, drawing your attention to the
16 supplemental prefiled testimony from New Hampshire
17 Audubon, could you please respond to the information on
18 the second and third pages of that filing, where
19 Mr. Nickerson speaks to the nature of Antrim Wind's
20 conservation easements.

21 A. Yes. And, thank you for the opportunity, madam Chair.
22 On Page 2 of Mr. Nickerson's supplemental prefiled
23 testimony, he states that "[All] easements...allow
24 [for] future residential development on the ridgeline",

1 and that "there are no...restrictions [on] where houses
2 can be built." This is not the case. AWE Exhibit 42
3 demonstrates that the Micheli easement, which is one of
4 the four easements that we have proposed, and is 295
5 acres that the Project actually doesn't have any
6 impacts on at all, does not contain any of the Project
7 facilities, restricts any future residential
8 development to an area that is in the lowlands, down by
9 Salmon Brook Road. And, again, that's in AWE Exhibit
10 42.

11 Mr. Nickerson also points out that there
12 are a range of types of easements that can be used.
13 And, I just wanted to point out for the Committee and
14 the parties that the form of easement that we used was
15 the form provided by the Harris Center for Conservation
16 Education. And, so, I think that it is a typical form
17 of easement that's used in these type of situations.
18 It was not a form of easement that was initiated by
19 Antrim Wind.

20 Just a couple of other quick points.
21 Mr. Nickerson, in his testimony, states that the
22 "turbine access roads and pad locations" mean that the
23 -- that the single individual residences that have been
24 reserved as rights in each of the easements will occur

1 on ridgelines. And, I already mentioned that, for
2 Micheli's easement, one of the four easements, that's
3 not possible, because he has committed to building that
4 home down in the lowlands, off of Salmon Brook Road.

5 But, additionally, in the case of
6 Mr. Cotran and Mr. Whittemore, they will not have
7 access to their properties through the Project's access
8 road, because of a restriction that is in Mr. Ott's
9 easement, which allows for the road to be blocked at
10 Mr. -- at or about Mr. Ott's property line, so that you
11 won't be able to use access from the Project to get to
12 those other properties, if that makes sense. And, I'd
13 be happy to point that out on the map, if anybody has
14 any questions about it.

15 CHAIRMAN IGNATIUS: Can I stop you? If
16 that's the map behind you would show, I guess I didn't
17 follow all of that?

18 WITNESS KENWORTHY: Yes. It may be
19 easiest to show on two maps. But this is our --
20 obviously, Route 9 (indicating), and this is our access
21 road (indicating), which goes up by the substation, and
22 continues on to Wind Turbine 1. And, at about here
23 (indicating) is where the Ott easement begins.

24 And, one of things that the Ott easement

1 requires is that this road -- Mr. Ott will be allowed to
2 use this road in the future for his own purposes, once the
3 easement is in place. But it cannot be used to provide
4 access to anywhere, you know, downstream, if you will,
5 from Mr. Ott's property. So, the easements that are on
6 Cotran and Whittemore's property will not be allowed to
7 use this road to access them. And, this map here --

8 MR. IACOPINO: Mr. Kenworthy?

9 WITNESS KENWORTHY: Yes.

10 MR. IACOPINO: Before you put that one
11 up, what number is that map you just referred to?

12 WITNESS KENWORTHY: This is Exhibit AWE
13 38B.

14 MR. IACOPINO: Thank you. Go ahead.

15 **BY THE WITNESS:**

16 A. This is a little bit difficult to read. But this is
17 essentially this same layout, okay, this is our project
18 layout (indicating), and these areas here (indicating),
19 that are hatched, all these four parcels, those are the
20 conservation easements. And, so, once again, this
21 conservation easement here essentially prohibits using
22 this road beyond its property boundary to access these
23 conservation easements here.

24 MR. IACOPINO: And, which exhibit is

1 that that you just referred to?

2 WITNESS KENWORTHY: This is Exhibit AWE
3 40.

4 CHAIRMAN IGNATIUS: Thank you.

5 **BY THE WITNESS:**

6 A. I have just two other points I would like to address
7 with respect to Mr. Nickerson's supplemental testimony.
8 Mr. Nickerson states that "there are no restrictions or
9 guidelines [for] forestry practices" contained in the
10 easements, and this is also not the case.

11 Section 2.A(ii) of each easement, which
12 is AWE Exhibit 37, specifically requires, and I'm
13 quoting here: "Forestry and agricultural management
14 activities shall be in accordance with the then current
15 scientifically based practices recommended by the
16 University of New Hampshire Cooperative Extension, U.S.
17 Natural Resources Conservation Service, or other
18 government or private, nonprofit natural resource
19 conservation and management agencies then active.
20 Management activities shall not materially impair the
21 scenic quality of the Property as viewed from
22 waterways, great ponds, public roads, or public
23 trails." So, it's our position that the -- all of the
24 easements do contain explicit language that provides

1 for guidelines with respect to forestry management
2 practices.

3 The final point I would like to make is,
4 on Page 3 of Mr. Nickerson's testimony, he recommends
5 that the Committee require a "Forever Wild" easement to
6 be placed on the ridgeline, if the Project is approved.
7 You know, it's our view that this is an unreasonable
8 requirement. It was noted, in fact, on Page 1 of the
9 prefiled testimony of Jeffrey Jones, from the Stoddard
10 Conservation Committee, that it's highly unusual for a
11 private landowner to place such a designation on their
12 lands. And, to point out additionally, that AWE has
13 already negotiated easements, which the Harris Center
14 has agreed will make a valuable contribution to the
15 conservation interests of stakeholders in the region.
16 We've committed to protect over ten times as much land
17 permanently as the Project will temporarily impact.
18 And, these lands are private lands, with multiple
19 landowners. And, any requirement for Antrim Wind to
20 place additional conservation restrictions on
21 landowners by others, beyond what has already been
22 negotiated, we think places an unreasonable burden on
23 the Project, which is beyond our direct ability to be
24 able to achieve.

1 And, that's all I had in response to
2 Mr. Nickerson's testimony.

3 BY MS. GEIGER:

4 Q. And, with respect to one brief area of additional oral
5 rebuttal, drawing your attention to the Supplemental
6 Testimony of Jean Vissering, and I believe this has
7 been premarked as "Public Counsel 4", Pages 2 to 3.
8 Could you please briefly address Ms. Vissering's
9 statements concerning AWE's conservation easements.

10 A. Yes. Thank you. On Page 2 of Ms. Vissering's
11 supplemental testimony, she claims that "there are no
12 restrictions for the future expansion of a wind
13 facility." And, she also claims that, during the 50
14 years of potential use of the site for a wind farm,
15 that larger turbines may be used or wider roads may be
16 required. And, I would just like to point out here
17 that this is a hypothetical scenario that is not being
18 proposed by the Applicant in this case. And, that any,
19 you know, if the Project were to decide -- decided to
20 make some substantial change to the Project in that
21 way, it would need to -- it would require further
22 evaluation by this Committee. And that, given what
23 Ms. Vissering appears concerned about is simply a
24 hypothetical, it does not seem to form a basis upon

1 which to claim that the Project's conservation
2 easements are inadequate.

3 I would also like to address a statement
4 on the top of Page 2 by Ms. Vissering, claiming that
5 "the Applicant estimated that only 400 of the 685 acres
6 could be considered unrestricted conservation." This
7 is also not the case. The Project will conserve
8 approximately 685 acres of land permanently. The
9 initial impacts from the Project's construction will
10 take place on only about 60 acres of that 685 acres,
11 about one-tenth of the total amount of conservation
12 land.

13 The total footprint that's allowed for
14 all of the individual homes, each easement does allow
15 for one residence to be constructed on it, again, with
16 the restrictions that I mentioned previously. But the
17 total footprint for all of those homes is about 13,000
18 square feet, which is about a third of an acre. Thus
19 the vast majority of the 685 acres we would consider to
20 be truly conserved land. And, certainly particularly
21 so when juxtaposed against the several hundred homes
22 that could be built in the district now, by right, in
23 accordance with zoning regulations.

24 There's also a statement by Ms.

1 Vissering that the area is important both locally and
2 regionally for conservation purposes. But then she
3 goes on to conclude that the conservation of 685 acres,
4 in an area which presently has no conservation
5 restrictions on it, is inadequate.

6 She calls for further conservation to
7 occur within areas that are identified as "priority
8 blocks" in the Antrim Open Space Plan, or Conservation
9 Plan. And, I just wanted to point out, so that it's
10 clear to the Committee, that 100 percent of the land
11 that Antrim Wind has agreements in place to conserve,
12 exists within the priority blocks identified in the
13 Antrim Open Space Conservation Plan, all 685 acres.

14 Finally, Ms. Vissering first recommended
15 in her initial report that the Project utilize
16 radar-activated lighting systems. But, then, following
17 on that, then complains that the commitment the Project
18 made to utilize it is subject to FAA approval of that
19 technology, which is a matter that's clearly squarely
20 out of AWE's hands, and a fact which has not changed
21 since she initially made that recommendation in the
22 first instance.

23 And, again, I just want to make it clear
24 for everybody that AWE has made the strongest

1 commitment that it or any applicant could with respect
2 to the implementation of this technology. Obviously,
3 to the extent that it is not approved by the FAA, we
4 cannot use it. But we have committed to use it either
5 at initial construction or within, at the longest, one
6 year after its subsequent approval. Thank you.

7 MS. GEIGER: Thank you, Mr. Kenworthy.
8 The witness is available for cross-examination.

9 CHAIRMAN IGNATIUS: Thank you. And, I
10 understand from a prehearing conference, there was
11 discussion of order of cross-examination and agreement.
12 So that the next questioner would be the Harris Center,
13 Mr. Froling?

14 MR. FROLING: No questions at this time.

15 CHAIRMAN IGNATIUS: All right. Antrim
16 Conservation Commission, Mr. Beblowski?

17 MR. BEBLOWSKI: Yes. Thank you.

18 **CROSS-EXAMINATION**

19 BY MR. BEBLOWSKI:

20 Q. And, the question I have starts with AWE Number 6
21 exhibit. I'm in the First Supplement, Attachment 15,
22 dated August 10, 2012, Section 8, "Operational
23 Mitigation Action", subsection "Conservation Benefits".
24 It's on Page 54.

1 A. In the Application?

2 Q. Yes. It's the First Supplement of the Application.

3 MR. IACOPINO: I believe that would be
4 the Avian and Bat Protection Plan.

5 MR. BEBLOWSKI: Yes. Correct.

6 CHAIRMAN IGNATIUS:

7 MR. IACOPINO: Section 8 of that.

8 MR. BEBLOWSKI: At Section 8. It's at
9 the rear of --

10 WITNESS KENWORTHY: This is actually --
11 I'm sorry. This is actually in the Avian and Bat
12 Protection Plan itself?

13 MR. BEBLOWSKI: Yes. Yes.

14 MR. IACOPINO: Yes, I believe that's
15 Attachment 12 --

16 MR. BEBLOWSKI: I believe so.

17 MR. IACOPINO: I believe that's
18 Attachment 12G to the exhibit. For the Committee members,
19 that's Exhibit Number AWE 6. It's the First Supplement.
20 It contains a number of documents. I think it's 12G, if
21 you're looking on paper. And, if you're looking
22 electronically, I'm trying to find which attachment it is
23 for you.

24 MS. GEIGER: I believe it's 12F-1.

1 MR. IACOPINO: "12F", sorry.

2 DIR. STEWART: It's Attachment 5 of 6.

3 MR. IACOPINO: Thank you, Mr. Stewart.

4 BY MR. BEBLOWSKI:

5 Q. In this section, there's a discussion of the 685 acres
6 of planned conservation easements brokered with the
7 Harris Center. It encompasses four properties, three
8 of which are leased to AWE for the Project. With that
9 being said, could you please turn to AWE 37, it's the
10 redacted conservation easements.

11 A. Okay.

12 Q. Page 2 is the first page of the Ott cover letter.
13 Would you please read the second paragraph, fourth
14 sentence only. It starts with "The Parties" and ends
15 with "agency".

16 A. I'm sorry, Mr. Beblowski. This is on Page 2 of the
17 cover letter to Mr. Ott?

18 Q. No. It's Page 1 of the cover letter --

19 A. I see.

20 Q. -- from Mr. Ott. It's Page 2 of the exhibit.

21 A. Okay. That second sentence, starting with "The
22 Parties" reads "The Parties" --

23 Q. Fourth sentence, Paragraph 2. And, it starts with "The
24 Parties further".

1 A. "The Parties further agree that although this Agreement
2 and the Easement [is] not intended to serve as
3 mitigation for any potential impacts created by the
4 Project, the easement may be counted by AWE as a
5 component of any habitat conservation or mitigation
6 plan required by any local, state, or federal
7 permitting agency."

8 Q. Correct. Thank you. This sentence is included in the
9 cover letters for the Ott easement, the Whittemore
10 easement, on Page 24, the Cotran easement, Page 44, and
11 the Micheli easement on Page 62. Because of the
12 anticipated length of this hearing, please answer "yes"
13 or "no", if you have made any formal mitigation
14 agreements with any local, state, or federal permitting
15 agencies in this regard?

16 A. No, we have not. We have not been indicated that there
17 has been any impact for which mitigation is required.

18 MR. BEBLOWSKI: Okay. Thank you very
19 much. That's the end of my questioning.

20 CHAIRMAN IGNATIUS: All right. Thank
21 you. The Stoddard Conservation Commission was next, but I
22 don't believe anyone is here for the Stoddard Conservation
23 Commission?

24 (No verbal response)

1 CHAIRMAN IGNATIUS: All right. If they
2 show up while Mr. Kenworthy is still on the stand, we'll
3 come back to them. And, is Ms. Sullivan here?

4 (No verbal response)

5 CHAIRMAN IGNATIUS: I think not. All
6 right. Ms. Longgood was going to speak on behalf of the
7 intervening abutters, but I don't believe she's here?

8 (No verbal response)

9 CHAIRMAN IGNATIUS: All right. Then, I
10 think it's the Town of Antrim, Mr. Stearns?

11 MS. STEARNS: No questions.

12 CHAIRMAN IGNATIUS: Then, the Antrim
13 Planning Board, and is it Mr. Levesque?

14 MR. LEVESQUE: No questions.

15 CHAIRMAN IGNATIUS: All right. Audubon
16 Society, Ms. Manzelli?

17 MS. MANZELLI: Yes. Thank you.
18 Mr. Kenworthy, good morning. My name is Amy Manzelli,
19 here representing New Hampshire Audubon.

20 WITNESS KENWORTHY: Good morning.

21 BY MS. MANZELLI:

22 Q. Let me draw your attention first to Lines 4 through 13,
23 on Page 23 of your January 31st, 2012 testimony. This
24 is your direct testimony, submitted, I believe, as the

1 combined testimony.

