

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

December 6, 2012 - 12:28 p.m.
Concord, New Hampshire

DAY 11
AFTERNOON SESSION ONLY

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, Chairman (Presiding Officer)	Public Utilities Commission
Kate Bailey, Engineer	Public Utilities Commission
Harry Stewart, Dir.	NH DES - Water Division
Craig Green, Designee	Dept. of Transportation
Johanna Lyons, Designee	Dept. of Resources & Econ. Dev.
Brad Simpkins, Dir.	DRED - Div. of Forests & Lands
Richard Boisvert, Designee	Division of Historic Resources
Brook Dupee, Designee	Dept. of Health & Human Services
Ed Robinson, Designee	Fish & Game Department

COUNSEL FOR THE COMMITTEE: Michael J. 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
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

APPEARANCES: **Reptg. Antrim Wind, LLC:**
Susan S. Geiger, Esq. (Orr & Reno)
Douglas L. Patch, Esq. (Orr & Reno)

Reptg. Antrim Board of Selectmen:
Galen Stearns, Town Administrator
Michael Genest, Selectman, Town of Antrim

Reptg. Harris Center for Conservation Edu.:
Stephen Froling, Esq.

Reptg. Antrim Planning Board:
Martha Pinello, Member

Reptg. Edwards/Allen Intervenor Group:
Mary Allen

Reptg. the Abutters Intervenor Group:
Susan Duley

Reptg. Audubon Society of New Hampshire:
Frances Von Mertens

Reptg. North Branch Group of Intervenors:
Richard Block
Loranne Carey Block

Reptg. Industrial Wind Action Group:
Lisa Linowes

Reptg. Stoddard Conservation Commission:
Scott Simmons

[WITNESS PANEL: R. Block & L. Block]

1 any objection. As you can see, there's a theme here. We
2 try to have as much prefiled, and people have an
3 opportunity to review things before we get into the
4 hearing room and not have you, unless it's, you know --
5 well, go ahead.

6 MS. LINOWES: Simple questions related
7 to the map. Nothing that's going to introduce new
8 information, I don't think.

9 CHAIRMAN IGNATIUS: Okay. Proceed.

10 BY MS. LINOWES:

11 Q. Ms. Block, and also Mr. Block, actually, beginning with
12 you, Ms. Block, you were, according to your testimony,
13 which is NB-3, your prefiled direct testimony, Page 1
14 of 12, in your second question, you state that you
15 "served on the Antrim Open Space Committee", is that
16 correct?

17 A. (L. Block) Yes, I did.

18 Q. And, Mr. Block, did you also serve on it?

19 A. (R. Block) No, I was not on that committee.

20 Q. Okay. Now, both of you also were actively involved in
21 extending the Rural Conservation District within the
22 Town of Antrim under the zoning, is that correct?

23 A. (L. Block) That's absolutely correct. And, that was
24 done by petition, but a petition that we brought forth

[WITNESS PANEL: R. Block & L. Block]

1 to the Town. And, it was -- I don't remember what the
2 vote was, but it was a very significant, positive vote
3 for that.

4 Q. And, how many years ago was that? Was that many years
5 ago? Was that --

6 A. (R. Block) That was 1990. 1990 -- I believe the 1990
7 town meeting.

8 Q. And, in the Rural Conservation District, you have, in
9 your exhibits, I believe, Ms. Block, LB3, you've
10 included in that pdf Page 12, the actual wording for
11 the Rural Conservation District, as it appears in
12 current zoning under Antrim's laws? It's okay. I just
13 want to -- I have a general question regarding the
14 Rural Conservation District, in terms of its size,
15 relative the entire Antrim area? And, also, how would
16 you characterize the purpose of the Rural Conservation
17 District? What is -- what is it trying to do? And,
18 what were you thinking when you were part of that
19 expansion?

20 A. (L. Block) Okay. I actually found what I believe
21 you're referring to, and it was on Page 3 in my
22 testimony. And, it's the Rural Conservation District
23 that we extended north of Route 9, was -- the purpose
24 is to protect, conserve and preserve the remote

[WITNESS PANEL: R. Block & L. Block]

1 mountainous portions of Antrim from excessive
2 development pressures and/or activities that would be
3 detrimental to the unique environmental characteristics
4 and qualities of this district and detract from the
5 peaceful enjoyment and tranquility that this district
6 affords local residents by prohibiting industrial uses
7 throughout it.

8 Q. Okay. And, right now, if you had to guess how --
9 estimate, rather, based on what you know of Antrim, how
10 many -- what percentage of Antrim is currently in the
11 Rural Conservation District or is comprised of that
12 district?

13 A. (L. Block) It's essentially 50 percent. I'm sorry, I
14 did not include a map. I actually have printed out a
15 map. I don't know if that could be allowed to be
16 added, but I do have a map. And, it's essentially
17 50 percent. It basically follows the Open Space
18 priority areas.

19 Q. Okay. And, so, is it fair to say that Antrim, you
20 know, based on your knowledge of the -- that bringing
21 forward -- expanding, rather, the Rural Conservation
22 District, based on your understanding of the Master
23 Plan for Antrim, that the Town has had a history of --
24 at least a knowledge of the uniqueness of Antrim's

[WITNESS PANEL: R. Block & L. Block]

1 habitats and natural ecology and a desire to protect
2 it? Would you say that that was a prevailing theme in
3 Antrim for as long as you've lived there?

4 A. (L. Block) Absolutely. I actually remember the very
5 first meeting I ever went to. When the Rural
6 Conservation District, this was before, this is 1988, I
7 guess, before the Rural Conservation District was
8 added. And, I was so moved by -- well, actually, I
9 think it was Mary Allen. But I was so moved by the
10 people, and the way they talked about the town, and the
11 way they talked about that remote mountainous portion.
12 And, I was so thrilled to be living there that, yes, I
13 just -- and, I saw that theme continue. And, it's why
14 we've done what we've done for a lot of the years we've
15 been there.

16 Q. Now, Mr. Block, according to your testimony, you were
17 part of a group that visited the Project site on July
18 10th and also July 19th, is that correct?

19 A. (R. Block) That's correct.

20 Q. And, you state in your testimony, I believe it's NB-2,
21 on Page 9, towards the bottom, this is your prefiled
22 testimony, that you've "explored the land around North
23 Branch area of Antrim for over two decades." And,
24 would that also include the Tuttle Hill, as well as the

[WITNESS PANEL: R. Block & L. Block]

1 Project site?

2 A. (R. Block) Actually, I hadn't, before that trip in
3 July, I'd never been actually on the ridge. True, I
4 guess a couple of times I've been up parts of it. I've
5 explored around the base of it a lot, and the areas to
6 the west of it pretty extensively off the slopes up
7 there.

8 Q. Okay. And, then, on Page 10 of 12 of your testimony,
9 you go on to say, this is in reference to the actual
10 site visit or hike that you took with Ms. Morse and
11 others, you say "we were all instantly struck by the
12 large quantity and variety of signs of wildlife, from
13 bear, bobcat, moose, coyote, to frogs, salamanders and
14 birds." And, then, you proceed to say "we were able to
15 document many examples." So, is that -- you remember
16 writing that?

17 A. (R. Block) Yes, I do.

18 MS. GEIGER: I'm going to object to that
19 question.

20 **BY THE WITNESS:**

21 A. (R. Block) Yes, I do remember.

22 MS. GEIGER: I think this is basically
23 unduly repetitious information. The written testimony is
24 obviously available for everyone to read. I really don't

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 understand why. I would object to asking questions that
2 merely call for answers in the form of these witnesses
3 reading their direct testimony. That constitutes direct
4 examination and not cross-examination. So, I'd object.

5 MS. LINOWES: Madam Chair, I'm done with
6 those questions. I was just trying to establish the
7 Blocks as people who are very familiar with the area and
8 have -- because I have questions specific that are coming
9 up. And, I wanted to establish, they may be laypeople as
10 biologists, but they have a pretty significant
11 understanding of the area.

12 CHAIRMAN IGNATIUS: All right.

13 MS. LINOWES: That's where I'm going.

14 CHAIRMAN IGNATIUS: All right. Then,
15 why don't you move on.

16 MS. LINOWES: Okay.

17 BY MS. LINOWES:

18 Q. Okay. Now, maybe this question has already been
19 answered, but why is your group called the "North
20 Branch"?

21 A. (R. Block) The river running along Route 9 is the North
22 Branch River. So, the people who live in its vicinity
23 call our ourselves -- the area, actually, at one point,
24 and I don't know the exact history of the dates, but it

[WITNESS PANEL: R. Block & L. Block]

1 was a separate town. There was a town of North Branch
2 in that vicinity years ago.

3 Q. Okay. And, today, that's -- so that, well, let's talk
4 about the river then. So, it was stated earlier that,
5 by you, that the North Branch and the Contoocook Rivers
6 receive state designation under RSA 483?

7 A. (R. Block) Yes, that's correct.

8 Q. Is that correct? And you state that in your testimony.
9 Now, if I could just -- if you could just peek at the
10 map, I have one question about it, that I have handed
11 out. This shows that North Branch River is a large
12 tributary of the Contoocook River. Is that an
13 appropriate characterization?

14 A. (R. Block) Yes.

15 Q. And, in looking at that map, is it apparent that --
16 does it appear that Antrim is entirely within the
17 watershed of both the North Branch and the Contoocook,
18 I'm going to pronounce that river wrong all the time,
19 but Contoocook River?

20 A. (R. Block) Yes. Antrim and Hillsborough are the only
21 towns that have -- that both rivers are, both branches,
22 both parts are in. Yes, Antrim is entirely within the
23 watershed.

24 Q. So, you're saying that both of those rivers are --

[WITNESS PANEL: R. Block & L. Block]

1 appear in both Hillsborough and Antrim, and they're
2 both entirely within the watershed?

3 A. (R. Block) That is correct. Correct.

4 Q. Okay. So, in reading the DES website having to do with
5 the North Branch and the Contoocook Rivers, it states
6 "at least 117 species of birds dependent upon the
7 Contoocook and North Branch Rivers and their corridors
8 have been tallied in recent years." Does that surprise
9 you?

10 A. (R. Block) Not at all.

11 Q. So, you've seen significant -- well, I'll ask you.
12 What kind of observations have you made, not specific
13 bird types, but in terms of quantity? Have you seen a
14 lot of activity with regard to birds?

15 A. (R. Block) Yes. Years ago, we used to feed birds and
16 keep track of what we saw. Haven't done it in quite a
17 number of years.

18 Q. Okay. And, it also -- also the DES website says that
19 the site of this -- goes on to say that -- to speak of
20 the "scenic value of the North Branch and exemplary
21 natural ecological communities along the river." Does
22 that surprise you?

23 A. (R. Block) Not at all.

24 Q. Okay. Now, when you talked about the -- just a couple

[WITNESS PANEL: R. Block & L. Block]

1 questions about the viewshed now or the view of the
2 turbines. When you're anywhere along the North Branch
3 River, and is it apparent that you can see the ridge
4 and will you be able to see the turbines from -- based
5 on your just walking around and looking at what's out
6 there?

7 A. (L. Block) Could I answer that?

8 Q. Uh-huh.

9 A. (L. Block) Because, from that public angling area that
10 I've mentioned several times, you have probably one of
11 the best views in Antrim of the met tower. So,
12 obviously, it would follow.

13 Q. And, if I understood you correctly, and maybe this is a
14 question for Mr. Block from what you said earlier, it
15 is your understanding, in looking at the testimony both
16 by Ms. Vissering, as well as Guariglia, that there was
17 -- that you're not satisfied that the viewshed analysis
18 appropriately accounted for views from this potentially
19 scenic river?

20 A. (R. Block) No, I don't think it's accurate.

21 Q. Okay. Now, you both, from what I can tell, based on
22 your testimonies, you both served on the Antrim Local
23 Advisory -- excuse me, the Local Advisory Committee for
24 the Contoocook and North Branch Rivers, is that

[WITNESS PANEL: R. Block & L. Block]

1 correct?

2 A. (R. Block) I was actually on the initial committee for
3 about three years that assessed the river and proposed
4 it to the State Legislature for inclusion. Once it was
5 accepted as a protected river, I then became a member
6 of what then became the Local Advisory Committee for, I
7 can't even remember how many years, five or six years
8 at least after that. Later on, Loranne took over that
9 position.

10 Q. And, Ms. Block, how long were you on that committee?

11 A. (L. Block) I believe it was only two years.

12 Q. Okay. And, so, you know that they put out a report,
13 that is -- the report is called the "Contoocook and
14 North Branch Rivers' Corridor Management Plan". You're
15 aware of that report?

16 A. (R. Block) I was on the committee when we created that.
17 Part of a river protection plan is to generate such a
18 report.

19 Q. So, that's a requirement based -- so, when the river is
20 granted designation under RSA 483, it is required to --
21 such a plan is required?

22 A. (R. Block) I believe it's a requirement. I know that
23 it was -- it was the next project that we took over
24 working on, once the river did achieve protected

[WITNESS PANEL: R. Block & L. Block]

1 status.

2 Q. Okay. And, then, you reference, Ms. Block, the
3 findings or at least the characterization of the North
4 Branch, based on U.S. National Park Service, and you
5 had stated that it had "three Outstanding Remarkable
6 Values", correct?

7 A. (L. Block) Yes, that's correct.

8 Q. "Recreation, History and Botany", I think you said?

9 A. (L. Block) Yes.

10 Q. Okay. In fact, in looking at the document, it appears
11 that it is also hydrology and paleontology. So, it
12 states "other" under the Park Service. So, it's pretty
13 significant from a national, as well as a state level,
14 is that what you were saying?

15 A. (L. Block) I believe, on a national level, the fact
16 that it had national recognition was significant.

17 Q. Okay. In reading the Applicant's filings, either in
18 the combined testimonies and as well as the Application
19 itself, AWE 1, I believe it is, do you recall any
20 commentary or statements by the Applicant, other than
21 acknowledging that the North Branch was a designated
22 river in the State of New Hampshire? Do you recall
23 seeing anything that talked about the importance of
24 that river?

[WITNESS PANEL: R. Block & L. Block]

1 A. (L. Block) I don't.

2 A. (R. Block) I don't either.

3 Q. Okay. Then, so there's nothing said -- basically,
4 throughout these proceedings, has anyone testified to
5 the significance of this river or the watershed and the
6 Contoocook River that you have seen -- or, heard?

7 A. (L. Block) I don't believe so.

8 Q. Okay.

9 A. (L. Block) But I -- you know, Richard and I were on
10 that committee for years. And, there's one other
11 person in Antrim who has also been on that committee.
12 So, --

13 Q. So, you're sensitive to it, you're more aware?

14 A. (L. Block) Exactly. That's what I'm trying to say.
15 Thank you.

16 Q. Okay. Now, Mr. Block and Mrs. Block, the information
17 that goes into that report, the management plan, and in
18 it it documents, from what I could tell, and I would
19 like you to expand upon this, it documents
20 characteristics of the wildlife and the ecology, is
21 that correct?

22 A. (R. Block) Yes, I believe it did.

23 Q. And, so, do you recall, when you were on the committee,
24 what work you had to do or what work you were involved

[WITNESS PANEL: R. Block & L. Block]

1 in in vetting the information that went into that
2 document?

3 A. (R. Block) I recall many, many map overlays being
4 created. I think the work was primarily done by the
5 Southwest Regional Planning Commission. And, there
6 were overlays for every imaginable situation. There
7 were overlays for river access. There were overlays
8 for historic -- areas of historic concern, areas of
9 zoning, political boundaries. There were wildlife and
10 recreation overlays also, I know that was part of it.

11 Q. And, can you -- do either of you recall whether or not
12 biologists, perhaps part of Nature Conservancy, or
13 Audubon, or perhaps members of the Committee that would
14 go out and valid or work with DES to validate, or Fish
15 & Game, to validate some of the wildlife?

16 CHAIRMAN IGNATIUS: Before you answer,
17 Ms. Geiger.

18 MS. GEIGER: I'm going to object to this
19 line of questioning. I guess, if Ms. Linowes can refer us
20 back to statements in the prefiled testimony about which
21 she is cross-examining the witnesses, that would be quite
22 helpful. But I fear that we're getting very far afield in
23 what these witnesses have testified to.

24 CHAIRMAN IGNATIUS: I'm also concerned

[WITNESS PANEL: R. Block & L. Block]

1 just on relevance. It may be historically interesting,
2 but how is it relevant to the decisions we have to make
3 today?

