

[DELIBERATIONS]

STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

February 7, 2013 - 9:15 a.m.
Concord, New Hampshire

DAY 3
MORNING SESSION ONLY
DELIBERATIONS

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. (*Deliberations*)

PRESENT:**SITE EVALUATION COMMITTEE:**

Amy Ignatius, Chairman
(*Presiding Officer*)

Public Utilities Commission

Harry T. Stewart, Dir.

DES - Water Division

Johanna Lyons, Designee

Dept. of Resources & Econ. Dev.

Craig Green, Designee

Dept. of Transportation

Brad Simpkins, Dir.

DRED - Div. of Forests & Lands

Richard Boisvert, Designee

Division of Historic Resources

Brook Dupee, Designee

Dept. of Health & Human Services

Ed Robinson, Designee

N.H. Fish & Game Department

Kate Bailey, Engineer

Public Utilities Commission

COUNSEL FOR THE COMMITTEE: Michael J. Iacopino, Esq.

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

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P R O C E E D I N G

CHAIRMAN IGNATIUS: Good morning. I'd like to reopen the proceedings in Docket 2012-01, which is the Site Evaluation Committee's consideration of the Application of Antrim Wind Energy for a Certificate of Site and Facility in Antrim, New Hampshire. We're in the third day of public deliberations on the Application. Again, this is a publicly posted deliberation session open to the public, and for people to observe, but not participate in. We have a quorum of Committee members. And, for the record, I'd like to have all of the members identify themselves. I'm Amy Ignatius, Chairman of the Public Utilities Commission.

And, let's go to Mr. Stewart please.

DIR. STEWART: I'm sorry, I was reading something. I'm Harry Stewart, Director of the Water Division, Department of Environmental Services.

MS. LYONS: Johanna Lyons, Department of Resources and Economic Development.

MR. SIMPKINS: Brad Simpkins, Department of Resources and Economic Development.

MR. ROBINSON: Ed Robinson, New Hampshire Fish & Game Department.

MS. BAILEY: Kate Bailey, New Hampshire

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1 Public Utilities Commission.

2 MR. DUPEE: Brook Dupee, Department of
3 Health and Human Services.

4 MR. GREEN: Craig Green, New Hampshire
5 Department of Transportation.

6 MR. BOISVERT: Richard Boisvert, New
7 Hampshire Division of Historical Resources.

8 CHAIRMAN IGNATIUS: Good morning. And,
9 welcome, everyone. And, welcome to parties and the
10 Applicant, and anyone else who comes in today.

11 We left off yesterday afternoon with a
12 completion of the first and really the most challenging, I
13 think, of the public health and safety terms, sound
14 effects. Before we move to the next safety issue, is
15 there anything else we needed to -- anyone had anything
16 further to add on sound that we might have left dangling
17 last night or you thought of overnight?

18 MS. BAILEY: I have one thing I want to
19 point out. Mr. O'Neal talked about the World Health
20 Organization nighttime noise standard in the record on
21 cross-examination. And, just so that we're all clear
22 about the decision that we made yesterday, I'd like to
23 read that. It's on Page -- Day 5, in the morning, on Page
24 -- the question was from Chairman Ignatius, starting on

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1 Page 27. It says: "Do you have any understanding of
2 reports that there may be sleep disturbance or mental
3 concentration problems or even mental functioning
4 problems, as a result of being in proximity to windmill
5 sounds?" And, his answer was: "I mean, I've certainly
6 seen some of the papers and the write-ups that have been
7 done about that. I guess a couple things to keep in mind.
8 Is that, these sound levels that we're talking about here,
9 I'm not sure if I said this yesterday or not, we have to
10 remember, these are all outdoor sound levels, okay? So,
11 these are outside the home. So, at 40 decibels, 35
12 decibels, you should subtract 10 to 15 additional decibels
13 to estimate what would be inside someone's home. Windows
14 open, you can subtract 10; windows closed, especially here
15 in New Hampshire, at least 15 decibels. So, 40 decibels
16 becomes 25 to 30 in the home."

17 "The World Health Organization has a
18 couple different community guideline criteria that talk
19 about sleep disturbance. One of them is the 45 dBA that
20 you've heard mentioned before probably, that's also an
21 exterior number. Certainly, this Project would comply
22 with that. There's relatively new night noise guideline
23 that's also been discussed, I think, that the WHO has
24 introduced. It's a European guideline values called

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1 "Night Noise Guideline", and that's a 40-decibel value.
2 And, that's a long-term annual average for nighttime sound
3 to permit good sleep and health" -- "good sleep and good
4 health."

5 "This Project also meets that. And, the
6 reason I say that, 40 decibels, on an annual basis, means
7 that some nights, even with the closest homes, you have --
8 "you might have 40 to 41 decibels at night. But there are
9 many, many nights where you could have sound levels lower
10 than that. Because either the turbines are not spinning
11 at all, in which case the sound level is zero from the
12 turbines, or the turbines are spinning at somewhat reduced
13 power operations, so the sound levels are less than 40.
14 So, when you add it up over the course of a year, every
15 single home in this Project area is going to meet that
16 European guideline, the 40 Night Noise Guideline, which
17 goes to your question of sleep."

18 So, yesterday, we, I think, made the
19 standard a 40, 40 dB standard, not an annual average
20 standard. And, if the European guideline is 40 on an
21 annual basis, I think that the standard that we adopted
22 yesterday was stricter than that. And, I wanted to know
23 if we should, now that we understand that, if we should
24 keep it that way or make it an annual average number?

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1 CHAIRMAN IGNATIUS: Thank you for going
2 back and checking on that. Do people -- Mr. Stewart.

3 DIR. STEWART: Yes. Thank you for that.
4 And, my impression is that we were trying to apply the
5 World Health Organization guideline as a standard for this
6 Project. So, if the WHO guideline is an annual average,
7 then I think that's what we should try to apply to the
8 Project, too.

9 MS. BAILEY: I agree.

10 CHAIRMAN IGNATIUS: Anyone with a
11 differing view? Mr. Simpkins.

12 DIR. SIMPKINS: Well, just a question.
13 How would we monitor that for compliance?

14 MS. BAILEY: That's a very good
15 question. And, the WHO guideline is really long, and I
16 haven't had a chance to read the whole thing. And, so, --

17 DIR. SIMPKINS: If a complaint came in,
18 will we have to measure for a year to determine if there's
19 an infraction? Or, I'm just concerned about how that
20 enforcement would --

21 MS. BAILEY: Right.

22 CHAIRMAN IGNATIUS: Mr. Boisvert.

23 MR. BOISVERT: I'm trying to think this
24 through in terms of human behavior and statistics both.

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1 In the wintertime, things are closed up, and some of the
2 people may be not resident at the time, going off on
3 vacation. I understand the assessment. And, so, there
4 would be a period wherein almost any standard would, in
5 effect, be a moot point. And, then, during the summer,
6 people have a tendency to have more windows open and so
7 forth. And, so, you're more sensitive to the outside
8 sound. And, if it were to happen that, during summer
9 months, the noise was fairly significant, so as to bother
10 the sleep and so forth, that will be a problem. But, when
11 you take it on an annual average, you would have to have
12 almost a bracket out there. You'd have to have
13 extraordinary high noise levels that everyone would agree
14 would be bad. And, when you put that into the annual
15 average, it probably still would end up being below 40.
16 So, we could have, say, a six-week period in the summer,
17 where, hypothetically, it's very noisy, and most
18 reasonable people would agree this is interrupting sleep,
19 and it's an annoyance, and it certainly is quite negative.
20 But, when you pump it through, pump the numbers through on
21 the annual average, it wouldn't make any difference. It
22 wouldn't be in violation of what we have approved.

23 And, the issue of how you monitor it is
24 separate and difficult. But this could, because, you

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1 know, we're buttoned up in the wintertime, make it such
2 that any noise level in the summer, however loud, once you
3 averaged it through, would be below the 40.

4 MS. BAILEY: Well, the measurement is
5 always taken outside.

6 MR. BOISVERT: Yes. Yes. But the
7 complaints come from people who live there. And, they
8 say, "yes, well, it's outside, but I've got the windows
9 open", or maybe they're on a screened-in porch, some
10 people like to do that, but, whatever, they will be
11 tendering the complaints.

12 And, I'm just thinking that that
13 standard sounds good, but how you apply it and how you
14 monitor it and how you average it out, could be a
15 situation where it sounds good, but, in effect, has no
16 application.

17 CHAIRMAN IGNATIUS: It is interesting
18 that a lower level, because it's measured in a different
19 way, sounds like, as you point out, could result in a far
20 higher incidence on the individual blocks of time. But,
21 because of enough quiet hours to offset that, if it's an
22 annual average, it could really be the opposite of what I
23 think we were looking to do yesterday, which was to
24 consider bringing down the nighttime level.

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1 I'm wondering if it makes more sense to
2 go back to the way we've done in the past, with a
3 nighttime level of 45 dBA, or five over, whichever is
4 greater, as has been the case in some recent cases,
5 findings in some recent cases, and not go to -- not do any
6 of the annual averaging testing.

7 CHAIRMAN IGNATIUS: Ms. Lyons.

8 MS. LYONS: I think, going to whatever
9 standard that we've set before is probably a good idea,
10 rather than trying to change the monitoring, which is by
11 average. I mean, I'm not sure that the Committee is set
12 up to do that.

13 CHAIRMAN IGNATIUS: There's absolutely a
14 practical problem, either within the Town, within the
15 Committee, or requiring some new year-round monitoring by
16 the Applicant. Either of those -- all three of those
17 options are difficult, and I don't know what else you'd
18 do. That's the only three ways I can think of doing it.
19 Ms. Bailey.

20 MS. BAILEY: I'm in the World Health
21 Organization 1999 Night Guideline Standards. And, I
22 haven't read the whole thing, so it's always dangerous.
23 But, when they're talking about night, the level night
24 outside, so, it says "Therefore, 40 dB L night, outside,

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1 is equivalent to the lowest observed adverse effect
2 level." And, that's a term that they use throughout the
3 document, "lowest observed adverse effect level for night
4 noise". "Above 55 dB, the cardiovascular effects become
5 the major health -- the major public health concern, which
6 are likely to be less dependent on the nature of the
7 noise. Closer examination of the precise impact will be
8 necessary in the range between 30 dB and 55 dB, as much
9 will depend on the detailed circumstances of each case."
10 So, that sort of gives us a range of where they think the
11 health impacts could come. And, I think they are thinking
12 it's between 30 and 55 dB. That's how I read it.

13 CHAIRMAN IGNATIUS: So, --

14 MS. BAILEY: Maybe we should go to a
15 standard that says "it can't exceed 45 dBA." I mean, they
16 have said they can make that. The other thing that I --

17 CHAIRMAN IGNATIUS: Are you talking
18 about a nighttime?

19 MS. BAILEY: Yes. Well, yes, for
20 nighttime, and -- well, I don't know. I was thinking sort
21 of as a compromise to go to 45 for everything. And, there
22 was a little discussion yesterday about "well, what if the
23 ambient sound is louder in the daytime?" And, I recalled,
24 in the Epsilon report, and I haven't gone back to review

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1 this, so I'm going to do it on the fly here. But there's
2 a little primer in the beginning of the Epsilon report.
3 So, that's AWE 3, 13A, and Page 2-1. And, it says: "The
4 decibel scale is logarithmic to accommodate the wide range
5 of sound intensities found in the environment. A property
6 of the decibel scale is that the sound pressure levels of
7 two separate sounds are not directly additive. For
8 example, if a sound of 50 dB is added to another sound of
9 50 dB, the total is only a 3-decibel increase (to 53 dB)."

10 So, that's probably why, when you have
11 an ambient sound around 45, which is what they've measured
12 in some cases, and if the generators are producing 45,
13 that the standard is "ambient plus five". So, you know,
14 you don't take the ambient. "Oh, well, if the ambient is
15 45, and they add another 45, it's going to be 90." It's
16 not. So, I thought that was helpful to remember.

17 So, I think it would be reasonable to
18 adopt a 45 dB absolute threshold, and then "ambient plus
19 five", and "the greater of". And, that way we don't have
20 to deal with the annual average issue.

21 CHAIRMAN IGNATIUS: And, just a flat
22 limit, day or night?

23 MS. BAILEY: Yes.

24 CHAIRMAN IGNATIUS: Thoughts of members?

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1 Mr. Stewart.

2 DIR. STEWART: I can live with that. I
3 think it will be all right.

4 CHAIRMAN IGNATIUS: Others?

5 MR. BOISVERT: Remind me again exactly
6 what we agreed to yesterday, because the numbers are now
7 crowding in my mind.

8 CHAIRMAN IGNATIUS: Yes. We had tried a
9 couple different ways. And, what we ended up with was 50
10 for the daytime, or five over ambient, which ever is
11 greater. And, 40 --

12 MS. BAILEY: Forty for the nighttime.

13 CHAIRMAN IGNATIUS: -- 40, or five above
14 ambient, whichever is greater. Assuming that was a
15 similar measurement, I think. And, only this morning,
16 with Ms. Bailey stewing about it overnight, and reading
17 back through that again, realizing that that second
18 nighttime measurement was over an average, annual average,
19 and really a different measurement.

20 So, I guess the options are to stay with
21 50, with a lower nighttime of 45, or whatever it might be,
22 or to go to one limit that doesn't distinguish day or
23 night, of 45, or five over, you know, each time "the five
24 over" remains unchanged. Or, you know, any other -- any

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1 other proposals people may have. And, in other cases,
2 we've had a two-step limit, daytime higher than nighttime,
3 but there's no mandate that there be two different ones.
4 And, I think, out of a concern over people's sensitivity
5 about sleep, that over the years there's been a lower
6 level for nighttime. But that's not a requirement
7 anywhere, it's just something that sort of has grown up
8 over time. Ms. Bailey.

9 MS. BAILEY: And, the nighttime has
10 always been 45 previously, the lowest that the Committee
11 has set.

12 CHAIRMAN IGNATIUS: Mr. Robinson.

13 MR. ROBINSON: Yes. With this new
14 information, and noise being such a big issue with this
15 particular Project, I would feel comfortable with 45, plus
16 five, for one standard, rather than separate standards.

17 CHAIRMAN IGNATIUS: Any other comments?

18 (No verbal response)

19 CHAIRMAN IGNATIUS: According to the
20 testimony of the Applicant, that's within the -- that's
21 higher than the range that they believe they will meet.
22 So, this is certainly not -- it's not that we're
23 concocting something that we know is not possible to
24 achieve. It's actually consistent with the

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1 recommendations of the Applicant.

2 All right. Is everyone agreeable to
3 having one standard of being "45 dBA, or 5 dB over
4 ambient, which ever is greater", to be applied 24 hours a
5 day? Mr. Green.

6 MR. GREEN: Yes. Amy, I just want to
7 make sure I'm clear on this. Yesterday, we said the World
8 Health Organization had a 45 dBA, but it had been changed
9 down to 40 dBA. So, that's average, is that right? Is
10 what I'm understanding?

11 MS. BAILEY: Well, the testimony from
12 Mr. O'Neal said that the new World Health Organization
13 standard was an annual average number of 40 dBA over the
14 year, and that's going to be really hard to figure out.

15 MR. GREEN: Okay. And, so, the 40 that
16 they had gone down to was an average for the whole year?

17 MS. BAILEY: According to Mr. O'Neal,
18 yes.

19 MR. GREEN: Okay, okay.

20 CHAIRMAN IGNATIUS: So, are people
21 comfortable? Mr. Simpkins.

22 DIR. SIMPKINS: Well, just a question.
23 We're saying "45 at night" -- well, we're saying "45
24 throughout, or 5 over ambient, whichever is greater." I'm

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1 wondering, I think that makes sense for the daytime. I'm
2 wondering about the night. Some of these ambients were in
3 the upper 20s. So, by saying "45, or 5 over ambient,
4 whichever is greater", say, it's 27, is there ambient now
5 -- I mean, they could be 18 over at night.

6 So, I'm wondering, should it be 45, but
7 for the day, be "45, or 5 over ambient, whichever is
8 greater"; and, at night, be "45, or 5 over ambient,
9 whichever is less"? I'm just concerned that, by saying
10 "whichever is greater", 45, when you look at some of these
11 numbers in some of these locations, it could be
12 considerably over that at night.