2 MS. MANZELLI: And, I would request that
3 your counsel direct us to what exhibit number that is?

4 MS. GEIGER: I believe that's AWE 1,
5 under Tab 1.

6 MR. FROLING: Could you give the page
7 again?

8 MS. MANZELLI: Let me say that again.
9 This is Page 23, of Mr. Kenworthy's January 31st, 2012
10 testimony. I believe that's AWE Exhibit 1, is that
11 correct?

12 MS. GEIGER: That's correct.

13 MS. MANZELLI: Thank you.

14 BY MS. MANZELLI:

15 Q. In particular, on Page 23, I'm directing your attention
16 to Lines 4 through 13. You agree that there's a
17 general description that the Project expects to develop
18 an emergency response plan in consultation with the
19 Town of Antrim?

20 A. Yes.

21 Q. Okay. Has this plan been developed?

22 A. No, it has not.

23 Q. When will the plan be developed?

24 A. The plan will be developed in accordance with the

1 agreement that we've signed with the Town of Antrim.
2 Obviously, I think the details that go into a response
3 plan obviously may be impacted by these proceedings, in
4 terms of even whether or not there's a need to develop
5 such a plan. But that certainly it is our intention
6 and our agreement with the Town that we would enter
7 into those conversations after we have completed the
8 permitting process and have a clear plan moving toward
9 construction and operations.

10 Q. Could you attach an anticipated timeline to the
11 process?

12 A. Well, I mean, I think we have to allow sufficient time
13 for an agreement to be developed in the context of our
14 commercial plans, which are now targeting a 2014
15 operations date. So, sometime in 2013.

16 Q. Will it be a public process at the town level?

17 A. I am -- I don't know how the Town would choose to
18 pursue that on there end. I think, obviously, it's an
19 agreement that will involve public resources. And, I
20 think the agreement that we've signed with the town is
21 a public agreement. So, I'm sure there will be
22 opportunities for the public to weigh in, though, I
23 don't know how the Town intends to conduct that. I
24 doubt if those actual negotiations would take place in

1 the context of a public hearing, *per se*.

2 Q. Is it -- am I understanding your testimony today
3 correctly that it's possible there might not be an
4 emergency plan, if the conditions and terms of an SEC
5 approval addressed the items that might be addressed
6 otherwise in the emergency plan?

7 A. No, that is not my testimony.

8 Q. So, in any case, no matter what an approval might look
9 like, if you're given one, there will be an emergency
10 plan developed with the Town?

11 A. That's correct.

12 Q. And, you anticipate that will be started and completed
13 in 2013?

14 A. I think that's a reasonable assumption, yes.

15 Q. Let me talk with you about the ISO System Impact Study.
16 I understand -- earlier you testified that you received
17 a draft on October 12th, 2012, right?

18 A. That's correct.

19 Q. Now, your prefiled testimony in this matter, which we
20 can look at, if needed, but you agreed that, in your
21 prefiled testimony, you stated that the System Impact
22 Study would be broken into two parts, right?

23 A. Correct.

24 Q. Okay. And, that those parts were "feasibility/steady

1 state", and the second part was "stability"?

2 A. That's correct.

3 Q. Now, when you say you "received a "draft report" on
4 October 12, 2012", was that a draft report of both
5 sections?

6 A. Yes. We had received a previous draft of the steady
7 state report in --

8 Q. May 18th, 2012?

9 A. That sounds correct. I can take it subject to check.

10 Q. Yes.

11 A. And, what we received on October 12th contains a
12 revised draft of that steady state report, as well as
13 the first draft that we had received of the stability
14 study. So, both sections are still in draft form.

15 Q. And, ISO will not allow you to release the current
16 draft to parties and the Committee?

17 A. That is ISO's position. Until -- excuse me, I'm sorry.
18 Until the report has been deemed "complete and final".

19 Q. Right. And, so, do you have an expectation of when the
20 report will be deemed "complete and final"?

21 A. My expectation would be that, within the next 30 days
22 it would. It may be somewhat sooner, but there are
23 timelines that we need to follow in the tariff for
24 proceeding forward in the interconnection process.

1 And, so, that will either involve for us entering into
2 a facility study agreement, which can't be entered into
3 until the System Impact Study is complete. Or,
4 bypassing a facility study and entering into a large
5 generator interconnect agreement, which would also
6 require the SIS to be completed. And, those have
7 timeframes attached to them, if we need to --

8 Q. What steps need to be completed before the SIS study
9 can be in "complete and final" form?

10 A. It is a function of us deciding whether we go forward
11 with a facility study or whether we enter into
12 negotiations on a large generator interconnect
13 agreement, which there's a fairly narrow window for us
14 to do, in fact, that decision we'll make this week.
15 And, then, as that agreement is drafted, there will be
16 steps taken to finalize the System Impact Study.
17 Essentially, we would be going back to them in either
18 case and saying "we accept the agreement", and it needs
19 to go through about two levels of review and
20 finalization at the ISO before they can call it
21 "final".

22 Q. Is it possible for you to, given that completing the
23 study is dependent, at least in part, on AWE conduct,
24 is it possible for the study to become finalized before

1 the closing of this hearing?

2 A. No, I do not believe so.

3 Q. But you did say that you anticipated it would be
4 complete within the next 30 days?

5 A. That is my anticipation, yes.

6 Q. What's the soonest it could be completed?

7 A. I don't exactly know.

8 Q. I'd like to talk with you next, Mr. Kenworthy, about
9 the PILOT Agreement or the proposed PILOT Agreement and
10 Alternative PILOT Agreement. Do you agree that, on
11 Page 38 of the AWE Application, it states that the life
12 of the facility would be "20 to 25 years"?

13 A. Sorry, what was the page number again?

14 Q. Sure. It was Page 38 of the Application. You can
15 answer, if you know. Do you know what the expected
16 life of the facility will be?

17 A. Yes, that sounds correct. I'm just checking the
18 Application --

19 Q. Sure.

20 A. -- to see if that's what we wrote there. Yes.

21 Q. Now, what are the plans to upgrade or replace equipment
22 at the end of its original useful life?

23 A. There are no current plans.

24 Q. Does that mean that AWE does not plan to do that?

1 A. No. We have the ability in our leases and in our
2 conservation easement agreements to operate a facility
3 for up to -- really amounts up to 45 years from the
4 initial COD. So, if, at the end of the useful life of
5 the Project that we're now seeking certification for,
6 there were a market for wind energy, and it was
7 economic and prudent for us to repower the facility,
8 then we would be in a position to come to the Committee
9 and request, you know, review of a renewed project for
10 that time, which would involve new equipment.

11 On the other hand, it is certainly
12 plausible that the market for wind energy may be very
13 different in 20 years. And, so, we have really no
14 visibility whether we will or will not repower the
15 facility in 20 years or more.

16 Q. Thank you. And, with respect to -- just confirm for
17 me, there's an original proposed PILOT Agreement, and
18 then there's an Alternative proposed PILOT Agreement,
19 right?

20 A. Yes. But, in fact, they're not proposed. We've
21 actually signed them both.

22 Q. Okay. Thank you. The term for both of those is 20
23 years, right?

24 A. Twenty years of operational life of the facility,

1 that's correct. There's actually a little bit more
2 time than that built into the agreement, in that it
3 covers payments during construction, it also covers a
4 transition tax year as well.

5 Q. Let me direct your attention to your supplemental
6 testimony from October 11th, 2012.

7 MS. MANZELLI: Attorney Geiger, if you
8 would point us to what exhibit number that is, I would
9 appreciate it.

10 MS. GEIGER: I believe it's Exhibit 9.
11 And, we all should have received an exhibit list. I don't
12 know if you have it. I'll give you one, if you need one.

13 MS. MANZELLI: I did receive an exhibit
14 list immediately before the hearing. Thank you.

15 BY MS. MANZELLI:

16 Q. So, looks like AWE 9, is that your supplemental
17 testimony?

18 A. Yes, it is.

19 Q. Okay. Thank you. Drawing your attention to Pages 8
20 and 11 -- excuse me, 8 through 11. How did you
21 characterize the term of the PILOT Agreement?

22 A. There's several pages there. I mean, I could read you
23 the first sentence I see, which says --

24 Q. Actually, I'm sorry, Mr. Kenworthy, I believe it's Line

1 14, on Page 8. Did you somewhere there or near there
2 characterize the term of the PILOT agreement?

3 A. Yes.

4 Q. Okay. And, how did you characterize the term?

5 A. It says that the Agreement is "commencing with
6 construction and continuing for 20 years of Project
7 operations."

8 Q. Okay. So, am I understanding correctly, what you're
9 saying is that the PILOT, there will be a payment in
10 lieu of taxes that starts at construction, and then at
11 sometime construction will complete. And, then, the
12 PILOT will continue from that time for 20 years into
13 the future?

14 A. That's correct.

15 Q. Okay. And, in Section 14.2.1 of the agreement with
16 Antrim, or around there, would you agree that the
17 decommissioning period is 24 months?

18 A. What's the exhibit?

19 MS. GEIGER: Four.

20 WITNESS KENWORTHY: Four?

21 **BY THE WITNESS:**

22 A. Can you read the section number again of that
23 agreement?

24 BY MS. MANZELLI:

1 Q. Sure. And, Mr. Kenworthy, I appreciate you wanting to
2 verify. But, to save time, do you know the anticipated
3 period of decommissioning?

4 A. We've got a great deal of agreements and documents
5 here. I would prefer to check what you're referring
6 to.

7 Q. Sure. It's Section 14.2.1 of the agreement with
8 Antrim, which --

9 A. What that 24 months actually refers to --

10 Q. I'm sorry, Mr. Kenworthy. I actually wasn't able to
11 find it on the exhibit list. For everybody that's
12 trying to read along, can you tell me what exhibit you
13 found that in?

14 A. This is Exhibit AWE 4.

15 Q. Thank you.

16 A. Ms. Manzelli, I believe your question was whether or
17 not I could confirm that the decommissioning period was
18 24 months?

19 Q. Correct.

20 A. Section 14.2.1, the "24 months" here is actually
21 referring to the definition of when the wind farm is at
22 the end of its useful life, which is when it has not
23 generated any electricity for a period of 24 months.

24 Q. Okay. Is there a section in that agreement that

1 defines the decommissioning period or in any way at all
2 describes how long it will take from the time the
3 facility is no longer going to be used, until the time
4 that it's been completely decommissioned?

5 A. Yes.

6 Q. And, let us know where that is in the document, and
7 then what that time period is please.

8 A. That would be Section 4.1.2.

9 Q. Thank you.

10 A. Same page, same exhibit, and that is also "24 months".

11 Q. Okay. So, the decommissioning period --

12 CHAIRMAN IGNATIUS: I'm sorry. Did you
13 say "4.1" or "14.1.2"?

14 WITNESS KENWORTHY: Sorry. It's Section
15 14.1.2.

16 CHAIRMAN IGNATIUS: Thank you.

17 BY MS. MANZELLI:

18 Q. So, the decommissioning period is 24 months?

19 A. That's correct.

20 Q. Does AWA [AWE?] intend to pursue a PILOT to cover all
21 years of operation and decommissioning?

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

23 Q. Well, if the facility could be operating for upwards of
24 45 years, and the PILOT term is 20 years, does AWE

1 intend to pursue a PILOT Agreement for anything beyond
2 20 years?

3 A. Not at the current time. And, I think the agreement
4 we've entered into with the Town is an agreement that
5 covers 20 years of operations. As I stated previously,
6 we have no knowledge of whether the facility will
7 actually exist or continue to operate beyond that
8 period. We also do not know what the status of any
9 laws governing PILOTs or other taxation issues may
10 exist at the time.

11 Q. So, let's try to eliminate some of that uncertainty.
12 Let's, for the purpose of this question, assume that
13 the laws governing PILOTs have not changed. And, let's
14 assume, for the purposes of this question, that we've
15 gone beyond the 20-year period, and the facility is
16 either operating or within the 24-month decommissioning
17 period. Under those circumstances, would AWA -- AWE,
18 excuse me, pursue a PILOT Agreement?

19 A. I'm afraid I just can't answer your question. It's a
20 series of hypotheticals 20 years in the future. What I
21 can say is I think that we would act in the way that we
22 have thus far, which is, we would try and reach
23 whatever agreement we thought were in the best interest
24 of the Project and the Town.

1 Q. You do understand that this is a long-term Project,
2 spanning several decades, right?

3 A. Certainly.

4 Q. Okay. But you haven't done the long-term planning to
5 determine what your PILOT plan would be after the
6 20-year period?

7 A. No. We do not know if we have an operating Project
8 after 20 years or not. I think trying to predict -- we
9 have an agreement that is good for 20 years of
10 operations. And, we have the opportunity to revisit
11 that agreement at any point between now and when that
12 agreement expires, in 20 years.

13 Q. Thank you. And, not surprisingly, let's talk about
14 conservation. Is there -- has AWE created a document
15 that's site-specific that would be called something
16 like a "Conservation Plan"?

17 A. I think we have. I don't know that we have a specific
18 document that's called by that name. Certainly, I
19 think, in our Application, we have an Avian and Bat
20 Protection Plan, which includes, as a component of it,
21 obviously, these conservation easements, as a component
22 of providing additional habitat for wildlife in and
23 around the site. But we have not developed something
24 that we have specifically called a "Conservation Plan",

1 other than, obviously, the easements, which are in the
2 record here.

3 Q. So, my next question was going to be "well, if there's
4 no freestanding, signed specific document, then what
5 exactly is the conservation plan?" So, let me
6 summarize my understanding of your testimony based on
7 what you just said. The conservation plan is the Avian
8 and Bat Protection Plan, and, as part of that plan,
9 there are the four conservation easements, correct?

10 A. Yes, I think that's essentially correct. Again, we
11 have not called it a "Conservation Plan".

12 Q. Okay. As I was getting up to speed on the file, I
13 didn't see many references to the phrase "conservation
14 plan".

15 Now, with respect to the four
16 conservation easements that we've discussed, and that
17 are in the materials in AWE 37, have those been
18 conveyed already?

19 A. The easements?

20 Q. Yes.

21 A. No.

22 Q. No. And, those are contingent upon getting all of the
23 required governmental approvals?

24 A. That is correct.

1 Q. So, what would AWE have to do to be able to renegotiate
2 those conservation easements?

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

4 Q. Well, if they're not signed, sealed, and delivered, so
5 to speak, then, is there some room for negotiating
6 them?

7 A. Well, the agreements -- the letters of intent are
8 binding on the form of easement that was attached to
9 it. So, those easements have been negotiated over the
10 period of more than a year between Antrim Wind, the
11 Harris Center, and the individual landowners of these
12 properties. So, obviously, it was a product of an
13 extended effort. And, what results is actually what
14 has been agreed to.

15 Q. My question, though, is, if you went through a
16 negotiation process in the first time, and the
17 easements have not yet been conveyed, it's possible
18 that you could renegotiate the terms with the parties
19 to those letters of intent, right?

20 A. Sure, it's possible, I suppose.

21 Q. Okay. Now, to clarify the terms -- or, let me step
22 back for a second. You testified earlier that the form
23 of easement used for these four easements was from the
24 Harris Center for Conservation, right?