4 MS. LINOWES: I have specific questions
5 to the -- I have -- I wanted to bring it back to a
6 memorandum that the Applicant has submitted to the
7 committee as part of the Application. And, so, I'm trying
8 to get a understanding of what work that committee did, in
9 order -- because I'm going to reference specific
10 appendices in that, and I want to read two paragraphs out
11 of appendices in the management plan for those rivers that
12 talk about the wildlife, and compare it to what the
13 Applicant has submitted.

14 MR. IACOPINO: But how's that relevant
15 to what his direct testimony was? You're supposed to be
16 cross-examining based on direct testimony.

17 MS. LINOWES: Yes. Well, I'm examining,
18 it's relevant because he had said that he was part of that
19 committee. So, he is able to speak to what that process
20 is all about. Okay. Well, I'll move on and ask the
21 specific questions, I was just building a base.

22 CHAIRMAN IGNATIUS: All right. Why
23 don't we do that and see where we go. I mean, we -- we
24 need to get through these witnesses.

[WITNESS PANEL: R. Block & L. Block]

1 MS. LINOWES: Right.

2 CHAIRMAN IGNATIUS: We know that one at
3 least has a time constraint. We know that this is our
4 last day of hearings, and we've got other procedural
5 matters.

6 MS. LINOWES: Okay.

7 CHAIRMAN IGNATIUS: So, any focus you
8 can bring to the questioning and to the -- where we are in
9 the record, and we don't need to restate things that have
10 already been addressed.

11 MS. LINOWES: Okay.

12 MS. GEIGER: And, I'll interpose another
13 objection, too. As it appears to me, from this line of
14 questioning, that Ms. Linowes is actually seeking to
15 introduce into the record at this point information that
16 she could have put in herself with her filings. This is
17 just another backdoor late attempt to rebut and address
18 things that I think could have been dealt with much
19 earlier in the process. So, I would object on that basis
20 as well.

21 MS. LINOWES: But, if I could ask the
22 questions --

23 CHAIRMAN IGNATIUS: Well, let's see what
24 the question is.

[WITNESS PANEL: R. Block & L. Block]

1 BY MS. LINOWES:

2 Q. Mr. Block and Mrs. Block, there is, in the Appendix J
3 of the Contoocook Management Plan, there is a -- the
4 results of a survey that was taken by the committee.

5 MS. GEIGER: Excuse me. I object. I
6 don't have a copy of that plan. I have a copy of the map,
7 but I don't have the plan.

8 MS. LINOWES: Right. I was not
9 intending it to be an exhibit. I just wanted to, because
10 they are residents that live right by North Branch, this
11 is a survey of people living near the North Branch. I
12 wanted to point out -- I wanted to ask them about the
13 survey.

14 MS. GEIGER: I just think it's --

15 CHAIRMAN IGNATIUS: I think we've gone
16 too far afield here.

17 MS. LINOWES: Okay.

18 CHAIRMAN IGNATIUS: I don't know, a
19 survey done years ago, that's not part of the record here,
20 wasn't anything that the Blocks saw fit to bring forward.
21 I think you should move on.

22 MS. LINOWES: Okay, I'll move on.

23 BY MS. LINOWES:

24 Q. Mr. and Mrs. Block -- or, Mr. Block, you had been on

[WITNESS PANEL: R. Block & L. Block]

1 that site visit on July 10th and 19th?

2 A. (R. Block) Correct.

3 Q. Okay. And, you state -- it asked you about what you
4 saw, in terms of wildlife. Now, I wanted to ask you
5 about the Appendix 12, Exhibit 6 of the Applicant,
6 which is electronic Document 7, also known as "Appendix
7 12G". This is a document known as the "General
8 Wildlife Impacts".

9 MR. IACOPINO: Give us one moment
10 please.

11 MS. LINOWES: Sure.

12 MR. IACOPINO: Which Applicant exhibit
13 did you say it was?

14 MS. LINOWES: Exhibit 6.

15 MR. IACOPINO: Do you know which
16 attachment within there?

17 MS. LINOWES: It was electronic
18 Document 7.

19 MR. IACOPINO: Thank you.

20 MS. LINOWES: Appendix 12G.

21 MR. IACOPINO: And, what page are we
22 going to in that document?

23 MS. LINOWES: And, we're going to
24 Page 2, which is pdf Page 4.

[WITNESS PANEL: R. Block & L. Block]

1 MR. IACOPINO: Thank you.

2 CHAIRMAN IGNATIUS: Go ahead.

3 MS. LINOWES: Okay.

4 BY MS. LINOWES:

5 Q. Mr. Block, the Applicant has conducted several studies,
6 in terms of birds and bats, and I know you weren't here
7 on Tuesday, but Ms. Morse did go look at the list.
8 And, the question I had -- the question I'm asking you
9 is, if you would look at paragraph -- Page 2, and
10 there's a large paragraph in the middle of the page.
11 And, down towards the end, maybe four or five lines
12 from the bottom, there's a sentence that reads:
13 "Species that require large blocks of habitat that are
14 found in the region, such as moose black bear and
15 fisher, will still find abundant large blocks of
16 habitat after construction." Do you see that?

17 A. (R. Block) Yes, I do.

18 Q. Okay. Now, if, and I know, Ms. Block, you have read
19 this document. Mr. Block have you read this document
20 as well?

21 A. (R. Block) I did skim it the other day, yes.

22 Q. Okay. Now, in reading that document, do you recall
23 seeing anything in that document that looked like the
24 Applicant had identified resident species in the area,

[WITNESS PANEL: R. Block & L. Block]

1 both large and small game, and evaluated whether the
2 utilization of the Project site by those species, as
3 well as the utilization of surrounding area, including
4 moose, deer, bear and bobcat. Do you recall reading
5 anything like that in the document?

6 MS. GEIGER: I'm going object to that
7 question. The witness is asking these -- excuse me, Ms.
8 Linowes is asking these witnesses now to go through and
9 critique information that the Applicant put in many months
10 ago. And, it seems to me that she herself could have done
11 that with her direct testimony, at the very least she
12 could have cross-examined the appropriate witness, who I
13 believe was Ms. Morse, who testified on behalf of the
14 North Branch residents. So, again, I'm going to intervene
15 -- excuse me, I'm going to object, you can tell it's past
16 lunchtime, to this line of questioning. Sorry.

17 MS. LINOWES: Madam Chair -- I'm sorry.

18 CHAIRMAN IGNATIUS: What -- can you tell
19 me your purpose in the question? Is it something about
20 the Blocks' personal knowledge of the area you're
21 eliciting, as opposed to -- well, I don't know.

22 MS. LINOWES: Yes. I'm not asking them
23 to critique the review of it, the report at all, or what
24 the study was. I'm simply asking, based on what they

[WITNESS PANEL: R. Block & L. Block]

1 observed at the site on their visit, did they see anything
2 comparable to that, in terms of scope of work delineated
3 in this report? They both said that they have read the
4 report. And, that's all I'm asking. Is there any, other
5 than a statement that says the species -- that "large
6 species will move on, find abundant large blocks of
7 habitat after construction", do they see anything that
8 shows that the Applicant actually conducted an analysis or
9 a review at least of current habitat or current
10 utilization of the Project site by large or small game?
11 That's all I'm asking.

12 WITNESS L. BLOCK: Could we address
13 that? I mean, not necessarily answer the question.

14 MS. GEIGER: It's your choice.

15 CHAIRMAN IGNATIUS: Yes, Ms. Block.
16 Please do.

17 WITNESS L. BLOCK: Thank you. Actually,
18 I sort of reference that in my testimony. So, I don't
19 feel the question is that far afield.

20 CHAIRMAN IGNATIUS: All right. Then,
21 why don't you go ahead and answer it. I don't recall
22 that, but I'm happy to --

23 WITNESS L. BLOCK: Okay.

24 CHAIRMAN IGNATIUS: And, I think, but

[WITNESS PANEL: R. Block & L. Block]

1 let's just, again, these are the witnesses who have filed
2 testimony, you're cross-examining them on their testimony
3 and their direct knowledge, and not, you know, everybody's
4 comments on everybody else's testimony is not what we're
5 doing here.

6 WITNESS L. BLOCK: Okay.

7 CHAIRMAN IGNATIUS: But go ahead,
8 Ms. Block.

9 WITNESS L. BLOCK: I know. If you feel
10 stronger --

11 WITNESS R. BLOCK: Oh, no. My --

12 CHAIRMAN IGNATIUS: Well, hold on, hold
13 on. I thought Ms. Block said she had addressed it in her
14 testimony and could respond.

15 WITNESS R. BLOCK: Oh.

16 WITNESS L. BLOCK: Okay. It was in my
17 testimony. And, we did not find anything in the -- we
18 felt it was lacking, and that's specifically why we
19 engaged Susan Morse, and why those hikes were done. And,
20 we did not feel there was enough information.

21 BY MS. LINOWES:

22 Q. What did you feel was lacking in the report?

23 A. (L. Block) That there were not enough large mammal
24 studies or any seemingly done in the report.

[WITNESS PANEL: R. Block & L. Block]

1 A. (R. Block) I would add that, when I looked over the
2 Application, it seemed to me that most of the research
3 about what large mammals and other mammals were there
4 had been done as, and I think they referred to it as
5 "desktop research". It was done by analysis of
6 computer databases. I did not see anything that showed
7 field studies. Which is, again, why we decided to do
8 our own field study.

9 Q. Okay. I think I'm almost done.

10 MS. LINOWES: I'm all set. Thank you
11 very much.

12 CHAIRMAN IGNATIUS: All right. Thank
13 you. All right. Questions from the Applicant. And, I
14 know you mentioned the other day you were splitting up
15 between Mr. and Mrs. Block. So, however you wish to
16 proceed.

17 MR. PATCH: Maybe just to start, I
18 intend to ask questions of you, Mrs. Block. So, I'll
19 start there.

20 BY MR. PATCH:

21 Q. I mean, you just said you referred in your testimony to
22 the -- to what was filed on August 10th, you know,
23 Appendix 12G. And, I thought your testimony was
24 actually filed on July 31st. So, I don't see how that

[WITNESS PANEL: R. Block & L. Block]

1 could have happened.

2 MR. ROTH: I don't think that's what she
3 said.

4 CHAIRMAN IGNATIUS: Yes, I'm not
5 recalling that either. So, --

6 MR. ROTH: I think she said she was
7 familiar with wildlife, she had done the hike, that kind
8 of thing.

9 CHAIRMAN IGNATIUS: Well, you had stated
10 your testimony found that there wasn't much in terms of
11 wildlife impacts, but not necessarily responding to other
12 prefiled testimony. But maybe I got it wrong.

13 WITNESS L. BLOCK: I was trying to
14 answer two questions at once, and perhaps I meshed them
15 too well, so it wasn't quite accurate.

16 BY MR. PATCH:

17 Q. Okay.

18 A. (L. Block) But I'm referring to Page 4 of my testimony,
19 the bottom of that.

20 Q. That's where you say "I'm aware of the abundant
21 wildlife in our area."

22 A. (L. Block) Yes.

23 Q. Is that what you mean?

24 A. (L. Block) Yes.

[WITNESS PANEL: R. Block & L. Block]

1 Q. I wanted to follow up on a -- I remember, in response
2 to a question, I think it was from Mr. Roth, you had
3 indicated that the sound level in room, you referred to
4 Mr. O'Neal's testimony, and I have the cite to that
5 transcript. I'd just like to approach you and show you
6 that portion of the transcript, just so the record is
7 straight on that.

8 A. (L. Block) Okay.

9 Q. And, I've got Day 4, Afternoon Session, November 1.
10 And, I've got Page 91.

11 A. (L. Block) Okay.

12 Q. And, I'm just going to ask you if I'm reading this
13 correctly. The witness is Mr. O'Neal.

14 A. (L. Block) Okay. Wait a minute. Where do we go from
15 this way, this way or this way?

16 MR. ROTH: Madam Chairman, I'm going to
17 object to this question. This seems to me we're sort of
18 revisiting, you know, trying to revisit a billow on a
19 basin that occurred during my cross-examination of the
20 witness, when the -- I think the question didn't focus on
21 whether she knew whether it was 35 or 40 in here or not.
22 And, to now try to, you know, make a liar out of Ms. Block
23 over this issue seems to me to be completely irrelevant,
24 and, you know, a sideshow.

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 CHAIRMAN IGNATIUS: I'm going to
2 overrule. I think that's way overstating what's going on
3 here. And, I really would request that those sorts of
4 characterizations not be used. It's not what this
5 proceeding is all about. Nobody is making a liar out of
6 anyone, and we have no sideshows.

7 As I recall, there was a dispute about
8 whether it was 35 or 40, and there was some back-and-forth
9 about "well, we would have to check the record." So, I
10 think it's fair to check the record. We're trying to
11 build a record here. We're trying to have a solid
12 evidentiary base for our analysis. And, if there's
13 confusion, we want it clarified.

14 So, I think it's fair. Go ahead.

15 BY MR. PATCH:

16 Q. I'm looking at Page 91. And, I'm looking at Lines 18
17 and 19, and this is Mr. O'Neal's testimony. And, if
18 you could just tell me if I'm reading this correctly.
19 It says "The sound level in this room is on the order
20 of 40 to 42 decibels." Did I read that correctly?

21 A. (L. Block) Yes. I stand corrected.

22 Q. Thank you. I believe Mr. Block had pointed out
23 basically the location of your house on AWE 41 earlier
24 today. And, according to that map, and Mr. O'Neal's

[WITNESS PANEL: R. Block & L. Block]

1 testimony, assuming no vegetation, and under worst-case
2 conditions, you would be in the 30 to 35 dBA range, is
3 that correct?

4 A. (L. Block) I'm not clear on what you mean by
5 "worst-case conditions". I thought that was not based
6 on the L90. So, I'm not really a sound person, but I
7 didn't understand that to be how that is the worst
8 case.

9 Q. Well, I was referring specifically to the --

10 A. (L. Block) I'm looking at this chart. I don't know if
11 this is useful at all.

12 Q. Yes. I'm referring specifically to the report, which
13 is marked as "Appendix 13A", I believe it's part of
14 Exhibit 3, AWE 3. And, this is -- I'm on Page 7-2.
15 And, there specifically refers to a table, and the
16 table is followed by Figure 7-1, which has been
17 enlarged on Exhibit 41. And, it says there that it's
18 essentially representing those areas under worst-case
19 operational conditions. So, I mean, you may disagree
20 with that, but that was Mr. O'Neal's testimony, and
21 that's in his report, is it not?

22 A. (L. Block) I'm not clear at all as to where you are,
23 so --

24 A. (R. Block) That map.

[WITNESS PANEL: R. Block & L. Block]

1 A. (L. Block) Oh, this map? That's what we're talking
2 about?

3 A. (R. Block) Yes.

4 A. (L. Block) Oh. Okay. All right. So, now could you
5 repeat that question, because I didn't -- I was trying
6 to figure it out from this one. So, --

7 Q. I guess what I'm asking you is that, according to
8 Mr. O'Neal's testimony and the study that they did,
9 which assumes no vegetation and is an assumption of
10 worst-case conditions, you would be in the 30 to 35 dBA
11 range. Is that fair to say? I'm not asking whether
12 you agree with that, but I'm asking whether, according
13 to Mr. O'Neal's testimony, that's where you are on that
14 map?

15 A. (L. Block) Okay. On the chart that I'm on, we've got
16 40 and 45? So, no, I'm not looking at Mr. Tocci's, I
17 don't think. I believe I'm looking at --

18 MR. ROTH: Madam Chairman, I want to
19 object. Because I think the witness, during my
20 cross-examination of her on this very point, pointed out
21 the place of her residence, or maybe it was Mr. Block,
22 either one of them, on the map as being close to the line,
23 which was, I believe, marked "35 dB". So, I think this
24 question has already been answered by the witnesses during

[WITNESS PANEL: R. Block & L. Block]

1 previous cross-examination.

2 CHAIRMAN IGNATIUS: What I took the
3 distinction was Mr. Patch was pursuing is whether that's a
4 measurement that's worst-case or some sort of average or
5 something like that. Is that --

6 MR. ROTH: No, I don't think that -- he
7 said that he's not asking her to agree that it's
8 worst-case. I think his question is, "are you on the map
9 where Mr. O'Neal says he is -- says she is?" And, I think
10 she's already answered that.