13 MS. BAILEY: I think, if we were going
14 to adopt a standard like that, we should make it "10", the
15 difference should be allowed to be at least 10. So --
16 because I think the testimony was, if, and it was
17 Mr. Tocci's testimony, "if there was a difference of more
18 than 10 over ambient, that could cause disturbance." So,
19 if you're going to make it the lesser, I would recommend
20 "10".

21 CHAIRMAN IGNATIUS: Ms. Lyons.

22 MS. LYONS: I just want to be clear that
23 we're trying to set these limits for health. So, while I
24 appreciate that the current ambient is low, I'm not sure

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1 that, are we just trying to preserve existing conditions
2 or are we trying to set a standard because of health?

3 MS. BAILEY: I think we're trying to set
4 a standard because of health. And, I think there is some
5 testimony that says, "if the difference is more than 10,
6 health could be affected." And, the World Health
7 Organization says, you know, the concern is between 30 and
8 55 dB. So, we're just trying to figure out what the right
9 balance is. And, none of us are experts.

10 CHAIRMAN IGNATIUS: Dr. Boisvert.

11 MR. BOISVERT: Mr. Simpkins brings up
12 the question that I brought up yesterday, about that "it
13 should be less than or greater than". And, I think that
14 the 10 dB above ambient I think is quite reasonable, is a
15 longer stretch. But, if it's -- if it is relatively
16 quiet, and it goes 10 decibels above that, that is enough
17 to disturb people, I suspect, from the testimony. It's my
18 understanding, is a noticeable enough difference that it
19 would disturb people. And, I think that is the key on the
20 health front. That, if it disturbs someone, raises stress
21 levels, interrupts sleep, that has a health effect. And,
22 I think that we -- we're talking about "health" in this
23 portion of deliberations, and I think we need to focus on
24 the "health" part. I think that is a reasonable yardstick

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1 to use. Others might argue it's too much, but I think
2 it's reasonable. I have no problem with it.

3 CHAIRMAN IGNATIUS: So, the idea would
4 be to have a daytime standard and a nighttime standard
5 that not only are different numbers, but are different
6 calculations. And, let me see if I got this right. That
7 daytime it would be "the greater of 45, or 5 over
8 ambient"; and the nighttime standard be "the lesser of 40,
9 or 10 over ambient"?

10 MS. BAILEY: Forty-five.

11 CHAIRMAN IGNATIUS: Forty-five, or ten?

12 MS. BAILEY: Right. That's the
13 proposal. So, let's think about what the effect of that
14 would be. That would mean that, if Mr. Tocci's
15 calculations are correct, and the ambient is around 15 at
16 night, the standard would be 25 dBA. And, there's
17 testimony that indicates that would certainly not have any
18 health impact. I think there's testimony that suggests
19 that less than 30 would have no health impact. So, if it
20 were only allowed to have 25 dBA of sound, and the
21 turbines generally, on average, produce 35, 33ish, would
22 that mean they couldn't run at night? And, is that what
23 we want to impose?

24 CHAIRMAN IGNATIUS: I think -- that's my

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1 concern. I think that we're trying to figure this out for
2 all the best of reasons, but we're -- the practical
3 impact, I don't want to create a standard that is
4 effectively saying "you can't operate". If that's our
5 conclusion, then it should be our direct conclusion, not a
6 sort of indirect consequence of picking a number. And,
7 that's a fair conclusion people can reach, I'm not saying
8 you can't come to that answer. But we ought to be certain
9 that that is what we're saying. That we don't want them
10 to run at night in any way that would produce sound
11 greater than X.

12 And, because we're trying to anticipate
13 how all of this would play out, I might have a little fear
14 of the unintended consequences here, that we -- we just
15 may not have thought through all of the different
16 variations in the way it might result.

17 MS. BAILEY: The other thing we could
18 think about is establishing 40 dBA at night, rather than
19 the annual average. Because, I mean, the World Health
20 Organization says "40 dB L night, outside, is equivalent
21 to the lowest observed adverse effect level for night
22 noise." So, rather than having a standard that says
23 "ambient, plus 10", which might end up being 25, we could
24 get to 40, and just make that the standard.

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1 DIR. STEWART: I'm in another place, --

2 MS. BAILEY: Okay, good.

3 DIR. STEWART: -- excuse me, in the WHO.

4 And, it says, similar to what Kate has, the lowest -- "the
5 LOAEL", which is the "lowest observable adverse effect
6 level", "of night noise, 40 decibels, can be considered a
7 health-based limit of the night noise guidelines necessary
8 to protect the public, including most of the vulnerable
9 groups, such as children, the chronically ill, and the
10 elderly, from the adverse effect" -- "health effects of
11 night noise." So, that seems to be the health-based
12 standard that WHO has established.

13 Now, I haven't found where it says
14 "annual", but I believe you.

15 MS. BAILEY: I haven't found that
16 either. That was Mr. O'Neal's testimony, but I haven't
17 looked --

18 DIR. STEWART: And, Mr. Tocci said
19 nothing about "annual", and O'Neal did. So that, I mean,
20 that becomes the health-based value, if we're subscribing
21 to the WHO guidelines. Now, how you apply that, I'm not
22 so sure. But this most likely is an annual, but, again, I
23 haven't found it in the guidelines yet. I will continue
24 to look.

[DELIBERATIONS]

1 CHAIRMAN IGNATIUS: Well, you know,
2 another way to do this is to -- it's like on one hand, on
3 the other hand, and on the other hand, and how many hands
4 do we end up with here. But another way to do it would be
5 to have a daytime and nighttime limit, not get into the
6 average over time, not get into a lesser versus greater.
7 Keep it pretty straightforward, but have it step down.
8 So, that 45 in the day, or 5 over; and the nighttime 40,
9 or 5 over. That's similar to the three-step standard that
10 was adopted in Groton. Where, for the campground, there
11 was a lower level within that area that it couldn't exceed
12 40, or five over, I think. And, so, here, to continue a
13 daytime/nighttime differential, but just to bring them
14 down to be 45 daytime and 40 at night, plus the five over
15 test, the greater of those two, for the two times.

16 MS. BAILEY: I think, based on what
17 Mr. Stewart and I have found in the World Health
18 Organization guidelines so far, that would make me very
19 comfortable in concluding that this won't have an adverse
20 effect on health as a result of sound.

21 CHAIRMAN IGNATIUS: Any other response?
22 (No verbal response)

23 CHAIRMAN IGNATIUS: How about a show of
24 hands of who would be supportive of a two-step standard,

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1 daytime 45 dBA, or 5 dB over ambient; and a nighttime
2 standard of 40 dBA, or 5 over ambient? Show of hands, who
3 would support that?

4 (Show of hands.)

5 CHAIRMAN IGNATIUS: Any opposed to that?

6 (No indication given.)

7 CHAIRMAN IGNATIUS: It appears none.

8 All right. Thank you. So, until we pick this up again --
9 okay. Thank you. Thank you. I just appreciate so much
10 your willingness, Ms. Bailey, to go back, and, obviously,
11 you were worried about it, and thinking, and, after we
12 left here, and going back and looking it up again, and
13 pulling back the references from the transcripts, I really
14 appreciate that.

15 I think, on all of these, we've been
16 assuming the measurement be done at the exterior of the
17 residence.

18 MS. BAILEY: Yes.

19 CHAIRMAN IGNATIUS: But we hadn't been
20 explicit about that. So, is that everyone's
21 understanding? All right. Thank you.

22 Then, let's move to the next health and
23 safety issue. And, Ms. Bailey, I think you're going to
24 continue leading us through those?

[DELIBERATIONS]

1 MS. BAILEY: Yes. But do we have to
2 make a decision about infrasound?

3 CHAIRMAN IGNATIUS: Oh, yeah. Help us,
4 Mr. Iacopino. Do you recall where we ended up?

5 MS. BAILEY: And, a post construction
6 sound test, we have to decide whether we wanted to require
7 that.

8 CHAIRMAN IGNATIUS: Yes. While you're
9 looking up the infrasound questions from yesterday, on the
10 post construction sound testing, that is something that we
11 have routinely required. I think it's appropriate to do
12 it. I don't know how much detail we have to spell out in
13 the conditions themselves, the number of test locations,
14 the period of time over which the test is run, or whether
15 there's a kind of standard that we can rely on. I guess
16 I'm looking to Mr. Iacopino for some help on that. And,
17 before I did, I mean, I assume, is that something that
18 everybody would be supportive of to do, to have a
19 requirement and a condition of some level of post
20 construction sound testing? Ms. Lyons.

21 MS. LYONS: Yes, I agree. Especially
22 since this is a new piece of equipment, and there is some
23 uncertainty at this point.

24 CHAIRMAN IGNATIUS: That's a good point.

[DELIBERATIONS]

1 You're right. Anyone who would not support a post
2 construction sound test to be done?

3 (No indication given.)

4 CHAIRMAN IGNATIUS: It appears not.

5 MR. IACOPINO: To answer the first
6 question, my notes say that we left the infrasound
7 discussion without any final decision on it, and went onto
8 the noise, the audible noise, sorry. So, that's the first
9 question.

10 And, I'm pulling up the Groton Wind
11 Project as we speak, for those of you who want to follow
12 along, for the purpose of explaining to you what we
13 required in that particular case for post construction
14 sound. My recollection is correct, as I'm getting to it,
15 there was required to be some cooperation with the local
16 authorities in the structure of the sound study, post
17 construction sound study. But I may be getting that
18 confused with other things I have read.

19 CHAIRMAN IGNATIUS: Well, why don't we
20 then, rather than hold up on that, maybe keep looking for
21 that, and make a note to come back to it. On the -- it
22 sounds like it's -- it's clear that we want to have
23 something, it's just how exactly it's worded and whether
24 we prescribe all of the details of it or whether we ask

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1 for some consult between the Town and the Applicant, or a
2 group of interested parties and the Applicant, or
3 something like that.

4 On the infrasound, and very low level,
5 low frequency sound --

6 MR. IACOPINO: I have it, if you want me
7 to get to it?

8 CHAIRMAN IGNATIUS: Oh, okay.

9 MR. IACOPINO: The actual condition in
10 Groton, with respect to that, was that it reads as
11 follows: "After commercial operations of the Project
12 commences, the Applicant shall retain an independent,
13 qualified acoustics engineer to take sound pressure level
14 measurements in accordance with the most current version
15 of ANSI S12.18. The measurements shall be taken at
16 sensitive receptor locations identified by the Applicant
17 and the Towns of Groton and Rumney. The periods of the
18 noise measurements shall include at a minimum of daytime
19 winter and summer seasons, and nighttime after 10:00 p.m.
20 All sound pressure levels shall be measured with a sound
21 meter that meets or exceeds the most current version of
22 ANSI S1.4 specifications for a Type 2 sound meter. The
23 Applicant shall provide a final report of the acoustics
24 engineer to the Subcommittee and to the Towns of Groton

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1 and Rumney within 30 days of receipt by the Applicant."

2 And, the other thing just of note for
3 you all, is that there was a provision in the certificate
4 as well that, if a landowner wanted to waive the
5 restrictions set forth on sound, they could, do it in
6 writing. That's not really what you're discussing. So,
7 that's the condition that was in Groton. The actual
8 receptor locations were to be determined by consultation
9 between the Applicant and the two towns that were
10 impacted.

11 CHAIRMAN IGNATIUS: In this case, are
12 people interested in a similar sort of provision that
13 would set out the broad parameters, as Mr. Iacopino read,
14 but the actual test location sites to be worked out
15 between the Applicant and, in this case, the Town of
16 Antrim?

17 MS. BAILEY: I think, rather than the
18 Town, we should consider the receptor -- the five receptor
19 locations that they have already measured, and then maybe
20 change the one by Ms. Longgood's residence, because she
21 said that was too -- I don't know. Maybe we should just
22 keep then L1 through L5, because those seem to be sort of
23 placed near the -- near the residences.

24 CHAIRMAN IGNATIUS: Although, they're at

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1 property lines, more than at the exterior of the
2 residence.

3 MS. BAILEY: Right. That's what I was
4 thinking when I went to the Longgood property. But, then,
5 if we do it at -- if we do it at -- I think, when we're
6 doing the post-construction monitoring, we're trying to
7 measure the overall sound in the area, not individual
8 homes. So, if we put it outside somebody's home, we'd
9 have data on that home only. Whereas, if we left it at
10 the five locations, we'd have data to compare to what they
11 thought it was going to be, and it would also be more
12 indicative of the sound that would affect everybody. And,
13 then, if there was a particular complaint, the measuring
14 point would be outside the home.

15 CHAIRMAN IGNATIUS: Well, that's -- yes,
16 that's interesting. By doing it a little more broadly,
17 you can apply that information to more than just one
18 particular location. Certainly, the sound could be no
19 greater from the receptor as you get closer to the
20 individual home, I assume.

21 MS. BAILEY: Well, no, that's not true.
22 Because it depends on where you are -- where that receptor
23 is in relation to the ridgeline. Because I think the
24 ridgeline is in front of Ms. Longgood, and I think the

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1 receptor was behind her.

2 CHAIRMAN IGNATIUS: All right. Ms.
3 Lyons.

4 MS. LYONS: I agree with Kate that we
5 should at least have something that could be a repeat
6 measurement of pre-construction. But we could leave it
7 open to let them pick other sites also, because we may
8 have missed some sites right now that, after construction,
9 someone says "well, you know, maybe it's over here, too."
10 So, we could leave it open, but I do agree that we should
11 have something that's repeatable from pre-construction.

12 MS. BAILEY: So, at a minimum, --

13 MS. LYONS: At a minimum.

14 MS. BAILEY: -- at L1 through 5, --

15 MS. LYONS: Exactly.

16 MS. BAILEY: -- and any other locations
17 they thought were necessary?

18 MS. LYONS: Important, yes.

19 CHAIRMAN IGNATIUS: What do people think
20 of that?

21 MR. BOISVERT: I think that keeping them
22 in the same place has some scientific validity as well,
23 because you can compare apples to apples, like we
24 discussed earlier. Also, I would anticipate there should

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1 be some way to calculate, if this is, you know, 500 yards
2 further out than the sound at this point, 500 yards closer
3 in would be such and such, there should be some reasonable
4 way to statistically model it. The sound follows a
5 certain curve. I would be very surprised if we're not
6 able to reasonably estimate what it would be at any given
7 point nearby, using that as the monitoring station. So,
8 it doesn't need to be on the house. Landowners may very
9 much want to have it there or very much not want to have
10 it there. I would think we should be able to find a way
11 to model what the sound would be.

12 Adding in additional places is good,
13 although I doubt that the Applicant is going to want to
14 have a greater expense and open up more opportunities for,
15 from their point of view, a problem. I was wondering if,
16 you know, Willard Pond, but then we're not getting --
17 we're getting away from health and into aesthetics. So,
18 let's keep it to health.

19 But I think that keeping it in the same
20 place, and projection from -- it's just a modeling
21 projection, we do this all the time in many other
22 sciences, I would think that would be reasonable and
23 defensible.

24 CHAIRMAN IGNATIUS: So, what about the

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1 suggestion that the requirement that the requirement be
2 that the post-construction testing be at the same five
3 locations as done in the Application, L1 through L5, plus
4 any additional ones agreed to between the Applicant and
5 the Town?

6 MS. BAILEY: Within reason. I mean,
7 what if the Town says "do it at Willard Pond", "do it
8 here", "do it there", and it doesn't have anything to do
9 with whether there's going to be a health impact.

10 CHAIRMAN IGNATIUS: And, that would be,
11 if it were agreed to between the Applicant and the Town,
12 there would have to be some sort of willingness to come to
13 a reasonable list between them.

14 MS. BAILEY: On the other hand, what if
15 the Applicant says "no, I'm not going to agree to
16 anything." I mean, maybe we could say "up to three other
17 locations", or something like that. I mean, that's
18 completely arbitrary.

19 CHAIRMAN IGNATIUS: Well, that's -- I
20 think that's fair, to say that there be, at a minimum, you
21 know, X, five -- I mean, eight locations, the five that
22 have already been identified, and three others, but the
23 locations themselves to be agreed to between the two.
24 Then, there's some requirement that you go a little beyond

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1 that, but not totally open-ended. Is that something
2 people like?