1 A. That's correct.

2 Q. So, does that mean that AWE had no participation
3 whatsoever in the preparation of the conservation
4 easements?

5 A. No, not at all. We had been provided a form of
6 easement, and then we made suggested changes --

7 Q. Uh-huh.

8 A. -- to that easement. And, we essentially agreed on a
9 form to begin with that was acceptable to AWE and the
10 Harris Center.

11 Q. Uh-huh.

12 A. And, then, we negotiated that form with each of the
13 individual landowners, until we reached an agreement
14 that was ultimately acceptable to all parties.

15 Q. Right. Which, and answer if you can, that's the
16 typical fashion of arriving at an agreed upon
17 conservation easement, right?

18 A. I do -- it's the first ones I've ever had to negotiate,
19 so I don't know.

20 Q. Okay. Well, suffice to say, you can agree that not
21 100 percent of the language in the conservation
22 easement is from the Harris Center, right?

23 A. That's true.

24 Q. Okay. Now, do you know -- let me back up again. Would

1 you please confirm, there's four easements, three of
2 them allow for a residential single-family dwelling to
3 be built, and one of them allows for only a hunting
4 cabin, right?

5 A. That's correct.

6 Q. Okay. So that we're talking about four different
7 paragraphs. One says, you know, I'm obviously
8 paraphrasing here: "You can build a house", "you can
9 build a house", "you can build a house", "you can build
10 a hunting cabin". So, did those four paragraphs come
11 from the Harris Center, AWE, or another source?

12 A. Those were requests for reserved rights by the
13 landowners.

14 Q. Okay. Now, with respect to, again, just focusing on
15 these easements here, there are no limits to structures
16 that can be built that are ancillary to agriculture and
17 forestry, right?

18 A. I would not agree with that necessarily. That is
19 language that was not our language, the language
20 relating to "structures ancillary to forestry and
21 agriculture".

22 Q. But, if it's not proposed -- if it was language not
23 proposed by AWE, but it's in the instrument
24 nevertheless, then that would be the operative

1 language, right?

2 A. I guess my only point was that it appears to be
3 customary language in easements that are used by the
4 Harris Center.

5 Q. But the question is, is there and does the conservation
6 easement language limit in any way the scope, size,
7 location, *etcetera*, of structures that may be built,
8 because they are structures that are ancillary to
9 forestry and/or agriculture?

10 A. Yes, my answer would be "yes". I think there are
11 certainly restrictions on what types of structures can
12 be built. I don't know that it's fully encapsulated in
13 the sentence that you read. And, quite honestly, I
14 would need to go back and read through the entire
15 easement again to figure out how that specific language
16 operates in the context of the easement. But certainly
17 wouldn't be the case that you could go build 685 acres
18 of buildings and call it "forestry". So, I think
19 that's clearly a restriction on what you would or would
20 not be able to do.

21 Q. Who, in the AWA -- AWE, I'm sorry, I keep saying "AWA",
22 AWE Applicant team would be the best suited person to
23 discuss the language of the conservation easement?

24 A. That would be myself.

1 Q. Okay. So, could you show me where in the proposed
2 conservation easement, aside from a structure having to
3 be related -- excuse me, "ancillary to forestry or
4 agriculture", could you show me where in the easement
5 are these limits?

6 A. I can try to find the language.

7 (Brief off-the-record discussion ensued
8 regarding feedback coming over the
9 microphones.)

10 CHAIRMAN IGNATIUS: Thanks.

11 **BY THE WITNESS:**

12 A. I suppose it's my read. This is in AWE 37, in the
13 language of the easement. And, this language would be
14 true of any of the four easements. It's common to all
15 of them. But this is on Page 4. It's in Section 2.C.

16 BY MS. MANZELLI:

17 Q. Just to clarify, Mr. Kenworthy. Do you mean the "i",
18 ii.C, on Page 4 of 13?

19 A. Not small letter "i". This is in Section 2.C.

20 Q. Okay. Thank you.

21 A. It says, "Except as expressly hereinafter provided, no
22 structure or improvement, including, but not limited
23 to, a dwelling, any portion of a septic system, tennis
24 court, swimming pool, dock, aircraft landing strip,

1 tower or mobile home, shall be constructed, placed, or
2 introduced onto the Property. However, ancillary
3 structures and improvements including, but not limited
4 to, a road, dam, fence, bridge, culvert, barn, maple
5 sugar house, or shed may be constructed, placed, or
6 introduced onto the Property only as necessary in the
7 accomplishment of the agricultural, forestry,
8 conservation, habitat management, or noncommercial
9 outdoor recreational uses of the Property, and provided
10 that they are not detrimental to the purposes of this
11 Easement."

12 So, in my read of that language, it
13 limits the type of structures, what they can be related
14 to, and requires that the structures are not
15 detrimental to the purposes of the easement. All of
16 which I would consider to be restrictions.

17 Q. Okay. So, if it's "ancillary to forestry or
18 agriculture", and if it's "not detrimental to the
19 purposes of the easement", then it can be built?

20 A. It needs to be necessary as well.

21 Q. So, if it's "necessary" and "ancillary to agriculture
22 and forestry", and it's not --

23 A. Which need to be conducted in accordance with best
24 practices.

1 Q. Yeah. So, let me try that again. If it's ancillary
2 and necessary to forestry or agricultural that's
3 practiced in accordance with the language in the
4 easement, and it's not detrimental to the conservation
5 easement purposes, then it can be built?

6 A. Yes. I think it appears to be so, yes.

7 Q. Okay. And, with respect to the ridgeline, are there
8 any restrictions where structures and improvements that
9 are ancillary and necessary to forestry or agriculture
10 are located, if they were to be built?

11 A. Not that I'm aware of.

12 Q. And, with respect to the three residences and the one
13 hunting cabin that can be -- that are allowed by the
14 conservation easements, is it accurate to say that only
15 one of the conservation easements restricts the
16 location to the lowlands?

17 A. That is correct.

18 Q. So, three of the residences can be built on the
19 ridgeline?

20 A. Technically, they could be, yes.

21 Q. Well, don't you think it's likely, given that that's
22 the area that will be prepped, so to speak, after
23 decommissioning?

24 A. No. As I said before, for Mr. Cotran and

1 Mr. Whittemore, they would need to build long new roads
2 from the south to access the ridgeline, which would be
3 very expensive for them to do.

4 Q. Well, expense being left aside, it's possible. But
5 isn't the ability to block the road access, that's not
6 a requirement to block the road access, right?

7 A. I believe it's a right that the Harris Center has.

8 Q. All right. So, that right could be exercised or not?

9 A. Ostensibly, their interest is in the conservation of
10 ridge. But, yes, it would be their right to exercise.

11 Q. And, if those interests, either the underlying fee
12 interest or the conservation easement interest were
13 conveyed to a different party, then the subsequent
14 owners of those property interests would have the right
15 to either block or not block the road?

16 A. The right doesn't belong to the fee owner, it belongs
17 to the easement holder.

18 Q. Right. So, if that were conveyed to a new easement
19 holder, then it would be up to that new easement holder
20 to exercise that right or not?

21 A. Yes.

22 Q. Has AWE studied the effect of fragmentation, as it
23 relates to the houses and the cabin and the forestry
24 and agricultural improvements that are allowed under

1 the conservation easements?

2 A. No, we haven't. Those are not activities that we're
3 seeking to have certificated here before this
4 Committee.

5 Q. So, there's been no consideration whatsoever of the
6 impacts related to fragmentation?

7 A. Oh, I wouldn't say that. We have -- our Application
8 and supplements deal with questions of habitat
9 fragmentation, as well as in certain responses by -- I
10 believe, by Mr. Valleau, both to data requests and in
11 his testimony, have dealt with the issue of
12 fragmentation.

13 Q. But is what you're saying that that does not deal with
14 fragmentation as it relates to the permitted
15 residential developments and the cabin and the
16 permitted forestry and agricultural improvements?

17 A. You know, I think our view is that, right now, this is
18 an area that has been heavily logged and frequently
19 clear-cut right now. It's happened this year, it's
20 happened the year previous. It's happened several
21 times within the last ten years. And, it's an area
22 which could have several hundred homes built in it
23 right now by right, --

24 Q. You know, I'm --

1 A. -- which would create fragmentation. So, I think our
2 view is that, by restricting the vast majority of those
3 rights, that creates a dramatic improvement and the
4 potential risk to habitat fragmentation. Although,
5 since those are not activities that we would undertake,
6 we haven't studied the potential impacts of them, no.

7 Q. I'm glad you mentioned the ability to, by right, build
8 many, many, many more residences than would be allowed
9 by these conservation easements. Because I wanted to
10 ask you, you're not saying that a developer could go up
11 there tomorrow, assuming you didn't have all the
12 property interests that you have, and just start
13 building subdivisions, right? I mean, you understand
14 that there are numerous state and local and federal
15 approvals that would have to be gotten for that to
16 happen, right?

17 A. Certainly, development would require approval. But the
18 zoning in the district allows for, essentially, a
19 three-acre subdivision.

20 Q. Right. But that doesn't mean that the developer could
21 just go and start putting up the houses. The approvals
22 need to be obtained?

23 A. Sure. But --

24 Q. And, that's not a guaranteed outcome --

1 A. -- just because something might happen doesn't mean
2 that it will.

3 (Court reporter interruption - multiple
4 speaking at the same time.)

5 BY MS. MANZELLI:

6 Q. My question was, getting all of those approvals to put
7 in a subdivision is not a guarantee, right?

8 A. No. Certainly, nothing is guaranteed. Although,
9 again, I think the law is pretty clear that the right
10 exists in the district to undertake that sort of
11 development. So, if you comply with the law, you
12 should be able to obtain approvals.

13 MS. MANZELLI: Thank you, Mr. Kenworthy.
14 Attorney Howe does have some further questions here. He
15 also has an appearance for Audubon.

16 CHAIRMAN IGNATIUS: Please proceed.

17 MR. HOWE: Yes, just one question.

18 BY MR. HOWE:

19 Q. Mr. Kenworthy, your testimony, I think you described
20 that the impact of the construction of houses on the
21 property subject to conservation easements would be not
22 more than a third of an acre, is that -- am I recalling
23 your testimony?

24 A. In adding up the total square footage of the house

1 footprints that are allowed within the conservation
2 easements, it's about 13,000 square feet.

3 Q. Okay. But that calculation does not include the
4 construction of driveways, utilities, septic systems,
5 and roads that might be necessary or otherwise allowed
6 in connection with the construction of those houses, is
7 that correct?

8 A. No, it does not fully take that into account. There
9 could and likely would be some additional impacts.

10 MR. HOWE: Yes. Okay. Thank you.

11 WITNESS KENWORTHY: Sure.

12 CHAIRMAN IGNATIUS: Thank you. I lost
13 my master list. It's a crisis. I think, Ms. Allen, are
14 you speaking for you and Mr. Edwards?

15 MS. ALLEN: Yes, I am. Can you hear me?

16 CHAIRMAN IGNATIUS: Yes. Please
17 proceed.

18 BY MS. ALLEN:

19 Q. Mr. Kenworthy, I'd like to talk about the PILOT that
20 Audubon has just also been talking about. And, just
21 for reference, it's as, under our exhibit, it's
22 AE-2C [EA-2C?]. And, I think also, you have also
23 submitted it as one of your exhibits. I don't have
24 that number. But, just in terms of background, as you

1 know, a PILOT was negotiated and is in effect for the
2 Groton wind farm. But, in Lempster, which was the
3 first wind farm that was approved by the SEC, they used
4 *ad valorem* taxes.

5 So, my question -- well, my first
6 question to you is, why was a PILOT pursued in this
7 particular case for Antrim?

8 A. Pardon me. A PILOT was pursued in this instance,
9 because both Antrim Wind and the Town of Antrim felt
10 that an agreement that provided for predictability, for
11 both the Applicant and the Town, in terms of costs and
12 revenues over the operating life of the Project was in
13 the best interest of both parties.

14 Q. And, was it suggested by Antrim Wind or by the Town
15 first to have a PILOT? Or, was it just mutual?

16 A. No. It was first suggested by Antrim Wind.

17 Q. By Antrim Wind?

18 A. Yes.

19 Q. Okay. When you were in -- in first in the
20 negotiations, did you have any idea of the effect of
21 being in a cooperative school district, with eight
22 other towns, or also the effect of the county tax would
23 be, and what the impact -- what the impact would be of
24 a \$50 to \$61 million project on the Town of Antrim?

1 A. As I believe I said in my supplemental testimony, if
2 I'm not mistaken, the issue of the potential kind of
3 tax shift consequences that may occur in Antrim, on
4 account of being in a cooperative school district, --

5 Q. Uh-huh.

6 A. -- we were not aware of, until very shortly before the
7 public hearing in December of 2011, at which point we
8 actually expected to sign the first PILOT Agreement.
9 So, no, we were not aware of the consequences of answer
10 Antrim being in ConVal for the purposes of, you know,
11 shifting its obligation to the school district.

12 Q. And, how would you characterize that shift now? I
13 mean, what do you see as being the potential tax
14 impacts to the Town of Antrim, both county, the county
15 tax, and also to the school district tax?

16 A. I don't know the answer. I think we certainly have --
17 pardon me -- a lot of it's going to come down to what
18 the final assessed value is of the Project, obviously,
19 under DRA's assessment, for the purposes of
20 equalization. It also will depend upon what a court
21 decides, in terms of the dispute that is currently in
22 front of them, between the Town of Antrim, along with
23 Antrim Wind, and DRA, on how that project is valued.

24 But, in any event, as you're aware, our

1 commitment to the Town has been to pay whatever the
2 increase is to ConVal and the county on account of the
3 Project, in addition to a schedule of payments in the
4 event that full and fair market value valuation is used
5 for equalization. So, I think we -- the precise number
6 of what the impact to Antrim of that valuation is is of
7 less import, because we've agreed to cover it, no
8 matter what it is.

9 Q. You're talking about the Alternative PILOT. And, just
10 for reference, this would be AE-2D [EA-2D?] on our
11 exhibit list, but it's also -- you have it as well.
12 You say that you -- you categorize it as you are
13 "committed to paying that difference". But I
14 understand from the Alternative PILOT, under Section 4
15 and Section 5, the Alternative PILOT only becomes law,
16 only becomes effective, if there is a final and binding
17 court decision. Is that your understanding?

18 A. Yes. That is what the Alternative PILOT says.

19 Q. All right. So, we have to wait for a court decision.
20 And, my understanding is that your -- that your
21 attorneys and AWE have asked Merrimack County Superior
22 Court to begin this process. And, then, you filed on
23 July 6th. Can you -- can you give us an update on
24 where that procedure is or where that court case is at

1 this point? Is there a hearing date?