11 CHAIRMAN IGNATIUS: If that's the
12 question, I agree. And, that's a nice, straightforward
13 question. I didn't realize that's what we were asking
14 here.

15 MR. PATCH: I think I'll move on. I'll
16 move on.

17 CHAIRMAN IGNATIUS: Okay. Good.

18 MR. PATCH: It just gets a little too
19 complicated.

20 BY MR. PATCH:

21 Q. And, you are located, are you not, to the north of the
22 Project area?

23 A. (L. Block) I am.

24 Q. And, as I think Mr. Block testified, about 1.1 miles

[WITNESS PANEL: R. Block & L. Block]

1 north of the nearest wind turbine, is that correct?

2 A. (L. Block) Actually, I was the one who said that, and
3 that is correct.

4 Q. Okay. And, the prevailing winds typically blow from
5 the northwest, is that correct? And, I can show you
6 the section of the V-Bar report that establishes that.
7 In AWE 8, AWE 8, Page 3, at the bottom of that page, I
8 will read it to you. Under the subsection "Wind
9 Direction", it says "Onsite measurements show that the
10 prevailing wind direction across the Antrim Project
11 site is generally from the northwest, which is typical
12 for sites in this region of the country."

13 A. (L. Block) Okay. I did not testify at all about the
14 V-Bar report, nor did I testify about wind direction.
15 And, I really am not in a position to collaborate
16 whether that is true or not true.

17 Q. Okay. But you are located to the north and --

18 A. (L. Block) I am located to the north, yes.

19 Q. -- and kind of northwest of the northernmost turbine, I
20 guess I would say, is that correct?

21 A. (L. Block) Yes. That's accurate.

22 Q. You and your husband are plaintiffs in two lawsuits
23 against the Town of Antrim with regard to the met
24 tower, is that correct?

[WITNESS PANEL: R. Block & L. Block]

1 A. (L. Block) That case has been settled. So, we are no
2 longer involved with that.

3 MR. ROTH: Just a point of
4 clarification. Mr. Patch, can you point where in their
5 testimony they talk about the lawsuits?

6 CHAIRMAN IGNATIUS: There is reference.
7 I don't recall the page. But I know there's an
8 identification of the plaintiffs, as they call it,
9 consolidated met tower -- consolidated appeals.

10 WITNESS L. BLOCK: I believe it's in
11 Richard's, not in mine.

12 BY MR. PATCH:

13 Q. Well, wasn't it decided by the Court? Wasn't that
14 litigation decided by the Court?

15 A. (L. Block) Our two cases specifically were not ruled
16 on. Again, this is not in my testimony, but the cases
17 were not ruled on. The case of *Antrim Wind versus the*
18 *Town of Antrim* was ruled on.

19 Q. In your first lawsuit, in Paragraph 20 of the filing
20 that you made with the Court, you had referred to the
21 met tower as being "a man-made intrusion on views of
22 the Tuttle Hill ridgeline." Do you recall that?

23 A. (L. Block) Is this --

24 A. (R. Block) I'd like to object to this, because I --

[WITNESS PANEL: R. Block & L. Block]

1 A. (L. Block) Excuse me. Excuse me. I will. I'm about
2 to. If this is a question for me, and not for Richard,
3 as I said, I'm not mentioning that in my testimony.
4 So, --

5 Q. Well, you were a plaintiff in that lawsuit, were you
6 not?

7 A. (L. Block) I was. But I'm not -- I thought we were
8 dealing with testimony, okay?

9 Q. Well, I think it goes to bias. I think it goes to --

10 A. (L. Block) I don't think we have to go to bias.

11 Q. I can ask Mr. Block then, if that's --

12 CHAIRMAN IGNATIUS: Well, why don't you.
13 I think your position in a number of questions has been to
14 try to stay focused on the testimony. And, if Ms. Block
15 didn't mention it, but Mr. Block did, then it seems to me
16 the question makes sense going to Mr. Block.

17 MR. PATCH: That's fine.

18 BY MR. PATCH:

19 Q. Mr. Block, do you want to answer that?

20 A. (R. Block) Well, actually, as Lorraine said, I don't
21 think we need to establish bias here. Our bias is very
22 clear, as is yours.

23 Q. But you raised it in your testimony, apparently, the
24 lawsuit?

[WITNESS PANEL: R. Block & L. Block]

1 A. (R. Block) All I mentioned is that, in terms, in my
2 testimony, in terms of our qualifications to speak to
3 this Project, I mentioned in passing that we were
4 plaintiffs in two of the cases against the Town of
5 Antrim regarding the met tower.

6 MR. ROTH: Madam Chairman, I think the
7 Blocks make a really good point. There is no question
8 about their bias; they're opposed to this project any way,
9 shape or form. So, venturing down into allegations in a
10 pleading that was filed in unrelated, you know, in cases
11 not before this body, I think are too far afield and out
12 to be restricted.

13 I mean, the Applicant has been very
14 aggressive about restricting questioning by other people
15 today of these witnesses, about ancillary matters that
16 they have been involved in, including the Contoocook River
17 Watershed Commission they were involved in, and other
18 things. So, I think, you know, this ought to stop now.

19 CHAIRMAN IGNATIUS: I'm inclined to
20 agree with you. But, Mr. Patch, do you want to explain
21 why it's relevant? I mean, it's certainly no question
22 that the Blocks have a strong position about this Project,
23 and where -- is there something further than that that you
24 need to explore?

[WITNESS PANEL: R. Block & L. Block]

1 MR. PATCH: Well, it's really one very
2 simple question about a phrase that was used in that
3 Paragraph 20 with regard to the met tower, I think I
4 already said it, being a "man-made intrusion on the views
5 of the Tuttle Hill ridgeline." I mean, I can move on. I
6 just wanted to establish, first of all, that that's
7 something they alleged in that lawsuit. And, I have some
8 follow-up questions to that.

9 WITNESS R. BLOCK: I'll speak to that.

10 CHAIRMAN IGNATIUS: Well, before you do,
11 we're not making progress here. Why that's indicative of
12 bias beyond the more direct allegations from the two
13 witnesses that the turbines themselves are a disturbance?
14 I guess I'm not seeing --

15 MR. PATCH: I think it's just showing
16 consistency with some of the things that Mrs. Block has
17 said in her testimony, I can move on. That's fine.

18 CHAIRMAN IGNATIUS: Please do.

19 BY MR. PATCH:

20 Q. Mrs. Block, overall, is it fair to say that you have a
21 concern about anything that might be built on Tuttle
22 Hill that would impact on your viewshed?

23 A. (L. Block) Not specifically. I know I test -- I put in
24 my testimony that we had let some of the trees in front

[WITNESS PANEL: R. Block & L. Block]

1 of our view. If I really thought I was going to
2 protect that view forever, I would never -- I would
3 have kept those trees cleared. But we let trees grow
4 up. I mean, we're realists about this. That land is
5 -- it could be subdivided, it could have had houses on
6 it. You know, not a lot, it's very steep slopes, so
7 that would curtail development. However, you know,
8 we're totally realistic about it. There's a big
9 difference. I believe I said this in my testimony that
10 we could never let trees grow up high enough to block
11 500-foot turbines.

12 Q. Well, that's right. But, even if the wind power
13 project isn't built, it seems like you've already
14 prepared yourself for the fact that at some point there
15 could be something else built on Tuttle Hill, and so
16 you've let those trees grow up. You've referenced the
17 fact, on Page 11 of your testimony, that you did that
18 to block the possibility of a house being built that
19 would affect your viewshed. Is that correct?

20 A. (L. Block) Yes. I just said that.

21 Q. Now, you would concede, wouldn't you, that the
22 settlement that was reached with AMC about
23 radar-activated night lighting should help to address
24 the concern you express on Page 8 of your testimony

[WITNESS PANEL: R. Block & L. Block]

1 about the "devastating intrusion of flashing red lights
2 in the night sky." You would concede that that will
3 help, would you not?

4 A. (L. Block) No, I would not concede that would help.
5 Because I see a lot of air traffic, I have no idea how
6 often those lights would go on. This is, you know,
7 we're talking about the night, I still live their 24/7,
8 I still have the view all day long. Yes, maybe it
9 would prevent some of the flashing red lights in my
10 bedroom at night. But -- and, how many years would it
11 actually be before that were to happen?

12 Q. From your testimony, it sounds like you have a deep
13 appreciation for nature. Is that fair to say?

14 A. (L. Block) Yes. I believe I've said that.

15 Q. And, it sounds like you use passive solar and wood for
16 your heat source, is that correct?

17 A. (L. Block) That's absolutely true.

18 Q. And, where do you get your electricity?

19 A. (L. Block) We're on the grid.

20 Q. And, I think you've already indicated that you're
21 familiar with the concept of "climate change". Are you
22 familiar with the impact that greenhouse gases are
23 having on weather patterns and natural environments and
24 the impacts on wildlife?

[WITNESS PANEL: R. Block & L. Block]

1 A. (L. Block) To some degree. Again, I said earlier, I'm
2 not an expert on that.

3 Q. How do you feel about coal-fired power plants and the
4 contributions they make to climate change?

5 MR. ROTH: I'm going to object to this.
6 You know, when I went -- tried to ask questions about
7 this, Ms. Block gave the same answer she just did, and I
8 was restricted from asking any further questions about it.
9 So, I think that, you know, the same ruling should apply
10 in this instance.

11 CHAIRMAN IGNATIUS: We're drawing a
12 blank on your questioning about that subject. But, be
13 that as it may, Mr. Patch, why don't you get to -- the
14 question you're asking, I assume, is the impacts of wind
15 and the effects on climate change. Why don't you get to
16 that question.

17 MR. ROTH: I wasn't even allowed to ask
18 that kind of a question. So, I guess my objection stands.
19 And, this was an objection from them. That I couldn't --
20 you know, I asked Ms. Block if she understood global
21 warming, and then I asked another question, and there was
22 an objection, and I believe the Chair said, you know,
23 "move on", and I did. So, I'm not sure why this continues
24 at this point, given the approach that was just taken a

[WITNESS PANEL: R. Block & L. Block]

1 couple hours ago.

2 MR. PATCH: I think Mr. Roth is trying
3 to unnecessarily restrict our ability to defend our client
4 on cross-examination. He's objecting to most of the
5 questions that I asked. And, his role here, as Public
6 Counsel, is a different one than what we have. So, I
7 think we ought to be entitled to make a legitimate
8 cross-examination of these witnesses. And, I think it's
9 unfortunate that he spends so much time objecting to all
10 of our questions and restricting our ability to do that.

11 MR. ROTH: Well, that's how I felt while
12 their -- while other people were questioning. And, I'm
13 just trying to make sure that we have an even playing
14 field in terms of the way the rules are applied.

15 CHAIRMAN IGNATIUS: You know, that is
16 our goal, that we're not trying to skew the proceedings in
17 anyone's favor, and be consistent, to the extent we can,
18 and with my faulty memory, in applying rules fairly. I
19 mean, you've already asked Ms. Block what her sense of the
20 effect of greenhouse gas is and changing weather patterns,
21 and she said she's not a real expert. I took your "what
22 do you think of coal-fired plants?" as more rhetorical
23 than anything. But, if there's a -- I honestly don't
24 recall, Mr. Roth, that you were going into "global

[WITNESS PANEL: R. Block & L. Block]

1 warming" questions and were told that you couldn't, and
2 I'll accept if that's the case. If there's a way you
3 can --

4 MR. PATCH: Okay.

5 CHAIRMAN IGNATIUS: -- you can very
6 briefly get to your point, which I assume has to do with
7 the relative balance of going to other forms of
8 generation, why don't you do that and move on.

9 BY MR. PATCH:

10 Q. Okay. Mrs. Block, would you agree that, in order to
11 address greenhouse gases, we all may have to make some
12 sacrifices, to use less electricity, to conserve, to
13 change the form of energy that we use, maybe to pay
14 more for gas, or to pay more for vehicles that burn
15 less or emit less? And, some of us may have to
16 sacrifice a portion of our viewsheds, in order to allow
17 for the construction of forms of electricity that do
18 not contribute to greenhouse gas. Would you agree with
19 that?

20 MS. LINOWES: Madam Chair, I would like
21 to object to that question.

22 CHAIRMAN IGNATIUS: No, I -- let's --
23 well, on what basis?

24 MS. LINOWES: On the basis that they're

[WITNESS PANEL: R. Block & L. Block]

1 not experts in the electricity market or --

2 CHAIRMAN IGNATIUS: That wasn't the
3 question.

4 MS. LINOWES: Well, he's asking her --

5 WITNESS L. BLOCK: I can answer this
6 question.

7 CHAIRMAN IGNATIUS: The question was
8 what her view is about sacrifice, and let her answer what
9 her view is about sacrifices.

10 **BY THE WITNESS:**

11 A. (L. Block) Okay. You are asking somebody who has spent
12 the last 55 years of their life, you know, conserving
13 electricity, shutting off every light that's not being
14 used, recycling before anybody let their -- knew about
15 recycling. I mean, you're just asking the wrong person
16 to make this sacrifice, when, you know, I live in a
17 house that's about 55 degrees all winter, because I
18 only make a fire when I absolutely have to. And, you
19 know, I have picture windows that are passive solar. I
20 have, you know, this morning we got up, I made one
21 little fire with about eight sticks of woods in my
22 kitchen cookstove. So, it's just -- we're not the
23 appropriate people to be asked about this. I mean, if
24 everybody lived the way I did, we wouldn't have this

1 problem.

2 BY MR. PATCH:

3 Q. On Page 11 of your prefiled testimony, you say that you
4 are "not against properly sited wind projects",
5 correct?

6 A. (L. Block) That's absolutely correct.

7 Q. Do you agree with the statement in the "purpose"
8 section of the New Hampshire Renewable Portfolio
9 Standard law, basically, that the use of local
10 renewable resources, wind power being one of those
11 local resources, can serve to displace dependence on
12 fossil fuels and reduce the amount of greenhouse gases.
13 Do you agree with that statement?

14 A. (L. Block) From the research I've done into wind power,
15 and I really didn't want to talk about this, but, from
16 the research I've done, I am not convinced at all that
17 wind really replaces -- is a good source to replace
18 things. And, again, I do not intend to talk about that
19 at all. I would like to actually go a little further
20 into that and say that we buy hay from, and this is a
21 specific example, but we buy hay from a farmer who has
22 a small, I mean, and I do really believe in small
23 distributed wind very, very strongly, and he has a wind
24 turbine on his farm. And, we've talked to him in depth

[WITNESS PANEL: R. Block & L. Block]

1 about this, asking him, you know, he actually is owed
2 money by Public Service. That's how much electricity
3 he produces in a small situation. And, we've asked him
4 what he thinks about his wind generation. And, he
5 said, honestly, if he were to do it all over again, he
6 would do it with solar.

7 MS. GEIGER: Okay. Mr. Block, I have
8 some questions for you please.

9 BY MS. GEIGER:

10 Q. At the top of Page 2 of your direct prefiled testimony,
11 which is dated "July 31st, 2012", again, you've stated
12 that you've sued the Town of Antrim in Superior Court
13 challenging the permitting of Antrim Wind's
14 meteorological tower. And, this is in the Antrim Rural
15 Conservation District, correct?

16 A. (R. Block) Correct.

17 Q. And, you didn't win that case, did you?

18 A. (R. Block) The case was never settled. Our cases were
19 just dropped by the Court.

20 Q. And, isn't it fair to say that there were three cases
21 before the Superior Court that --

22 MR. ROTH: Objection. Again, I'm not
23 sure what the point of going down to venture is the road
24 to -- if I can finish the objection please, to discuss

[WITNESS PANEL: R. Block & L. Block]

1 these court cases. They're not the focus of Mr. Block's
2 testimony. If she's trying to show bias, it's pretty
3 clearly established that they are biased against this
4 Project. So, perhaps we could get to the point of the
5 testimony filed by the Applicant -- or, the witnesses.
6 Thank you.

7 CHAIRMAN IGNATIUS: Ms. Geiger.

8 MS. GEIGER: The point that I'm trying
9 to make, Chairman Ignatius, is that Mr. Block referenced
10 some lawsuits in his July 31st testimony. Those suits
11 were resolved by the Court on July 5th, 2012. Mr. Block
12 didn't put that in his testimony. So, I want to make the
13 record clear that the Court decided the case about the met
14 tower being a permitted use in the Antrim Rural
15 Conservation District on July 5th, which was before the
16 time Mr. Block put his testimony before this Committee. I
17 just want the record to be clear.