3 MR. BOISVERT: And, I think that -- I
4 think that it should be clear the purpose of the
5 monitoring. I think you need -- because I think it would
6 be unfair to have a monitoring station put up for health
7 purposes and have it used for another purpose. I think
8 you need to be clear that this is a condition, this is
9 what we expect will happen, and it will give us
10 information for these purposes. I think it needs to be
11 specified this is for health purposes. Does that sound
12 reasonable?

13 MS. BAILEY: I agree. Except, but look
14 at how hard we have struggled over what that means, and
15 they don't have the information we have. So, if they
16 chose to do it at Willard Pond, and it showed that the
17 sound was 25 dBA, then it's pretty clear that doesn't have
18 any health impact, and they have wasted that one location.
19 So, I'm not -- I mean, as long as we get the five location
20 sites that they measured pre-construction, if the Town
21 wants to use their other three to figure -- just for
22 information, I don't know. I agree with you to a certain
23 degree, but I don't think that this topic is well enough
24 understood by most people to get there.

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1 MR. BOISVERT: I would observe that
2 negative findings out of a sampling location is not
3 wasted. It is valuable information. And, if you get a
4 lot of negatives across the board, that makes the point
5 that it's not a problem. I don't think that we need to
6 try to construct the testing machine that maximizes all
7 possibilities of a certain kind of finding. I think we
8 need to have it open and fair, and make sure we know what
9 it's for.

10 If there's a feeling that there are
11 areas where there might be negative health effects that
12 were not anywhere near the sampling places, then that
13 would be a good rationale. I think that would be an
14 appropriate rationale. But cherry-picking a place where
15 it's going to have a highly expected outcome, either very
16 loud or very quiet, I think it's not the proper way to go
17 about it. I think you need, if we're going to do it for
18 health, do it at those five locations, so replicability,
19 modeled to nearby places, nearby homes. And, if there's
20 other places that, in retrospect, should have been
21 included, because this is an area with a number of people
22 living there, and it wasn't sampled, and the concern,
23 because of population numbers, therefore, there could be
24 more chance of some negative health effects, then a

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1 station there. And, I think that would be a reasonable
2 way to look at it.

3 CHAIRMAN IGNATIUS: Well, let me suggest
4 that we state that "sound testing for the purpose of
5 assessing health impacts", and not try to be any more
6 specific in where those might be and how they be selected,
7 other than it's within the agreement between the Town.
8 And, however the Town wants to define that, who they want
9 to get input on for that, those selections between the
10 Town and the Applicant, a minimum of three additional
11 spots, as well as the L1 through L5. Is that acceptable
12 to everyone?

13 MS. BAILEY: Yes.

14 CHAIRMAN IGNATIUS: All right.

15 MR. IACOPINO: There was also a
16 discussion about I think of it as a "contour map", based
17 on extrapolations of the post-construction findings. Is
18 that also part of what you want in the study?

19 MS. BAILEY: Has that been done in the
20 -- has that been required in the past?

21 MR. IACOPINO: I don't think it was
22 technically required in Groton. But I know that
23 Mr. Boisvert just mentioned it. So, that's why I just
24 wanted to know whether that's included in what you're

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1 looking for here.

2 MS. BAILEY: So, you're talking about
3 they take the data from eight points, and then they use a
4 model to figure out where it would be everywhere, so that
5 you get that map with the bands?

6 MR. IACOPINO: Yes. Well, that's how I
7 interpreted what Mr. Boisvert had said, something similar
8 to that. But what you want to do is fine. I'm just
9 asking if that's part of what you all agreed to, so that I
10 can appropriately write down the condition.

11 MS. BAILEY: I think producing that map,
12 so we could look at it and compare it to what was
13 predicted, would be a good idea.

14 CHAIRMAN IGNATIUS: I want to disagree
15 with that, throw this out. I think the plan should not be
16 that it all comes back to us to make sense of. It may be
17 that there's a complaint or a compliance issue down the
18 road that does come back, but we try not to assume that.
19 And, that -- and, if the purpose of mapping it is so that
20 we can make sense of it, then I really would push against
21 that. If the purpose of the mapping is so that people in
22 the community can make sense of it, then I have less
23 concern, although a little bit of concern, I don't know
24 what the cost and burden of undertaking that is. And, if

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1 what we're really dealing with is the implementation of
2 the standard and real operational experience and any
3 complaints that come forward, I think that should be the
4 focus, more than what modeling would tell you the result
5 is.

6 So, I guess I wouldn't see a need to
7 take that extra step to require new modeling. That the
8 test results are the test results, and see where that
9 goes. But I'm open to hearing argument on why that really
10 should be required. I just want to be sure we're not
11 assuming that we're playing a role in any of this, unless
12 something comes forward that requires us to be called back
13 into session to take it on. Dr. Boisvert.

14 MR. BOISVERT: If the data is available,
15 it's been collected at these eight places, and there's a
16 complaint, it would seem to me it would be at the level
17 where the person leveling the complaint would probably
18 have their own experts do that modeling, using, ideally,
19 the model that was used before. And, the burden would be
20 on them to show that there is an adverse effect. So long
21 as that information is readily available, then the model
22 doesn't have to be created, but the information needs to
23 be there. Because the person leveling the complaint may
24 be, you know, off at a distance somewhat between two

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1 monitoring stations, and not particularly near either one,
2 but they have to be able to show that their location is --
3 that there be no hill in the way between them and the
4 towers. But, basically, the information is there, it's
5 been collected, and it's their responsibility to then use
6 it however they might, but have access to the data to make
7 their case.

8 MS. BAILEY: I agree. I confess, I was
9 thinking "oh, I'd really like to see it." But, you're
10 right, I don't need to see it. We're finished when we're
11 finished here. And, as long as the data is available, I
12 agree with Dr. Boisvert. So, thank you for your
13 experience, madam Chairman.

14 CHAIRMAN IGNATIUS: All right. Anyone
15 else? Are we okay with the testing conditions we just
16 laid out? Not require further modeling as a condition of
17 our certificate?

18 (No verbal response)

19 CHAIRMAN IGNATIUS: I see no objection
20 to that, okay. Then, infrasound. Mr. Stewart.

21 DIR. STEWART: Want me to close the
22 loop, because I left it open earlier? The "L night", I
23 found the definition in the WHO Night Guidelines. And,
24 it's "the equivalent outdoor sound pressure level

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1 associated with the particular type of noise source during
2 nighttime (at least eight hours), calculated over a period
3 of a year." So, that is an annual, I wouldn't say
4 "average", because I'm not sure that's what we do with
5 sound, but it is an annual standard.

6 MS. BAILEY: So, you confirmed Mr.
7 O'Neal's testimony?

8 DIR. STEWART: Yes.

9 MS. BAILEY: Thank you.

10 CHAIRMAN IGNATIUS: But, in this case,
11 we're not going to do that form of measurement. It's
12 going to be the more standard we've done in the past.

13 DIR. STEWART: No, I understand that. I
14 left that open earlier.

15 MS. BAILEY: I appreciate that.

16 CHAIRMAN IGNATIUS: Thank you.

17 MS. BAILEY: Actually, I think I read
18 that yesterday. I think I had that in my notes. We just
19 didn't get it.

20 CHAIRMAN IGNATIUS: All right. So, on
21 the issue of the low frequency, very low frequency sound,
22 remind us, Ms. Bailey, of the question that we didn't
23 resolve yesterday and where to pick that up.

24 MS. BAILEY: I think the question is,

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1 "do people think that this is or could cause a health
2 impact?" And, there was very differing opinions between
3 Mr. O'Neal, the Applicant's sound expert, and Mr. James,
4 the North Branch Intervenors' sound expert, with Mr. Tocci
5 sort of being in the middle. So, I don't think that
6 there's scientific evidence yet. I agree with what
7 Mr. Simpkins said yesterday, "at some point, you have to
8 think about when to start thinking about it." I think the
9 evidence is warning us that this could be a problem, which
10 has not yet been fully diagnosed. There isn't scientific
11 proof that very low frequency sound or infrasound cause
12 widespread health impacts at this point in time.

13 So, what I was thinking about is, maybe
14 if we ask the Applicant to do one-third octave band
15 testing at the post-construction survey, we'll have the
16 data to identify the low frequencies and the very low
17 frequencies. And, then, if somebody says that "this is
18 causing a health impact", we'll have some data. And, I
19 mean, we don't know what this turbine is going to produce
20 at low frequencies. We have no idea. So, that's my
21 thinking.

22 CHAIRMAN IGNATIUS: Mr. Dupee.

23 MR. DUPEE: Thank you, madam Chair. I
24 concur with the comments made by the other Committee

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1 member here. It would be useful to have some information
2 available, should there be a future need.

3 CHAIRMAN IGNATIUS: Any other comments?

4 (No verbal response)

5 CHAIRMAN IGNATIUS: Are people
6 supportive of that recommendation, that when the
7 post-construction sound testing is done, that it include
8 that one-third octave band testing to be able to have the
9 data available? Ms. Lyons.

10 MS. LYONS: I agree. And, it also sets
11 a baseline. So, if there's future action, we have a
12 baseline.

13 CHAIRMAN IGNATIUS: I'm supportive of
14 that. I think we want to be clear, though, that we're not
15 setting a limit. We're not -- it's really a baseline that
16 may be useful for discussions, you know, a year or two or
17 five years down the road, and may be part of discussions
18 in Antrim or discussions in some other part of the state.
19 But, if testing is being done anyway, then that's -- and,
20 apparently, you can do those tests. Mr. James, you know,
21 identified sound studies that differentiated in that way,
22 and that would be useful, I think, in building the
23 knowledge base about these very low frequency sounds. So,
24 I'm supportive of that. Dr. Boisvert.

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1 MR. BOISVERT: I agree. And, thinking
2 that there may be an objection that this is a burden that
3 this Applicant has that others have not had. And, this
4 Applicant has also benefited from other baseline studies,
5 birds and bats, that sort of thing, that we are constantly
6 looking back to precedent. "What did we say at Groton"?
7 "What did we say at Lempster?" What was the -- the
8 conditions in one place or another. The siting precedent
9 is embedded deeply into the testimony that I've read so
10 far. And, it uses this baseline information from other
11 categories. This is a health issue. That, if there's a
12 question out there, let's see if we can find the answer,
13 and I believe it's completely reasonable and defensible,
14 from the standpoint that the Applicant has benefited from
15 other people's baseline work.

16 CHAIRMAN IGNATIUS: Mr. Dupee.

17 MR. DUPEE: Thank you, madam Chair. I
18 think we had a discussion yesterday about certain wildlife
19 matters, and we said the current intention of the
20 Committee is not to create sort of collateral benefits.
21 And, I wouldn't ask the Applicant --

22 (Court reporter interruption.)

23 MR. DUPEE: I'm not going to ask the
24 Applicant to do things that just created a collateral

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1 benefit. In other words, there would be a direct and
2 tangible relationship between what we ask the Applicant to
3 do. So, I think I would sort of reframe things a bit
4 here, and say that we want this data to be available to
5 help this particular site, in the event information
6 becomes available in the future that suggest the levels of
7 sound are of concern, and don't use a research project or
8 a general benefit project. And, again, I say this because
9 the other day we made clear that it was not the intention
10 of this Committee.

11 CHAIRMAN IGNATIUS: All right. That's a
12 good point. Is everyone supportive of the octave band
13 testing that we've discussed as part of the
14 post-construction, the one-third octave, as part of the
15 post-construction sound testing that we just agreed to?
16 All right. I see "yes", nods all around. All right.
17 Thank you.

18 I was just checking with Mr. Iacopino,
19 on whether he thought we left any gaps out, and he didn't.
20 I think the only thing to be -- to reiterate, and I
21 believe Ms. Bailey said it, that we don't have a
22 conclusion, we're not reaching a finding that there are
23 health benefits -- health risks, as a result of these very
24 low frequency sounds. As she said, the evidence is mixed,

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1 and doesn't seem, at this point, to support a finding of
2 health risks.

3 But it's definitely a controversy. And,
4 there are some who believe that there are health
5 consequences from these sounds. And, so, I think we are
6 trying to be responsive to the evidence that we heard.
7 We, you know, we come to a conclusion that it just isn't
8 there yet, but it can't be dismissed as "non-existence".
9 That there are some concerns and that these issues are
10 evolving quickly, and this one may continue to evolve to
11 become more of a consideration to be concerned about or
12 less as more data comes forward.

13 All right. The next topic to take up in
14 the "health and safety" category?

15 MS. BAILEY: Shadow-flicker. Mr.
16 Guariglia testified on behalf of the Applicant that, and
17 he starts by saying -- by defining what it is. So, I'll
18 just cover that to remind everyone. According to Mr.
19 Guariglia, shadow-flicker is when rotating blades of wind
20 turbines result in shadows moving across nearby structures
21 and the surrounding landscape. "When the repeating change
22 of light intensity falls across a narrow opening, such as
23 a window, it can cause a flicker affect within the
24 structure." This effect is known as "shadow-flicker" and

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1 only occurs within a structure. The phenomenon is limited
2 to within ten turbine diameters. And, the turbine
3 diameter on these machines is 116 meters. So, it's 1,160
4 feet. Because, beyond that, the intensity of the shadow
5 is negligible. It only occurs "during daylight hours when
6 the Sun is low in the sky, shortly after sunrise or before
7 sunset." There isn't any fog or overcasts, which prevent
8 shadows. And, "turbine shadows can enter a structure
9 through unshaded windows that face the turbine."

10 According to Saratoga Associates, it
11 used a widely accepted software package, *WindPRO*, to model
12 the effects of shadow-flicker. The study determined that
13 only one receptor, Ms. Longgood's residence, is predicted
14 to experience more than 20 hours of shadow-flicker a year.
15 However, according to the visual impact analysis, this
16 residence will not have a view of the turbines, and,
17 therefore, cannot experience shadow-flicker. If it does,
18 however, Mr. Guariglia argues the number of hours is less
19 than the standard used to indicate health effects of 30
20 hours per year.

21 The report concludes that there are 36
22 receptors within the ten-turbine diameter distance; 19 of
23 those may experience shadow-flicker, but the turbines can
24 be seen from only two of them. And, those two receptors

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1 are predicted to experience less than ten minutes a year.
2 Thus, the Applicant concludes that shadow-flicker will not
3 have an unreasonable adverse impact on health.

4 Ms. Longgood testified that her quote,
5 and this is a quote, "home is oriented to look out over
6 the beaver pond, look out over the ridge, all of the large
7 windows, the deck, orchards, and the hot tub are all
8 looking out into the woods. So, as you drive down the
9 driveway, there are not a lot of windows. They're mostly
10 facing the east, facing the ridge, looking out over the
11 beaver pond." And, that was Day 9, afternoon, Page 19.

12 She argued it appears shadow-flicker
13 will have a significant impact on her family. She does
14 not wish to shade her windows or live in an industrial
15 zone where flickering shadows will be present outside as
16 well.

17 I apologize. There's a new operating
18 system on this PC, and it's driving me crazy, I'm not
19 familiar with it. So, I hit a button and something
20 happens that wasn't supposed to happen.

21 Okay. The North Branch Group takes
22 issue with arbitrarily delineated computer models used to
23 define potential flicker zones, and does not believe the
24 impact can be so precisely drawn. So, that's the

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1 testimony that we have on it.

2 And, I think the question is,
3 Mr. Guariglia says that his visual impact study suggests
4 that Ms. Longgood won't see it, and Ms. Longgood says
5 "that's what I look at." I don't know how we square those
6 two things. And, Mr. Guariglia's testimony is that, even
7 if the visual impact assessment is wrong, she's only going
8 to get it 20 hours a year, 21.

9 CHAIRMAN IGNATIUS: Mr. Simpkins.

10 DIR. SIMPKINS: And, just a question.
11 There's no, other than shades or some type of screening,
12 there's no mitigation for shadow-flicker? You'd have to
13 be at the receptor spot?

14 MS. BAILEY: Yes, I believe that's
15 correct. And, the other thing that came to light when I
16 was reviewing the testimony is that it only counts when
17 it's inside. So, -- for health impacts. So, the flicker
18 outside, which Ms. Longgood testified would be "very
19 annoying" to her, doesn't cause a health impact. The
20 health impact is within the structure. And, so, shades, I
21 think, are the mitigating thing.