2 A. No. A hearing has not been scheduled, to the best of
3 my knowledge. The motion -- Antrim Wind filed a Motion
4 for Declaratory Judgment, a Petition for Declaratory
5 Judgment with the New Hampshire Superior Court, after
6 having exhausted all of our kind of administrative
7 remedies, you know, with respect to this question with
8 the DRA of how the Antrim Project would be valued for
9 the purposes of equalization, and the impacts that,
10 obviously, has on the allocation of funds that would be
11 paid through a PILOT, between Antrim, ConVal School
12 District, and Hillsborough County. Since that petition
13 was filed, the -- if I'm not mistaken, the DRA, through
14 their attorneys, filed a Motion to Dismiss; we filed an
15 objection to that Motion to Dismiss, and I believe a
16 slight amendment to our original Petition. And, those
17 documents were all filed fairly recently, within the
18 last couple of days, our objection to that Motion to
19 Dismiss.

20 Q. Mr. Kenworthy, do you think it's possible that this
21 will not be settled by 2014, when the first tax bill is
22 due or -- to ConVal and to the County?

23 A. I think, given my understanding, and I think, in
24 addition to my understanding, I think it's important to

1 just reference that both of these agreements are
2 agreements that were made in good faith between Antrim
3 Wind and the Town of Antrim. When the issue was made
4 aware to us, we set about negotiating a backup
5 agreement that we felt like addressed the concerns of
6 the parties. So, I think that's an important point.
7 But, my understanding is, the first instance under
8 which a new valuation of the Project's value will
9 create an impact to the Town of Antrim would have about
10 a one year lag. So, if we have a 2014 COD, you're
11 talking about middle of to late 2015, before it would
12 be any impact felt in the Town of Antrim. And,
13 certainly, it's my expectation, I mean, I think, again,
14 in good faith, we committed to go forward and seek the
15 declaratory judgment, which we have done, and we have
16 pursued it with vigor. And, so, it certainly is my
17 expectation that between now and three years from now
18 this will be resolved.

19 Q. Can I ask you if there is any documentation that we
20 haven't -- that would compel you to continue or compel
21 your firm to continue paying for these court costs
22 after you get a certificate of approval from the SEC
23 or, if you get that certificate of approval from the
24 SEC, is there some documentation that says that you

1 will continue to bear this all the way through until
2 there is a final court decision?

3 A. Well, I can -- no. But I can say, Ms. Allen, we're not
4 pursuing the declaratory -- or, the declaratory
5 judgment because we're in front of the SEC. We're
6 pursuing that action because we have agreed to with the
7 Town, and we think it's in the best interest of the
8 Town and the Project.

9 Q. But you have no --

10 A. It really has nothing --

11 Q. -- you have no written agreement with the Town to
12 continue this, beyond this certain date or any date?

13 A. No, we have no written agreement with the Town to
14 continue to pursue a declaratory judgment. However,
15 the Town, obviously, is a party to that action, along
16 with Antrim Wind.

17 Q. Are you aware of the Claremont case?

18 A. No, I'm not familiar with it.

19 Q. Okay. Not to go into it in a lot of detail, but this
20 really went to proportionality as its stated in the New
21 Hampshire Constitution, in terms of taxation, and it
22 was also based on an education question of taxation.
23 And, that lingered in the courts, all the way up to the
24 New Hampshire Supreme Court, for roughly ten years.

1 Would it surprise you that possibly this is not going
2 to be settled by 2015, since what you are really
3 speaking to also is proportionality as stated in the
4 Constitution? Is that news to you?

5 A. You know, I think, again, I'm not an attorney, but I
6 think our understanding is that this is a pretty clear
7 matter of law, and that we should be entitled to a
8 decision on it. However, I think, if we do not get
9 one, then we are obligated to, obviously, continue to
10 operate under the agreements that are in place. And,
11 we have further the recourse of being able to appeal
12 any individual evaluation that may be made by DRA on
13 the Project.

14 Q. Right.

15 A. So, in the event there was a valuation that was deemed
16 by Antrim Wind or the Town of Antrim to be unfair, it
17 could be appealed at that time as well, as a separate
18 matter, based on an actual valuation, rather than the
19 interpretation of law, which is what we currently have
20 in front of us.

21 Q. If we can move onto the agreement that was signed by
22 the Town and your firm on March 8th. In the
23 definitions, I mean, this would be Allen Exhibit F,
24 which is "EA-F" [EA-2F?] And, I think you have also --

1 your firm has also submitted this under your own --
2 under your own exhibits. This is the agreement between
3 the Town, the operating agreement between the Town and
4 AWE.

5 A. Just give me one second to find the agreement.

6 Q. Sure.

7 MS. GEIGER: And, excuse me, madam
8 Chairman, while Mr. Kenworthy is looking for that. We
9 have not been provided with a list of the Allen/Edwards
10 exhibits. So, we're at a little bit of a handicap in
11 terms of that numbering system. I don't know if Attorney
12 Iacopino has it as well, but I do not have that. So, --

13 CHAIRMAN IGNATIUS: I think he's --

14 MS. ALLEN: They are the same ones that
15 were in my pretrial testimony, but they were just
16 clarified by -- this is nothing new.

17 CHAIRMAN IGNATIUS: But I think, for the
18 sake of finding things quickly, --

19 MS. ALLEN: Sure.

20 CHAIRMAN IGNATIUS: -- let's make sure
21 we've all got the same numbering system.

22 MS. ALLEN: Good idea.

23 MR. IACOPINO: They're on the master
24 list. They're on the master list.

1 (Mr. Iacopino showing document to Ms.
2 Geiger.)

3 MR. IACOPINO: Page 8 of the master
4 exhibit list begins with the EA. And, I think the
5 confusion is is that EA-2 is her prefiled testimony, and
6 she had six attachments to it.

7 MS. GEIGER: I'm sorry. And, I
8 apologize. That's fine.

9 MR. IACOPINO: And, each attachment was
10 marked as "2A", "2B", "2C".

11 WITNESS KENWORTHY: I have the agreement
12 now. Thank you.

13 BY MS. ALLEN:

14 Q. Okay. In the "Definitions" section of that, 1.7 --
15 1.7, "Occupied Building", it's interesting, and what I
16 think was noted during the hearings, the local hearings
17 in Antrim, that a lot of this operating agreement seems
18 to be -- follow almost like the template of the Groton
19 agreement. And, in this case -- excuse me, it will be
20 1.8, 1.8, under "Occupied Building". It's interesting
21 to note that the word "seasonal", which had been in the
22 Groton agreement, was removed from the Antrim
23 agreement. And, we asked in a data request, which was
24 our Data Request AE 1-23, and you were -- you were the

1 witness to that, we asked in that why -- we asked you
2 why the word "occupied" had been taken out of that.
3 Your response was that "there are no seasonal or
4 permanent homes that [you're] aware of that are closer
5 to the required setbacks." My question to you is, what
6 happens if what is now an occupied residence, as you
7 define it here, which is just "year-round", what if
8 that becomes seasonal? Or, what if someone wishes to
9 sell it to a -- sell their property to another buyer,
10 and their purpose is to only have this as a seasonal
11 house? Does that mean that they lose all the rights
12 that the rest of this agreement has, because it -- they
13 no longer have what you term an "occupied building",
14 because it's not year-round?

15 A. Yes, I mean, I think it's my understanding again that
16 there are no seasonal or occupied structures within a
17 half a mile of the Project. And, I think the types of
18 impacts that you may be referring to are impacts like
19 sound impacts or noise -- or shadow flicker impacts or
20 other things I think that we have, in our view,
21 demonstrated in our Application will not result in
22 unreasonable effects, on any home, seasonal or
23 otherwise, in the Project area. As a result, --

24 Q. But, as -- but, as you have this as a signed agreement,

1 it does not include "seasonal buildings". So, if
2 something changes in the future, if property conveys,
3 or, for example, Ms. Longgood's house or Mr. Clark's
4 house, a second buyer, if another buyer comes along and
5 wants to use it as seasonal property only, even though
6 they're very close, this agreement would not affect
7 them? This agreement is not -- would not hold up,
8 because they would be seasonal?

9 A. That may be your position. That's not a position that
10 I'm taking.

11 Q. It's not a position you're taking?

12 A. That's not the position that I'm stating. I'm not
13 certain of the scenario that you are describing. But I
14 -- I understand the concern that you raise. But I'm
15 certainly not taking the position that, if somebody had
16 a problem that was related to the Project, that they
17 would have no recourse. That's not my position.

18 Q. Well, if I could pick up on something, an answer that
19 you made to the previous questioner from Audubon. You
20 said that you had a chance under the agreement "to
21 revisit over the course of the 20 years". In reading
22 through the agreement, it seems like both parties would
23 have to agree to this. Is that your interpretation --
24 is that your understanding of the agreement about how

1 it could be revisited?

2 A. Yes. I'm sorry. Just to be clear on the record, what
3 I was previously referring to was that we have 20 years
4 during which time we can contemplate how to enter into
5 an agreement at the conclusion of that 20-year
6 contract, was what I was first stating. In this
7 instance, yes, absolutely. I think, opening the
8 agreement and renegotiating, it would require both
9 parties. No question.

10 Q. So, are you saying that you would stand by this
11 agreement or are you saying that if -- that you would
12 consider reopening it?

13 A. I'm not -- reopening it for what purpose?

14 Q. To include things like "seasonal" and other -- and
15 other problems. Usually, in agreements like this, you
16 with have a look-back -- a look-back period, where
17 there is built into the agreement a chance for both
18 parties to come back and take a look at it. In this
19 case, there isn't a look-back period. It's a 20 year
20 binding agreement. And, you can't really go and
21 revisit it, unless both parties want to.

22 A. I would take exception with what you said. That any
23 time two parties enter into an agreement, it requires
24 both parties to reopen that agreement, whether it says

1 so or not. I think the -- it's very typical for us in
2 agreements not to agree where we can agree to change
3 things in the future, because I think it's just a
4 matter of truth that two parties can always agree to
5 enter into further negotiations and change a contract,
6 if they both think it's in their -- in their interests.

7 Q. Okay. But you agree at this point that the word
8 "seasonal" is nowhere in this, in this agreement?

9 A. I do agree that it's not in the agreement, yes.

10 MS. ALLEN: Okay. Thank you very much.

11 CHAIRMAN IGNATIUS: Does that conclude
12 your questioning?

13 MS. ALLEN: Yes, it does. Thank you.

14 CHAIRMAN IGNATIUS: Thank you. Before
15 we continue with another questioner, let's go off the
16 record and talk about schedule. Give the court reporter a
17 little break.

18 (Whereupon a brief off-the-record
19 discussion ensued.)

20 CHAIRMAN IGNATIUS: Then, let's go back
21 on the record. We're going to take a short break, to give
22 everybody a chance to just stretch their legs and get a
23 snack or a cup of coffee, if they want. We will resume at
24 12:05, and we will run until about 1:15. At that point,

1 questioning will pick up with Mr. Block, then Ms. Linowes
2 and Mr. Roth. None of the other participants are here.
3 Obviously, if they come in, we'll sandwich them in. But
4 that maybe that's the list we have today. So, we'll take
5 a break until 12:05. Thank you.

6 (Recess was taken at 11:48 a.m. and the
7 hearing resumed at 12:10 p.m.)

8 MS. BAILEY: Okay. We're back on the
9 record. And, I have been designated as the substitute
10 Chair, and Chairman Ignatius has gone to her other duties
11 on storm restoration. And, before we get started with the
12 remainder of the cross-examination for Mr. Kenworthy, some
13 people have expressed an interest in talking about what we
14 should plan for tomorrow and the rest of the week. And, I
15 know that we're hoping to get through as much as possible
16 this week, so there may be some late days. But, I think,
17 because we really don't know what the status of the power
18 situation is going to be tomorrow, we should agree that we
19 won't go beyond 5:00 tomorrow. But tomorrow we'll talk
20 about what we should do for the rest of the week, and
21 maybe, if possible, go a little bit later than 5:00 on
22 Wednesday, Thursday, and Friday, depending on what we find
23 ourselves in -- what situation we find ourselves in
24 tomorrow. So, we're going to plan to start at 9:00

1 tomorrow morning, unless there's no power in the building,
2 then there will be a message on the phone, hopefully, that
3 will work.

4 MS. GEIGER: I'd just like to interject
5 here, in terms of the order of witnesses. One of the
6 witnesses that is fairly close to the beginning in the
7 Applicant's presentation, I guess it's number six, Mr.
8 Will and Mr. Stevenson. Mr. Stevenson is flying up from
9 Philadelphia. And, we had an e-mail from him saying that
10 the Philadelphia Airport is closed, and he's not sure when
11 he's going to be able to get here. So, we may end up
12 having to take that panel out of order. I just want to
13 give everybody fair notice of that. We may have to take
14 the Butler and Martin panel ahead of Will and Stevenson,
15 and maybe even Valleau and Gravel. And, that's just
16 unavoidable, obviously.

17 MS. BAILEY: Okay. Thank you for the
18 heads-up. We'll make it work.

19 Okay. Mr. Block, are you ready for your
20 cross-examination?

21 MR. BLOCK: Yes, I am. Thank you. Good
22 afternoon, Jack.

23 WITNESS KENWORTHY: Good afternoon.

24 MR. BLOCK: I guess it's "afternoon".

1 BY MR. BLOCK:

2 Q. In your introduction, you state that you have been
3 involved in the renewable energy industry for the last
4 ten years. And, in your resumé, you describe you have
5 experience in the establishment and management of
6 utility scale wind facilities. As I recall, your first
7 wind turbine installation was a single turbine in the
8 Bahamas, is that correct?

9 A. Yes. That's correct.

10 Q. Can you describe that a little more? Just how tall was
11 it and what was its power output?

12 A. That turbine was a 10-kilowatt Bergey wind power
13 turbine. That was a component of a wind/solar/biofuel
14 hybrid energy system that powered about an 18-acre
15 facility on the island of Eleuthera.

16 Q. Okay. Since that first project, are there any wind
17 turbines that you personally have installed and
18 managed?

19 A. No.

20 Q. Okay. In your introduction then, on Page 4 of your
21 prefiled direct testimony, at Line 2 to 4, you state
22 that "Eolian Renewables is actively developing four
23 projects, in Maine, New Hampshire, and Vermont"? That
24 was in the prefiled direct testimony.

1 A. Yes. That sounds right. Yeah.

2 Q. Okay. Would you please identify each of these
3 projects, the location, the current status, how many
4 turbines of what size are involved, and if any of those
5 turbines are presently operating?

6 A. Yes. I believe I also answered this question in a data
7 request. I'm not sure if it was yours. Do you
8 remember if you asked that question?

9 Q. Somebody did.

10 A. Maybe it was Public Counsel.

11 Q. Somebody did, I know.

12 A. Yes, it was Public Counsel 1-6. I have provided an
13 answer to that question. Would you like me to restate
14 that answer here?

15 Q. Yes, I would. Thank you.

16 A. Waldo Community Wind is a project in Frankfort, Maine.
17 It's about an 18-megawatt project. It's in early
18 stages of development. That would consist of
19 approximately six turbines. We are involved in a
20 Seneca Mountain Wind project in the Northeast Kingdom
21 of Vermont. Seneca leases about 12,000 acres there.
22 Also an early stage project, it's been under
23 development for about a year and a half, a little less.
24 Queue Position of QP385. That project would be

1 approximately a 35 turbine project for approximately
2 90 megawatts of capacity. Peaked Wind Power is another
3 early stage development project in Orland and Dedham,
4 Maine. That project is up to 25 megawatts. It does
5 not have a queue position yet.