18 WITNESS R. BLOCK: I would like to add
19 to that record, --

20 CHAIRMAN IGNATIUS: You may.

21 WITNESS R. BLOCK: -- that our two cases
22 were not resolved by the Court. The Court specifically
23 found in favor of Antrim Wind on the case of *Antrim Wind*
24 *versus the Town of Antrim*, and then mentioned that our two

[WITNESS PANEL: R. Block & L. Block]

1 cases were, therefore, moot, and just dropped them, and
2 did not discuss them.

3 MS. GEIGER: And, I concur with that
4 assessment.

5 BY MS. GEIGER:

6 Q. And, I'd like to ask the next question, which is, Mr.
7 Block, you did not appeal that Court ruling, did you?

8 A. (R. Block) No. Our case was not -- our cases were not
9 decided. If the Court ruling was to be appealed, I
10 felt it was up to the Town of Antrim to appeal it.
11 They were the ones who lost the case.

12 Q. Okay. Now, on Page 3 of your direct testimony, dated
13 July 31, 2012, you state that the Project's -- the
14 Vegetated Viewshed Map "has no basis in reality", and
15 those are your words, "no basis in reality", and that
16 the "map claims that AWE turbines would not even be
17 visible if one were standing next to them." Is that
18 your testimony?

19 A. (R. Block) Yes. It's strong language, but I feel close
20 to that.

21 Q. Okay. And, I'd like to show you this blown-up map,
22 which has been marked as "AWE 39B". Would you take a
23 look at that please.

24 A. (R. Block) Yes.

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 Q. Now, isn't it true that that vegetated viewshed map
2 does, in fact, show turbine visibility at the turbines
3 and scattered along the slopes leading up to the
4 ridge-top?

5 A. (R. Block) Well, the way I see, I see along what's the
6 proposed road, I see a number of areas that a lot of
7 spots that are either blue or purple in most instances,
8 which says that the number of turbines visible would be
9 one to two, from a few of those areas, or three to four
10 at the most from there. I only see one spot on the
11 south where it says a large number of turbines would be
12 visible. But, across that entire -- essentially, the
13 entire hilltop, the entire ridge, it shows that no
14 turbines will be visible at all.

15 Q. Well, but you just -- excuse me, I think you just said
16 that, in certain locations along that ridgeline --

17 A. (R. Block) Along the road. Along the proposed road.
18 And, I'm assuming that means after the land has been
19 cleared for the road.

20 Q. All right. Well, I guess, would you agree with me that
21 the road is going to be located along the ridgeline?

22 A. (R. Block) Yes.

23 Q. Okay. So, at the top of Page 4 of your direct
24 testimony, you say that the Project's photosimulations

[WITNESS PANEL: R. Block & L. Block]

1 have many problems. The first of which is their
2 "reliance on traditional 50 millimeter frames". Is
3 that your testimony?

4 A. (R. Block) I do say that, yes.

5 Q. Okay. Isn't it true that Counsel for the Public's
6 witness, Ms. Vissering, also created visual simulations
7 using 50 millimeter frame photos?

8 A. (R. Block) Yes. It's also true that I did the same.

9 Q. Okay. And, isn't it true that, at the bottom of Page 1
10 of Ms. Vissering's testimony, she said that "Each frame
11 was taken at approximately 50 millimeters. This
12 represents an image that is closest to reality when
13 shown at approximately 11 inches by 17 inches format
14 and held at about 18 inches from the eye"?

15 A. (R. Block) I don't have that in front of me, but I will
16 take your word for that.

17 Q. Okay. Thank you. But, notwithstanding --
18 notwithstanding Ms. Vissering's testimony, you still
19 think that there -- that one of the problems with the
20 Project's photosimulations is that they relied on 50
21 millimeter frames?

22 A. (R. Block) I think the problem is not that they relied
23 on 50 millimeter frames, but that it was essentially
24 the only reliance for visual studies, for visual impact

[WITNESS PANEL: R. Block & L. Block]

1 simulation.

2 Q. Okay. Now, at the -- well, at the top of Page 5 of
3 your direct testimony, you criticized the choice of
4 locations by the Applicant for its visual simulations,
5 correct?

6 A. (R. Block) Correct.

7 Q. And, are you aware that members of the Antrim community
8 provided input to the Project's visual expert regarding
9 the locations selected for visual simulation?

10 A. (R. Block) I am. And, actually, I asked that question
11 during data requests.

12 Q. Okay. On Page 6 of your direct testimony, you say that
13 your request for stimulations -- excuse me, simulations
14 showing shadow flicker produced by Turbines 2 and 3 has
15 been ignored. Now, isn't it true that Antrim Wind,
16 since the time your testimony was filed, actually did
17 conduct that shadow flicker analysis as you requested?

18 A. (R. Block) Yes. At the time this was written, it had
19 been ignored. Yes, they were submitted later.

20 Q. And, isn't it true that the two maps that were produced
21 in response to your request show the same general
22 butterfly pattern in the initial shadow flicker map?

23 A. (R. Block) Yes. And, they have -- so, therefore, I
24 have the same problems with those butterfly patterns as

[WITNESS PANEL: R. Block & L. Block]

1 I did with the initial ones.

2 Q. Even though they were simulations showing shadow
3 flicker produced by Turbines 2 and 3 as you requested?

4 A. (R. Block) Yes. It's not -- in that case, it's not the
5 fact that they're different turbines. It's the fact
6 that the map -- their assessment of the map shows a
7 very strict cut-off. Whereas, if I were to take that
8 map literally, and I, having been a mapmaker, I take
9 maps very literally. Or, I -- it bothers me very much
10 when I have a map that is sort of a paraphrasing or
11 approximation. I like maps to be almost photographic.
12 If I see a thing like that, I look at that and I --
13 and, it looks to me like, if I was standing at one
14 location on the ridge, I would have shadow flicker. If
15 I moved 30 feet behind me, it would disappear
16 completely. And, that's the way that butterfly pattern
17 appearances.

18 Q. And, so, therefore, you don't believe that it's
19 possible for one to experience shadow flicker in one
20 location and not experiencing it 30 meters or 30 feet
21 in a different direction?

22 A. (R. Block) No, I think it's a rather abrupt cut-off
23 that those -- and I think also rather an arbitrary
24 cut-off of just declaring exactly ten turbine

[WITNESS PANEL: R. Block & L. Block]

1 diameters. Perhaps maybe 10.03 would be more
2 appropriate or 9.97. It's a rather -- it's an
3 arbitrary, abrupt decision.

4 Q. You have not conducted your own shadow flicker
5 analysis, have you, Mr. Block?

6 A. (R. Block) I have not.

7 Q. Okay.

8 A. (R. Block) Although, I did -- I am aware that the Sun
9 at this time of year is rising very close to behind
10 where the turbines -- where I see, you know, Tuttle
11 Hill and where I see the turbines will be.

12 Q. Okay. On Page 7 of your direct testimony, you say that
13 the Gittell and Magnusson report about Lempster
14 property values "ignored that a fair number of houses
15 in the vicinity of the turbines which have not sold
16 appear to have been vacated or abandoned." And, in
17 support of your claim, you say that you "photographed
18 at least 22 homes for sale in Lempster, on January 9th
19 and February 26th of this year, and that all but two
20 appeared empty." Is that correct?

21 A. (R. Block) That is correct.

22 Q. Isn't it true that your photos were taken during the
23 day when people are at work?

24 A. (R. Block) Yes. But they were also taken on a day when

[WITNESS PANEL: R. Block & L. Block]

1 there was snowfall from several days or a week before,
2 there were no footprints leading to or from the houses.
3 Most of those houses had no curtains in them that I
4 could see. They did not appear to have furniture in
5 them, from what I could see through the windows.

6 Q. Isn't it possible that some of the homes that you just
7 discussed are summer residents -- summer residences, so
8 there would not be anybody there at that time?

9 A. (R. Block) It's entirely possible. But I don't know
10 that. When I asked Mr. Magnusson about that, he said
11 he did not consider those as part of his assessment.

12 Q. Why did you include photos of only ten homes with your
13 testimony, if you photographed at least 22?

14 A. (R. Block) For the sake of brevity. Not all the
15 photographs were technically good. I was just giving
16 examples.

17 Q. Okay. At the bottom of Page 7 of your direct
18 testimony, you say that the Lempster Property Value
19 Study "glossed over" the fact that at least two tax
20 abatements have been granted due to the proximity of
21 the wind turbines, correct?

22 A. (R. Block) Correct.

23 Q. Now, isn't it true that, in Footnote 19 of that study,
24 that one of the properties you refer to is a residence

[WITNESS PANEL: R. Block & L. Block]

1 that is less than 500 feet from a wind turbine?

2 A. (R. Block) That is true.

3 Q. And, Antrim Wind doesn't propose to build a wind
4 turbine within 500 feet of a residence, does it?

5 A. (R. Block) Not that I know of.

6 Q. Okay. On Page 10 of your direct testimony, you
7 indicate you visited the top of Tuttle-Willard Ridge.
8 You also state that "loggers working for the
9 landowners...had clearcut a massive swath along the
10 proposed project site, following the road layout
11 flagging obviously placed by AWE and the large circular
12 clearings for the first six turbines." Upon what basis
13 do you state that AWE "obviously placed" road layout
14 flagging in the areas that you were discussing?

15 A. (R. Block) One of the people on our hike was Geoffrey
16 Jones, the Chair of the Stoddard Conservation
17 Commission. Prior to the hike, he had used Antrim
18 Wind's Project maps to enter the data for the proposed
19 road locations and turbine locations into his GPS. He
20 brought the GPS with him. We were using that to try
21 and find the location, potential location of the road
22 and the turbines. We found that, by following his
23 line, we were also following flagging, which seemed to
24 indicate a road. We found, based on his GPS things,

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 found almost every one of the stakes marking turbines.
2 And, I also assumed at that time that that -- that a
3 turbine in the ground marked "WTG Number 3", for
4 instance, was not placed by a landowner. It was an
5 assumption on my part that it was placed by AWE or one
6 of their representatives.

7 Q. So, it was your assumption, it was not something that
8 you observed happening, correct?

9 A. (R. Block) The stakes had been placed prior to the time
10 we were there.

11 Q. Okay. And, at the time that you -- did you get the
12 permission of the landowner when you went on that
13 property?

14 A. (R. Block) I don't know -- I don't understand that
15 question.

16 Q. When you went on those two site visits that you just
17 mentioned, back in July of this year, did you ask
18 someone for permission to go on that land?

19 A. (R. Block) No. I asked permission of the Fire Marshal,
20 the Town Marshal. He said the land was in current use,
21 with recreational properties. I actually, just to
22 double check, I did check the Town tax records and
23 found that that was true.

24 Q. Okay. And, you also state in your testimony that, "in

[WITNESS PANEL: R. Block & L. Block]

1 spite of the fact that no permit has been issued, it
2 appears that over half of the wind facility has already
3 been cleared in preparation for construction." Is that
4 correct?

5 A. (R. Block) That's what it appeared to me, yes.

6 Q. Okay. Are you aware that -- that a professional New
7 Hampshire licensed forester, Paul Mulcahey, has
8 indicated, in AWE 30, the exhibit that we've marked,
9 that the landowner, the Bean family, and not the
10 Applicant, gave permission to clear this land?

11 A. (R. Block) I did read that letter, yes.

12 Q. Okay. And, would it surprise you to learn that
13 Mr. Mulcahey also filed a notice of intent to cut wood
14 or timber with the Town of Antrim in June of 2011?

15 A. (R. Block) No, it does not surprise me.

16 Q. Okay. Did you know that a representative of the Antrim
17 Wind Project notified the New Hampshire Department of
18 Environmental Services, by letter dated August 10th,
19 2011, that "neither AWE, nor any of its affiliates, are
20 in any way connected to the logging activity and that
21 such logging is being undertaken by the landowner
22 completely independently of the wind project." And,
23 that AWE "did not know the details of the cutting plan"
24 beyond the general area in which it was to be

[WITNESS PANEL: R. Block & L. Block]

1 conducted.

2 A. (R. Block) I have read that letter. I just was struck
3 by the coincidental layout of the logging.

4 Q. Did you know that Mr. Craig Rennie, of the Department
5 of Environmental Services, had made a site visit to the
6 Project in which logging activities were discussed?

7 A. (R. Block) No. I was not aware of that.

8 Q. Well, I think, if you turn to Mr. Kenworthy's
9 supplemental testimony, there is information in there
10 to that effect. And, would it surprise you to learn
11 that that testimony also indicates that Mr. Rennie has
12 not expressed a problem to the Applicant about that,
13 that clearing that's occurring?

14 A. (R. Block) I don't know that there's a problem with it.
15 I was just stating what I observed.

16 Q. Okay. And, again, you said that's your assumption?

17 A. (R. Block) It was my observation, correct.

18 Q. Your supplemental prefiled testimony says that you want
19 to demonstrate the "high inaccuracy of the Project's
20 Vegetated Viewshed Map". And, in that testimony, you
21 also say that you believe that an area known as
22 "Blueberry Fields", which I believe we looked at this
23 morning in the enlarged picture or photosimulation you
24 made, that Blueberry Fields would have visibility of

[WITNESS PANEL: R. Block & L. Block]

1 the Project, but that the Project's Vegetated Viewshed
2 Map indicates that it would not. Is that your
3 testimony?

4 A. (R. Block) Yes. I testified that the -- what I could
5 see up there did not at all coincide with what's
6 projected on the viewshed map.

7 Q. Okay.

8 MS. BLOCK: Excuse me for just a second.
9 Could I possibly just address something you asked?

10 MS. GEIGER: My questions are directed
11 to Mr. Block. So, at this point, I would not ask for any
12 more information at this point. I would just wish to
13 proceed with my questioning of Mr. Block.

14 CHAIRMAN IGNATIUS: All right.

15 MR. ROTH: Madam Chairman, they are a
16 panel. And, the panels typically confer with each other
17 and supplement each other's answers. This has been the
18 way we've done it in this case, all throughout, and in
19 many other cases before the --

20 MS. GEIGER: The Blocks didn't file
21 joint testimony, they testified separately. We indicated
22 that we were going to be asking them questions separately.
23 Just I'm trying to move things along a little quicker.

24 CHAIRMAN IGNATIUS: But you have to

[WITNESS PANEL: R. Block & L. Block]

1 agree that, in other panels, with separately filed
2 testimony, there's been a lot of back-and-forth. If you
3 think of the Audubon panel, there was, basically, each
4 person sort of chiming in on each other's answers. So, is
5 there a problem in Ms. Block responding --

6 MS. GEIGER: I just don't know what
7 she's going to say. I don't know what question she's
8 going to go back to.

9 WITNESS R. BLOCK: Frankly, I don't
10 either.

11 MS. GEIGER: I don't know which question
12 -- I don't know which question she was referring to. I
13 guess it depends, if she just -- and I probably have to
14 ask the stenographer to read it back.

15 CHAIRMAN IGNATIUS: Well, Ms. Block,
16 what was it that you -- what topic area did you want to
17 address?

18 WITNESS L. BLOCK: Okay. I wanted -- I
19 tried, but I couldn't get in there fast enough, because
20 the questions were coming fast and furious. But I wanted
21 to address the one about the flagging, and Richard's
22 assumption. And, I wanted to say that, during the tech
23 session, specifically Mr. Roth had asked that question of
24 Jack Kenworthy, --

[WITNESS PANEL: R. Block & L. Block]

1 MS. GEIGER: I'm going to object --

2 WITNESS L. BLOCK: -- "had the Project
3 been flagged?" And, he said "yes", and he made a comment
4 about all the mosquitoes. So, that's the end of my
5 statement.

6 MS. GEIGER: I would move to strike
7 that. I don't have any recollection of that. I think I
8 was just trying to focus Mr. Block on his testimony.

9 CHAIRMAN IGNATIUS: I assume it wasn't
10 about mosquitoes that we're arguing, it's about the
11 flagging question? Is that the issue in dispute here?

12 WITNESS L. BLOCK: Well, I said I
13 clearly remembered him talking about the flagging. That's
14 all.

15 MS. GEIGER: Well, that's hearsay. And,
16 quite frankly, I don't remember that. So, --

17 CHAIRMAN IGNATIUS: Well, I think it's
18 fair, if that's her recollection, that's her recollection.
19 We'll take it as what it is, and let's move on.