22 CHAIRMAN IGNATIUS: Do you recall why
23 the health impact is considered only indoors, and why
24 there isn't a discussion of possible health impact when

[DELIBERATIONS]

1 you're out-of-doors?

2 MS. BAILEY: There was no discussion
3 that I saw on that. It may have to do with the intensity
4 of the light that causes the health impact. But I'm --
5 but I don't think there's good testimony on that.

6 CHAIRMAN IGNATIUS: And, is part of it
7 that, because the light is passing through an open door or
8 a window, you have more of a on/off sense of what the
9 light is doing, than if you're outdoors and it's -- the
10 light's coming at you not through a porthole in the same
11 way? The blades may be blocking the light, but you're
12 receiving light from so many other around the blade in so
13 many ways that you just don't have the same impact?

14 MS. BAILEY: That's my sense of it. But
15 this is the first time I've ever looked at this, and I
16 think that's right.

17 CHAIRMAN IGNATIUS: Mr. Simpkins.

18 DIR. SIMPKINS: Another question. Do we
19 know the number of turbines that cause the flicker,
20 particularly at Ms. Longgood's property? Is it one
21 turbine or is it multiple turbines?

22 MS. BAILEY: I don't know. Let's see if
23 I can find that.

24 CHAIRMAN IGNATIUS: We have that

[DELIBERATIONS]

1 butterfly pattern shadow-flicker diagram, that I believe
2 has everything running simultaneously, does it not? I
3 don't think it's turbine by turbine.

4 MS. BAILEY: I believe so. But that's
5 AWE Exhibit 3, 13B, I think.

6 DIR. SIMPKINS: I'm looking at 13B.
7 There are some maps on there, and they do have graphs
8 showing the patterns for each, each turbine. I believe
9 it's Page 9.

10 CHAIRMAN IGNATIUS: So, I stand
11 corrected. Thank you.

12 MR. IACOPINO: Madam Chair, for the
13 Committee's benefit, I would point out that there was
14 questions posed to Mr. Guariglia on Day 5 of the
15 testimony, in the afternoon, regarding why he discounted
16 the effect of shadow-flicker outdoors. And, that
17 testimony begins on Page 194.

18 CHAIRMAN IGNATIUS: I don't have that
19 pulled up. Can you go back to that? I don't know how
20 long it goes one, but, if it's a page or so, maybe
21 summarize the statements that Mr. Guariglia made.

22 MR. IACOPINO: Sure. The first
23 question, and I'm going to paraphrase the question, then
24 I'll read the answer, I guess. Well, we'll see how it

[DELIBERATIONS]

1 goes. First question was: "You defined "shadow-flicker"
2 as only occurring out" -- "only occurring indoors,
3 correct?" And, the answer was "yes". And, the next
4 question was: "Why do you discount the effect of the
5 shadow in the outdoors?" The answer is: "I don't think
6 we totally discount it. We do mention that you'll see
7 shadows sweeping across the landscape. The issue, though,
8 that most folks have is the flicker effect. So, that's
9 why, you know, I mean, that's a shadow-flicker analysis.
10 So, that way you want to look at the houses with people
11 inside. That's where it's mostly noticed. The sweeping
12 effect is much less of an issue. However, I would mention
13 that it's not totally discounted, because on here", and I
14 believe he's referring to the report, "you can definitely
15 see where the shadows are going to occur." And, then, I
16 asked him: "And, what are you referring to?" And, he
17 says: "This is Figure 2 of the shadow-flicker report.
18 This shows where the shadows will be passing." And, then,
19 he goes on to explain that they didn't totally discount
20 outdoor shadow-flicker in their report.

21 CHAIRMAN IGNATIUS: So, we have a
22 conclusion from Mr. Guariglia that there will be minimal
23 flicker. And, the most, am I correct, that the most
24 pronounced circumstance would be, if it were to occur, it

[DELIBERATIONS]

1 would be Ms. Longgood's residence, and it would be a
2 maximum of 21 hours per year, mostly early morning hours,
3 is that correct?

4 MS. BAILEY: Either early morning or
5 right before sunset.

6 CHAIRMAN IGNATIUS: Okay. Sort of those
7 shoulder hours. And, so, the question is, first, is that
8 a conclusion that you support? Is there evidence to
9 support Mr. Guariglia's conclusion? And, then,
10 secondarily, is it something that, if you do support, find
11 his evidence to be credible, is the potential that he
12 models of the worst case scenario, being 21 hours over the
13 course of a year at the most impacted site, something
14 that's an undue adverse impact on health and safety?
15 Dr. Boisvert.

16 MR. BOISVERT: It could only be in the
17 morning, because the Sun casts the shadow in the opposite
18 direction in the afternoon.

19 CHAIRMAN IGNATIUS: At her particular
20 location?

21 MR. BOISVERT: Correct. If she is
22 facing east, she will only get it at sunrise. At sunset,
23 the Sun is casting the shadow in the opposite direction.
24 So, there would be no shadow-flicker resting on her. One

[DELIBERATIONS]

1 can get the shadow-flicker from a given turbine only at
2 the morning or the evening, you can't get it both.

3 MS. BAILEY: Unless she has a southern
4 exposure, perhaps?

5 MR. BOISVERT: No. The Sun is aiming
6 the shadow the wrong way. At sunset, the Sun is behind
7 her, hitting the turbine and going away. There's no
8 shadow cast back. It can only happen, for any given
9 place, either in the morning or in the evening. Because
10 the Sun, you have to line up the Sun, through the turbine,
11 to the residence. And, that can only happen in the
12 morning or in the evening.

13 CHAIRMAN IGNATIUS: So, for some people,
14 it could be a morning problem, for some it could be an
15 evening problem?

16 MR. BOISVERT: Right. It can only be
17 once a day.

18 MR. DUPEE: That's right.

19 CHAIRMAN IGNATIUS: So, I guess the
20 first question, are people -- do you have any reason to
21 accept or not accept the modeling that Mr. Guariglia did
22 on this issue? Anyone who takes issue with it?

23 (No verbal response)

24 CHAIRMAN IGNATIUS: It doesn't appear

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1 that there is anyone. And, so, then, the next question
2 would be, his conclusion that it's a minimal impact, and
3 that there may be very little observed, and even if it is,
4 it would be, at the worst location, would be 21 hours over
5 the course of a year, at Ms. Longgood's location.

6 Assuming that worst case scenario were to occur, does that
7 constitute an undue adverse impact on health and safety?

8 MS. BAILEY: To be honest, the reason
9 I'm concerned about this is because of his conclusion that
10 "she's not going to see the turbines." That the visual
11 impact analysis says it's not visible.

12 CHAIRMAN IGNATIUS: And, I'm not
13 following the --

14 MS. BAILEY: Well, so, if his visual
15 impact analysis says it's not going to be visible, and to
16 me that seems questionable, then is the "21 hour" modeling
17 also questionable? And, there's no evidence to say one
18 way or another. It's just a concern I have, because her
19 testimony seems to indicate that she's going to directly
20 see it.

21 CHAIRMAN IGNATIUS: Is your concern
22 that, if the turbine is not observable from her location,
23 then you couldn't have flicker that's observable at your
24 location, so how could he conclude both that "there won't

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1 be, but, if there is, it's only going to be 21 hours"?

2 Or, is it something different from that?

3 MS. BAILEY: No, not exactly. Because I
4 think that the shadow-flicker analysis just looks at how
5 far the flicker is going to go, whether there's a mountain
6 in the way or not, I guess. And, then, the visual impact
7 analysis determines where the turbines can be seen. So,
8 if the turbines can be seen from Ms. Longgood's house, the
9 shadow-flicker analysis would suggest she'll get 21 hours.
10 If she can't see it, she won't get anything.

11 And, so, his conclusion from the visual
12 impact analysis, that it's not, you know, that "they can't
13 be seen from her house", is really troubling to me, based
14 on the testimony that we heard. And, so, it puts into
15 question the other analysis in my mind. But I don't have
16 any evidence to say that? Well, maybe the visual impact
17 analysis isn't really sound, but the shadow-flicker is."

18 CHAIRMAN IGNATIUS: Mr. Simpkins.

19 DIR. SIMPKINS: Yes, this is just a
20 thought. And, I haven't thought much about this, so that
21 could be dangerous. But, in looking at the map, Appendix
22 13B, the shadow-flicker map with all the individual
23 turbines, and looking at Ms. Longgood's property, which it
24 appears to be number "80" on the map, off of Salmon Brook

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1 Road. It looks like there's one, maybe two turbines, that
2 would actually be causing the flicker. They look like it
3 would either be Turbine Number 5 or 6. What I'm wondering
4 is, these, since there is a little question about what
5 will be the impact, they're saying it's only 21 hours a
6 year, but these turbines are individually controlled.

7 Would there be some situation where, if she is
8 experiencing that, she could call someone, and they could
9 just shut down that turbine for the time? I mean, it's
10 only 21 hours a year, if their modeling is correct. So, I
11 can't imagine that's going to make much of a difference
12 with one turbine for capacity over the course of a year.

13 But, if it is an issue, because, from
14 what we've been told, they're monitored 24/7, I believe,
15 out of Chicago, plus there's people onsite. So, it seems,
16 for such a small amount of time, if it is an issue, they
17 may be able to just shut that turbine down for the hour or
18 whatever, however long, I guess it can't be much longer,
19 if it's only 21 hours over the course of a year. That's
20 just a thought.

21 CHAIRMAN IGNATIUS: So, it wouldn't be
22 to mandate any curtailment right now, but that, if it were
23 to prove to be a problem, that she identified as a
24 disturbance, that the Applicant would agree to curtail

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1 during those flicker minutes or hours to alleviate the
2 problem?

3 DIR. SIMPKINS: Yes, that's kind of what
4 I was thinking here.

5 MS. BAILEY: I'm worried about that a
6 little bit, because I think that, when it happens, it
7 happens for a fairly short period of time. So, by the
8 time it was annoying her, and she called, and they shut it
9 off, it would be over. And, it's not predictable.

10 DIR. SIMPKINS: That, actually, on Page
11 8, Mr. Iacopino just pointed this out to me, it actually
12 -- they specifically tell you, for Receptor 80, the
13 specific times of the day and the specific months of the
14 year when it will be -- when it will happen.

15 MS. BAILEY: But only when there's
16 enough sun?

17 DIR. SIMPKINS: Right. When the
18 conditions are --

19 MS. BAILEY: Only when all the
20 conditions are met. So, yes. It says "mid November to
21 middle of January, between 8:00 and 9:00 a.m. from Turbine
22 5; late February to early March, between 7:00 a.m. and
23 8:00 a.m., with a limited time between 8:00 and 9:00 a.m.,
24 and again at the beginning of the October to the middle of

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1 October, between 7:30 and 8:30 a.m. from Turbine 6; mid
2 April to the end of April and again mid August to the end
3 of August, between 7:00 a.m. and 8:00 a.m. from Turbine 7;
4 and end of April to mid May, between 6:00 a.m. and 7:00
5 a.m., and, again, from the end of July to mid August,
6 between 6:30 a.m. and 7:30 a.m. from Turbine 8."

7 So, I guess we could tell them to shut
8 it off then. But that's a big curtailment, and especially
9 if the conditions don't create that.

10 DIR. SIMPKINS: Well, that's why I was
11 -- yes, if it's cloudy or foggy, there's no need to shut
12 it down. So, that's why I was thinking kind of it would
13 only be during those times where it's actually creating an
14 issue.

15 MS. BAILEY: Does Ms. Longgood have
16 recourse to come back to the Committee, if this is really
17 troubling? I mean, you know, the testimony is "at worse,
18 it's going to be 21 hours a year." Maybe we could see if
19 it really -- I guess I'm thinking, is there a way to see
20 what happens? Since 21 is less than 30, and 30 is the
21 only testimony that we have about that's where the health
22 impact is created. So, sort of wait and see what happens,
23 and then let her bring it back or is that not something
24 that we do?

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1 CHAIRMAN IGNATIUS: Well, we can
2 structure something that has it come back to us or has it
3 come back to some other entity. You know, for example,
4 yesterday, we talked about giving Fish & Game ultimate
5 decision-making over a certain plan. Sometimes we have
6 things that go back, that we just talked about, the
7 location of the post-construction sound testing being
8 worked out with the Town. You could create -- you could
9 designate someone to receive any complaints and try to
10 resolve them. Say that it be, you know, that the
11 Applicant agree to, you know, a curtailment, after
12 consultation with, you know, with X, with someone within
13 the Division of Health and Human Services from the state,
14 similar to the Fish & Game theory, or within the Town or
15 within the Town -- I don't know if they have a health
16 officer or not. And, I think we can create the mechanism
17 we want. I think it's the most difficult to assume that
18 we have to reconstitute as a group to receive anything.
19 This is a very cumbersome process, and it won't
20 necessarily be the same people, because other people won't
21 be available or will be doing different things at that
22 point. So, you don't want to assume that it's the nine of
23 us again, but it could be a newly constituted Subcommittee
24 or it could be the Site Evaluation Committee as a whole,

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1 as we have with some issues in another project scheduled
2 for a couple of weeks from now on some compliance issues.

3 My preference is that it not be to come
4 back to us necessarily. I think there's, whenever any of
5 these sorts of projects are underway, there's going to be
6 issues to work out over time. And, the more the
7 relationship is between the operator and the community,
8 the better. And, the role of the SEC would be to step in,
9 if necessary, but not as the first line of recourse.

10 I think the data that at worst you would
11 have these periods of time from various turbines over a
12 matter of minutes, and possibly an hour, for most of the
13 months of the year, except for June and July, it looks,
14 when the conditions are sunny enough, and the winds are
15 there to be causing the turbines to be spinning, could be
16 dealt with as was suggested. That an understanding that,
17 if that is happening and proven to be difficult for Ms.
18 Longgood, or people in her home, that there could be a
19 plan on how to curtail during those periods.

20 That's all assuming that 21 hours of
21 flicker is something that we consider a health issue.
22 And, I don't think we've really reached that yet. We've
23 talked about it being a fact that could happen, according
24 to the testimony of Mr. Guariglia. But we haven't talked

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1 about whether, if it does happened as scheduled, we talked
2 about a way you could alleviate it, but we still sort of
3 have not accepted the notion that that is a health --
4 causes a health problem.

5 MS. BAILEY: The other thing that we --
6 that's a possibility is that the visual impact analysis is
7 correct, and that the trees in front of her house are
8 going to block it somehow, you know, the 40-foot
9 vegetation that they assumed in the visual impact
10 analysis. So, I kind of think there's a couple of things.
11 We should wait and see. And, also, I know that this is an
12 inconvenience, but, in the morning, she could close the
13 blinds or the shades. And, you know, maybe the Applicant
14 should have to pay to get nice shades, I don't know. But
15 I think she said she didn't want to do that. But, I mean,
16 it's -- it's 8:00 to 9:00, 7:00 to 8:00 in the morning.

17 CHAIRMAN IGNATIUS: Dr. Boisvert, yes.

18 MR. BOISVERT: As I look at this chart,
19 it seems to me that this is one of the things that is
20 eminently predictable as to if it could possibly occur.
21 Because the Sun needs to be in a very specific place to be
22 in line with the blades of the turbine to her house. And,
23 it can be modeled, it can be predicted very well, in terms
24 of a straight line. The question of vegetation is just

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1 that, a question. There might be some in there.

2 But, as I look at this chart, and I
3 can't see the page number on here, Page 8, roughly
4 speaking, there would be the opportunity for some
5 shadow-flicker for slightly less than half of the year.
6 That shadow-flicker, if you look at the vertical bar,
7 indicates that the time for the Sun to pass behind the
8 turbines looks to me about 20 minutes, maybe half an hour
9 on the outside. So, that is the potential extent. Then,
10 there's the issue of cloudy days. So, I think the 21 hour
11 estimate, if it's calculated accurately, and I think it --
12 and it should be, it looks eminently calculable, would be
13 the maximum amount of the year.

14 I would believe that it will be a
15 portion under that, because we have the clouds and the
16 fog, *etcetera*. And, that drops it well below the 21
17 hours.