6 Eolian is also right now advancing early
7 stage development activities on about 10,000 acres of
8 property in Potter County, Pennsylvania.

9 Q. Thank you. Page 5 of your prefiled direct testimony,
10 specifically Line 6, you describe the current project
11 site as located in "the sparsely settled rural
12 conservation zoning district". I believe, in the past,
13 you stated there are "98 residences within a 1-mile
14 radius", is that correct?

15 A. That sounds correct. I believe that is, yes.

16 Q. Can you tell me how many residences are located within
17 a 2-mile radius of the proposed turbines?

18 A. No, I do not know the answer.

19 Q. You discuss the "Acciona AW-116/3000". Have you
20 settled on that yet as your final choice for wind
21 turbines you wish to install in Antrim?

22 A. I believe we have made clear in supplemental filings to
23 the Committee and to the parties that we are seeking
24 certification of the AW-3000/116 by this Committee.

1 And, we are also seeking the approval of Acciona as the
2 operator of the facility for at least the first five
3 years of operation. So, it is not a question mark as
4 to which turbine we are asking the Committee to
5 certificate. It is the Acciona turbine.

6 Q. Okay. So, at this point, the decision, as far as
7 you're concerned, the decision has been made, if it
8 gets approved, is that correct? Am I --

9 A. What I would say is what I just did say, which is that
10 we are requesting that that turbine be certificated by
11 this Committee. And, as I think we've also indicated
12 previously, and it remains true now, we have not signed
13 a definitive turbine supply agreement. It would be
14 unusual to do so in advance of receiving a permit.
15 And, certainly, something could change that would cause
16 us to determine that we may feel it's in the interest
17 of the Project to choose another turbine. And, as
18 we've said in filings with the Committee, we realize
19 that, if that were the case, that we would need to come
20 back in front of the Committee for additional review in
21 that instance.

22 Q. Oh. And, let me go back for a second to the Project
23 you've completed and -- or, rather, that you're working
24 on now. Would it be fair to say that the Antrim

1 Project now is the one that's furthest progressed of
2 all your projects?

3 A. Yes, that would be a fair characterization.

4 Q. Okay. On Page 7, going back to the Acciona, Page 7 of
5 your prefiled direct testimony, specifically on Line 5,
6 you describe that turbine as "the most intrusive
7 machine commercially available in the 3-megawatt
8 class." Can you be more specific as to what you mean
9 by "intrusive"?

10 A. Yeah. What we mean by this, again, remember that this
11 is testimony that was filed with the January 31st
12 Application, at which time our Application stated that
13 we had not selected a turbine. Of course, even at that
14 time, we had used the Acciona machine for modeling
15 sound impacts, visual impact analysis, shadow flicker,
16 and the like. And, so, I think what we were saying
17 here is that we've modeled this turbine. And, if we
18 change to some other turbine, that we would expect any
19 impacts to be equal to or less than the Acciona
20 machine.

21 Now, I think we've clarified, as I just
22 recapped, in supplemental filings, that it is, in fact,
23 the Acciona AW-3000/116 that is the machine that we're
24 looking to have certificated.

1 Q. Can you explain to me why you would select "the most
2 intrusive machine" available for you to use if there is
3 something else available?

4 A. Yeah. Again, I think that's maybe taking that somewhat
5 out of context. As I said, the intent of that language
6 was to convey to the Committee that this is the tall --
7 this is as tall or taller than any other turbine that
8 we had under consideration. That it is -- it makes as
9 much or more noise than other turbines that we had
10 under consideration. So that, if we were to make a
11 change that those -- in turbine selection, that those
12 impacts would be the same or reduced.

13 Q. Page 13 of your prefiled direct testimony, the first
14 paragraph mentions AWE's consideration of "Antrim's
15 Master Plan" and the "15-page section addressing
16 climate change".

17 A. Uh-huh.

18 Q. And, in fact, I think you referenced that "15-page
19 section addressing climate change" numerous times
20 during the Application process. I know you did when we
21 were involved with the Town and things, too. Are you
22 aware that, in actuality, "Antrim should also consider
23 offering property tax exemptions to encourage the use
24 of solar, wind, and wood-heating energy systems", which

1 is on Page 11, and essentially repeated on the summary,
2 Page 14, of this -- of that part of the Master Plan?
3 Are you aware that that's the only sentence that
4 specifically references "wind energy" in all of the
5 recommendations for Antrim's energy policies?

6 A. I'm not specifically aware of that fact, no.

7 Q. Okay. I just wanted to bring that to your attention.
8 On Page 10 of your prefiled direct testimony, you
9 estimate that, on Line 17, you estimate that your
10 "Project will have an average annual net capacity
11 factor of 37.5 percent to 40.5 percent." Can you name
12 any other on-shore facilities in the Northeast which
13 can achieve this capacity level or greater?

14 A. I think we've had a lot of discussion around capacity
15 factors, around what drives capacity factors.
16 Generally, specific capacity factors, based on good
17 data, may or may not be available publicly with long
18 kind of operating histories. But -- so, I, personally,
19 do not have knowledge of any specific facility in New
20 England that has achieved these capacity factors that I
21 can validate or verify based on my access to
22 information.

23 However, I think we've submitted
24 detailed information from our meteorological

1 consultant, that was in our Third Supplement to the
2 Application, that talks about not only the quality of
3 the wind resource, but also the import of technology in
4 achieving capacity factors in this range. And, so,
5 certainly we have a high degree of confidence in the
6 numbers that we put in our Application.

7 Q. On Page 19 of your prefiled direct testimony, starting
8 on Line 16, you state, "All maintenance vehicles will
9 be equipped with fire extinguishers and all maintenance
10 personnel will be trained to respond appropriately to
11 smoke and fire events." Are you really saying here
12 that a maintenance employee with a fire extinguisher
13 out of his truck would be effective against a turbine
14 fire?

15 A. That's not what that says there.

16 Q. Okay. Can you explain to me what you think it says
17 then?

18 A. I think it says what you just read. Which is that
19 fires are very rare, that there are very few flammable
20 components. That there is a fire detection system that
21 is connected to the -- attached to the main control
22 unit in the Acciona machine, and the SCADA system that
23 enables fire to be detected and prevented by being shut
24 down early. But, obviously, there are instances during

1 which it's important for personnel to have access to
2 fire prevention equipment, and, so, it will be
3 available to them.

4 Q. One more question. In your First Supplemental Prefiled
5 Direct Testimony, you describe the PILOT Agreement, and
6 talked about it before, negotiated between Antrim Wind
7 and the Town of Antrim. And, there was also discussion
8 in the last thing about the case with the DRA and
9 currently going on. Wouldn't it also be possible that
10 this PILOT Agreement might be or will be affected by a
11 current court case being brought by five Antrim
12 residents against the Antrim Selectmen, based on the
13 Freedom of Information Act? Are you aware of that
14 litigation?

15 A. Yes, I am. It's not my understanding that that -- the
16 outcome of that particular litigation is going to have
17 an impact on our agreement, which was legally signed.

18 Q. Do you have any knowledge of any upcoming hearing date
19 for this litigation? I've been told that it may be
20 fast-tracked or so. Do you know anything about that?
21 I'm just --

22 A. We're not a party to the suit. So, no, I don't know.

23 Q. Oh. You are not an intervenor in that or anything,
24 just --

1 A. Not to my knowledge, subject to check. But I do not
2 believe we are, no.

3 MR. BLOCK: Okay. That's all my
4 questions. Thank you.

5 WITNESS KENWORTHY: Thank you.

6 MS. BAILEY: Is there anybody here -- is
7 there anybody here from the Appalachian Mountain Club?

8 (No verbal response)

9 MS. BAILEY: Okay. Then, I think we
10 have Industrial Wind Action Group next. Ms. Linowes.

11 MS. LINOWES: Thank you, madam Chair.
12 Good afternoon.

13 WITNESS KENWORTHY: Good afternoon.

14 MS. LINOWES: I just want to make a
15 couple of statements first. I'm going to be using four
16 exhibits in my questioning. And, I'll just give you the
17 names of them and list, so you have them available. The
18 first one is AWE 1, which is actually your resumé, which
19 was attached -- that will be your direct prefiled
20 testimony. Specifically, I'm looking at Attachment JBK-1,
21 which was your resumé. The second is PC 13 -- excuse me,
22 Counsel for the Public Exhibit 13, which was a response to
23 -- which was a data request and response. The third is --
24 I believe it is AWE 8, which is the V-Bar Summary Report,

1 which is the discussion on the capacity factor and how
2 that was -- the analysis that was done on your wind data.
3 The fourth one, I'm not sure what AWE's exhibit number is,
4 but it is your supplemental testimony from October 11th.
5 And, finally, AWE 3, which is the agreement, this would be
6 Appendix 17A, the agreement signed between the Town of
7 Antrim and AWE.

8 BY MS. LINOWES:

9 Q. Okay. And, now, before I start my questions, I just
10 wanted to make sure you were aware that RSA 162-H:16,
11 IV(a) says that the Applicant -- that the finding --
12 one of the findings by the Site Evaluation Committee is
13 that it has to determine if the "Applicant has the
14 adequate financial, technical, and managerial
15 capability to assure construction and operation of the
16 facility", in compliance with the permit, and I'm
17 paraphrasing the later part. You're familiar with
18 that?

19 A. I am.

20 Q. Okay. And, drawing attention to PC 13, which is the
21 exhibit, this was, again, a data request submitted by
22 Counsel for the Public. It was answered by Sean
23 McCabe. And, the question was, "Mr. McCabe and
24 Mr. Crivella [Ms. Crivella?], what persons do you

1 believe will act for AWE when you opine with respect to
2 it "maintaining overall managerial" -- "management
3 responsibility" and "on-site management"?"

4 And, without reading the whole response
5 back, they said, "AWE expects that the management of
6 AWE - in particular Mr. Cofelice and Kenworthy - will
7 be responsible for general management." Do you agree
8 with that?

9 A. Yes. Insofar as AWE consists of two members, as I
10 believe you're aware, and those members are Westerly
11 Antrim, LLC, and Eolian Antrim, LLC, and Mr. Cofelice
12 and I are the representatives of each of those
13 organizations as members in Antrim Wind.

14 Q. Okay. So, when the Site Evaluation Committee is
15 evaluating whether or not AWE has the technical -- at
16 least the managerial ability to meet the obligations
17 under the certificate, they will be looking to your
18 ability, as well as Mr. Cofelice's?

19 A. I think the Committee should look at all of Antrim
20 Wind, in the testimony that we've provided and in the
21 witnesses that we've provided, in addition to what's in
22 the Application. Which, obviously, goes beyond just
23 myself and Mr. Cofelice, but obviously includes Mr.
24 McCabe, who will also be testifying in front of this

1 Committee, who is a -- with Westerly Wind. Clearly, we
2 have a longer --

3 Q. Excuse me, can I interrupt you? Because we're not
4 talking about testimony, we're talking about an
5 operating facility right now.

6 A. I understand. And, your question was "whether or not
7 the Committee should only look to me and Mr. Cofelice?"
8 And, my response was "no". The Committee can look to
9 myself and Mr. Cofelice, but also to other members of
10 Antrim Wind, that consist of more than just myself and
11 Mr. Cofelice, as we have presented in our Application
12 and in our testimony.

13 Q. Okay. So, that team of people that you're talking
14 about, all of your witnesses that you'll be bringing
15 forward, all of your testimony, all of those people
16 will be intact over the next 20 years?

17 A. Well, no, that's not necessarily the case. But, again,
18 I don't think that's ever the case. Where you are
19 assuring that a particular group of individuals is
20 going to be in place in the same capacity and role for
21 the next 20 years.

22 Q. How about the next five years?

23 A. I think it's certainly the intention that the
24 individuals that comprise Antrim Wind are going to be

1 in place for the next five years. But, again, the plan
2 that we have put forth in our Application calls for,
3 certainly, the potential to need to hire additional
4 individuals who are directly responsible for AWE's
5 management in the Antrim Wind Project, but also
6 contractual relations. And, really, these questions
7 are going to be better answered by the panel that's
8 addressing managerial and operational capability, which
9 will testify directly after myself, and the panel
10 that's testifying to financial capability, which will
11 testify after them.

12 Q. Then, you are not the person? Mr. McCabe's answer is
13 incorrect?

14 A. No, that's not the case.

15 Q. Okay. Well, let's just move on. Apparently, you're
16 not sure who's in management, who's going to manage
17 this project. But I'll ask you questions assuming you
18 will be in management, okay?

19 A. Please do.

20 Q. Okay. Let's explore a little bit about your
21 background. You graduated from the University of
22 Vermont in the year 2000?

23 A. Correct.

24 Q. You majored in Environmental Studies?

1 A. That's correct.

2 Q. With a minor in Religion?

3 A. Correct.

4 Q. Okay. After graduating, you went to the Cape Eleuthera
5 Island School in the Bahamas?

6 A. That's correct.

7 Q. And became a high school teacher?

8 A. I did teach some high school programs there, yes.

9 Q. Okay. That is not a -- that's an alternative school,
10 it's not a full-fledged school, not a full-fledged high
11 school, is that correct?

12 A. It's a semester program.

13 Q. Okay. And, that school was -- opened its doors in
14 1999, and you joined in January of 2001?

15 A. Correct.

16 Q. Were you employed full time?

17 A. Yes.

18 Q. And, after one year -- excuse me, shortly after you
19 were involved, you became involved with the Island
20 School, you joined the founder of the Island School in
21 forming or becoming part of the Cape Eleuthera
22 Institute, correct?

23 A. We co-founded it, that's correct.

24 Q. Okay. And, he -- that was an arm of the Institute --

1 of the School, or was it entirely independent of the
2 School?

3 A. It was not entirely independent, but it was not an arm
4 either. Both organizations operate under the auspices
5 of a U.S. 501(c)(3) nonprofit corporation called the
6 "Cape Eleuthera Foundation".

7 Q. Okay. And, when you were at the School, and also when
8 you were at the Cape Eleuthera Institute, did you
9 receive a salary?

10 A. Yes, I did.

11 Q. Okay. And, where did the funding come from those
12 ventures?

13 MS. GEIGER: Excuse me, madam
14 Chairwoman. I don't understand the relevance of these
15 questions. I mean, certainly, Mr. Kenworthy's resumé
16 speaks for itself. But I'm not sure what the salary
17 source of prior positions has to do with any issue in this
18 docket. So, I'll object to that question on the grounds
19 of relevance.