20 BY MS. GEIGER:

21 Q. Okay. Getting back to Blueberry Fields, Mr. Block.
22 Has Blueberry Fields been designated as an area of
23 national or state significance?

24 A. (R. Block) No, it has not.

[WITNESS PANEL: R. Block & L. Block]

1 Q. And, it's private property, correct?

2 A. (R. Block) Yes.

3 Q. Okay. So, could you take a look again at that
4 posterboard-sized exhibit behind you that has been
5 marked as "AWE 39B".

6 A. (R. Block) Okay.

7 Q. Can you locate the area that you believe is Blueberry
8 Fields?

9 A. (R. Block) The large flat area up here [indicating].

10 Q. Okay. Now, this large flat area, would you agree with
11 me that it's just below this town boundary line that is
12 to the north?

13 A. (R. Block) Correct.

14 Q. And, would you also agree with me that there are --
15 that there is a purple dot there in that vicinity?

16 A. (R. Block) Yes, there is.

17 Q. And, would you also agree with me that the purple dot
18 designation or the purple designation in the legend on
19 Exhibit AWE 39B indicates that one to two turbines
20 would be visible from that location?

21 A. (R. Block) Correct. I said that earlier.

22 Q. Okay. You live at 63 Loveren Mill Road, in Antrim, is
23 that correct, Mr. Block?

24 A. (R. Block) Yes.

[WITNESS PANEL: R. Block & L. Block]

1 Q. Okay. Do you know James and Beverly Schaefer, who live
2 at 47 Loveren Mill Road, in Antrim?

3 A. (R. Block) Yes, I do.

4 Q. Now, isn't it true that the Schaefer's home is located
5 closer to the Antrim Wind Project location than your
6 home?

7 A. (R. Block) Yes, it is, but it's down in a hollow.

8 Q. Okay. Did you know the Schaefer's wrote a letter to the
9 Site Evaluation Committee stating that they are
10 "hopeful, and happy that this project will come to
11 fruition, and are all in favor of wind energy as a
12 clean, renewable energy source for our future"?

13 A. (R. Block) Yes, I have read that letter.

14 Q. Okay. And, that letter was posted on the Site
15 Evaluation Committee's website on October 29th, 2012,
16 is that correct?

17 A. (R. Block) I assume so.

18 Q. Okay. In that letter, the Schaefer's talk about "the
19 almost nightly on and off howling of over 20 dogs". Is
20 that correct?

21 A. (R. Block) That's what it says in the letter.

22 Q. And, I believe you indicated this morning or Mrs. Block
23 may have indicated that you have approximately 30 dogs
24 at your home?

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 A. (R. Block) Correct.

2 Q. Okay. Is it possible that your dogs' barking will mask
3 the sound from the Wind Project that would otherwise be
4 perceived at your property?

5 A. (R. Block) I would assume the dogs would mask the sound
6 from the wind turbines for the half an hour or 40
7 minutes while they're being fed, but not at other times
8 when they're quiet.

9 Q. Okay. Are they always quiet in the evening?

10 A. (R. Block) Most of the time, unless I'm feeding them in
11 the evening.

12 Q. Okay.

13 A. (R. Block) Can I -- and, I'd like to add to that that
14 the Schaefers have an issue with us that dates back way
15 before the wind turbine, in terms of a dispute over
16 property boundaries, which was eventually decided
17 against them. That the property boundary between our
18 property and theirs, they thought they had a right to,
19 and it was shown not to be, and they have resented us
20 every since. And, I attribute a lot of their attitude
21 and their letters and their complaints against us to
22 that earlier arguments.

23 MS. GEIGER: Actually, I'm just going to
24 ask Chairman Ignatius, if the Committee will -- is going

[WITNESS PANEL: R. Block & L. Block]

1 to take all of the public comment letters that are filed
2 with the Committee as evidence in the case? So, I was
3 just curious as to whether or not I should ask to have
4 this particular letter marked separately or whether it
5 will be in the record?

6 CHAIRMAN IGNATIUS: No. They're in the
7 record and they are part of the evidence in the case.

8 MS. GEIGER: Okay.

9 MR. IACOPINO: Yes. And, those that --
10 those that we have received to date by mail, that haven't
11 been handed to me, are on the website. I don't think I've
12 actually had any handed to me, but, in case I have, I'll
13 just make the reservation.

14 MS. GEIGER: Okay.

15 BY MS. GEIGER:

16 Q. So, I guess, if I understand you correctly, Mr. Block,
17 you're saying that you've had a past dispute with the
18 Schaefers, correct?

19 A. (R. Block) Correct.

20 Q. And, you're saying it's because of that dispute that
21 they have written a letter to this Committee saying,
22 among other things, that they wish to add their voice
23 "in asking that the Committee grant approval to this
24 worthwhile project, and that Antrim can then move into

[WITNESS PANEL: R. Block & L. Block]

- 1 a better future for our Town and generations to come"?
- 2 A. (R. Block) I don't know why they wrote the letter. I
3 know that there's been -- that they have made
4 complaints against us a number of times in a number of
5 other situations, most of which seem to arise from the
6 -- since and from that dispute.
- 7 Q. So, are you -- are you implying that the letter that
8 the Blocks wrote to the SEC --
- 9 A. (R. Block) The Schaefers.
- 10 Q. -- is a complaint against you?
- 11 A. (R. Block) I can't qualify the letter. I do know that
12 their complaints about dog noise I would attribute to
13 their previous complaints with us.
- 14 Q. Okay.
- 15 A. (R. Block) And, they have a dog, one dog, that makes
16 more noise than ours.
- 17 Q. Okay. Now, I think you testified this morning that you
18 disagreed with, I believe, Mr. Guariglia's and/or Ms.
19 Vissering's, I can't remember which ones, statements
20 that they felt that deciduous trees without leaves, due
21 to their vertical nature, would not provide sufficient
22 screening of turbines, is that correct?
- 23 A. (R. Block) I disagree with that.
- 24 Q. You disagree with that. So, I'm going to show you

[WITNESS PANEL: R. Block & L. Block]

1 Figure JWG-10. And, these are two photos that I
2 believe you took that Mr. Guariglia put in with his
3 supplemental prefiled testimony. And, I'd ask you to
4 look at the picture on the bottom of that page, that
5 has -- that contains a red circle around a -- what
6 looks to be like a wind turbine. Is it your testimony
7 that this picture indicates that the deciduous trees
8 without leaves would not provide sufficient screening
9 of that turbine?

10 A. (R. Block) I do remember taking that picture. The tree
11 trunks obscured in the photograph. However, when I was
12 standing there in person, the fact that the blade was
13 spinning was quite annoying.

14 Q. Okay. Now, you've also testified this morning about
15 the Cedar Swamp and concerns that you may have about
16 the Cedar Swamp, is that correct?

17 A. (R. Block) That's correct.

18 Q. Okay. Is that Mrs. Block?

19 A. (L. Block) Yes.

20 Q. Okay. Now, you're both aware that logging has occurred
21 at the Project site for many years, correct?

22 A. (R. Block) Yes.

23 Q. Have you observed any impacts on the Cedar Swamp from
24 the logging operations?

[WITNESS PANEL: R. Block & L. Block]

1 A. (R. Block) Not in the past, no.

2 MS. GEIGER: Okay. I believe that
3 completes my testimony -- or, excuse me, my
4 cross-examination, and my testimony.

5 CHAIRMAN IGNATIUS: Thank you. Well,
6 you were intervening there in the middle of it.

7 MS. GEIGER: Right.

8 CHAIRMAN IGNATIUS: Going full circle.
9 All right. Do we have questions from Committee members?
10 Ms. Bailey.

11 BY MS. BAILEY:

12 Q. My questions are, well, the first ones are about RSA
13 483:15. And, did you say that you helped get the North
14 Branch River included in that RSA?

15 A. (R. Block) Yes. There was a committee that met for
16 about three years that went through the whole procedure
17 to assess all the qualifications, and I then proposed
18 it to the State.

19 Q. Okay. When I first looked at this, I looked at the
20 North Branch River, and it says "The North Branch River
21 -- as a natural river from immediately downstream of
22 Beaver Pond Dam in Deerfield to the confluence with the
23 Lamprey River in Raymond." I assume that's not the
24 North Branch River you're talking about?

[WITNESS PANEL: R. Block & L. Block]

1 A. (R. Block) No, it's not.

2 Q. Okay. So, is it the lower case "north branch of the
3 Contoocook River" that you're talking about?

4 A. (R. Block) Yes, it is.

5 Q. Okay. Thank you. So, the river isn't really -- it
6 colloquially you refer to it as the "North Branch
7 River"?

8 A. (R. Block) That's true.

9 Q. But it's part of the Contoocook River?

10 A. (R. Block) It's colloquially called the "North Branch",
11 and I guess, technically, it is the north branch of the
12 Contoocook.

13 Q. Okay. Thank you. I don't remember which one of you
14 said this, but I wrote down that one of you said "the
15 Project will have the greatest effect from areas to the
16 north"?

17 A. (L. Block) I said that.

18 Q. Okay. Can you explain to me why you think that?

19 A. (L. Block) Just because the houses are closer, Route 9
20 is very close. The south side of the Project is really
21 not developed. That's -- you're going further into the
22 Rural Conservation District and the Open Space area.
23 Obviously, it's going to affect Willard Pond greatly.
24 But I was just comparing north and south.

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 Q. Okay. Can we put that map back up that has the sound
2 lines on it, where you showed us where your house is?
3 Yes. Thank you. Can you show me where Route 9 is on
4 that map?

5 A. [Witness Block indicating].

6 Q. Oh, okay. Thank you. Okay. So, I think one of you
7 said that the Rural Conservation District that you got
8 -- that you had established in 1990 was north of Route
9 9?

10 A. (L. Block) Okay. The extension we proposed. There, in
11 1988, the Town --

12 A. (R. Block) Eighty-nine.

13 A. (L. Block) Oh, in '88 or '89, the Town voted in the
14 Rural Conservation District. And, we proposed an
15 extension in 1990 and worked on that.

16 Q. Okay. So, is there an exhibit in the record somewhere
17 that you know of that shows where the Conservation
18 District is?

19 A. (L. Block) No, but I just happen to have a map, if we
20 can put it in?

21 Q. Is it part of the Open Space Plan?

22 A. (L. Block) No, it's actually -- I don't think it is.
23 It follows the Open Space priority zoning for western
24 Antrim. This is on the website.

[WITNESS PANEL: R. Block & L. Block]

1 A. (R. Block) It's part of the Antrim zoning ordinance,
2 and I just printed this off the Town's website.

3 CHAIRMAN IGNATIUS: I'm pretty sure we
4 have that.

5 MR. IACOPINO: We have that.

6 WITNESS L. BLOCK: Oh, you do have it?
7 Okay.

8 MR. IACOPINO: I think we do have that
9 in the APB exhibits.

10 WITNESS L. BLOCK: Oh, okay. Good.

11 MR. IACOPINO: Which, by the way, we're
12 going to have to talk about at the end of the proceeding
13 today.

14 WITNESS L. BLOCK: Okay. Do you want a
15 clean copy, as long as it's in there?

16 MS. BAILEY: No. I'll find it in the
17 APB exhibits. Thank you.

18 BY MS. BAILEY:

19 Q. Okay. So, the Conservation District covers the Project
20 area?

21 A. (L. Block) Yes.

22 MS. BAILEY: Okay. All right. Thank
23 you. That's all I have.

24 CHAIRMAN IGNATIUS: Thank you. Other

[WITNESS PANEL: R. Block & L. Block]

1 questions? Dr. Boisvert.

2 BY MR. BOISVERT:

3 Q. Regarding the logging on the ridge --

4 MS. BAILEY: Microphone.

5 BY MR. BOISVERT:

6 Q. Regarding the logging on the ridge, if the road and
7 tower locations were cleared for the Project and not
8 part of the regular logging, why would this be
9 important?

10 A. (R. Block) It's hard to say. My gut reaction, and this
11 was discussed while we were up there, was that, if a
12 permit hasn't been issued yet, why is such extensive
13 clearing being done at this point? I mean, it was not
14 -- there was no way that you can imagine it being a
15 thinning or removing of dead trees. It was a complete
16 clear-cut in several circles and a clear-cut of what
17 appeared to be a fairly wide road. And, a question was
18 raised while we were on this hike is "why would this be
19 done, if there was no permit issued yet? Isn't this
20 jumping the gun? Isn't this a presumption of the
21 Project being approved?" And, it didn't make a lot of
22 sense to us ecologically at this point.

23 MR. BOISVERT: Thank you.

24 CHAIRMAN IGNATIUS: Other Committee

[WITNESS PANEL: R. Block & L. Block]

1 questions?

2 (No verbal response)

3 CHAIRMAN IGNATIUS: I have a couple of
4 them.

5 BY CHAIRMAN IGNATIUS:

6 Q. Mr. Block, in your supplemental testimony, which is
7 North Branch 7, on Pages 6, 7, and 8, you have
8 elevation views that I assume you created.

9 A. (R. Block) Yes.

10 Q. Is that correct? Did you develop those?

11 A. (R. Block) I developed them, yes.

12 Q. Just pick one of them and explain to me briefly how to
13 read them and what import to draw from them.

14 A. (R. Block) I used them for my own benefit. I did this
15 using Google Earth, just so I could see what, on the
16 turbines that could be visible, would I be able to see
17 the entire turbine or not. And, it was just a
18 guideline for me. I did elevations for every potential
19 turbine, even though, when I went back to the map, it
20 turned out that I couldn't see every turbine from the
21 spot I had photographs at. If I look at, for instance,
22 "Camera Viewpoint to Wind Turbine Number 6", by using
23 the Google Earth, I drew a line, and then had it
24 display for me the elevation. I could see that, from

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 where I was standing, to the top of the turbine, the
2 top of the turbine would be visible. But I could see
3 that there was some intervening land form, you could
4 see on the far right that's in the way there, which
5 means I would only be able to see maybe the top
6 two-thirds of that turbine. So, it was just a
7 guideline for my benefit to see how that would work.

8 Q. And, the far left starting point on each of these is
9 your elevation?

10 A. (R. Block) Is the Blueberry Field location, right.
11 And, I started in the same spot for every one of them.

12 Q. So, it's not your home?

13 A. (R. Block) Not my home, no. The final page -- or not
14 -- the second to the final page there, it shows Google
15 Earth. And, you can see on there, not on this one,
16 it's an aerial view with all the radial lines coming
17 up, but that was just -- you can see it all arises from
18 the same point on that hilltop there. And, I just
19 wanted to plot out both the angle and, at that point,
20 the elevation.

21 Q. Yes. I have to tell you that that Page 9, Google Earth
22 one, I was totally lost at. So, it's -- the starting
23 point on the left is the Blueberry Fields location?

24 A. (R. Block) Correct.

[WITNESS PANEL: R. Block & L. Block]

1 Q. And, then, you've got both red lines, white lines, blue
2 and yellow.

3 A. (R. Block) I'm looking at the black and white version
4 here. But, yes, the very fine lines on there, this was
5 a little trick I learned from architectural rendering,
6 where I plotted a number of degrees across, this was
7 enable -- to enable me to, within my picture,
8 superimpose a grid, just so I could know left-to-right
9 where each turbine would appear on there. There was no
10 attempt at extreme accuracy here. What I was looking
11 for was kind of just a ballpark. I could stand on the
12 ridge there and see -- see pretty much what looked like
13 the entire Project site. And, then, I just wanted to
14 see, okay, where on that view would I see turbines?
15 And, I used this to plot it out.

16 Q. All right.

17 A. (R. Block) The bolder lines were the lines directly to
18 the turbine sites, which have been plotted on my Google
19 Earth file at home.

20 CHAIRMAN IGNATIUS: Okay. Thank you. I
21 think those were my questions. Anything else from the
22 Committee members?

23 (No verbal response)

24 CHAIRMAN IGNATIUS: All right. Mr.

[WITNESS PANEL: R. Block & L. Block]

1 Iacopino, questions?

2 MR. IACOPINO: Thank you. I just have a
3 few questions. Most of them are really developed from
4 just things that occurred today that you testified about.

5 BY MR. IACOPINO:

6 Q. And, the first one is your -- you were asked early on,
7 I think it was Mrs. Block, but either one of you can
8 feel free to answer this, about Table 20 in Mr. Tocci's
9 testimony, I believe his supplemental testimony, about
10 whether you would be annoyed or very annoyed. Do you
11 also agree, when Mr. Tocci -- with Mr. Tocci's
12 statement during his testimony that those estimates of
13 the percentage chance, people being annoyed, could be
14 up to 30 percent off, based upon the way the survey was
15 done and the lack of response?