18 Is this an unreasonable health effect?
19 If we use the WHO standards as a guideline for sound,
20 then, I think we can reasonably use those, the same
21 organization standards for the flicker, and this comes in
22 under their standard. So, I would have to stand behind
23 the proposition that there's no unreasonable adverse
24 effect here.

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1 That said, there could be some
2 mitigative efforts. Not running the turbines for certain
3 periods of time would be one of them. Putting up blinds
4 would be another. I think that would then become an issue
5 between whoever complains and the Applicant. And, I don't
6 know if we should leave a door open from our deliberations
7 for that. But, if we can't, then I would have to stand
8 behind the notion that there's no unreasonable adverse
9 effect, because of the limited time.

10 MS. BAILEY: Can I ask a question?

11 CHAIRMAN IGNATIUS: Yes.

12 MS. BAILEY: Can you show me where the
13 -- did you check the WHO guidelines?

14 MR. BOISVERT: No, I did not.

15 MS. BAILEY: But is there someplace in
16 the record that says that's where that 30 hours comes
17 from?

18 MR. BOISVERT: I recall it from our
19 discussion earlier this morning, there were some
20 guidelines. And, I thought it was 40 hours.

21 MS. BAILEY: The testimony was "30
22 hours".

23 MR. BOISVERT: Thirty hours.

24 MS. BAILEY: And, I don't know where it

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1 came from.

2 MR. BOISVERT: Okay. I don't.

3 MS. BAILEY: Okay.

4 CHAIRMAN IGNATIUS: Ms. Bailey, do you
5 remember the --

6 MS. BAILEY: Maybe Mr. Green knows.

7 CHAIRMAN IGNATIUS: -- the location of
8 the "30 hour" limit?

9 MS. BAILEY: It was in Mr. Guariglia's
10 testimony.

11 CHAIRMAN IGNATIUS: Mr. Green.

12 MR. GREEN: I was just going to mention
13 that, in the Applicant's post hearing brief they referred
14 to that "30 hours of flicker per year as an allowable
15 threshold", and it based on -- it was based on many
16 countries, European countries. And, then, they give an
17 example AWE 3, Appendix 13B. So, I think it was in that.

18 And, then, if I may, I do have a little
19 bit of a question. If there were a picture of
20 Mrs. Longgood's homesite? Because it would be helpful to
21 know whether or not she's surrounded by trees, and to what
22 degree those trees would block the view of the turbines.
23 Because, when they did the model, it says here that they
24 "conservatively assumed that every receptor had windows",

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1 and that "the area lacks screening and vegetation and
2 structures." And, then, it says: "More importantly, if
3 the turbines are actually screened by trees or other
4 structure, then shadows should not occur or should occur
5 less frequently where turbines are substantially screened
6 by the vegetation."

7 So, I guess my question is, how
8 substantial is that vegetation around the area of Ms.
9 Longgood's house? And, is it enough to block the concern
10 of that shadow-flicker occurring?

11 MS. BAILEY: And, I don't know. You
12 know, I looked for her testimony on that point, and that's
13 what I read.

14 MR. GREEN: Yes.

15 CHAIRMAN IGNATIUS: On the question of
16 whether the sort of maximum worst-case scenario of 21
17 hours over the course of the year, whether that
18 constitutes an adverse health effect, I can't conclude
19 that it does. It's likely to be less than that. But,
20 even if it, just because of days of cloud or days of no
21 wind, but, even if it were that, the only evidence we have
22 in the record of possible health impacts is "30 hours".
23 And, this is well below that. I can't conclude, with that
24 finding, that it constitutes an adverse health effect.

[DELIBERATIONS]

1 If there were an agreement to offer
2 shading, you know, interior blinds of some sort, at the
3 expense of the Applicant, I certainly wouldn't oppose
4 that. I don't think that was something Ms. Longgood said
5 she was interested in, but that seems to be a reasonable
6 accommodation. I wouldn't call it a "mitigation", because
7 I don't think there's a problem to be mitigated of a
8 health perspective, but an annoyance, certainly. And, so,
9 an accommodation of that, I think, is fair.

10 To state that the turbines have to be
11 curtailed during all of the times that there's a potential
12 according to the mapping, I think is too extreme. And, to
13 -- I think, if there ended up being a complaint from Ms.
14 Longgood or anyone else, that the flicker is causing real
15 distress, then we would, in my view, we would have to take
16 a complaint, evaluate whether curtailment is appropriate.
17 But I wouldn't assume that and wouldn't write that in as
18 an automatic change in operations, because of a potential
19 that, to me, is fairly limited and somewhat remote in its
20 likelihood of being a real problem.

21 Others' views on this? I realize that
22 you may have a very different conclusion than I do, and
23 I'm not trying to steer you to my point of view. I'm just
24 sort of going around saying how we feel. Ms. Bailey.

[DELIBERATIONS]

1 MS. BAILEY: Just so the record or our
2 record is clear. Exhibit 13B is the Saratoga Associates'
3 shadow-flicker analysis, and the "30 hours" is in the
4 summary. So, this is the evidence that we have.
5 "However" -- on the standard of health impacts. "However,
6 many European countries have identified 30 hours of
7 shadow-flicker as an allowable threshold; anything above
8 this would be considered a nuisance and require
9 mitigation. Absent rule or state guidance, 30 hours per
10 year has been used as a threshold in which mitigation
11 measures may be considered in potentially reducing the
12 amount of shadow hours on a particular receptor. This
13 threshold has been used in many municipalities across the
14 United States."

15 Do you know, Mr. Iacopino, if the
16 threshold has been established in any other record of this
17 Committee? Has shadow-flicker ever been a concern?

18 MR. IACOPINO: Shadow-flicker has been
19 dealt with in every -- I believe in every case that the
20 Committee has handled with respect to wind turbines. I
21 think the measurements -- my recollection is that the
22 amounts of time that various receptors were going to be
23 subject to shadow-flicker in all of our prior cases was
24 very minimal, and that that was the finding that was made,

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1 and no conditions were imposed.

2 I can't tell you if there was evidence
3 in those prior records about what the standard should be,
4 because I just don't remember.

5 MS. BAILEY: Okay. So, I think there
6 isn't a great standard or a well-established standard.
7 But I agree with Ms. Ignatius, Chairman Ignatius, that
8 there's nothing in the record that says this standard
9 isn't reasonable, the "30 hours".

10 CHAIRMAN IGNATIUS: Other comments,
11 where you come out on this question?

12 (No verbal response)

13 CHAIRMAN IGNATIUS: All right. Well, I
14 don't know what to take silence to mean. So, let me ask
15 it more pointedly.

16 MR. IACOPINO: Mr. Stewart wants to
17 speak.

18 CHAIRMAN IGNATIUS: Mr. Stewart is going
19 to bring us clarity.

20 DIR. STEWART: I am not. Again, I was
21 digging around trying to find the European, and, what I
22 found, actually, was a New Hampshire Office of Energy and
23 Planning, a Powerpoint --

24 CHAIRMAN IGNATIUS: I'm a little

[DELIBERATIONS]

1 concerned about --

2 DIR. STEWART: Okay. I'm sorry.

3 CHAIRMAN IGNATIUS: -- doing our own
4 research right now. Things that have been referenced in
5 testimony and --

6 DIR. STEWART: Yes. I was trying to
7 find what the European citation was. I'll stop.

8 CHAIRMAN IGNATIUS: I appreciate it. I
9 mean, I think it's -- we're trying to make the best of
10 what we have, and, you know, in retrospect, we all wished
11 we had asked more questions when people were on the stand.
12 We've got references to "European standards", it's pretty
13 broad. It's a little hard to track down what that means.
14 But I think we do have to be careful with any development
15 of new facts at this stage of the game. So, --

16 DIR. STEWART: Okay.

17 CHAIRMAN IGNATIUS: Let me ask you more
18 directly. Are people of the view that, if the 21 hours
19 per year were to occur, that that would constitute an
20 adverse health impact? Show of hands?

21 (No indication given.)

22 CHAIRMAN IGNATIUS: Okay. There's no
23 one raising their hands. Are people satisfied with using
24 the 30 hour per year shadow-flicker standard as acceptable

[DELIBERATIONS]

1 in this case? Does any -- a show of hands? Yes?

2 MS. LYONS: Yes.

3 CHAIRMAN IGNATIUS: I think we --

4 Ms. Bailey?

5 MS. BAILEY: I don't think there's
6 enough evidence to conclude that that's a good standard.
7 But I also don't think there's enough evidence to conclude
8 that there's going to be a health impact. So, I would
9 rather leave it like that.

10 CHAIRMAN IGNATIUS: Okay. And, if we
11 are not concluding that 21 hours constitutes -- the
12 potential of 21 hours of the worst possible scenario
13 constitutes an adverse health effect, do we nevertheless
14 want to set any conditions related to any kind of
15 accommodation of that flicker? And, if so, what might a
16 condition be? Or, remain silent on the issue of flicker?
17 Ms. Lyons.

18 MS. LYONS: I'd like to remain silent on
19 it. I don't think that -- I don't know that there's
20 enough evidence that it is a health hazard and that it
21 requires mitigation.

22 CHAIRMAN IGNATIUS: All right. Others?
23 Mr. Robinson?

24 MR. ROBINSON: I would completely agree

[DELIBERATIONS]

1 with that. Yes. I completely agree with Ms. Lyons on
2 that.

3 CHAIRMAN IGNATIUS: Others?

4 MS. BAILEY: I guess, while I'm
5 sympathetic to Ms. Longgood, the impact that this Project
6 may have on Ms. Longgood's house, the law doesn't, if
7 we're making a finding that this not going to have a
8 health impact, then the law doesn't really allow us to, I
9 don't think, to create a condition, when there isn't a
10 health impact, to do anything about it. You know, the law
11 doesn't say "if it's a pain-in-the-neck, you have the
12 right to do something." Is that correct, Mr. Iacopino?

13 MR. IACOPINO: No. You could condition,
14 you could issue a condition, similar to the one that was
15 issued in Groton Wind, with respect to the campsite -- the
16 campground. You do have the authority under RSA 162-H:4,
17 I believe it is, to condition the Certificate. And, I
18 believe that you could, if you wanted to condition
19 something with respect to Ms. Longgood's house, if the
20 Committee were to be of that mind, you could do that.
21 It's up to you all whether that's something that you wish
22 to do for one particular residence in the overall region.

23 CHAIRMAN IGNATIUS: What's your
24 preference?

[DELIBERATIONS]

1 MS. BAILEY: Can we put that one on
2 hold?

3 CHAIRMAN IGNATIUS: Okay.

4 MS. BAILEY: Come back to it?

5 MS. LYONS: I still stand on my previous
6 statements.

7 CHAIRMAN IGNATIUS: Dr. Boisvert.

8 MR. BOISVERT: I, too, will stand on my
9 previous statement. If there were many, many people in
10 line, and the amount of time was greater, then I could
11 conceive of a situation where there would be an adverse
12 health effect. The limited time, the limited number of
13 people, even in the calculation of a most extreme case, I
14 don't see rises to the level of an adverse health effect.

15 And, that's not to say there might not
16 be another wind farm, another situation, where it wouldn't
17 rise to that level. But I struggle to come up with a
18 scenario where it would for Antrim Wind. So, I don't see
19 that we -- there is a need to condition the permit on this
20 topic.

21 CHAIRMAN IGNATIUS: All right. It
22 sounds like everyone is in agreement that it is not
23 something that we're finding is an adverse health impact.
24 And, the only question is, it may be something of an

[DELIBERATIONS]

1 annoyance, and should there be any offer of an
2 accommodation on that front, that maybe we set aside to
3 come back to, is that right?

4 All right. Then, what's our next topic?

5 MR. PATNAUDE: A break?

6 CHAIRMAN IGNATIUS: Oh. Yes. Our next
7 topic is to give the court reporter a break. It's five
8 minutes of 11:00 right now. So, why don't we break, and
9 resume at 11:10, ten minutes after 11:00. Thank you.

10 (Recess taken at 10:57 a.m. and the
11 deliberations resumed at 11:17 a.m.)

12 CHAIRMAN IGNATIUS: All right. Thank
13 you. We're back on the record. The next, we're still in
14 the category of "health and safety", and finished with the
15 shadow-flicker discussions, but for the question of coming
16 back a little bit later, think a little bit more about
17 whether we want any sort of accommodation condition
18 imposed. The next topic, Ms. Bailey, is which?

19 MS. BAILEY: "Other safety issues", and
20 I don't believe these are contentious.

21 The Applicant provided information that
22 the Project would not pose an unreasonable risk to public
23 health and safety as a result of ice-shedding, tower
24 collapse, blade throw, hazardous waste, or stray voltage

[DELIBERATIONS]

1 from electrical storms, fire, and aviation safety. And,
2 these items are explained in AWE-1 and have not been
3 disputed. Some of the items are also covered by permits
4 from State agencies.

5 The Applicant says "Potential risk to
6 the public from ice throw is minimal. The turbine will
7 automatically shut down from imbalance caused by icing.
8 Additionally, the access road will be secured with a
9 locked gate, and warning signs will be placed within 500
10 feet from the base of each tower.

11 As to blade throw and tower collapse,
12 the Applicant states "this problem has all but been
13 eliminated in new, safer turbine models." And, that "no
14 steel tower associated with the Acciona 116 or its
15 predecessor has collapsed or thrown a blade."

16 As to lightning strikes, each tower is
17 equipped to appropriately ground a lightning strike, so
18 this will have no impact on the public, according to the
19 Applicant. As the turbines will be significantly bonded
20 to the grounding system, stray voltage will also not be an
21 issue.

22 As far as hazardous materials, if oil
23 and lubricants leak inside the nacelle, they will be
24 contained in a 50-gallon drum and disposed of properly.

[DELIBERATIONS]

1 Other hazardous materials on the Project site will include
2 fluids, oils, fuel, *etcetera*, associated with maintenance
3 vehicles, on-site storage of portable fuel cans for
4 maintenance vehicles, oily rags and other waste associated
5 with turbine lubrication and maintenance, and oils
6 associated with the substation components for the
7 transformers.

8 Propane or heating oil may be associated
9 with operations and maintenance building, depending on
10 final design plans for heating of the structure. Finally,
11 the substation will include a backup generator that will
12 require liquid fuel. But the specific fuel type will
13 depend on the final design, but it's expected to be
14 propane.

15 In order to manage hazardous substances
16 in accordance with federal regulations, AWE will prepare
17 an Operations Spill Prevention, Control and Countermeasure
18 Plan prior to the commencement of commercial operation.
19 The plan will describe the procedures, methods, and
20 equipment that will be used at the facility to comply with
21 the U.S. Environmental Protection Agency's Oil Spill
22 Prevention, Control and Countermeasure Standards.
23 Likewise, the plan will comply with federal inspection
24 reporting, training, and recordkeeping requirements.

[DELIBERATIONS]

1 Since there was no controversy over
2 these, I think that we can find that there is no adverse
3 impact on public safety as a result of these. And, then,
4 Mr. Simpkins is going to cover fire and aviation safety.

5 CHAIRMAN IGNATIUS: Okay. Before we go
6 to those other issues then, Mr. Simpkins, let's talk a
7 little bit about the miscellaneous issues that Ms. Bailey
8 just ran through. Does anyone have any factual issues or
9 questions that you have in your mind as you heard that
10 recitation of those issues, to kind of get out on the
11 table?

12 (No verbal response)

13 CHAIRMAN IGNATIUS: Do we know, on the
14 hazardous materials, this may be part of the fire code and
15 fire suppression issues that Mr. Simpkins is going to talk
16 about, but do we know whether there are any municipal
17 concerns or needs, in terms of training or identification
18 of materials that are likely to be there, that have been
19 -- that the Applicant has made any commitments about?

20 (No verbal response)

21 CHAIRMAN IGNATIUS: I think -- I don't
22 remember if there was much discussion about that. I think
23 it's always important that there be a clear understanding
24 in a municipality of what it is that's on-site, so that

[DELIBERATIONS]

1 people are prepared to deal with it, if there is any
2 reason that a responder is on-site and knows what they're
3 confronting and how to deal with it. And, I don't recall
4 if the Town agreement already addresses that. There may
5 be provisions that are adequate. I mean, I think that's
6 kind of standard.