20 MS. LINOWES: Madam --

21 MS. BAILEY: Ms. Linowes.

22 MS. LINOWES: And, madam Chairman, what
23 I'm trying to do, and I don't have a lot of questions
24 along this line, but I am hoping to build a record as to

1 what Mr. Kenworthy's management ability is. And, I'm
2 looking at work experience and his ability to manage on
3 his own. And, that's all I'm trying to do to establish.
4 I only have three more questions related to the Island
5 Institute.

6 (Ms. Bailey conferring with
7 Mr. Iacopino.)

8 MS. BAILEY: Okay. I'm going to allow
9 you to proceed, but caution you to keep it reined in
10 please.

11 BY MS. LINOWES:

12 Q. Okay. While you were at the Institute, did you
13 continue to teach at the Island School? Oh, I'm sorry
14 you did not answer the question.

15 A. I'm sorry, I don't recall the question.

16 Q. The funding, the source of funding for the two
17 ventures?

18 A. For the Island School and for the Cape Eleuthera
19 Institute?

20 Q. Correct.

21 A. The Island School was partially tuition-driven. And,
22 the remainder was raised in charitable contributions
23 through the U.S. foundation. The Cape Eleuthera
24 Institute was funded by scientific research grants. It

1 has ties with over two dozen universities across the
2 globe.

3 Q. Okay.

4 A. So, research grants, philanthropic contributions, and
5 some program tuition as well at the Institute for its
6 college and Ph.D programs.

7 Q. So, it was in the millions?

8 A. Yes.

9 Q. Twenty million?

10 A. No. I think the operating budget for both
11 organizations, at the time when I departed, was
12 probably about \$5 million a year.

13 Q. Okay. Thank you. And, at the time you were at -- then
14 you went on to form Cape System, Limited, which I
15 believe that was also with the founder of the Island
16 School and the Institute, correct?

17 A. Chris Maxey was a co-founder, along with myself, in
18 Cape Systems, yes.

19 Q. Okay. And, did you have any direct reports when you
20 were working there?

21 A. Yes, I did.

22 Q. How many?

23 A. Three.

24 Q. And, were they professionals? Or, were they

1 secretaries? What were they?

2 A. Oh. This is specifically professionals who were
3 working in the capacity of project development or
4 engineering.

5 Q. Okay. And, then, you returned to the U.S. and formed
6 Eolian -- well, Kenworthy Partners, which quickly
7 became Eolian Renewable Energy, is that accurate, in
8 2009? 2008 you returned, 2009, January 2009?

9 A. It is correct that I returned in 2008. It is correct
10 that Eolian was formed in 2009. Kenworthy Partners did
11 not, however, become Eolian.

12 Q. Okay. So, it still exists?

13 A. They're separate organizations.

14 Q. It still exists?

15 A. Kenworthy Partners? Yes, it hasn't been dissolved.

16 Q. Okay. Okay. So, in looking at your resumé -- or,
17 excuse me, your website. This would be the Eolian
18 Renewable Energy website. And, I have a copy here, but
19 I trust that you know what's on it. I'll just read one
20 sentence on it. It states that "Eolian Energy" --
21 Renewable Energy" is "a different kind of energy
22 company". What do you mean by that?

23 A. I think it goes on to describe our company on the
24 website. I think our approach is, generally, when we

1 -- Eolian was founded to fill a niche in the New
2 England wind marketplace that was serving the
3 mid-market space for wind energy systems. So, we're
4 generally focused on 10 to 30 megawatt projects. I'm
5 answering your question --

6 Q. Okay.

7 A. -- about what it means to be "a different kind of
8 energy company".

9 Q. Okay.

10 A. Within that focus, and that was a market segment that,
11 in our view, was not filled by either kind of one-off
12 projects advanced by engineering firms for one and two
13 turbine projects, and which were common in
14 Massachusetts, or for the 50-plus megawatt projects
15 that the First Winds and TransCanadas and Horizons and
16 others were developing in the New England space.

17 We believed that that project size
18 generally was, in the long term, going to be best
19 suited for New England, because we could be more
20 selective about project siting. And, project siting
21 became, I think, the very next component of Eolian's
22 core approach to being a different kind of energy
23 company. That we would focus very early on on strict
24 siting criteria. And, finally, I think the other

1 component that we think is a hallmark of our approach
2 is early, frequent, active community engagement.

3 Q. Okay. Thank you. That's was -- and, one question,
4 though, because you said -- so, you were looking at the
5 mid-market that you were looking at, "10 to 30
6 megawatts" you said?

7 A. That's right.

8 Q. You have abandoned that?

9 A. No, we have not.

10 Q. What is the size of the project you're proposing in
11 Vermont?

12 A. It's approximately 90 megawatts.

13 Q. Okay. And, what is the size of the project you're
14 considering in Pennsylvania?

15 A. It's approximately 50 megawatts.

16 Q. Okay. So, size doesn't seem to be relevant anymore?

17 A. I think appropriate size is relevant, yes.

18 Q. So, it's a relative term?

19 A. What is?

20 Q. Mid -- your phrase "mid-market" is relative, depending
21 on where you're siting the project?

22 A. Sure. I think that's absolutely the case. But, again,
23 what I said a minute ago was that Eolian was founded
24 with that approach. You asked me if we had abandoned

1 that, and my answer was "no". We have -- I'd say the
2 majority of our project focus is still in that 10 to 30
3 megawatt range. Certainly, there are also instances
4 where we feel like a site can support a larger project,
5 and it makes sense to do so in those instances.

6 Q. Okay. And, then, you also, just so I'm clear, you did
7 state that community involvement is important to you?

8 A. Yes.

9 Q. Okay. And, on your website also, it says "The unique
10 history", your history of your -- let me step back for
11 -- it says on the website that "Eolian's principals,
12 two of whom are brothers and three of whom were close
13 high school friends, have a long history of
14 collaboration." So, you're buddies? There are four
15 people in total?

16 A. Well, as you just said, one of them is my brother,
17 another one I've known since high school. And, so,
18 yes, we are friends.

19 Q. Okay. And, that you have a total of 40 plus years of
20 experience?

21 A. Yes, that's correct.

22 Q. Okay. And, you state that that history, among all of
23 your brother and your high school friends, "this unique
24 history helps to provide a depth and breadth of

1 experience to ensure positive development outcomes."

2 Do you remember that text on your website?

3 A. I do.

4 Q. Okay. What is a "positive development outcome"?

5 A. A successful project that has a great deal of community
6 support, such as the Antrim Project.

7 Q. Okay. And, the -- okay. I asked you the questions
8 about -- so, okay. So, we've established basically,
9 you have -- you have about ten years of work
10 experience, is that correct?

11 A. Well, graduating in 2000, I've been working since that
12 time. It's now 2012. So, 12 years.

13 Q. And, while in the Bahamas, you were working under the
14 auspices of Chris Maxey in those three ventures?

15 A. I'm not sure I'm -- are you asking a question?

16 Q. He initiated and funded those projects?

17 A. No. I initiated Cape Eleuthera Institute, along with
18 Chris Maxey. We co-founded it. We collectively raised
19 money to fund the development of that facility. We
20 developed programs which drove tuition to that
21 facility. We co-founded Cape Systems together. But,
22 really, that was almost entirely my efforts, in
23 undertaking those activities, which, obviously,
24 included, I think as you've seen elsewhere in my

1 resumé, a number of "firsts" in the nation of the
2 Bahamas, including the first --

3 (Court reporter interruption.)

4 **CONTINUED BY THE WITNESS:**

5 A. The first grid-connected solar electrical system, in
6 partnership with Bahamas' Electricity Corporation in
7 the Prime Minister's Office in the Bahamas. The first
8 commercial biodiesel facility in the region. That was
9 the first carbon finance deal in the Caribbean. That
10 was taking --

11 BY MS. LINOWES:

12 Q. Okay.

13 A. -- several million gallons of fuel oil a year from
14 cruise ships. I mean, you're asking questions about my
15 experience in the Bahamas.

16 Q. I understand.

17 A. So, I'm trying to clarify for the record.

18 Q. But I also understand that you were 26, 27. So,
19 perspectives --

20 MS. GEIGER: Excuse me, is that a
21 question?

22 MS. LINOWES: I'm just responding back.
23 I'd like to move on then.

24 BY MS. LINOWES:

1 Q. Okay. So, let's talk about Antrim. You said that
2 Antrim has been a very successful community-involved
3 effort?

4 A. Yes, I believe so.

5 Q. Okay. And, in Summer and Fall 2009, I believe that was
6 a time which the Town was debating the permitting of
7 your proposed meteorological tower, is that correct?
8 Maybe a little before, but the hearings?

9 A. There were hearings between, I believe, May or June and
10 October of 2009, --

11 Q. Okay.

12 A. -- related to our temporary meteorological tower.

13 Q. Uh-huh. And, is it safe to say that those hearings
14 were rather angry and divisive?

15 A. I do not think they were divisive in the Town. I think
16 there were certainly angry people that showed up at the
17 hearings.

18 Q. So, the news article out of the Monadnock Ledger
19 Transcript on September 17th, titled "Wind Debate
20 Flares: Angry Residents Challenge Application for Wind
21 Tests". That was not -- you think there was just a
22 handful of people that were concerned?

23 A. I think headlines have a tendency to grab at evocative
24 language.

1 Q. Uh-huh.

2 A. Certainly, there were instances during both our met
3 tower permit hearings, as well as other hearings in the
4 Town of Antrim, of which we have been to several dozen,
5 perhaps as many as 40 or 50 over the last several years
6 related to a variety of topics, there have been
7 instances where people's emotions have been heightened.
8 I think it's not uncommon.

9 Q. Okay. Now, isn't it true that there were no less than
10 three lawsuits filed pertaining to your proposed
11 meteorological tower?

12 A. There were specifically three. And, they involved, I
13 think, in each case, the Blocks, and in one case -- so,
14 there was two cases that were filed against the Town of
15 Antrim by the Blocks. And, there was one case that was
16 appealing a decision by the ZBA overturning a Planning
17 Board decision that we carried forward.

18 Q. Okay.

19 A. And, which we prevailed on in Superior Court.

20 Q. And, despite these lawsuits, including the one filed by
21 you, you erected the tower, the met tower, in November
22 2009, before the appeal process was fully exhausted, is
23 that correct?

24 A. We erected the meteorological tower under a legal

1 building permit in November of 2009.

2 Q. Okay. Although, it was under appeal?

3 A. It was a legal building permit.

4 Q. I understand that. Okay. And, so, the fact is, the
5 met tower was controversial?

6 A. If by it was "litigated", you mean it was
7 "controversial", then, yes. But I think there's a very
8 important distinction between the fact that a small
9 group of individuals chose to participate in a
10 prolonged battle, and trying to construe that as a
11 divided community. I think we've put a lot of evidence
12 into the record that demonstrates that the vast
13 majority of Antrim residents have consistently come out
14 and supported this Project.

15 Q. Mr. Kenworthy, are you aware that the Conservation
16 Commission and the Planning Board of the Town of Antrim
17 have both intervened on this proceeding because of
18 concerns, they haven't come out with if they're opposed
19 or against, but because of concerns regarding this
20 Project? Are aware of that and whereas the Board of
21 Selectmen has supported the Project?

22 A. If you're asking me if I'm aware that they are parties
23 in this proceeding, yes, I am aware.

24 Q. You're aware that the Board of Selectmen, in their

1 agreement that it signed, which I'm now not going to --
2 I'll bring it up -- I'll bring up the actual agreement
3 in a few minutes, but there is wording in there that
4 says "The Town shall support the Project during the SEC
5 process"?

6 A. I am aware of that wording, yes.

7 Q. Okay. So, you don't think that the Board of Selectmen,
8 having one position, having signed an agreement stating
9 it will publicly support this project before the SEC
10 proceedings, and the Planning Board and Conservation
11 Commission here attempting to present a side that
12 perhaps is not reflective of the Board of Selectmen,
13 that does not strike you as divisive or at least
14 controversial?

15 A. I'm not following your logic. I think the Board of
16 Selectmen support the Project because they believe
17 that's the position of the people of the Town of
18 Antrim. And, they have indicated as much in a recent
19 letter that they filed with this Committee. And, the
20 Town and the Antrim Planning Board and the Antrim
21 Conservation Commission have intervened for their own
22 purposes, which they have every right to do.

23 Q. Okay. Now, is it your statement that the Board of
24 Selectmen is representing what the majority of the

1 people of the Board -- the town want, is that what
2 you're saying? Is that your position?

3 A. My position is that the position of the Board of
4 Selectmen, to my knowledge, is a position that they
5 have taken on belief that it represents the majority of
6 the people of Antrim, yes.

7 Q. Okay. So, that is perhaps hearsay?

8 A. I believe they just submitted a letter to the
9 Committee.

10 Q. I understand that they may have submitted it, but what
11 is the basis of that belief?

12 A. Of their belief?

13 Q. Right.

14 A. I mean, certainly, I can site examples. For example, I
15 can't specifically say what is the basis for the Board
16 of Selectmen's belief, because I'm not the Board of
17 Selectmen. But I can certainly point to instances
18 where, for example, a ballot item was placed before
19 Antrim voters, which would have prohibited wind
20 facilities in the rural conservation district, where
21 our Project is proposed; that ballot failed some three
22 to one. Which I think is a pretty clear indication
23 that Antrim residents did not want to prohibit wind
24 facilities in the rural conservation district.

1 Q. Mr. Kenworthy, --

2 A. There's been several straw polls that the Town has
3 conducted, all of which have shown very substantial
4 support among Antrim voters. We conducted a survey of
5 our own, and the Selectmen have been privy to all this
6 information. And, I presume that is the basis upon
7 which they formed their opinion that the Town supports
8 the Project.

9 Q. Mr. Kenworthy, with regard to that vote, I just wanted
10 to ask you, are you aware that some people voted
11 against that ordinance because they didn't think it was
12 strong enough in prohibiting wind? Did it ever occur
13 to you that the vote went the way it did because some
14 people disagreed with it because it wasn't strong
15 enough? Do you know for a fact that all those people
16 voting against it were because they were for your
17 Project?

18 A. What I do know for a fact is that the ballot item that
19 I just referred to was black-and-white plain. It said,
20 "Do you want to prohibit wind facilities in the rural
21 conservation district?" And, that ballot failed by
22 approximately a three-to-one margin. So, there wasn't
23 any ambiguity as to whether or not that was strict
24 enough or not strict enough, because it was an outright

1 prohibition that failed.

2 Q. Well, I believe that it were -- okay. I think that
3 there's debate as to what that actually meant. Because
4 there's a broad question of wind facilities and there's
5 a narrower question about your Project. So, let's move
6 on, though. So, the -- and, in fact, today, I did not
7 realize, until I was listening to the questions
8 regarding the PILOT. So, there is yet another legal
9 proceeding going on with regard to the Antrim Wind
10 Project, specifically the PILOT Agreement, another
11 court case?

12 A. Yes. Again, we're not a party to it. But my
13 understanding is there are a number of residents,
14 including several who I believe are intervenors here,
15 have filed suit against the Selectmen, based on some
16 allegation that they feel like meetings they held with
17 us, where we discussed the PILOT, were illegal
18 meetings.