16 A. (L. Block) I'm sure that's possible. And, it's also
17 possible, when you're looking at a road like ours, and
18 we were asked, you know, how many people on that road,
19 that I'm sure it's going to affect -- it could affect a
20 lot more people or it could affect less. I mean, it's
21 -- you know.

22 Q. I guess my point is, is do you disagree with
23 Mr. Tocci's analysis of that, that there is up to a
24 potential of 30 percent error, not "error", but

[WITNESS PANEL: R. Block & L. Block]

1 30 percent under representation there?

2 A. (L. Block) Well, that seems kind of -- it actually
3 seems like a lot to me, if he's talk about, you know,
4 only 18 to 25 percent. Then, if you're talking about
5 30, then you're down to like a minus five. I mean, it
6 kind of seems a little -- I lost a word, I'm not sure.

7 A. (R. Block) I would say, I have -- as is true with a lot
8 of things, I have a hard time quantifying exact numbers
9 on this. How do we know it's 25 percent people would
10 be annoyed? How do we know it's not 24 percent or 30
11 percent or 50 percent? I look at that, and it's just
12 kind of a ballpark guideline. I'm not going to take it
13 literally.

14 Q. Okay. Thank you. There has been some testimony about
15 your dogs and about noise from the dogs, and the
16 Schaefer's letter, which, obviously, indicates that
17 they have been disturbed by your dogs. Have you
18 received complaints from other neighbors about your
19 dogs? About noise from your dogs?

20 A. (L. Block) No, we have not.

21 A. (R. Block) No.

22 Q. Mrs. Block, you testified about the -- actually, a
23 number of answers to questions that you gave about what
24 you can see and can't see from your home, and the

[WITNESS PANEL: R. Block & L. Block]

1 relative size of the turbines in connection with the
2 ridgeline. And, you used a -- you said that there was
3 a 600-foot vertical rise, I believe?

4 A. (L. Block) I think it's 650.

5 Q. Okay, 650-foot vertical rise. Can you each -- well,
6 can one of you tell me, is there a place in the record
7 where we can go to basically learn the elevation along
8 that ridgeline?

9 A. (R. Block) I think the easiest thing would be to look
10 at the Applicant's Project maps. And, there are some
11 very accurate elevations listed there for, I know, for
12 each of the turbine pads and all that and a number of
13 places along the road.

14 Q. And, are those the documents you used to arrive at that
15 calculation for the vertical rise?

16 A. (L. Block) No.

17 A. (R. Block) No. I was going to say "no". We knew that
18 long before, I knew that long before the project.

19 A. (L. Block) We worked from a topo map.

20 Q. I think it's your testimony, it says that the Cedar
21 Swamp is at 1,083 feet?

22 A. (L. Block) Yes.

23 Q. Is that a similar elevation to the ridgeline or is it
24 higher or lower?

[WITNESS PANEL: R. Block & L. Block]

1 A. (L. Block) Yes. Yes.

2 A. (R. Block) No, no. It's --

3 A. (L. Block) Oh, not to the ridgeline. To the road, to
4 the base of what we were talking about, right.

5 Q. Okay. But I'm talking about across the valley there
6 where the Project area is, is the Project area at a
7 higher elevation or a lower elevation than that Cedar
8 Swamp?

9 A. (L. Block) It would be 6 -- approximately, at least
10 where I was referencing it, it would be approximately
11 650 feet higher than that.

12 Q. Higher than the swamp?

13 A. (L. Block) Yes.

14 Q. Okay. And, the other question, and this is probably a
15 very hard question to answer, but you were asked about
16 -- well, let me -- I was going to ask you the elevation
17 of Route 9, but I know that's going to change wherever
18 you are on it, so -- you indicated that the -- or, what
19 you attached to your testimony, I forget whose
20 testimony it was attached to, was the Rural
21 Conservation District ordinance, which indicated that
22 it was first passed in 1989. Do you know, was public
23 utilities a permitted use in that District since 1989?

24 A. (R. Block) I think they were a permitted use from the

[WITNESS PANEL: R. Block & L. Block]

1 beginning. I don't remember that that was changed.

2 The Planning Board might have more information. But I
3 believe that was in there from the start.

4 MR. IACOPINO: I have no further
5 questions.

6 CHAIRMAN IGNATIUS: All right. Anything
7 else from the Committee? If not, then I guess, is there
8 any redirect from either of the Blocks of things that
9 haven't been addressed, but you wanted a chance to respond
10 to, that was raised during cross-examination?

11 MS. BLOCK: Could we have a few minutes
12 to talk to each other?

13 CHAIRMAN IGNATIUS: Sure. I think we
14 are going to take a lunch break. I know, Mr. Block, you
15 were trying to get out. So, can it be --

16 WITNESS R. BLOCK: And, I'd rather
17 complete before that.

18 CHAIRMAN IGNATIUS: That's fine. Then,
19 let's keep it very short, to just a few minutes?

20 WITNESS L. BLOCK: Yes, please. Thank
21 you.

22 CHAIRMAN IGNATIUS: Thank you.

23 (Brief recess taken for Witnesses to
24 confer.)

[WITNESS PANEL: R. Block & L. Block]

1 CHAIRMAN IGNATIUS: All right. We're
2 back on the record. And, the Blocks were going to confer
3 with each other to see if they had other things that they
4 felt needed to be responded to from cross-examination
5 today.

6 WITNESS R. BLOCK: Thank you. Just one
7 set of comments I'd like to make, in case this wasn't
8 clear in testimonies and things. The reason that we have
9 been against this Project from the beginning is a much
10 larger issue than how it appears from our living room.
11 Three and a half years ago, when the first application or
12 proposal came to the Town of Antrim about a potential
13 industrial wind facility up on Tuttle Hill there, Tuttle
14 Ridge, our initial reaction was one of basically saying,
15 "well, wait a minute. This is a Rural Conservation Zone.
16 There are no industrial uses permitted in the Rural
17 Conservation Zone. And, therefore, we don't think that
18 this is appropriate." That was the attitude we took when
19 the hearings started in front of the Antrim Zoning Board
20 of Adjustment seeking a variance for the tower. We, at
21 that point, said the tower seemed to -- the proposed tower
22 seemed to exceed all permitted height regulations,
23 permitted usage regulations. The initial application we
24 felt was improper, incomplete, and we fought it on that

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

[WITNESS PANEL: R. Block & L. Block]

1 basis. As it progressed to much further than that, the
2 reason we took out the court cases was because we didn't
3 agree with the decisions of the Zoning Board in granting
4 the variance.

5 Our opposition for a full-scale set of
6 turbines up there is logical, if we didn't consider a
7 single 200-foot met tower to be appropriate in the Rural
8 Conservation Zone, we certainly weren't going to feel that
9 ten turbines up there would be any more appropriate. So,
10 having been involved in, essentially, as we said, the
11 extension of and the preservation of the Rural
12 Conservation Zone for a couple of decades, we felt some
13 pride and proprietariness towards it, and felt that it was
14 our obligation to work against a project that we felt went
15 against Antrim zoning.

16 CHAIRMAN IGNATIUS: All right. Thank
17 you. You are excused. And, I appreciate your time today
18 as witnesses.

19 We have a number of sort of final
20 procedural details to take care of. And, as much as I
21 think they can be done quickly, they never are. So, I
22 think we need to take a lunch break. It's not going to be
23 15 minutes to wrap up. So, it's already after 2:00.
24 Let's take a break until 3:00, unless people really feel

{SEC 2012-01} [Day 11/AFTERNOON SESSION ONLY] {12-06-12}

1 that they want to accelerate and take a shorter snack
2 break. Ms. Geiger.

3 MS. GEIGER: I just have a quick
4 question about the scope of the procedural issues that
5 we're going to be discussing, so that I can anticipate
6 them and be better prepared to address the Bench with any
7 thoughts we might have about them.

8 CHAIRMAN IGNATIUS: That's a really good
9 suggestion. The things that I'm aware of, and I'd like to
10 hear from others if there's other matters I don't know.
11 Is we had a motion to strike references to the so-called
12 "short-list" regarding a PPA. We have a question of how
13 to respond to Mr. Dupee's request for information
14 regarding great ponds and undeveloped shoreline and that
15 sort of thing that came up a few days ago, that still, I
16 think, is something of an open question. We have two
17 letters of support for Mrs. -- for Ms. Morse that we did
18 not address, whether they would be admitted.

19 The general question in any case is are
20 there any other exhibits that people feel, although they
21 may have been premarked, should not be made full exhibits.
22 There's certainly scheduling questions, dates for briefs,
23 and then dates for deliberations with the Committee, which
24 are done publicly, and a projected date for transcripts,

1 which is necessary in order to develop the briefs.

2 Are there any procedural matters that
3 parties know of? Yes, Ms. Duley.

4 MS. DULEY: I don't know if this is
5 appropriate, but I wondered if I could just make a
6 statement for the record at some point? It's a very
7 simple statement.

8 CHAIRMAN IGNATIUS: Well, that's a good
9 point. We also allow for public comment of -- often at
10 the beginning or end and at various points during
11 proceedings. In this case, you're sort of in two roles.
12 You're a member of the public and you've been a
13 spokesperson on behalf of your sister when she wasn't able
14 to be here.

15 Is there any objection from any of the
16 parties to allowing Ms. Duley to make a public comment
17 statement?

18 MS. GEIGER: Yes, I would object. I
19 think the parties, traditionally, in these cases, at least
20 the ones I've been involved with up to this point, have
21 forgone any kind of closing statements, and instead have
22 submitted post-hearing briefs to the Bench. So, I'm not
23 prepared to make a post -- a closing statement, and I
24 would object to any other party doing that.

1 CHAIRMAN IGNATIUS: And, I may have
2 misunderstood. I was assuming, Ms. Duley, you weren't
3 making a sort of closing argument, it was that you might
4 be speaking as a -- do you live in Antrim?

5 MS. DULEY: I do not. But absolutely
6 not making a closing argument or statement. No, I was
7 just speaking -- I had hoped to enter a statement on
8 behalf of one of the abutters, a very, very simple
9 statement.

10 CHAIRMAN IGNATIUS: And, that's not a
11 person who's been participating here?

12 MS. DULEY: That abutter has
13 participated, but did not -- did not testify in this round
14 of proceedings.

15 MR. IACOPINO: I think is what you're
16 talking about Mr. Craig?

17 MS. DULEY: Yes, it is.

18 MR. IACOPINO: That you addressed with
19 me previously off the record?

20 MS. DULEY: Yes, it is.

21 MR. IACOPINO: Okay. My understanding
22 is that Mr. Craig felt as though he did not have an
23 opportunity to provide testimony. As you know, the
24 abutters were designated to -- were told to designate a

1 spokesperson that the communication would be with, that
2 spokesperson was Janice Longgood, Janice Duley Longgood.
3 And, I guess Mr. Craig felt as though he's been out of the
4 process somehow. I don't know how, I haven't spoken with
5 him.

6 MS. GEIGER: Mr. Craig did prefile
7 testimony.

8 MR. IACOPINO: I thought he did as well,
9 but --

10 MS. GEIGER: Yes.

11 MS. DULEY: It's just a statement about
12 his non-presence here.

13 MR. ROTH: I would suggest that
14 Mr. Craig be encouraged to make that statement himself in
15 writing.

16 MS. GEIGER: I would agree with Mr.
17 Roth.

18 CHAIRMAN IGNATIUS: Well, that's a
19 moment we should cherish. Let's take that as the plan.
20 Mr. Iacopino can convey that. And, let's take a lunch
21 break.

22 MS. DULEY: Thank you.

23 CHAIRMAN IGNATIUS: Try to be back at
24 3:00, if we can. I know that's a little tight, it's a

1 little less than a hour. So, if you can't, you can't.
2 But let's see if we can do it.

3 (Lunch recess taken at 2:12 p.m. and the
4 hearing resumed at 3:06 p.m.)

5 CHAIRMAN IGNATIUS: All right. Welcome
6 back, everyone. And, thank you for taking a quick lunch
7 and coming back for the final procedural issues we need to
8 resolve as we close out the evidentiary portion of this
9 case. The matters, as I mentioned before, the matters to
10 take up are, first, a motion to strike references to a
11 "PPA short-list" that was raised by Mr. Roth, and then
12 some exhibit discussions. After that, we'll take up some
13 scheduling questions, dates, and for transcripts arriving,
14 briefs, and oral deliberations by the Committee.

15 So, first, on the motion to strike, Mr.
16 Roth, I've read the transcript, I was not here for that
17 day, but I've read the transcript from that, and
18 understand your concern is references to the assertion
19 that the Applicant was on a short-list for a PPA. But I
20 think you had two issues. One was that the bids put in
21 that might have put it on the short-list were not
22 disclosed, and so it reduced the evidentiary value of what
23 being on a list was. And, further, whether the short-list
24 really means much, if it's not a finalized PPA. Is that

1 fair?

2 MR. ROTH: That's a fair summary. And,
3 I would just add that the Chairman had already ruled that
4 negotiation information, pre-PPA information, was I think,
5 to quote the order, "not relevant", and that order sort of
6 drove a fair amount of the consideration in this case, at
7 least from our perspective. We weren't able to then make
8 any arguments about that or explore any of that issue as a
9 matter of discovery or cross-examination.

10 So, it seems to me, if it was not
11 relevant when we wanted it, it shouldn't be relevant when
12 it's convenient for the Applicant to -- or, useful for the
13 Applicant to include it.

14 CHAIRMAN IGNATIUS: And, Ms. Geiger, I
15 know from the transcript your response was that it was --
16 the focus on financial viability has to do with financing,
17 more than a PPA, and you were not able to produce, because
18 of a confidentiality agreement, you were not able to
19 produce the actual bid information. But your view is that
20 it was appropriate to retain the evidence of a short-list,
21 even though that you concede that that didn't necessarily
22 mean it would turn out to be an actual PPA, is that right?

23 MS. GEIGER: That's right. And, one
24 more thing I'd add is that, you know, Mr. Roth is right

1 that on August 22nd there was a ruling on a request from
2 Public Counsel to obtain data from the Applicant
3 concerning details of all activities in which the
4 Applicant has been engaged to obtain an off-take agreement
5 and documents relating to those activities. And, it's in
6 the record right now that the Applicant had provided a
7 response to that data request indicating that it had
8 participated in a different solicitation for a power
9 purchase agreement and had not been short-listed.

10 And, so, to the extent that we have that
11 information in the record, I don't think that it would be
12 prejudicial or harmful to keep in the record here that, in
13 response to a new solicitation, the Applicant has been
14 short-listed.

15 I think -- I think the import of the
16 Chair's order that I just referenced is that -- is that
17 the Chair felt that details concerning the bidding process
18 and negotiations for a PPA were not relevant. But the
19 short-list information, obviously, you know, at least with
20 respect to the first solicitation, is in the record, and,
21 therefore, I don't believe that it would be prejudicial or
22 irrelevant to keep the information about the second
23 short-list for the Rhode Island PPA in the record. In
24 addition, we think it's relevant, because it demonstrates

1 competitiveness of this Project.

2 CHAIRMAN IGNATIUS: Mr. Roth, any
3 further response?

4 MR. ROTH: Yes. I guess, I don't know
5 which exhibit she's referring to in the record about the
6 PPA that was -- she says it's in the record, I don't
7 remember that. It's possible it was provided to me, but I
8 don't remember seeing it in the record as an exhibit.
9 And, I think what is in the record, in exhibits that I
10 submitted, if I can find it quickly. I guess I want to
11 stand corrected with respect to something Ms. Geiger said.
12 In PC 10, there was a data request and there was a
13 response. And, the response included some statements
14 about the Applicant's participation in the REC market.
15 But, then, they said "AWE respectfully objects to
16 providing the any documents related to those discussions
17 due to the highly confidential nature of those materials
18 and discussions." So that the Applicant had -- and that
19 was with respect to off-takers. And, so, it has been the
20 position of the Applicant throughout, and confirmed by the
21 Chair's order, that that information was confidential and
22 not to be provided, and the Chair's order confirmed it and
23 said it wasn't even relevant.

24 So, I think it's a bit of hairsplitting

1 here to say "well, you know, we're going to include it
2 because it shows competitiveness", which, you know, I
3 would have used the failure to obtain such, you know,
4 short-listing or to obtain a PPA to show that it wasn't
5 competitive. Or, I would have used it to show that they
6 didn't have financial and managerial capability. But I
7 wasn't able to do that.