7 And, if it isn't already included, I
8 think we should think about a condition that just makes
9 some obligation on the part of the Applicant to identify
10 those materials with the municipality. But my guess is
11 that's already provided for somewhere.

12 MR. IACOPINO: Do you want me to address
13 it?

14 CHAIRMAN IGNATIUS: Please.

15 MR. IACOPINO: Just so that you all can
16 look into your record, the Exhibit AWE-4, it's Appendix
17 17A of the Application, and it contains the agreement
18 between the Town and the Applicant. With respect to what
19 the Chair was just discussing, Section 7 of that document
20 is entitled "Emergency Response". And, Section 7.2
21 requires the Town and the developer to cooperate "to
22 determine the need for the purchase of any equipment
23 required to provide an adequate response to an emergency
24 at the wind farm that would not otherwise need to be

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1 purchased by the Town. If agreed between the Town and the
2 Owner, the Owner shall purchase any specialized equipment
3 for storage at the Project Site. The Town and Owner shall
4 review together on an annual basis the requirements for
5 emergency response at the wind farm."

6 I didn't see anything directly
7 pertaining to training, but I will look further.

8 DIR. SIMPKINS: Ms. Chairman, I was
9 going to talk just a little bit about that in the fire
10 suppression. But, I mean, I can talk about it now, if
11 you'd rather, I'm not sure?

12 CHAIRMAN IGNATIUS: Sure. Why don't you
13 go ahead.

14 DIR. SIMPKINS: Okay. Well, I'll just
15 go through the fire quickly, and then I'll kind of finish
16 up with the Town agreement, the information I found.

17 The Applicant asserts that there is only
18 a very small chance of fire occurring with the turbines,
19 as they have few flammable components. They stated in
20 their final brief that emergency services have never had
21 to respond to an incident at any of the 633 Acciona
22 turbines located in North America. They further state
23 that a safety plan will be implemented at the Project, and
24 that it will be monitored 24/7 at Acciona's Remote

[DELIBERATIONS]

1 Operation Center.

2 In looking through the testimony, there
3 were kind of two issues that came up, not necessarily
4 "issues", but two things to mention regarding this topic.
5 There is an Exhibit Committee 1, that's the letter from
6 the State Fire Marshal. And, I did mention this on
7 Tuesday regarding permits. And, that's the Fire Marshal
8 requests the Committee to condition any certificate on a
9 compliance with the following codes: "International
10 Building Code, 2009 Edition; NFPA 1, Fire Code, 2009
11 Edition; NFPA 101, Life Safety Code, 2009 Edition; and
12 NFPA 850, Recommended Practice for Fire Protection for
13 Electric Generating Plants and High Voltage Direct Current
14 Converter Stations, 2010 Edition."

15 Additionally, the Fire Marshal requests
16 two other conditions. One is, allowing a review of final
17 plans and compliance inspections. And, the last one is
18 seeking a condition that would allow him to retain
19 independent third party review.

20 The other issue under this topic was
21 there was some discussion early on during testimony, I
22 believe this was Mr. Kenworthy's, about working with the
23 local fire department. In the Applicant's brief, they
24 state they "will engage with the Town of Antrim to develop

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1 an emergency response plan...and to assure that the Town
2 has any emergency equipment necessitated by the Project
3 that would not otherwise be required." And, we just kind
4 of went through that.

5 There was questioning on Day 1 of Mr.
6 Kenworthy by Ms. Manzelli regarding the emergency plan.
7 Mr. Kenworthy indicated the plan was not developed yet,
8 but would be after completion of the permitting process.
9 There was also additional testimony that all maintenance
10 staff will be trained and equipped with fire extinguishers
11 that are onsite. And, then, there was some discussion
12 back and forth about the difficulty getting a response
13 back or there was a -- and I believe the person's name was
14 "Soininen", or I forget the exact employee's name, but he
15 was the one that was trying to work with the Antrim Fire
16 Chief, but apparently they were having a hard time
17 connecting. So, it was stated that the State Fire Marshal
18 offered to coordinate those efforts going forward, as far
19 as developing that plan.

20 So, that was going to be a
21 recommendation, is to adopt the conditions that the Fire
22 Marshal has put forward, but also that they work on that
23 emergency response plan with the Town. And, in it, they
24 do mention "equipment", but I do think it would be

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1 worthwhile to put in "training", because it's certainly a
2 different type of structure than they're probably used to
3 working with. And, there's probably specific techniques
4 and things like that that they should be aware of, and
5 preplanning is always a good thing to do. So, that's it
6 for fire.

7 CHAIRMAN IGNATIUS: All right. Thank
8 you. Any other comments people had on any of this list of
9 issues?

10 DIR. SIMPKINS: I still have aviation
11 safety, if you would like me to --

12 CHAIRMAN IGNATIUS: Right. Let's hold
13 off on that for a second, because it really deals with a
14 federal agency, finish up these first.

15 Are there any other concerns people have
16 on these?

17 (No verbal response)

18 CHAIRMAN IGNATIUS: Seeing none, are
19 people -- is there anything on that list that causes
20 anyone to find an adverse risk to public health and
21 safety?

22 (No verbal response)

23 CHAIRMAN IGNATIUS: I'm assuming not,
24 because I see nothing. All right. There's no hands

[DELIBERATIONS]

1 raised on that one. And, any requirements you see for
2 conditions, beyond what Mr. Simpkins just suggested? He
3 suggested that there be some conditions of the Fire
4 Marshal to be adopted that -- I've lost track already --
5 help on the emergency response development, but I lost
6 track of what that was.

7 DIR. SIMPKINS: Well, the agreement
8 between the Town and the Applicant spells most of it out.
9 But, as you mentioned previously, I think it would be a
10 good idea to mention "training" specifically. They do
11 mention "equipment", but not "training", and probably
12 "preplanning" also. So, if there is an incident, everyone
13 knows what they're doing and what their role is and whose
14 responsibility is whose.

15 CHAIRMAN IGNATIUS: All right. Other
16 than adding in some training and sort of preplanning
17 requirement, you didn't see a need for our involvement in
18 the development of the emergency response agreement?

19 DIR. SIMPKINS: No. I believe, between
20 the Fire Marshal, the Town, and the Applicant, it would be
21 best if they worked together on that.

22 CHAIRMAN IGNATIUS: Okay. And, that's
23 already in place, we don't need a condition that says that
24 they're to work that out?

[DELIBERATIONS]

1 DIR. SIMPKINS: Well, it's in the
2 agreement between the Applicant and the Town. So, I would
3 assume that's in force.

4 CHAIRMAN IGNATIUS: Good. Okay. So, it
5 would really be to specify that, to the extent it's not
6 already contemplated, that there be some training and some
7 preplanning discussions about potential safety concerns
8 that could occur at the site?

9 DIR. SIMPKINS: Correct.

10 CHAIRMAN IGNATIUS: Is everyone
11 supportive of that?

12 MS. BAILEY: Yes.

13 CHAIRMAN IGNATIUS: I see nods. Anyone
14 who finds any reason not to put that sort of a condition
15 on?

16 (No indication given.)

17 CHAIRMAN IGNATIUS: Seeing none. Then,
18 let's ask Mr. Iacopino to develop a condition that would
19 say that "the Applicant is responsible for offering of
20 some training and coordinating some preplanning with local
21 officials", responders, whoever they may be, between
22 local, regional, I don't know who does what, but for
23 response to any sort of problem that could occur onsite.
24 And that, further, if there are conditions imposed by the

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1 Fire Marshal, that those be enforced as well as part of
2 the Certificate. Is that agreeable to everyone?

3 MS. BAILEY: So, emergency response?

4 CHAIRMAN IGNATIUS: Yes. All right.

5 Thank you. Then, the aviation safety issues.

6 DIR. SIMPKINS: Sure. And, this one was
7 also -- we discussed this in the two previous topics.
8 But, just briefly, the Federal Aviation Administration is
9 responsible for making a determination of "no hazard to
10 air navigation." The letter was received by the FAA on
11 November 8, 2011, that's Exhibit AWE 2, Appendix 2E,
12 indicating that the structures do not pose a substantial
13 adverse effect on navigable airspace and no hazard exists,
14 and each turbine was evaluated separately. A condition of
15 the letters was to mark the structures, all had a
16 condition of being painted white, and most had a condition
17 of having a synchronized red flashing light on top. So,
18 that was from the FAA.

19 Separately, in Exhibit AMC-5, AMC and
20 the Applicant came to an agreement to use radar-activated
21 lighting, when that technology became legal to use by FAA
22 standards, to reduce nighttime light intrusion. And,
23 Antrim Wind Energy has made a commitment to use the
24 radar-activated lights, once they become permissible.

[DELIBERATIONS]

1 CHAIRMAN IGNATIUS: Anybody have
2 questions or other comments on that issue that you want to
3 bring out?

4 (No verbal response)

5 CHAIRMAN IGNATIUS: Do we have any
6 projections on when the FAA action might come in?

7 DIR. SIMPKINS: I did not see any. I
8 believe it was Dr. Kimball, from the AMC, we talked about
9 that. He, I forget his exact comment, but he kind of made
10 it seem like it probably will be a while. But there was
11 no -- I didn't find any specific timeline.

12 CHAIRMAN IGNATIUS: And, if the Project
13 were to become operational before that lighting system is
14 approved, what would the Applicant do for lighting?

15 DIR. SIMPKINS: They would have to use
16 the current FAA standard, which would be the synchronized
17 red flashing lights.

18 CHAIRMAN IGNATIUS: And, then, after
19 that's installed, if the FAA does approve the other
20 approach, they would then still be obligated to install
21 the newer version?

22 DIR. SIMPKINS: That's my understanding
23 of the agreement.

24 CHAIRMAN IGNATIUS: All right. And, all

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1 of those terms that you described, those are already in
2 the agreement, the written agreement between the Applicant
3 and the AMC, is that right?

4 DIR. SIMPKINS: I believe so. But I
5 will -- I just want to go back and verify that.

6 CHAIRMAN IGNATIUS: The reason I ask is,
7 do we need any particular condition or is that already a
8 commitment in the record?

9 DIR. SIMPKINS: This is AMC-5 I'm
10 reviewing. So, if you'd like, I can read what this
11 agreement says, regarding the radar-activated lights?

12 CHAIRMAN IGNATIUS: Sure.

13 DIR. SIMPKINS: It says: "AWE hereby
14 agrees that it shall seek, as part of its Application
15 filed with the SEC, approval from the SEC of facilities
16 needed to install a radar-activated lighting control
17 system, such as the Harrier Radar System designed by
18 DeTect. Furthermore, AWE agrees that, depending on the
19 status of the issuance of the revised FAA Advisory
20 Circular detailing the requirements of the radar system,
21 it shall take the following steps: If the FAA has issued
22 the Advisory Circular 60 days or more before the
23 commencement of construction of the Project that allows
24 for the radar system to be operated, then AWE shall

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1 install and operate the radar system simultaneously with
2 the commissioning of the Project. If the FAA has not
3 issued the Advisory Circular at least 60 days before
4 commencement of construction, but issues the Advisory
5 Circular at any time during the commercial operation of
6 the Project, then AWE shall be required to implement and
7 operate the radar system within one year of the issuance.
8 At its sole option, as an alternative to (b) above, AWE
9 may install the radar system simultaneously with the
10 remainder of the construction of the facilities in the
11 Project. In this scenario, in the event that the Advisory
12 Circular is issued later than 60 days prior to the
13 commencement of construction, then AWE will commence with
14 operation of the radar system as soon as commercially
15 reasonable but no longer than one year of the issuance of
16 the Advisory Circular."

17 CHAIRMAN IGNATIUS: All right. So that,
18 I appreciate that. That means that all of the terms we
19 were talking about are written out in the agreement. And,
20 the only question for us is, do we accept the agreement
21 and make it a condition of a certificate, that that
22 agreement's terms apply?

23 DIR. SIMPKINS: And, I would just make
24 -- though, the Exhibit AMC-5 is signed by the Applicant.

[DELIBERATIONS]

1 The copy we have, there is no signature by the AMC.

2 So, --

3 CHAIRMAN IGNATIUS: Although, did we
4 receive ultimately a signed version? I think we were
5 asked about that in the hearings, that the version in our
6 file did not, we should be certain that that was actually
7 received. I'm drawing a blank on whether we ever actually
8 got that in the record.

9 MR. IACOPINO: Mr. Kimball, in his
10 testimony, at least said he signed it. So, I'd have to
11 look for the document. We'll make sure we get it. On
12 Page 181 of Mr. Kimball's testimony, the question is -- or
13 the question is posed to him about "the agreement that you
14 had signed", and he acknowledges that.

15 CHAIRMAN IGNATIUS: So, it sounds like,
16 really, just as a matter of compliance, we should get a
17 copy of the signature page in the record, if we don't
18 already have it. But I certainly remember the same thing,
19 that it was a commitment, and it may just be a question of
20 the papers catching up with the commitment.

21 So, is the Committee prepared to accept
22 the agreement between AMC and the Applicant and make it a
23 condition of the Certificate that it be fully enforced?
24 Mr. Green.

[DELIBERATIONS]

1 MR. GREEN: I'm not sure if I'm reading
2 this right or not, but I just want to make sure I'm
3 understanding before we start to take a vote on this. The
4 post hearing brief from the Appalachian Mountain Club,
5 dated January 14th, 2013, the second to last paragraph
6 says "The AMC acknowledges that the RAL technology does
7 not address daytime visual or impacts of concern brought
8 forth by other parties in this proceeding. The terms of
9 the agreement between AMC and AWE in no way implies that
10 the AMC supports this Project or other issues raised by
11 other intervenors are without merit or in any way resolved
12 by this agreement. AMC believes that this agreement
13 appropriately establishes that the State of New
14 Hampshire's SEC should require best available technologies
15 to reduce serious Project impacts, like nighttime light
16 pollution, as a certification requirement, should it
17 decide to certify this or other projects in the future."

18 So, my question is, are we voting to
19 have as a condition for the certification or are we just
20 going to accept their agreement? That's my question.

21 CHAIRMAN IGNATIUS: I guess I was
22 assuming it was one in the same. By accepting the
23 agreement, it was a commitment that it be done in this
24 case. And, the only question is timing, you know,

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1 awaiting FAA approval.

2 But, if it's not clear, my thought is
3 that, yes, it be required, that be the lighting system in
4 place, preferably only installed once, and not have to go
5 back and rebuild, but that's out of our hands. Is that
6 acceptable to everyone?

7 (Non-verbal concurrence given)

8 CHAIRMAN IGNATIUS: All right. So, we
9 make as a condition that we accept the agreement with the
10 AMC and that the terms be enforceable as part of the
11 Certificate.

12 On the Town agreement that we've talked
13 about, it affects a number of issues. Similarly, we
14 haven't formally accepted that agreement and made it a
15 term of the certificate. But is there any reason that
16 anyone would not want to do that? Dr. Boisvert.

17 MR. BOISVERT: There are issues in the
18 decommissioning that are different in the Town agreement
19 from the Application. And, I believe they need to be
20 considered before we accept the Town agreement in toto.

21 CHAIRMAN IGNATIUS: Great point. Thank
22 you. I had forgotten that. So, then, that is, I think,
23 our next issue, unless we have anything left on public
24 health and safety. I think, just as a wrap-up, we ought

[DELIBERATIONS]

1 to make sure we're all in agreement on public health and
2 safety. Mr. Dupee.

3 MR. DUPEE: Thank you, madam Chair. I
4 just wanted to mention, before we move off the topic of
5 health and safety, I want to refer the Committee back to
6 AWE 1, particularly Table 1.3, and there it talks about
7 the reduction in air pollutants we expect to have result
8 of this proposal, if it was to go forward. In talking
9 about it in the Application, the Project would be
10 "expected to displace emissions of over 59,000 tons of
11 CO2, an additional 150 tons of sulfur dioxide, nitrogen
12 oxides, particulate matter and other toxins on average
13 each year." So, while we covered that briefly in the air
14 quality section, I wanted to point out that these
15 reductions --

16 (Court reporter interruption.)