19 Q. I'm asking about the declarative judgment.

20 A. Oh.

21 MR. IACOPINO: I'm sorry. You lost me,
22 too. You're talking about the tax case?

23 MS. LINOWES: The tax case.

24 MR. IACOPINO: Oh.

1 MS. LINOWES: Sorry, did I misphrase
2 that? The declarative -- declaratory judgment?

3 MR. IACOPINO: You just jumped to it. I
4 missed whatever you said before.

5 MS. LINOWES: Oh. I was -- that's
6 correct.

7 BY MS. LINOWES:

8 Q. I did ask specifically about the -- I was referring to
9 the declaratory judgment, but you responded with regard
10 to the 91-A case. So, the declaratory judgment.

11 A. Sure. And, that wouldn't be new today.

12 Q. It was new --

13 A. We discussed this previously in this docket.

14 Q. So, I guess the point is, there is yet another court
15 case. So, let's move on to Frankfort, Maine. You said
16 that there is a project there in the process of getting
17 built there?

18 A. No. I said we have a project in early stages of
19 development there.

20 Q. Okay. And, it's proposed to be anywhere from 10 to
21 18 megawatts?

22 A. Yeah, that's correct.

23 Q. Okay. It's called "Waldo Wind"?

24 A. Waldo Community Wind.

1 Q. Community Wind, okay. Is it fair to say that there has
2 been controversy surrounding that project?

3 A. There has.

4 Q. Okay. And, the Town of Frankfort Wind -- Frankfort,
5 Maine, passed a law?

6 A. They did.

7 Q. And, what was that law?

8 A. It was a wind ordinance.

9 Q. Uh-huh. You had -- you had -- can you tell us what the
10 issue was with the law -- why there was controversy and
11 was it pertaining to that law?

12 A. I guess I'm not clear on your question.

13 Q. Okay. So, well, I'll just jump to the chase. The
14 ordinance was -- had some standards associated with
15 noise and setbacks and other things, right?

16 A. Yes, it did.

17 Q. And, did it make it difficult -- in your opinion, it
18 made it difficult for your project to get built?

19 A. Yes, that ordinance would.

20 Q. Okay. And, are you aware that the landowners that you
21 leased with, I believe you had leases with, sued the
22 Town of Frankfort over the ordinance?

23 A. I am aware of that, yes.

24 Q. Okay. And, what is the status of that now?

1 A. As far as I'm aware, the original complaint that was
2 filed by the landowners attorneys had some eleven
3 claims, I believe. One of which had been advanced for
4 summary judgment. The summary judgment was not decided
5 in favor of the plaintiffs in that case. The Town had
6 filed a Motion to Dismiss all eleven counts. And, the
7 court dismissed only three of the eleven counts. So,
8 eight counts -- eight claims stand. And, it's my
9 understanding that the landowners are determining their
10 path forward.

11 Q. Okay. So, that is proceeding through what will -- a
12 court proceeding, there will be a court proceeding on
13 that. Okay. So, let's move to Newark, Vermont. Which
14 is also -- there are three towns involved in the
15 project in Vermont; Newark, Brighton, and Ferdinand.
16 And, that project is Seneca Mountain Wind?

17 A. That's correct.

18 Q. Okay. And, you said that -- I think you said it was a
19 90 -- it's anywhere from 90 megawatts up in size, is
20 that correct, up to 100 megawatts, or have you decided?

21 A. No. It's nominally a 90-megawatt project.

22 Q. Okay. And, you're trying to site four met towers with
23 that site, on that project?

24 A. That's correct.

1 Q. And, you're having difficulties getting that done?

2 A. It has been a -- yes, it's been a long process.

3 Q. And, in fact, you -- the Town of Newark changed its
4 town plan recently, regarding this project?

5 A. Yes. They did in September.

6 Q. Okay. And, they voted overwhelmingly to change it to
7 firmly state the community did not want industrial wind
8 energy in the town, is that correct?

9 A. There is language in Newark's town plan to that effect,
10 yes.

11 Q. And, are you aware that the Governor of Vermont came
12 out and said he would support a town in -- and direct,
13 in that case, the Department of Public Service in
14 proceedings before the State to support the Town in its
15 position? Are you aware of that?

16 A. I am. And, if I can just add further, that it's
17 important to understand that, in this instance, Seneca
18 Mountain Wind has made a direct commitment to each of
19 the towns in which we're proposing potential facilities
20 that, if the town takes a vote, and decides they don't
21 want to host a project there, we will abandon our
22 project in that town. So, Seneca Mountain Wind has
23 taken the initiative to make that commitment to the
24 town, a commitment that is not required under state

1 law, which, obviously, poses substantial risk to us in
2 advancing a regional project of this scale. But,
3 again, I think, because we value community sentiment,
4 we want to be in communities where they want to have
5 us, we've made that commitment to the town.

6 Q. So, then, the vote that was taken by the town, the
7 residents of Newark, are you saying today that you are
8 abandoning the Newark project or a component of the
9 project?

10 A. No, our language was clear. Which is, we are willing
11 to abide by a vote that occurs after we've had an
12 opportunity to actually make a presentation to the Town
13 about what we are proposing. And, in a scenario where
14 there is no requirement in state law that provides for
15 what should or should not count as a vote, there is no
16 requirement that such a vote occur in order for a
17 Certificate of Public Good to be issued. We need to
18 try and come up with some type of a process that is
19 fair to all sides, that takes into account local
20 viewpoints, but also gives a fair shot for the project
21 to actually be able to make a presentation.

22 Q. Okay. So, you've never given a presentation in this
23 project to the Town of Newark?

24 A. We don't have a project to present to the Town of

1 Newark.

2 Q. Okay.

3 A. We have a met tower.

4 Q. Okay. So, your sense -- your position is that you
5 can't know -- you can't present anything as to what
6 this project is until you get your four met towers
7 erected, is that correct?

8 A. Well, my position is that, if we're going to abandon
9 potentially years and millions of dollars of effort by
10 a town vote that we're not required to be held to, that
11 we ought to have the opportunity to at least make a
12 fair presentation to the town before that vote occurs,
13 and that's all we've asked for.

14 Q. Can you --

15 A. And, that's what we intended to abide by. And, that
16 would include, for example, I can't say, in the Town of
17 Newark, whether or not we're proposing two towers or
18 ten towers, or any towers at all. I don't know that
19 answer today. I don't know where those facilities will
20 be located, what they would look like, how tall they
21 would be, how roads would access them. My apologies.

22 So, no, we don't have sufficient
23 information to make a presentation that the town could
24 make an informed decision based upon it.

1 Q. All right. And, then, this month, in October, are you
2 aware that Steven Watson and his wife, who own the
3 property that you've leased the land from, have filed a
4 lawsuit against the town?

5 A. Yes.

6 Q. Because of the town plan?

7 A. Yes.

8 MS. BAILEY: Ms. Linowes, can you
9 explain to me why this is relevant?

10 MS. LINOWES: Yes. The reason is, I'm
11 trying to establish, number one, his managerial ability.
12 Number two, he has -- Mr. Kenworthy has stated that his
13 "different kind of energy company" is one that stands --
14 that is committed to developing community relationships,
15 and strong community support for his project. And, what I
16 think I've demonstrated in these questions or what I would
17 sum up to say is that he's shown up in three different
18 communities, and, in three different communities, it's
19 just brought controversy and lawsuits.

20 MS. BAILEY: We get the point. So, can
21 you move on in the interest of time please.

22 BY MS. LINOWES:

23 Q. So, then, and my last question then, given the wake of
24 lawsuits as you've created, given -- behind you, given

1 the wake of controversy that has happened, exactly what
2 managerial ability do you have to prove you can
3 construct and operate a project in Antrim?

4 A. Well, look, I can say that those lawsuits found us. We
5 didn't go seeking them. And, certainly, it was not our
6 intention to be challenged over a temporary
7 meteorological tower in Antrim, which has been
8 peacefully installed for three years, obviously,
9 without any great challenge to the community. But,
10 nevertheless, that was the situation that presented
11 itself to us, and so we have dealt with it accordingly.

12 I stand by the commitment of Eolian that
13 we are actively engaged in communities. The example I
14 just gave in Vermont is another, I think, very specific
15 case where that is true, by our company volunteering to
16 abandon a project after a vote has occurred. That
17 really puts it squarely back in the community's hands.
18 And, it also creates an opportunity for that discussion
19 to occur, so that we may get to a project that actually
20 is fully acceptable to that community such that we can
21 proceed. So, I stand by my position.

22 Q. Okay. So, --

23 A. Just to complete the answer to your question, if my
24 may. In addition, I think the ability that I have

1 demonstrated, in my capacity as the CEO of Eolian
2 Renewable Energy, is, obviously, to launch and fund
3 that company. And, to acquire real estate interests in
4 over 15,000 acres of land throughout New England,
5 representing about 150 megawatts of development assets
6 in four states. And, by bringing highly qualified
7 partners into those projects with us, such as Westerly
8 Wind, in the case of Antrim. Or, in the case of
9 Seneca, working with Nordex, which is a global turbine
10 manufacturer, with a presence in many, many countries.
11 Who bring, in addition to our core skills, a breadth of
12 decades of experience in utility scale energy asset
13 development. That's the case here in Antrim.

14 So, I think it's not simply my personal
15 ability. But, certainly, in being able to reach
16 agreements with the appropriate partners to be able to
17 effect these changes, I've certainly been able to
18 demonstrate that.

19 Q. Okay. But, obviously, that those -- that great team
20 that you've talked about is not the team that's right
21 behind you, when you're going to Walden -- to
22 Frankfort, and when you're going to Newark.

23 A. But I believe --

24 Q. But, apparently, -- I'm talking --

1 (Court reporter interruption - Multiple
2 parties speaking at the same time.)

3 **BY THE WITNESS:**

4 A. I was going to say, I believe this is about the Antrim
5 Project. In which case, we have Mr. Cofelice and
6 Mr. McCabe, who are also going to be testifying as part
7 of the Antrim Wind team.

8 MR. ROTH: Madam Chairman, I think the
9 interruption by the reporter was by Mr. Kenworthy, where
10 Ms. Linowes was actually trying to pose a question when
11 she was interrupted by Mr. Kenworthy. And, now,
12 Mr. Kenworthy is answering a question that was not asked.
13 So, I'd ask that we sort of reset the sequence here.

14 MS. BAILEY: Well, Ms. Linowes, how
15 about if you just go to your next question.

16 MS. LINOWES: Okay.

17 BY MS. LINOWES:

18 Q. Well, my point was, the definition of "positive
19 development outcomes", based on what you -- the long
20 answer you gave is really not about the communities,
21 it's about your being -- your ability to build this
22 project. Correct?

23 A. Was that the question part at the end? No, I disagree.
24 I think the "positive development outcome" I've

1 indicated. Antrim is a project that has the support of
2 the vast majority of this community. It has since it
3 started. And, it's a great project. So, I think
4 that's a good development outcome.

5 Q. Okay.

6 A. And, we've worked hard to get there.

7 MS. LINOWES: Madam Chair, I have
8 another, a set, other questions. And, if I were to start
9 my next -- next topic, which has to do with the capacity
10 factor, it will take some time to explore that. And, I'm
11 wondering if you wanted to stop now, since it was
12 previously said that we would stop at around 1:15. I
13 don't want to venture into this and stop. But I'll leave
14 it to you.

15 MS. BAILEY: Is that your last line of
16 inquiry?

17 MS. LINOWES: No, I have several lines.

18 MS. BAILEY: Is there one that you can
19 do that's a little short? How long do you think -- how
20 long do you think the capacity factor questions will take?

21 MS. LINOWES: There are a good number of
22 them, and they're very technical. And, I guess it would
23 depend on whether or not Mr. Kenworthy can answer some of
24 them. I don't -- I think that would probably be my

1 longest line of inquiry. That I guess I could ask some
2 shorter ones, having to do with the agreement.

3 MS. BAILEY: Okay. Why don't you do
4 that. Thank you.

5 MS. LINOWES: Okay.

6 MR. IACOPINO: Which agreement, by the
7 way?

8 MS. LINOWES: I'm sorry. This would be
9 the agreement signed between Antrim Wind and the Town of
10 Antrim.

11 MR. IACOPINO: For the Committee, you're
12 talking about Exhibit AWE 4, which is Appendix 17A? Ms.
13 Linowes?

14 MS. LINOWES: I'm sorry. I'm sorry.

15 MR. IACOPINO: You're talking about AWE
16 4, which is Appendix 17A, that agreement?

17 MS. LINOWES: Yes. That's correct.

18 MR. IACOPINO: Thank you.

19 MS. LINOWES: That's correct.

20 BY MS. LINOWES:

21 Q. So, I will just ask you a couple of questions specific
22 to the setbacks and also emergency response, and then I
23 think that will be -- I'll have to come back to some of
24 the -- on decommissioning, I'd like to ask questions

1 about decommissioning, but I could hold off until
2 tomorrow on those.

3 And, this is in the agreement, this
4 would be Page 6 of the agreement. And, it's Section 7,
5 you talk about "Emergency Response". And, I know that
6 some of the questions you were -- you were asked a
7 little bit about this earlier today, and I just want to
8 make sure I understand. On Pages -- let's see. Bear
9 with me for one second. Okay. And, before I talk
10 about the specific agreement, on Page 23 of your
11 prefiled direct testimony, you state, on Line 4, "The
12 precise manner in which the Project-related staff will
13 respond to an emergency will be spelled out in the
14 emergency response plan", is that correct? And, "the
15 emergency response plan that the Project expects to
16 develop in consultation with the Town of Antrim." You
17 agree that your testimony says that?

18 MS. GEIGER: Madam Chairwoman, I believe
19 Mr. Kenworthy answered this very question when it was
20 asked by Attorney Manzelli. So, I think this is entering
21 the spectrum of unduly repetitious evidence, which is
22 excludable under RSA 541-A.

23 MS. LINOWES: I asked -- I haven't asked
24 my real questions. I was just verifying that he saw that

1 section and he agreed that that's what it said.

2 WITNESS KENWORTHY: I'm sorry. I'm
3 still getting to that page.

4 BY MS. LINOWES:

5 Q. Okay. Well, I read it to you. Do you understand what
6 I read?

7 MS. BAILEY: Page 23.

8 WITNESS KENWORTHY: Yes. Thank you.

9 BY MS. LINOWES:

10 Q. Line 4.

11 A. Yes. I see that there.

12 Q. Okay. So, then, on Page 6 of the agreement, that the
13 Section 7 -- or, Paragraph 7.1, it says, "Upon request,
14 the Owner shall cooperate with the Town's emergency
15 services and any service -- and emergency services that
16 may be called upon to deal with a fire or other
17 emergency at the Wind Farm." Correct?

18 A. Yes. That's what it says.

19 Q. And that, and "through a mutual aid agreement, to
20 develop and coordinate implementation of an emergency
21 response plan for the Wind Farm." Okay. What do you
22 mean by "upon request"?