8 And, so, I think, you know, we have to
9 live in the world that we just lived in, and the
10 consequences of that is that, you know, the Applicant
11 really can't have it both ways with that kind of
12 information. So, that's why I made the motion, that's why
13 I ask that it be struck, and that exhibit, the e-mail, not
14 be included in the record.

15 CHAIRMAN IGNATIUS: Do we know, was the
16 e-mail marked with an exhibit number?

17 MR. IACOPINO: It's a Committee exhibit.

18 MR. ROTH: It's Committee Number 17.

19 CHAIRMAN IGNATIUS: Thank you.

20 MR. IACOPINO: Yes. Okay.

21 MR. ROTH: If I may speak about this for
22 just a second?

23 CHAIRMAN IGNATIUS: Hold on. Let me
24 just take a look at it. Yes, Mr. Roth.

1 MR. ROTH: Well, and I think this was in
2 the -- this was also in the questioning that I attempted
3 of Mr. Kenworthy. But the blacked out part, I believe,
4 just without knowing, because it's blacked out, but is
5 probably the terms on which the offer was made and what's
6 being considered. And, when questioned about it, Mr.
7 Kenworthy wouldn't disclose it. And, what I -- you know,
8 obviously, I'm not going to try to draw any inferences
9 from it, but it's possible that that information would
10 have revealed that they were in an above-market position,
11 and -- or it was not a competitive offer. And, so, I just
12 don't know exactly what to do when, you know, the
13 implication of this is out there, and, you know, we're not
14 allowed to test it in any way.

15 CHAIRMAN IGNATIUS: Anything further?

16 MS. GEIGER: I think the only thing I
17 would do, Chairman Ignatius, is just refer you, if you
18 haven't already looked at it, is Page 3 of the August 22nd
19 order that I was referencing. Where there is a discussion
20 of "off-take agreement negotiations" and a ruling made.

21 CHAIRMAN IGNATIUS: All right. Well, I
22 think that the testimony is fairly limited and doesn't say
23 a whole lot. I think you can draw a number of conclusions
24 from it. Either it's a sign that it's a competitive

1 project or a sign it's not a competitive project, that
2 there's a -- or somewhere in between the two. And, so, I
3 think it is -- my determination is it is better to accept
4 it, with the understanding it's fairly limited in its
5 meaning. We'll give it the weight that we do. There --
6 to go and strike things is difficult when it's been talked
7 about on a number of pages and a number of instances.
8 And, I don't find anything so prejudicial about it that we
9 would really need to go and work our way through the
10 transcript and make those changes.

11 So, I'm going to not grant the motion to
12 strike, but recognize that I think the value is fairly
13 limited, because there's no terms included, there's no
14 evidence of any completion of a contract, that no updating
15 that the short-list has now turned into something final.
16 So, we will give it the weight that it's due. And, as you
17 can tell from my view, it's not due a whole lot of import.
18 Yes, Ms. Allen?

19 MS. ALLEN: I'm wondering if it would be
20 impossible for us to get copies of that? I'm looking on
21 the Committee listing, and I only have 15. Maybe it's --
22 we just hadn't -- but, if later the intervenors could have
23 that, it would be very helpful. Thank you.

24 CHAIRMAN IGNATIUS: We can do that. We

1 had an updated electronic list with a few things that were
2 late-filed. And, so, that was on ours, but may not have
3 been on the version that you got. Mr. Iacopino, what's
4 the best way for everyone to have the most updated list of
5 exhibits or, actually, contents of the exhibits?

6 MR. IACOPINO: Just stick around after
7 the Committee is done.

8 MS. ALLEN: Sure.

9 MR. IACOPINO: We're going to go through
10 exhibits and make sure that we've got copies of
11 everything. I know there are some exhibits that have
12 walked away during the course of the hearing, I'm going to
13 make sure that they're here. And, if there's something
14 that you need there, then let me know and we'll see about
15 getting you a copy.

16 MS. ALLEN: Thank you very much.

17 MR. IACOPINO: Hopefully, it's stuff
18 that's electronic and I can just e-mail it to you. That's
19 the easiest way.

20 MS. ALLEN: That would be the easiest.

21 Thank you.

22 CHAIRMAN IGNATIUS: The next items that
23 I'm aware of is we have, when Ms. Morse took the stand,
24 she brought with her two letters of endorsement marked

1 NB-58 and NB-59. They were from Charles Johnson and
2 Harley Shaw. Both stating they have known her, worked
3 with her, and thought that she had high credentials as a
4 -- or "credentials" maybe isn't the right word, but good
5 experience and high integrity. And, I think, just because
6 we wanted to get on with the testimony, I didn't take up
7 arguments on those letters of support at the time. So,
8 here's an opportunity, if anyone is opposed to those two
9 documents being admitted as full exhibits. Is there
10 anyone who has any opposition to it? Ms. Geiger.

11 MS. GEIGER: Yes. I would object,
12 respectfully. These are late documents. They should have
13 been filed with Ms. Morse's prefiled testimony. And, you
14 know, they're an attempt to bolster her credibility and
15 credentials. I don't understand why they couldn't have
16 been provided earlier. And, I just think that they're
17 late and they should not be included at this juncture.

18 CHAIRMAN IGNATIUS: All right. Any
19 other response? Ms. Block.

20 MS. BLOCK: Madam Chair, but,
21 respectfully, I wanted to state that I had brought those,
22 I had had them for a while. I brought them to the last
23 tech session, when a lot of other exhibits were entered at
24 that point. And, I was informed that it would be better

1 for me to save them until she came.

2 CHAIRMAN IGNATIUS: Oh, is that
3 Mr. Iacopino's recommendation? Am I remembering that?

4 MS. BLOCK: Yes. Absolutely.

5 MR. IACOPINO: Can you clarify, was that
6 the tech session or the pretrial conference?

7 MS. BLOCK: The pretrial conference.

8 MR. IACOPINO: The room back there?

9 MS. BLOCK: The one in that -- in that
10 room.

11 MR. IACOPINO: Okay.

12 CHAIRMAN IGNATIUS: All right. Anyone
13 else? Mr. Roth.

14 MR. ROTH: Just very briefly. And,
15 we're dealing with *pro se* parties here. So, I think we
16 need to give them a little bit of leeway on things like
17 that. And, I think, as I said on a couple of other
18 occasions, there's a lot of stuff that got produced in the
19 record, you know, at the pretrial conference that is
20 sitting there with, you know, no verification of it, you
21 know, and no cross-examination of it. And, I think, you
22 know, probably it should be let in and given the weight
23 that it's due, given the lateness and the inability to --
24 and I don't know what they would do, if they had had them,

1 you know, a year ago. Subpoena those people and
2 cross-examine them about those letters? That just doesn't
3 make any sense. So, I don't see any prejudice in letting
4 it in.

5 CHAIRMAN IGNATIUS: Any further comment,
6 Ms. Geiger?

7 MS. GEIGER: No.

8 CHAIRMAN IGNATIUS:

9 (Atty. Iacopino and Chairman Ignatius
10 conferring.)

11 CHAIRMAN IGNATIUS: Well, I think we
12 should allow it in. Again, give it the weight that it's
13 due. It's comments from two people who weren't here,
14 weren't on the stand, weren't being cross-examined. I'm
15 not sure how much it adds to the record. And, if there
16 was any confusion about the best way to bring it forward,
17 then we don't want to have someone caught by surprise or
18 disadvantaged by that. So, we will allow those two in.

19 The exhibits in general, there are --
20 oh, I'm sorry, there's one more thing before we get to the
21 general list of exhibits, and anything that people would
22 like not to be made a full exhibit. Mr. Dupee, from the
23 Committee, who had to get to another meeting, had made a
24 request for an identification of great ponds in New

1 Hampshire, with certain characteristics of size, shoreline
2 not developed. And, since then, I know -- I've heard that
3 parties are working on trying to locate the information,
4 heard from Mr. Iacopino, but I don't really know what's
5 going on. I think it was Audubon that the request was
6 made of. Ms. Von Mertens, can you help give us an update
7 on where that stands?

8 MS. VON MERTENS: I think it would be
9 nice to make sure that not two -- more than one party is
10 working on this. Audubon, I had an e-mail, our GPS --
11 Audubon's GPS staffer missed a couple days this week, that
12 slowed things down. Carol Foss is working on this, "she
13 said she would have something tomorrow and would keep
14 working on it." I don't know how to interpret that, in
15 terms of a final mapping that's going to be delivered. Is
16 there a deadline? What should I convey to Audubon?

17 CHAIRMAN IGNATIUS: I think we certainly
18 need to have some sort of a date to try to wrap it up.
19 Let's shoot for a week from today or a week -- what is
20 next Friday?

21 DIR. STEWART: Fourteenth.

22 CHAIRMAN IGNATIUS: The 14th. So,
23 December 14th is the date to have that submitted, and can
24 be submitted by e-mail to --

1 MR. IACOPINO: Submit it to Jane, but
2 you can please copy me on it as well.

3 CHAIRMAN IGNATIUS: Jane Young.

4 MR. IACOPINO: Might as well copy all of
5 the parties. Jane Murray. Jane Young is an Assistant
6 Attorney General.

7 CHAIRMAN IGNATIUS: Don't give it to
8 her.

9 MR. ROTH: I'm sure she wouldn't know
10 what to do with it.

11 MS. GEIGER: And with copies to the
12 service list, correct?

13 MR. IACOPINO: Yes. I think just send
14 it to Jane Murray, but copy all of the other parties as
15 well, so that they get it.

16 MS. VON MERTENS: Thank you.

17 CHAIRMAN IGNATIUS: All right. Thank
18 you for doing that. I know that the list was extensive.
19 And, as many of the items as you can locate is the best we
20 can ask for. So, thank you.

21 Then, on the question of exhibits in
22 general, are there any exhibits that any of the parties
23 feel should not be made full exhibits, notwithstanding the
24 fact that they were premarked before we began? Ms.

1 Linowes.

2 MS. LINOWES: Madam Chair, would this be
3 an okay time to ask about the document I brought in today,
4 the Energy Information Administration, before you got to
5 all the exhibits?

6 CHAIRMAN IGNATIUS: Yes.

7 MS. LINOWES: Okay.

8 CHAIRMAN IGNATIUS: Thank you. I had
9 forgotten about that one. This was a 2012 update to
10 certain data that you had submitted in another document,
11 is that right?

12 MS. LINOWES: Yes. It is in my
13 supplemental testimony of October 23rd, I had referenced
14 multiple times EIA's forecast for energy -- natural gas
15 prices remaining low. And, this is the Energy Information
16 Administration's early release of their 2013 report. It
17 is an early release, but, to Ms. Geiger's comments earlier
18 today, the documents themselves do not change when the
19 final release comes out in April. They may modify -- they
20 may get -- redo the -- look at their numbers again and
21 make sure there are corrections. But, by and large, the
22 forecasts do not change. And, the only reason why I'm
23 bringing it is because there were questions from the
24 Committee specific to why I thought the natural gas prices

1 were going to stay low, given what might be happening with
2 shale gas in New York City -- New York State, rather.
3 And, this does speak directly to, not New York State, but
4 just the forecast out for the next 15 years. It validates
5 what I've been -- what I have in my testimony.

6 CHAIRMAN IGNATIUS: And, I know, Ms.
7 Geiger, your statement this morning that it's further
8 direct information coming in at a late date, without
9 opportunity to cross-examine it?

10 MS. GEIGER: That's it. In addition to
11 that, I argued that, under 541:33, the information doesn't
12 qualify for judicial or official notice, doesn't fall into
13 any of the categories of information that I believe would
14 qualify. It wasn't available at the time Ms. Linowes
15 testified. We didn't have any opportunity to
16 cross-examine her. In addition to that, I think she,
17 herself, just indicated that there may be some
18 unreliability associated with this document, given that it
19 is a preliminary or early release document, and that
20 information in it may change when the final release is
21 made by EIA.

22 Therefore, given its tentativeness or
23 unreliability, it's unavailability during
24 cross-examination of Ms. Linowes, as well as its failure

1 to qualify for one of the categories of documents that
2 this Committee can take official notice of, I'd object to
3 admitting it as a full exhibit.

4 CHAIRMAN IGNATIUS: All right. Does
5 anyone else want to speak to that? Ms. Linowes, we'll let
6 you go last.

7 MS. LINOWES: Okay.

8 MR. ROTH: I guess, I don't have the
9 advantage of having the statute in front of me, but this
10 looks to be a report issued by an official government
11 agency. And, so, when I see that, I don't know why that
12 wouldn't be the kind of thing that you could take notice
13 of or take, you know, take under consideration. And,
14 again, giving it the weight that it deserves under the
15 circumstances. That's all.

16 CHAIRMAN IGNATIUS: Ms. Linowes.

17 MS. LINOWES: Yes, madam Chair. Thank
18 you. Nothing in my testimony would change. And, I was,
19 and in terms of my statements regarding natural gas into
20 the future. The Energy Information Administration's
21 forecast for 2012 validated everything that I was saying.
22 I'm simply -- they are making yet another statement that
23 shale gas is going to drive down -- keep natural gas
24 prices down for the next 15 years. It only restates what

1 I've been saying. So, I think, to the extent, if there
2 was doubt in the Committee as to what I was saying prior
3 to this, it just reinforces it. And, that's what I'm
4 trying to state.

5 CHAIRMAN IGNATIUS: I'm not going to
6 allow the document to be admitted as an exhibit. It's, I
7 mean, part -- an issue that no one's mentioned, but we
8 can't have a moving target that every day that goes on we
9 have new information that could be brought forward. And,
10 as you just said, if anything, it's cumulative and
11 consistent with other statements previously made. So, I
12 don't think it should be an exhibit.

13 I also think it doesn't fit within the
14 standards for and the process for taking official notice
15 under the Administrative Procedures Act. So, I'm going to
16 deny that request.

17 Are there any exhibits that have been
18 premarked that people, after going through the hearing
19 process, believe should not be made full exhibits?

20 (No verbal response)

21 CHAIRMAN IGNATIUS: All right. Seeing
22 none, we will strike the identification and make them full
23 exhibits.

24 The scheduling issues are, let's start

1 first with transcripts and work our way forward. As you
2 know, transcripts are being prepared and distributed as
3 they're available. So, you should be keeping track of
4 what's been circulated already. They will keep coming in,
5 rather than hold them in a full batch. So, the benefit
6 is, you don't have to wait until the end. The only thing
7 is, you've got to keep track of how many have come in, and
8 keep certain that you're pulling them when they arrive in
9 e-mail.

10 We have the best guess, from the two
11 court reporters who have over a thousand pages each to
12 transcribed left to go, is that they will keep issuing
13 them as ready, but can't promise to be to the final point
14 until December 24th. So, if that's the case, then I think
15 we want to assume that people, on their briefing schedule,
16 have a little bit of time to see their families over the
17 holidays, and we would want to set the hearing -- excuse
18 me, the briefing deadline for a couple of weeks out. I
19 would propose it be January 14th, a Monday. That gives
20 you some time to work before the transcripts may all be
21 in, and then go back and add in as needed with transcript
22 materials, or, even if you wait until all the transcripts
23 have arrived to begin, you still have over two weeks to
24 go. So, Monday, January 14th, filed -- with Jane Murray?

1 MR. IACOPINO: I'm sorry?

2 CHAIRMAN IGNATIUS: With Jane Murray?

3 MR. IACOPINO: Yes.

4 CHAIRMAN IGNATIUS: -- filed

5 electronically with Jane Murray.

6 MS. GEIGER: Excuse me, may I be heard
7 on that particular date?

8 CHAIRMAN IGNATIUS: Certainly.

9 MS. GEIGER: I think everyone recognizes
10 that there has been a tremendous delay thus far in the
11 proceeding. Both -- some of which has been unavoidable
12 and others of which has been caused by just the sheer
13 length and number of witnesses we've had. And, the
14 Applicant is anxious to have this matter resolved. And,
15 we know that -- we understand the dates that you've just
16 suggested, but we would respectfully ask if we could have
17 the briefing scheduled move up a little bit from the 14th?