17 MR. DUPEE: I'm sorry. We talked about
18 this under the general discussion on air quality, but I
19 wanted to revisit this and say that you also expect to see
20 public health benefits, in terms of reduction in asthma
21 exacerbations and heart attacks. And, it was brought up
22 by one of the intervenors that this is a small
23 contribution to the overall effect of reducing air
24 quality. But, nonetheless, it's a step in the right

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1 direction, and I think the Committee should take notice of
2 that.

3 CHAIRMAN IGNATIUS: Thank you. That's a
4 really good thing to remind us that we've been dealing
5 with the negatives as we work our way through the statute,
6 and to be mindful of the positives that are present as
7 well. And, clearly, the use of wind power brings some
8 definite positives, in terms of avoided emissions and
9 health benefits, by reduction in those pollutants. So,
10 thank you.

11 Just as a clarity, make sure there's no
12 one else with any other comments, that we are in agreement
13 that the public health and safety issues that we must find
14 under the statute, that we're concluding no adverse health
15 and safety impacts from the categories of health and
16 safety we've been talking about. We did work on
17 conditions to set standards we think are appropriate, and
18 have at least one issue we need to come back to on whether
19 there's any further conditioning we want to impose. But
20 we have concluded no adverse public health and safety
21 impacts as a result of the operation of the facility.

22 All right. Then, Dr. Boisvert, we're
23 going to go to the decommissioning issues. And, I just,
24 in terms of scheduling, this may not go that long, but we

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1 will need to take a break at 12:30, because of some other
2 work commitments. So, we'll just time that with our lunch
3 break, and it shouldn't throw off the afternoon, but
4 that's where we're heading right now.

5 MR. BOISVERT: Thank you. While
6 decommissioning is not explicitly required in RSA 162-H,
7 it's still a necessary component of the wind power
8 project. And, the need for it is sought by the Town, and
9 it is addressed in the Application and agreement between
10 the Applicant and the Town.

11 In the Application, Section F.6 covers
12 decommissioning. And, it states that, once there are no
13 -- that once that the wind farm is no longer operational,
14 it will be decommissioned. This applies to the individual
15 towers, as well as the whole farm. The Application sets a
16 timetable for notification to the Town, a recognition that
17 permits will be needed from the DOT. That's for using
18 overweight trucks to get the decommissioned pieces out.
19 And, then, discuss in some detail dismantling/removal of
20 the towers, salvage of the towers, steps to return the
21 landscape to its original contours by removal of the
22 foundations to 18 inches below grade, and burial onsite of
23 the concrete and other removal details. And, it goes in
24 -- slow down, right.

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1 In the decommissioning portion of the
2 Application, they get into how they're going to cut up the
3 steel, how they're going to bury the pulverized concrete
4 and so forth, I don't believe that that is necessary to go
5 through bit by bit here.

6 The important thing in the Application
7 is that the trigger to decommission the facility is
8 inactivity of one year. And, that is on Page 94 of the
9 Applicant's post hearing brief. Excuse me, I'm sorry,
10 wrong citation. That is in the Application, they say "one
11 year".

12 However, in the agreement with the Town
13 of Antrim, document signed March 8, 2012, it focuses on
14 the financial assurances, probably made in guarantees,
15 bondholder, letter of credit, and so forth. This is in
16 Section 14 of the Town agreement. But the agreement only
17 discusses that "foundations will be taken down to
18 18 inches below grade". The other steps mentioned in the
19 Application are not mentioned.

20 My question will become, will there need
21 to be specificity of these actions assured as a condition
22 of the permit? Future owners may not feel obligated to
23 adhere to what was in the Application. Also, the
24 agreement signed has a trigger of inactivity of two years,

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1 not one. And, this I think is a significant difference.
2 Section 15 of the agreement stipulates that future owners
3 and assigns would adhere to the agreement, and that is
4 quite appropriate.

5 The only parties to critique the
6 decommissioning were Edwards and Allen. They insisted on
7 assurances that the Town would not have to pay for any
8 decommissioning costs, to have the right of refusal over
9 bondholders, and that the Committee should double-check
10 the financial assurances. A lot of what they asked for
11 are nuances of what is already agreed and things that the
12 Committee is already doing.

13 That's it in a nutshell. So, the two
14 things that I see about decommissioning that we should
15 discuss is, should we assure all the various steps in the
16 decommissioning be iterated and as a condition of the
17 permit? They are not iterated in the Town agreement,
18 other than removing the concrete to 18 inches below grade.

19 I wouldn't be concerned so much, except
20 that the Application had a one-year time limit of -- one
21 year span of time before they would be obligated to
22 decommission, and, in the agreement, it says "two". And,
23 I do not recall any discussion in the hearing of that. I
24 discovered this as I was reading over the information

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1 prior to preparing this.

2 So, I would like to put this out to the
3 Committee and hear what you have to say. I also would
4 like to request from Mr. Iacopino, what was the length of
5 time of inactivity before decommissioning on the previous
6 wind farms that came before this Committee?

7 MR. IACOPINO: I'll get that for you.
8 But you guys should continue to deliberate while I find
9 it.

10 CHAIRMAN IGNATIUS: So, while he's
11 looking for that, when you said "the agreement says two
12 years", but the Application said "one", is that years of
13 inactivity to trigger decommissioning or a year before the
14 decommissioning actually commences?

15 MR. BOISVERT: A year of inactivity.
16 And, now, I'll need to pull up the Application here. It's
17 under Section F.6, if someone can get to it quicker than
18 I.

19 MS. BAILEY: I have it, Dr. Boisvert.
20 It says: "However, if the turbines are non-operational
21 for more than a year, and they are not upgraded or
22 replaced at that time, they will be decommissioned."
23 That's Section F.6 of AWE 1.

24 MR. BOISVERT: Correct. And, then, when

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1 you look at the agreement with the Town, if I can pull
2 that up quickly, it's under the Section 14.
3 Section 14.1.2: "The Owner shall, at its expense,
4 complete decommissioning of the wind farm or individual
5 wind turbines, pursuant to section above of this
6 agreement, within 24 months after the end of useful life
7 of the wind farm or individual wind turbines, as the case
8 may be." And, that's defined in Section 1.5, which is the
9 next section down.

10 CHAIRMAN IGNATIUS: That sounded like a
11 completion date that all the decommissioning work be done,
12 as opposed to the date that triggers the work to be done.
13 Maybe I got confused over which category you're talking
14 about.

15 MR. BOISVERT: Okay. I misread it then.
16 I meant -- okay, so, they have one year time after the
17 start of decommissioning to finance the decommissioning.
18 It was 24 hours -- 24, excuse me, 12 months or one year of
19 inactivity, then they have another 12 months to complete
20 the decommissioning.

21 CHAIRMAN IGNATIUS: That was in the
22 Application?

23 MR. BOISVERT: Yes. In the Application
24 I had it under Section F, in the Application, in Section

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1 F.6, covers decommissioning.

2 CHAIRMAN IGNATIUS: And, then, the
3 agreement has a 12 months inactivity to trigger, but 24
4 months to complete the work?

5 MR. BOISVERT: Let me reread this. I
6 may have -- okay. It says "to complete decommissioning".
7 I misread that initially. So, it does not state when
8 decommissioning will start, but it will say "it will be
9 completed within 24 months after the end of the useful
10 life." Okay. So, I misunderstood, and took the "24
11 months" to be, you know, the start of the decommissioning,
12 not the end of it. So, it isn't explicitly stated in the
13 Town agreement. But, if it's in the Application, then
14 that should be adequate.

15 The other aspect was, they did not go
16 into detail in the agreement the various steps to be
17 taken, in terms of how they're going to take down the
18 towers, how they're going to pulverize the concrete, how
19 deep they're going to bury the concrete, cut up the steel,
20 recycle the steel, things of that sort. They're not
21 mentioned in the agreement with the Town. And, I guess it
22 would be a question, does it need to be made a condition
23 or is the statement in the Application sufficient?

24 CHAIRMAN IGNATIUS: Ms. Bailey.

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1 MS. BAILEY: Dr. Boisvert, maybe you can
2 tell me where in the Town agreement you were reading from,
3 because I agree it's a little confusing. The first
4 paragraph in Section 14.2 of AWE Exhibit 4, Appendix 17A,
5 which is the agreement between the Town --

6 MR. BOISVERT: Yes.

7 MS. BAILEY: -- and AWE, says: "The wind
8 farm will be presumed to be at the end of useful life if
9 no electricity is generated from the wind farm for a
10 continuous period of 24 months, and as defined in
11 Section 1.5."

12 MR. BOISVERT: Right.

13 MS. BAILEY: So, I can see where the
14 confusion comes from.

15 MR. BOISVERT: Oh. Okay.

16 MS. BAILEY: That seems to conflict with
17 what the Application says.

18 MR. BOISVERT: Okay. Then, I was
19 directed back to the end of decommissioning. And, so,
20 okay, let me look at it again. Okay. So, okay, it does
21 say "for continuous generating" of 14.2.1, I was reading
22 14.1.2 before, my apologies.

23 MS. BAILEY: I think I remember
24 something in the transcript about these two paragraphs.

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1 Maybe we should look there, too. But, go ahead. Sorry.

2 MR. BOISVERT: All right. So, in
3 14.2.1, it says -- the interpretation that I have is that
4 it will be a continuous period of inactivity for 24
5 months, which is different than in the Application. It
6 also says, again, 14.1.2, it will complete the
7 decommissioning "within 24 months after the end of the
8 useful life". So, it would look like they have to do it
9 in one day. The question becomes, is this a clerical
10 error or is this the intent to change it from one year to
11 two years of inactivity before they will be obligated to
12 decommission the property.

13 CHAIRMAN IGNATIUS: Yes. I'm not sure I
14 followed your -- how to read the "24 months after the end
15 of useful life". I took it to mean effectively 48 months;
16 two years of continuous no energy production, but then
17 triggers another 24-month period of commencing and
18 completing decommissioning.

19 MR. BOISVERT: Okay.

20 CHAIRMAN IGNATIUS: Mr. Craig.

21 MS. BAILEY: Mr. Green.

22 CHAIRMAN IGNATIUS: Mr. Green.

23 MR. GREEN: That's fine. We can be on
24 first names. Under the Applicant's post hearing brief,

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1 January 14, 2013, Page 93 to 94, it says "AWE must
2 complete decommissioning within 24 months after the end of
3 the useful life of the Project, which is defined in
4 Section 1.5 of the Town agreement as a time when no
5 electricity has been generated for a continuous 24
6 months." So, it sounds to me like there has to be no
7 electricity generated for two years, and then you have 24
8 months to take it down.

9 MS. BAILEY: So, it sounds to me like
10 that changed between the time they filed the Application
11 and the time they reached the agreement with the Town.

12 CHAIRMAN IGNATIUS: And, the Town
13 agreement, it was executed, Mr. Iacopino pulled up, looks
14 like it was executed on March 8th, 2012, later than the
15 Application date, obviously. So, I think that's fair that
16 that later document would govern, and it may have evolved
17 in a numerous of instances. The one, I guess it was a
18 draft that first came in with the Application, but it was
19 finalized with slightly different terms.

20 MR. IACOPINO: Thank you, madam Chair.
21 I just want to address one thing from a legal standpoint,
22 because this may come up with other issues as you continue
23 to deliberate. Generally, the Committee has certificated,
24 when you've issued a certificate, you've certificated a

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1 project based upon the specifications that are in the
2 Application. Because, obviously, you know, our orders
3 would be even more voluminous than they are if we had to
4 put every specification into the order.

5 So, I don't know if that gives you any
6 comfort, Dr. Boisvert. But, to the extent that you
7 approve a condition that is different than in the
8 Application, obviously, the specific condition approved
9 will supersede what's in the Application.

10 MS. BAILEY: Can you tell me,
11 Mr. Iacopino, what day, what transcript Edwards and Allen
12 testified?

13 MR. IACOPINO: If you give me one
14 second, I have my little cheat sheet.

15 MS. BAILEY: Because something in my
16 brain remembers some talk about 14.1.2 versus 14.2.1, and
17 I just want to go back and see what they said about that.

18 CHAIRMAN IGNATIUS: Ms. Bailey, you're a
19 scary person sometimes.

20 MR. IACOPINO: That's Day 9, in the
21 afternoon. Page 132 is where the testimony begins.

22 CHAIRMAN IGNATIUS: Mr. Simpkins.

23 DIR. SIMPKINS: Yes. I had a question,
24 based on what Mr. Iacopino just said about, you know,

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1 adopting the agreements and things. In the Town of Antrim
2 agreement, they have some other things in there that are
3 directly related to what we are talking about. Like, they
4 have their own decibel noise levels, daytime and
5 nighttime, in Section 11. And, they also have another
6 section, where people can sign a waiver, so the noise
7 limits don't pertain to them. So, I'm just -- I'm not
8 exactly sure how we handle that, because we're setting
9 conditions, I would assume our conditions would supersede
10 this agreement. But I don't know if we have to go through
11 and -- or, is it just a blanket statement that says, you
12 know, "this agreement is in force, except those provisions
13 that" --

14 MR. IACOPINO: Generally, when we get
15 down to the actual drafting of the decision and of the
16 certificate, it will make -- there will be language, such
17 as "notwithstanding any other agreements", and things like
18 that, "the following conditions shall apply."

19 DIR. SIMPKINS: Okay.

20 MR. IACOPINO: But the way that I take
21 this and the way the order will be written is that, to the
22 extent you specifically condition a certificate, that
23 specific condition is going to supersede anything that's
24 in the Application or in an agreement with another party.

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1 But, to the extent that the order or certificate itself is
2 specifically silent on something, the specs contained in
3 the Application are what's going to be expected of the
4 Applicant. So that, for instance, let's say they said
5 that the -- you know, there will be -- "the roadway will
6 be 15 inches thick" in the Application. You know, that's
7 what they would be expected to construct, if there was not
8 a condition that required a roadway of 24 inches thick,
9 let's say.

10 CHAIRMAN IGNATIUS: So, in the
11 decommissioning details, it's my understanding, my
12 expectation that we would be accepting the more detailed
13 description that the Applicant has laid out, even though
14 they're not all spelled out in the Town agreement. And,
15 that it would be accepting the decommissioning plan,
16 really, that the Applicant has put forward. And, to the
17 extent there's any conflict, such as those dates between
18 the Application and the final agreement with the Town,
19 those dates would apply in the agreement. But that we
20 don't want to suggest that the agreement somehow beats out
21 the Application on all issues of decommissioning, because
22 then we'll lose some of that detail. I'm sure there's a
23 way to finesse that in the language, Mr. Iacopino.

24 MR. IACOPINO: Yes. There usually is.

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1 CHAIRMAN IGNATIUS: So, is everyone in
2 agreement that the decommissioning proposal that's laid
3 out between the combination of the Application and then
4 the dates further refined in the Town agreement are
5 acceptable?

6 (No verbal response)

7 CHAIRMAN IGNATIUS: Any reason not to
8 accept the decommissioning proposal?

9 (No verbal response)

10 CHAIRMAN IGNATIUS: I see nothing.
11 Then, we will accept that.

12 MS. BAILEY: Wasn't there an issue in
13 the Edwards/Allen testimony about -- I think the concern
14 was, if somebody else ended up with the Project or the
15 Project went bankrupt, that there might not be enough
16 money for decommissioning?

17 MR. BOISVERT: Yes. And, I don't have
18 the transcript in front of me, but, if my memory serves,
19 and it's not too good today, the issue was, if there was a
20 bondholder or someone, if they defaulted on their
21 obligation, they would get first access to the monies from
22 salvaging the towers. And, that that money, which is
23 reserved for the Town under that circumstance, would not
24 be available. And, that was their concern. And, there

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1 was considerable discussion back and forth. And, it
2 became -- it became an issue of "what would happen, in
3 effect, in a bankruptcy situation?" And, my understanding
4 was that the idea that the bondholder would get the
5 salvage rights probably wasn't going to happen. But I do
6 not have clarity on that. But that was the gist of it in
7 their presentation.