23 A. I believe it means "upon request".

24 Q. So, you're not going -- your testimony says that you

- 1 "will" produce one, the agreement says "upon request"?
- 2 A. Yes. And, I think, as I testified to earlier, it's
- 3 absolutely our intention to engage in that effort with
- 4 the Town and to produce such an agreement.
- 5 Q. Mr. Kenworthy, I agree -- I understand that you said
- 6 you're "not a lawyer". But you used that statement
- 7 earlier with -- that you said it is your "intention"
- 8 when the discussion was around "seasonal home", it is
- 9 your "intention". That, even though the words
- 10 "seasonal home" is not there, it your "intention" to
- 11 apparently allow "seasonal homes" or "seasonal
- 12 dwellings" to be a part of it. Do you understand that
- 13 contracts mean something, and every word in a contract
- 14 means something? And, your intention is not relevant
- 15 when the plain reading says "upon request"?
- 16 A. The language that you referred to earlier, with respect
- 17 to the "seasonal homes", I think my response -- I was
- 18 asked what my intent was, and I clarified it. And, so,
- 19 that's the purpose of the statement that I made then.
- 20 This language to me is fairly clear about what it says.
- 21 So, I don't understand what you're asking me about
- 22 "what "upon request" means?" You've asked me what I
- 23 intend to do, and I've answered that question. So,
- 24 it's a very simple matter that, upon request from the

1 Town, we enter into the negotiations to develop the
2 agreement, and that's what we intend to do.

3 Q. So, you don't see the difference between "the owner
4 will/shall develop a plan"?

5 A. I do see the difference there.

6 Q. Okay.

7 A. I do.

8 Q. Okay. So, then, some other questions with regard to
9 emergency response. Have you -- I believe it had come
10 up during the technical sessions that you had not
11 spoken with the Fire Chief or Antrim's emergency
12 service personnel with regard to potential issues
13 around the wind project. Is that still the case?

14 A. No. That was not the case, it's not what we have
15 testified to, or answered in data requests. I
16 personally have not. But, I think, as we indicated,
17 John Soininen has spoken with the Antrim Fire Chief.
18 He has also spoken with the State Fire Marshal's
19 Office, who offered to take the lead in coordinating
20 further efforts between Antrim Wind Energy and the Town
21 of Antrim Fire Department. I believe the last
22 communication was several months ago between them,
23 though.

24 Q. And, what was -- what was the nature of those

1 communications?

2 A. I was not a part of the meetings that took place
3 between Mr. Soininen and the Antrim Fire Chief or the
4 State Fire Marshal's Office. My understanding, though,
5 is that the conversations, I know Mr. Soininen had a
6 difficult time trying to get much response from the
7 Antrim Fire Department directly. And, for that reason,
8 I think the State Fire Marshal's Office was interested
9 in helping coordinate those efforts. And, I think the
10 conversations with the State Fire Marshal's Office
11 consisted of developing an understanding of the type of
12 equipment that's available on the Acciona machines to
13 be able to detect and prevent fires. These are the
14 nature of the conversations, --

15 Q. Okay.

16 A. -- if that's what you're asking.

17 Q. Mr. Kenworthy, you said that Mr. Soininen could not get
18 in touch or had difficulty getting in touch with the
19 Fire Department in the Town of Antrim? Do you know
20 what -- what is that? What are you referring to? Did
21 they refuse his calls?

22 A. No. I think I've actually summarized this in a data
23 request I could try and find for you. But there was --
24 no, he spoke -- he spoke with the Antrim Fire Chief, I

1 think as our response indicates. The Antrim Fire Chief
2 had indicated that he wanted to get further information
3 from or solicit the input, I believe, of his Deputy
4 Fire Chief. Mr. Soininen followed up with another
5 phone call, and they had not made any progress on
6 giving us feedback about specific concerns that they
7 may have. It was around the same time that we were
8 reaching out to the State Fire Marshal's Office. And,
9 we indicated to them that we had not gotten any
10 specific concerns back from the Antrim Fire Department,
11 and we've reached out to them on a number of occasions.
12 At which point, they offered to help coordinate those
13 efforts going forward.

14 Q. Okay. Now, have you, at the very least, figured out
15 whether or not the roads leading up to the wind
16 turbines, whether the emergency vehicles can even go up
17 those roads? Have you at least validated that?

18 A. Yes. The -- I do not have a specific response to that
19 question, in terms of an absolute validation that those
20 trucks are able to navigate those roads. However, as I
21 think we stated before, when our engineering panel was
22 here, with the road grades that we have, we don't have
23 any reason to expect that standard fire equipment would
24 not be able to. And, again, we've also got a provision

1 in our agreement where we address the need to identify
2 any new equipment that might be necessary in order to
3 provide services, emergency services to the site, if
4 necessary.

5 Q. And, when would that happen? Before the Project is
6 constructed?

7 A. I believe that would be the case.

8 Q. I don't -- I don't see where it states that. I would
9 appreciate it if you could validate it. I believe that
10 would be Paragraph 7.2?

11 A. Yes, that's the paragraph I'm looking at. And, that's
12 still in that Exhibit 4, AWE 4.

13 Q. And, the closest I see is the last sentence, which says
14 "The Town and Owner shall review together on an annual
15 basis the equipment requirements for emergency
16 response". So, not necessarily before the Project is
17 constructed?

18 A. Yeah. I understand what you're saying. It's certainly
19 not the intent of this paragraph to delay an effort to
20 provide equipment that's necessary for the Town.

21 Q. Okay. All right. And, now, moving on, I want to talk
22 to you a little bit about the setbacks. This won't
23 take long. In your -- this would be on Page 10 of the
24 agreement, and this would be Section 12. You state

1 that the turbine setback to occupied buildings would be
2 "three times turbine height", which would be -- I guess
3 we're at 492 feet, that will be about 1,476 feet, is
4 that correct?

5 A. You're referring to Section 12.1?

6 Q. Correct.

7 A. My Section 12.1 has a setback of "not less than
8 2,200 feet."

9 Q. Oh, you know what? Maybe I have --

10 A. That's the agreement that we signed with the Town.

11 Q. Okay. Let me just check that. Okay. My apologies. I
12 had the older agreement, okay. Okay. So, "2,200 feet"
13 from an occupied building. Then, the other two
14 paragraphs are still the same, 12.2 and 12.3, that, to
15 property lines, it will be "1.1 times the turbine
16 height", which is 541 feet for the Acciona turbine.
17 And, then, for a setback from public roads, "1.5 times
18 turbine height", which would be 738 feet. Is that
19 correct?

20 A. Without doing the math in my head, it sounds correct.
21 1.1 is the setback from property lines and 1.5 is the
22 setback from public roads, yes.

23 Q. Okay. And, then, in -- I don't know if this has been
24 put in as an exhibit, but -- I believe it is. I

1 believe I submitted this as an exhibit. On the -- in a
2 data request about setbacks, this would be -- I don't
3 remember the exhibit, but this would -- it would have
4 been IWA-4, I believe, the exhibits that I -- in one of
5 those data requests I had asked you, in your -- I
6 reference your prefiled testimony, it says "signage
7 will be placed within 500 feet of the turbines", and
8 you stated that -- that "it will be 700" -- that the
9 "signage shall be installed on Project access roads at
10 750 feet from any turbine and on informal roads and
11 trails at 500 feet from any turbine." Do you remember
12 that?

13 A. Yes. I have the data request --

14 Q. Okay.

15 A. -- here in front of me.

16 Q. Okay.

17 MR. IACOPINO: Is that data request IWAG
18 1-4? Is that the one you're talking about?

19 WITNESS KENWORTHY: Yes, it is.

20 MS. LINOWES: Yes.

21 WITNESS KENWORTHY: Yes.

22 MS. LINOWES: Thank you.

23 MR. IACOPINO: Okay. And, that's
24 Industrial Wind Action Group Exhibit 4.

1 BY MS. LINOWES:

2 Q. Now, where did you come up with the 500 feet?

3 A. The 500 feet was the actual original proposal by us to
4 the Town for setbacks. If I recall correctly, the Town
5 -- the 750 feet was the product of the agreement being
6 negotiated with the Town on the access roads, you know,
7 giving a little bit more buffer to have signage
8 available to people that, you know, if somebody were,
9 you know, I don't know if they would be biking through
10 the area or skiing through the area, they might be
11 potentially moving more quickly. So, 750 feet became
12 the number for signage on access roads, and 500 for
13 informal trails that are in the Project area.

14 Q. So, you didn't look at any other standards that have
15 been implemented by even the New Hampshire Site
16 Evaluation Committee, or GE or Vestas or any other
17 turbine manufacturers that have put out numbers, you
18 didn't? You just thought 750 would be right and 550 --
19 500 would be right?

20 MS. GEIGER: Excuse me. I'm going to
21 object to this question. I believe the witness has
22 indicated that the answer to that question is in the
23 response to the data request, which says "The distances
24 were arrived on conversations between AWE and the Town of

1 Antrim." I believe he's answered that question. I don't
2 understand the need for this additional inquiry about
3 other standards or other things that the Applicant
4 apparently didn't look at. She's testifying.

5 MS. LINOWES: Well, because he has
6 testified, apparently, I believe that Mr. Kenworthy is
7 presenting himself today as an experienced wind energy
8 developer, and someone who has the managerial and
9 technical ability to build and operate this Project. And,
10 the fact that he had negotiated an agreement with the Town
11 of Antrim, which I can say the Board of Selectmen probably
12 has very limited experience with turbine sitings. I would
13 think that he would have brought to the table more than
14 just his own thoughts on what he felt will be a reasonable
15 location for the signage. At the very minimum, to know
16 what the New Hampshire Site Evaluation Committee has
17 imposed on some projects.

18 MS. BAILEY: I'll allow the question.

19 **BY THE WITNESS:**

20 A. It's my understanding that the 500-foot signage number
21 is a number that has been included in other agreements
22 that have been included as conditions of certificates
23 by this Committee in the past. I don't specifically
24 know what regulation you're referring to from Vestas or

1 GE or others to which this signage would necessarily
2 apply. I mean, really, we're talking about entirely
3 private property here. That is not accessible to the
4 public for the most part. And, so, I think it's --
5 it's an additional step for maintaining, you know,
6 public safety, and, in the interest of public safety,
7 to have signage available. And, again, we feel like,
8 you know, 500 feet is a -- and 750 feet is clearly a
9 distance that is beyond, you know, kind of safety
10 concern for individuals that could be traveling through
11 there.

12 BY MS. LINOWES:

13 Q. So, you're not aware of GE's own document called "GE
14 Ice Shedding and Ice Throw Risk Mitigation", and the
15 equation that they have in there for appropriate
16 siting? At least for -- to risk, to avoid at least
17 being hit by ice throw?

18 A. I'm not specifically aware of that document, no.

19 Q. And, you're not aware of the fact that GE has, on
20 occasion, refused to site turbines in certain areas
21 because the developer did not have the appropriate
22 setbacks, at least the minimum setback that they have
23 in their document?

24 A. I am aware that turbine manufacturers frequently looked

1 at the siting of turbines, and will refuse to locate
2 turbines if there's a problem with suitability on a
3 variety of factors. Again, it's important here to
4 remember that we're talking about siting turbines in
5 the middle of the woods. These are not turbines that
6 are right next to a public road or a building or
7 anything else, which presents a risk to public health
8 and safety from something like ice throws you're
9 describing.

10 Q. Mr. Kenworthy, I believe in the agreement, the idea of
11 the setbacks was to protect people who are there. And,
12 I think you just stated that people may be riding bikes
13 and skiing, hunting, being out near the turbines during
14 inclement weather?

15 A. Certainly, people may use these woods. There are areas
16 that are leased by the landowners that are -- that they
17 retain rights on, and at which we, you know, which
18 private individuals may have access to. And, they may
19 use informal trails. And, we have indicated that we
20 will provide signage along those informal trails. The
21 road to the facility is a gated road. There will not
22 be public access allowed to that road. But, again, in
23 the interest of safety, we have agreed with the Town to
24 put signage at least 750 feet from any turbine.

1 Q. Okay.

2 A. And, I believe, again, that that's consistent with
3 agreements that have been entered into on other
4 projects that have been certificated by this Committee.

5 Q. Okay. I believe that the Site Evaluation Committee, on
6 the Vestas V-90 turbines that were sited in Granite
7 Reliable was 1,300 feet.

8 A. Okay.

9 Q. Based on Vestas' own safety setbacks.

10 MS. LINOWES: And, I think -- okay. I'm
11 all done for today then, madam Chairman. Thank you.

12 MS. BAILEY: Okay. Can you estimate for
13 me how many other lines of inquiry you have and how long
14 you think it's going to take?

15 MS. LINOWES: I had established last
16 week that an hour and a half. I don't know how long I've
17 been going today. And, so, I was -- I didn't know that --

18 MS. BAILEY: I was told that you
19 established an hour, and you've gone an hour and ten
20 minutes.

21 MS. LINOWES: Oh. I think it's -- I
22 have two lines of inquiry that will probably take about --
23 one will be a little bit longer than the other, --

24 MS. BAILEY: Half an hour?

1 MS. LINOWES: I will try to keep it to
2 half an hour.

3 MS. BAILEY: Okay. Thank you. I
4 appreciate that.

5 MS. LINOWES: Thanks.

6 MS. BAILEY: All right. It's 1:25, and
7 we were instructed to try to wrap up sometime at a
8 convenient stopping point around 1:15. Yes, sir?

9 MR. FROLING: This is just an
10 administrative question. Mike, could you send out an
11 e-mail early in the morning, if there's going to be a
12 delay in the proceeding?

13 MR. IACOPINO: I think the Chair is
14 going to get to that right now.

15 MS. BAILEY: You know, there is -- there
16 is going to be a delay in the proceeding.

17 MR. FROLING: Oh. Okay.

18 MS. BAILEY: Sorry.

19 MR. FROLING: Sorry.

20 MS. BAILEY: When the person came in and
21 handed me a note, I was informed that we should start at
22 10:00 tomorrow, so that we can make sure the building has
23 power, and if people need to -- well, some people may take
24 longer to get out in the morning because of disturbances

1 on the travelway.

2 MR. FROLING: I live on a very dodgy
3 dirt road, where trees fall down all the time.

4 MS. BAILEY: Yes.

5 MR. IACOPINO: Maybe you shouldn't go
6 home tonight.

7 MS. BAILEY: So, we will start at 10:00
8 tomorrow. We won't go beyond 5:00. I encourage people to
9 bring something for lunch, because we may have to take a
10 short lunch break. And, if we aren't going to start at
11 10:00 for any reason, we will use every method that we can
12 think of to let people know.

13 MR. FROLING: Thank you.

14 MS. BAILEY: Okay. Does anybody have
15 anything else that we need to talk about today?

16 (No verbal response)

17 MS. BAILEY: All right. Thank you very
18 much. We'll see you tomorrow.

19 (Whereupon the hearing was adjourned
20 at 1:27 p.m., and to reconvene on
21 October 30, 2012, commencing at
22 10:00 a.m.)

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