18 CHAIRMAN IGNATIUS: What would you
19 propose instead?

20 MS. GEIGER: I would propose something
21 within the week of January 7th, the week before.

22 MR. ROTH: I was just looking at the
23 calendar, and I'm wondering if the 14th is Martin Luther
24 King Day?

1 MR. IACOPINO: No, it's the 21st.

2 MR. ROTH: Twenty-first? Okay. I'm
3 fine with the 14th.

4 MR. IACOPINO: No, I thought he just
5 said he -- if he found Martin Luther King Day to be the
6 14th, and I was --

7 MR. ROTH: Yes. I was -- if it were the
8 -- if Martin Luther King Day were that day, I would say
9 "let's have it the 15th". But I'm okay with the 14th.

10 MR. IACOPINO: Okay.

11 MR. ROTH: My calendar doesn't have
12 holidays on it.

13 MR. IACOPINO: Neither does this one.
14 That's why I was --

15 CHAIRMAN IGNATIUS: Well, let's talk
16 about the deliberation dates as well, because, if it turns
17 out that we can't find dates before a certain date, then
18 racing to get the briefs done won't make that much
19 difference. But I am mindful, Ms. Geiger, of your concern
20 that the schedule has gotten considerably past what it
21 originally had been. So, let's hold off a little bit on
22 the briefing deadline.

23 On dates for deliberations, we're
24 looking for two or three days of deliberations. I said

1 "two", Mr. Iacopino says "three", and he's always right in
2 these things. So, I guess we're looking at three days.
3 The dates that we can find on the Commission calendar, and
4 I haven't canvassed all of the members yet, Monday and
5 Tuesday, January 28th and 29th. I didn't look for a
6 third, but I'll do that. The following week,
7 February 4th, the entire week would be available. So, why
8 don't -- actually, let's go off the record and go through
9 people's calendars and all.

10 (Brief off-the-record discussion
11 ensued.)

12 CHAIRMAN IGNATIUS: Let's go back on the
13 record. We've worked on scheduling and looked for dates
14 for deliberations. We're anticipating, given other cases,
15 it's likely to be three days, could be two, could be four.
16 So, we're setting aside February 5th through 8th, that's
17 Tuesday through Friday for deliberations. Those will be
18 here at the Commission. The Committee members, we need a
19 quorum of Committee members here, starting at 9:00 in the
20 morning. Parties do not need to attend, but they're very
21 welcome to. And, what we'll do is work our way through
22 the evidence on the record. The court reporter will be
23 here as well.

24 We held off on the briefing deadline

1 until we found dates. And, given that we won't be in
2 deliberations until February 5th, doing the briefs on
3 January 14th seems reasonable. On briefs, at times, in
4 some cases, we set page limits, thank you, and other times
5 we do not. There's no standard practice or rule in place.
6 Do people have a preference on whether to set an arbitrary
7 limit of a certain number of pages or just ask people to
8 say what they feel they need to say as concisely as they
9 are available? Mr. Roth.

10 MR. ROTH: This is the old "if I had
11 more time, I would have written less." And, the 14th is
12 sort of, in the scheme of things, with the holiday
13 intervening, a little short. So, if do set a page limit,
14 I would subject something in the range of like 50. Just
15 because, you know, to be concise and write well takes more
16 time. And, sometimes it needs to come out a little bit
17 loose when you have less time.

18 CHAIRMAN IGNATIUS: All right. Any
19 other comments? Ms. Linowes.

20 MS. LINOWES: Yes, madam Chair.
21 Actually, I have a question regarding the closings, the
22 briefs, because we have been told in prior cases that our
23 brief should essentially be a listing of the conditions
24 we're willing to live with. And, I'm paraphrasing here,

1 but that has been largely stated to us. And, I have
2 written briefs that have not read that way and were
3 largely ignored.

4 So, I would like to understand better
5 what you're looking for on the briefs, if I can.

6 CHAIRMAN IGNATIUS: All right. I mean,
7 it's certainly not my -- I don't remember ever saying
8 that, not my view that it's only to state what you can
9 live with in terms of conditions. But it should be your
10 advocacy at this point. It's not time for new evidence,
11 it's time to marshal your arguments about the evidence
12 that's been presented on the statute, and whether the
13 various terms in the statute have been met. If there are
14 conditions that you think are appropriate to be
15 considered, that have been discussed here, or things, you
16 know, taken from the evidence that you think are
17 appropriate, I think it's fine to recommend those.
18 Particularly, if you think that others are going to
19 recommend it, you might as well have your chance to speak
20 to it. But it's certainly not limited to those, to the
21 issue of conditions.

22 Mr. Iacopino, do you want to give any
23 more advice on briefs and what we've done?

24 MR. IACOPINO: Yes. You, obviously,

1 misunderstood the directive that was given to you last
2 time around. What you were told, and have been told in
3 every prior hearing where we've had written briefs, is
4 that, if you have conditions that you're going to
5 recommend, make sure that you lay them out separately and
6 that your arguments for them or against them are labeled
7 in that regard. There's never been any suggestion to
8 anybody that, you know, your brief should only be a list
9 of conditions that you want to see or presupposing that
10 there's going to be a certificate granted. That's never
11 been the case. It's not the case today.

12 So, -- but, if you are going to -- if
13 there are conditions that any of the parties want to be
14 put on a certificate, if one is granted, you should have a
15 section of your brief that advises us of that. Because,
16 otherwise, we, you know, we have to sort of guess at what
17 it is that you want in that regard. So, that's all I have
18 to say about that.

19 CHAIRMAN IGNATIUS: So, back to page
20 limits. I take it, Mr. Roth, your advice was "don't set a
21 limit, but, if you do, 50 is as low as you should go"?

22 MR. ROTH: That would be my advice.
23 And, I guess a somewhat related question, I don't know if
24 this is --

1 CHAIRMAN IGNATIUS: Well, can we finish
2 brief limits?

3 MR. ROTH: Certainly.

4 CHAIRMAN IGNATIUS: Anyone else with a
5 comment, any view on limits, whether we should have any at
6 all or, if so, what it should be?

7 MS. GEIGER: I mean, if you decide to
8 impose a page limit, it seems to me that 50 would be a
9 reasonable number.

10 CHAIRMAN IGNATIUS: Okay. All right,
11 Mr. Roth.

12 MR. ROTH: Given that this issue has
13 come up once in this case already, the question about
14 responses or replies to briefs ought to be addressed. I'm
15 in favor of sort of uniform simultaneous brief act, and
16 have it be that, rather than, you know, rounds of replies
17 and surreplies.

18 CHAIRMAN IGNATIUS: All right. That's
19 our general practice at the Commission. We rarely have
20 rebuttal briefs. And, that would be my inclination as
21 well, unless there's any argument that we should do
22 otherwise or past practice I should know about?

23 MS. GEIGER: At least the cases I've
24 been involved with here, I don't recall ever having an

1 opportunity to file reply briefs. And, my client is very
2 interested in getting this matter resolved sooner rather
3 than later. And, to the extent that reply briefs would
4 drag things out further, we would strenuously object to
5 doing that. So, --

6 CHAIRMAN IGNATIUS: All right.

7 MR. ROTH: A second agreement in one
8 day.

9 MS. GEIGER: Thank you.

10 CHAIRMAN IGNATIUS: So, we'll do one
11 round of briefing only, and leave it at that. I think I'm
12 not going to set a limit on page numbers. But people feel
13 free to be focused and to the point, and not worry that,
14 if you're only submitting ten pages, maybe that means your
15 argument is not very strong, trust me, that's never the --
16 that's never the interpretation we give to that. And, it
17 doesn't have to be a total recitation of all of the facts.
18 We were here, we heard it, we've got the transcripts.
19 And, so, it's really to kind of zero in on the most
20 important points.

21 MR. IACOPINO: One thing that we would
22 ask, just out of courtesy to the Committee, is please have
23 your briefs, for those that -- obviously, the lawyers
24 already know this, but please double-space the briefs, use

1 a 12-point type. Think of the eyesight of the Committee
2 members that have to go through all those pages.

3 MR. ROTH: Twelve or larger, I would
4 assume.

5 MR. IACOPINO: Twelve or larger. But
6 then you got a big fat, you know, 12 is fine. But, if you
7 want to go a little bit larger, that's okay.

8 CHAIRMAN IGNATIUS: And, we're doing an
9 all electronic filing, correct, or are there any hard
10 copies needed?

11 MR. IACOPINO: Yes. Just file them with
12 Jane Murray and copy each other. And, Jane will get them
13 to the Committee members.

14 MR. ROTH: This is, you know, getting
15 hypertechnical here, but is there a time of day, since
16 filing electronically with Jane can be done up to like
17 11:59 p.m. --

18 CHAIRMAN IGNATIUS: No, I think it would
19 be close of business, say --

20 MR. ROTH: What is it?

21 CHAIRMAN IGNATIUS: -- 4:30.

22 MR. ROTH: 4:30 p.m.

23 CHAIRMAN IGNATIUS: On the 14th. Ms.
24 Geiger.

1 MS. GEIGER: I think that should be the
2 rule. It has been my experience that people do not abide
3 by that rule. And, if I file a brief at 4:30, and others
4 decide they want to file by midnight, they will have, do
5 the math, whatever five and a half hours, six and a half
6 hours, to review my brief and file rebuttal, basically.

7 So, I hate to say this, but I think it
8 should be midnight. Because, again, it's been my
9 experience that people just don't stick to that
10 close-of-business deadline.

11 CHAIRMAN IGNATIUS: All right. I was
12 going to say "it should be 4:30", but, if you want it to
13 be midnight, --

14 MS. GEIGER: I think it should be 4:30,
15 too. But the practical matter is that people do not
16 adhere to that deadline. We do. But we're disadvantaged,
17 because we file ours on time, and others wait till
18 midnight, because they think they can.

19 CHAIRMAN IGNATIUS: All right. So,
20 let's make it --

21 MS. GEIGER: And, I can't afford to take
22 that risk in this case. The stakes are too high.

23 CHAIRMAN IGNATIUS: All right. So, --

24 MR. ROTH: The last thing I want to do,

1 after writing a 50-page brief, is read Ms. Geiger's brief
2 to add more stuff. I want it out of my hair.

3 MS. GEIGER: I know you do. And, I'm
4 not talking about you, Mr. Roth, really, I'm not, and you
5 know I'm not. I'm talking about, you know, others. And,
6 so, I've been disadvantaged in the past. I don't like
7 filing things at midnight, but there are ways that you
8 can, you know, you can program your document to be sent at
9 midnight. And, so, I'm just going to say midnight,
10 because I think, to protect my client's interests, I have
11 to say that.

12 CHAIRMAN IGNATIUS: All right. Well,
13 that's fine. You don't have to do it at midnight, but it
14 will be -- midnight will be the deadline, midnight of July
15 -- of February --

16 MS. LINOWES: No, January.

17 CHAIRMAN IGNATIUS: 14th.

18 MS. GEIGER: The same problem.

19 CHAIRMAN IGNATIUS: We've got to stop
20 this before it really gets bad. All right. Are there any
21 other procedural matters?

22 (No verbal response)

23 CHAIRMAN IGNATIUS: If not, I want to
24 just say, and I've said it before, but to say again as

1 genuinely as I can, I want to thank everyone for putting
2 up with a very rigorous set of hearing days. It's tiring.
3 And, it's -- everybody stayed focused and stayed cordial,
4 with the occasional moment where any of us in the room
5 would get frustrated, but then get back on track again.
6 And, I appreciate that. I know that both Committee
7 members and parties not only were here working all day,
8 and into the evening, but then had hour or longer drives
9 home, had hour or more preparation for the next day, and
10 then back at it very early in the morning again. And, I
11 know that we worked you pretty hard. So, I appreciate the
12 work of the Committee members, all of the parties. And,
13 we, you know, our goal is to be as thorough as we can and
14 still adhere to a schedule, and to give everybody an
15 opportunity to say what they want to say, to have their
16 views explored, and make a solid record that really
17 addresses everyone's point of view and the facts that
18 they're bringing forward, so that we can make sense of it
19 all in a determination. So, thank you very much for that.

20 Yes, sir, Mr. Froling?

21 MR. FROLING: Do I take it that you've
22 closed the hearing?

23 CHAIRMAN IGNATIUS: We are moments from
24 closing the hearing.

1 MR. FROLING: Okay.

2 CHAIRMAN IGNATIUS: Unless there's
3 anything further?

4 (No verbal response)

5 CHAIRMAN IGNATIUS: The evidentiary
6 portion is closed, but for the briefing and the submission
7 of the final information that Audubon is submitting. And,
8 with that, thank you.

9 MR. IACOPINO: Wait, wait.

10 MS. BAILEY: Could I make a motion to
11 suspend deliberations until February 5th?

12 (Atty. Iacopino and Chairman Ignatius
13 conferring.)

14 CHAIRMAN IGNATIUS: So, we have a motion
15 to suspend the proceeding until we resume for
16 deliberations on February 5th. Is there a second?

17 (Dir. Stewart indicating.)

18 CHAIRMAN IGNATIUS: Mr. Stewart. All
19 right. Any other discussion?

20 (No verbal response)

21 CHAIRMAN IGNATIUS: If not, then all
22 those in favor say "aye"?

23 (Multiple members indicating "aye".)

24 CHAIRMAN IGNATIUS: Those opposed?

1 (No verbal response)

2 CHAIRMAN IGNATIUS: All right. We are
3 in suspension. Thank you. Oh, Ms. Geiger, yes?

4 MS. GEIGER: One quick question. We'd
5 like, if it's possible, to have a list of the data
6 requests that were made of New Hampshire Audubon, so that
7 we understand exactly what they're putting into the
8 record. That it's objective data, as opposed to some sort
9 of subjective opinion about something. We just want to
10 make sure everyone's on the same page with respect to what
11 the expectations are for that information.

12 CHAIRMAN IGNATIUS: Yes. And, that was
13 -- they were the questions that Mr. Dupee said during
14 questioning of Audubon witnesses. There's been no
15 reporting of that, other than what the court reporter took
16 down.

17 MR. IACOPINO: We might have to get some
18 assistance from the court reporter.

19 CHAIRMAN IGNATIUS: Yes. Why don't we
20 try to hunt for that, it sounds like it isn't even
21 Mr. Patnaude, hunt for that and have it distributed
22 tomorrow, I'm hoping, so that everybody has that in hand.

23 MR. ROTH: And, I guess this is a not
24 completely dissimilar question to Mike, really. Do you

1 anticipate producing a final list of exhibits?

2 MR. IACOPINO: Yes.

3 MR. ROTH: Thank you.

4 CHAIRMAN IGNATIUS: Ms. Block.

5 MS. BLOCK: Madam Chair, I know there
6 were also requests made of Mr. James by the Committee, and
7 he has not sent those to us as of yet.

8 CHAIRMAN IGNATIUS: You're right. There
9 were a few things he agreed to track down in response to
10 some questions. If you could convey to him the same
11 deadline, --

12 MS. BLOCK: I will.

13 CHAIRMAN IGNATIUS: -- which was next
14 Friday, --

15 MR. PATCH: The 14th.

16 MR. IACOPINO: The 14th.

17 CHAIRMAN IGNATIUS: The 14th? All
18 right. Thank you for that. Ms. Geiger.

19 MR. IACOPINO: And, those were
20 essentially the papers that he cited, if I remember
21 correctly.

22 CHAIRMAN IGNATIUS: Ms. Geiger.

23 MS. GEIGER: Just one last thing. I
24 want to thank all of the members of the Committee and your

1 counsel for their attention during this matter and, you
2 know, as for reasons that the Chair stated, it's been a
3 long process, but we greatly appreciate the time and
4 attention that you've devoted to this process. I know it
5 takes, from personal experience, having been on the
6 Committee, the time that it takes to put into this
7 process, and we greatly appreciate your efforts. Thank
8 you.

9 MR. IACOPINO: I would just ask the
10 parties to stay here. What I'm going to have you do is
11 look at your folder of exhibits, make sure that all of
12 your exhibits are there. If there are ones missing, we're
13 going to have to make arrangement to either find them or
14 replace them. And, with Antrim Planning Board, I need to
15 talk to you about three of your exhibits.

16 MR. ROTH: And, I just would echo Ms.
17 Geiger's comments. And, I appreciate your patience with
18 my -- my style at times. Thank you.

19 CHAIRMAN IGNATIUS: All right. Thank
20 you, everybody. We will see you on February 5th.

21 **(Whereupon the hearing on the merits**
22 **ended at 3:54 p.m. And, deliberations**
23 **scheduled to begin on February 5th,**
24 **2013, commencing at 9:00 a.m.)**