8 CHAIRMAN IGNATIUS: This is another one
9 of those things where there are certain provisions in the
10 agreement that require bonding or funding assurances that
11 I guess we can't assume it will cover every possible
12 eventuality, but there is efforts made to try to kind of
13 anticipate ways to assure adequate funding. And, I'm
14 reluctant to try to impose any new terms or, you know,
15 guess at what might or might not be sufficient, because we
16 haven't developed that. I don't fully -- I haven't looked
17 at the kinds of documents that are called for to have any
18 sense that I could better guess at whether they're
19 adequate or not, and I don't think it's been developed in
20 the record. So, I'm very reluctant to start imposing
21 anything new. There are sort of standard provisions for
22 funding assurance in the agreement that I guess, in my
23 mind, is sufficient in this case.

24 Are there other comments? Ms. Bailey.

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1 MS. BAILEY: I think I agree. I am
2 reviewing the transcript from Day 2, I think it's in the
3 morning, on Page -- well, it was Mr. Allen's [Edwards'']
4 cross-examination of Mr. Kenworthy. And, in response to a
5 question, Mr. Kenworthy answered: "Well, I think the
6 decommissioning funding assurance requirement requires
7 that Antrim Wind develop an estimate prior to
8 construction, and then updates it every three years
9 thereafter, which takes into account the estimated cost of
10 decommissioning, net of salvage value. And, so, there is
11 a current "within three years" maximum estimate at any
12 point during the operating life of the facility, up until
13 such time as that facility is, in fact, decommissioned."
14 That's on Page 125. So, I agree with you.

15 CHAIRMAN IGNATIUS: Anything further on
16 this issue or any issues related to decommissioning?

17 MR. BOISVERT: So, it would stand that
18 the trigger for the need to do the decommissioning would
19 be 12 months, not 24 months? The 12 months as stated in
20 the Application.

21 CHAIRMAN IGNATIUS: No. I had meant to
22 distinguish that it would be the details in the
23 Application, unless further amended by the agreement with
24 the Town. So that, I don't want to just take one or the

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1 other, because neither of them are complete. You get some
2 of the detail in the Application, you get some of the
3 detail in the agreement. So, it's really both things. It
4 would be the Application's terms as to the extent any of
5 them are amended by the agreement itself. So, you would
6 have the 24 months to trigger decommissioning and the 24
7 months beyond that to complete decommissioning, as spelled
8 out in the agreement, and all of the funding assurance
9 terms that are in the agreement, but some of the
10 engineering details about the decommissioning itself would
11 be found in the Application. Is that everyone's
12 understanding? That's acceptable?

13 MR. BOISVERT: So, it would then be the
14 24 months of inactivity?

15 CHAIRMAN IGNATIUS: Yes.

16 MR. BOISVERT: And, what was the time
17 period for the other wind farms, for Groton Wind and
18 Lempster?

19 MR. IACOPINO: In Groton Wind, they
20 approved the Groton Wind agreement, which defines "end of
21 useful life" as a "continuous period of 24 months for
22 reasons" -- I'm sorry. "No electricity is generated for a
23 continuous period of 24 months for reasons other than the
24 wind regime, maintenance, or some technical failure or

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1 repair, or for wind farm repowering or facility upgrades
2 or equipment replacements." I believe that is very
3 similar to the definition of "end of useful life" in
4 Exhibit 17A, and much of the language in this agreement is
5 similar to the one in Groton, although I can't say it's
6 word-for-word. But "end of useful life" in this
7 agreement, in this docket, Exhibit 17A, at the point in
8 time in which "the wind farm, or an individual wind
9 turbine, as the case may be, has not generated electricity
10 for a continuous period of 24 months for reasons other
11 than the wind regime, maintenance or repair, facility
12 upgrade or repowering."

13 By the way, when I've -- I said "wind
14 regime" twice, and sort of mused it into maintenance.
15 It's "wind regime", I think they mean that "there's no
16 wind."

17 MR. BOISVERT: Right.

18 MR. IACOPINO: Okay. So, the
19 definitions are slightly different, but the continuous
20 period is the same in both, 24 months.

21 MS. BAILEY: So, does that mean, if
22 there's no wind for two years, they don't have to
23 decommission it?

24 MR. IACOPINO: Yes. Yes, because it's

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1 an exception to the 24 months. If we don't have any wind
2 for --

3 MS. BAILEY: I think we should go with
4 what the Town has agreed to. I think, you know, if the
5 Town can -- if the Town finds two years of inoperation
6 acceptable for decommissioning, why would we change that?

7 CHAIRMAN IGNATIUS: I agree. It looks
8 like everyone's nodding. So, then, I think we're in
9 agreement on the decommissioning issues. Thank you very
10 much, Dr. Boisvert.

11 There's another issue that I think is
12 something we can do in the 20-minute period before we have
13 to take a break. That regards issues of the ISO-New
14 England studies that were finalized in late January -- or,
15 filed in mid January and filed with us. This is something
16 that you didn't hear testimony about, so let me recount
17 for you what took place. We saw pleadings come in from
18 Industrial Wind Action Group, and a response from the
19 Applicant on this. But there was no transcripts on this
20 specific disagreement.

21 During the case, there was an exhibit
22 reserved that was "AWE 10", and that was reserved for the
23 ISO System Impact Study, that had been developed in draft
24 and not yet been finalized. And, there was an agreement

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1 by the Applicant to submit it to us as soon as it was
2 finalized. It took until the middle of January, January
3 15th, for the Applicant to receive the final documents,
4 there are actually two studies that were submitted
5 together. One known as the "Steady State System Impact
6 Study", and that was marked as "AWE 10A". And, the other
7 was called the "Stability Study Report", and that was
8 marked as "10B".

9 Part of the delay in getting it was time
10 spent by the ISO in redacting what's known as "critical
11 energy infrastructure". There are many things that we are
12 not allowed by law, at the Commission or at the ISO or any
13 of the utilities, to put in writing or diagrams that
14 depict certain infrastructure. And, as you can imagine,
15 over the last ten years, that's gotten to be a stricter
16 and stricter requirement. So that it's now a fairly
17 painstaking process to go through, documents that people
18 used to just go posting and printing on walls and things
19 are now far more protected.

20 So, according to the Applicant's
21 pleading, the materials were finally fully redacted, and
22 agreement on what could and could not be released
23 publicly, and were delivered to the Applicant on
24 January 15th. The Applicant then delivered them to the

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1 Site Evaluation Committee on January 16th. The Industrial
2 Wind Action Group received them, as did all other parties,
3 and was concerned that they were very late in the game,
4 and that -- so, certainly, a concern that it hadn't been
5 an opportunity for people to do anything with during the
6 hearing. And, then, on a substantive matter, took issue
7 with the findings of the reports, and said that it is
8 likely to cause some serious constraint on the
9 transmission system, if the wind facilities become
10 operational, and will limit the ability of putting power
11 on the system and, therefore, limit the benefits to be
12 obtained from a public health standpoint and limit the
13 economic benefits to the developer, raising questions of
14 the financial soundness of the Project overall.

15 The request was for a opportunity for
16 the Company to respond, explaining these limitations and
17 explain how they may impact the benefits and claimed
18 circumstances of the Project, if these transmission
19 constraints are, in fact, at issue. The Applicant
20 responded to that, asking that it be clear that they
21 weren't late-filed, in the sense of sitting on anything or
22 later than any commitment that had been required of them,
23 they just were late in the process because of the way they
24 came in from the ISO. And that, when received, the

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1 Applicant moved very quickly to get them into the record.

2 The Applicant also asked that the filing
3 from Industrial Wind Action be stricken, and that it not
4 have to submit some memorandum explaining what the reports
5 mean. But that, to the extent that didn't happen, it did
6 go through to explain what it was, how it interpreted the
7 reports from the ISO.

8 And, in my role, as Presiding Officer,
9 with the authority to deal with procedural matters, it's
10 my ruling that there is no intentional delay. These
11 aren't late-filed in any sense that causes any unfairness
12 to any of the parties. I am not willing to strike the
13 filing by Industrial Wind Action, but I'm also not
14 requiring any additional memorandum to be submitted by the
15 Applicant. I think that the responsive information that
16 was contained in the Applicant's February 1st memo to us
17 is sufficient.

18 So, let me move now to the substance of
19 it. Which is a concern that there is a portion of the
20 system that will be involved when the wind facility goes
21 on line that is already experiencing some -- some thermal
22 limits, and adding additional electricity to it could put
23 it, at certain times of the year, into a constrained
24 situation that would require dialing back power a bit to

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1 allow for it. There is a fix for that that's already in
2 place, already under design and agreed to to be done,
3 that's independent of this proposal. It's been talked
4 about prior to this Project. And, the people to be doing
5 the work have nothing to do with Antrim Wind Energy. They
6 are committed to making those changes. And, so, the
7 problem will be resolved, the only question is timing. It
8 is due to be operational, the fix that has already been
9 called for independent of this Project, is due to be
10 operational in 2016. And, the -- or "energized", I guess
11 is a better way to say it. And, the projected operational
12 date for Antrim Wind Energy is in 2014. So, there is a
13 period of time, later in 2014, into 2015 and '16, where
14 there could be some period of time where full power from
15 the wind facility could not be put on the line, and there
16 would be a need to back it off a bit.

17 According to the Applicant's reading of
18 the reports from the ISO, the periods of time are not that
19 numerous. They are when you're in the shoulder months,
20 you know, not through the winter and not through the
21 summer, but the shoulder months on either side of those.
22 And, when other constraints are also in place for other
23 conditions that cause problems are in place. And, a whole
24 handful of them that all have to be occurring

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1 simultaneously in order to trigger this need for
2 curtailing some of the power onto the system from the wind
3 facility. And, that's a risk that the Applicant is
4 willing to undertake, that there might be some period of
5 time where all of those circumstances are in place at once
6 that would require them to generate a little bit less than
7 they would have otherwise.

8 The ISO is accepting of that. There is
9 a provision for limited interconnection in certain
10 situations like that, while other things are being worked
11 out. And, so, it's not that it prohibits, there's nothing
12 improper about doing that, there's nothing unusual about
13 it. It may mean a slight reduction in the economic value
14 of operations, if all of those circumstances hit at one
15 particular time. And that, in turn, would be a slight
16 reduction in the benefits of avoided emissions during
17 those periods of somewhat curtailed operation. But it
18 doesn't undo it, it doesn't mean the Project can't move
19 forward for another two years. It's really a far less
20 significant curtailment than I think the Industrial Wind
21 Action Group believed it was in reading the materials.

22 So, I don't know if there's anything
23 that we need to vote on. I mean, I think it's really just
24 further refinement of the evidence, now that that

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1 additional document 10, really, now 10A and 10B have been
2 received into the record.

3 So, if there are questions about any of
4 that, I'm happy to try to answer them? Ms. Bailey.

5 MS. BAILEY: Was there an issue about
6 what happens if the other project for some reason doesn't
7 get built?

8 CHAIRMAN IGNATIUS: I think that's a
9 potential, if the other project were never built, then you
10 wouldn't have this short time period where all of these
11 circumstances could be in place. I don't think it changes
12 the ability of the ISO to authorize interconnection. But
13 it puts the risk of a longer term potential for constraint
14 into the picture.

15 It is -- the Project, itself, continues
16 to be debated and voted on at the regional level for all
17 of these sorts of upgrades. They have to be planned out
18 and done on a -- with regional blessing. And, it's known
19 as the "Pittsfield/Greenfield area upgrade", and it was
20 just most recently discussed at the November 13, 2012
21 meeting of the ISO Reliability Committee. It was approved
22 at that date, I'm reading from the minutes of that
23 meeting. A motion to approve the project was moved and
24 seconded. A vote was taken by show of hands, with none

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1 opposed and no abstentions; the motion passes. So, it is
2 continuing to work its way through the process there. You
3 know, the actual construction phase is yet to come.

4 But there's a -- part of the way all
5 these entities work together is they commit to system
6 upgrades. And, it's not really in their hands to say, you
7 know, "we've decided to put it off" or "our business, you
8 know, chose to put our money in something different this
9 year the way a private business normally would be able to
10 do. This is so highly integrated and regulated that, once
11 it's approved, it's got to keep moving forward, often
12 because other people are relying on changes from things
13 that they have yet to do. So, it's, to me, very unlikely
14 that the whole thing would come to a stall.

15 MS. BAILEY: And, the only way that it
16 could is if the ISO approved it.

17 CHAIRMAN IGNATIUS: That's right. There
18 would have to be agreement to stop the whole progress on
19 that upgrade.

20 MS. BAILEY: Okay. So, then, did
21 Industrial Wind Action argue that we should impose a
22 condition on the Applicant to pay for the upgrade, if
23 Greenfield/Pittsfield doesn't happen?

24 CHAIRMAN IGNATIUS: No.

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1 MS. BAILEY: Okay.

2 CHAIRMAN IGNATIUS: No, I think the
3 point of the filing, and there was no response to the
4 Company's filing, the point of it was to say "this is a
5 questionable project, and it's become more questionable."
6 I mean, I think she was taking issue, as she did during
7 the hearings themselves, that the benefits were
8 overstated, and this caused them another reason for the
9 benefits to be overstated. And, in her view, the
10 financial picture is not strong, and this causes it to be
11 less strong.

12 MS. BAILEY: Okay.

13 CHAIRMAN IGNATIUS: We are going to get
14 back to financials, I guess. We didn't finalize whether
15 we were putting any kind of conditions on financials, so
16 we can talk about it again in that circumstance. It's my
17 read on all of this that there's no further requirement of
18 -- it doesn't appreciably change the financial picture.
19 It's a complication and it's a detail. But, as I read it,
20 it's not a significant one. One second.

21 (Chairman Ignatius conferring with Mr.
22 Iacopino.)

23 CHAIRMAN IGNATIUS: I was just checking
24 with counsel on whether we needed to vote on anything.

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1 And, I think we're in agreement that there's no need to
2 accept the exhibit, the exhibits are what they are, and
3 they have now come into the record. What we routinely do
4 on issues related to interconnection is to require, as a
5 condition of the certificate, that the Applicant abide by
6 all of the terms of ISO interconnections. And, to the
7 extent there are any further amendments to interconnection
8 studies or any final interconnection agreement issued by
9 the ISO, that it be submitted and made part of the record.

10 And, so, if those conditions are
11 acceptable to people, they're really standard for this
12 kind of a project. Is that acceptable, that we include
13 that sort of standard provision about working with the ISO
14 and keeping us -- the files up-to-date on any further
15 refinements?

16 (Non-verbal concurrence given.)

17 CHAIRMAN IGNATIUS: All right. Thank
18 you.

19 MS. BAILEY: And, Chairman Ignatius,
20 does that include -- does that condition include the
21 assumed requirement that the Applicant will curtail the
22 operations to the extent necessary? Does the ISO control
23 that?

24 CHAIRMAN IGNATIUS: Yes.

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1 MS. BAILEY: Okay.

2 CHAIRMAN IGNATIUS: So, I don't think we
3 need to say anything further. It's understood that the
4 ISO calls the shots on all of the dispatch decisions.

5 MS. BAILEY: Thank you.

6 CHAIRMAN IGNATIUS: All right. Then,
7 we're going to take a break, it's almost 12:30, and we
8 need to break for lunch right now. We will resume, if we
9 can do it by 1:30, that would be great. I know that at
10 least one person has got to go back to the office to do
11 something that's got to be signed off on. And, so, I hope
12 we can get back by 1:30, if not, it will be close to it.

13 What we'll do at that time is go back to
14 the question of aesthetic -- aesthetics in the Project.
15 As you know, the first day we determined that there was an
16 adverse impact on aesthetics. And, what we did not
17 discuss is whether that's an adverse effect that can be
18 mitigated. Are there any conditions that would make that
19 aesthetic impact one that is no longer an adverse impact,
20 is something that could be mitigated and still allow for a
21 certificate to be granted? If there is, then we ought to
22 think about what those conditions would be. And, so, I
23 ask you during the break to be thinking about that. If
24 there are things you think cannot be mitigated, because

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1 they're just too intrinsic to what the proposal is, then
2 think about that. And, that's what we'll take up when we
3 resume. Thank you. So, we're adjourned until 1:30.

4 (Whereupon the lunch recess was taken
5 and this ***Deliberations Day 3 Morning***
6 ***Session ONLY*** ended at 12:30 p.m. The
7 deliberations to resume in a transcript
8 to be filed under separate cover so
9 designated as "***Deliberations Day 3***
10 ***Afternoon Session ONLY***".)